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# Contents

**Federal Register**

Vol. 68, No. 138

Friday, July 18, 2003

**Agricultural Marketing Service**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42672–42673

**Agriculture Department**
*See* Agricultural Marketing Service
*See* Animal and Plant Health Inspection Service
*See* Commodity Credit Corporation
*See* Farm Service Agency
*See* Food and Nutrition Service
*See* Forest Service
*See* Grain Inspection, Packers and Stockyards Administration
*See* Natural Resources Conservation Service
*See* Rural Utilities Service

**Animal and Plant Health Inspection Service**
RULES
Livestock and poultry disease control:
Low pathogenic avian influenza; indemnity payment, 42565–42570

**Army Department**
NOTICES
Environmental statements; availability, etc.:
Base realignment and closure—
Fort Dix, NJ, 42692–42693

**Blind or Severely Disabled, Committee for Purchase From People Who Are**
*See* Committee for Purchase From People Who Are Blind or Severely Disabled

**Census Bureau**
RULES
Age Search Program; requirements, 42585–42586

**Centers for Disease Control and Prevention**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42730–42733
Grant and cooperative agreement awards:
Uganda Virus Research Institute, 42733–42734
Grants and cooperative agreements; availability, etc.:
American Indians/Alaska Natives; effective strategies to reduce motor vehicle injuries, 42734–42738
Blindness and Vision Loss Prevention Program, 42738–42742

**Coast Guard**
RULES
Practice and procedure:
Territorial seas, navigable waters, and jurisdiction; definitions, 42595–42602
NOTICES
Deepwater ports; license applications:
Port Pelican LLC, 42744–42745

**Commerce Department**
*See* Census Bureau
*See* Foreign-Trade Zones Board
*See* International Trade Administration
*See* National Oceanic and Atmospheric Administration
NOTICES
Overseas trade missions:
2003 trade missions—
St. Petersburg and Moscow, Russia; oil and gas business development mission; correction, 42685

**Committee for Purchase From People Who Are Blind or Severely Disabled**
NOTICES
Procurement list; additions and deletions, 42683–42685

**Commodity Credit Corporation**
RULES
Export programs:
Technical Assistance for Specialty Crops Program; implementation, 42563–42565
NOTICES
Grants and cooperative agreements; availability, etc.:
Quality Samples Program, 42673–42675
Technical Assistance for Specialty Crops Program, 42675

**Commodity Futures Trading Commission**
NOTICES
Meetings; Sunshine Act, 42690–42691

**Community Development Financial Institutions Fund**
NOTICES
Grants and cooperative agreements; availability, etc.:
New Markets Tax Credit Program, 42806–42812

**Consumer Product Safety Commission**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42691–42692
Weightlifting bench press benches; labeling to reduce or prevent deaths due to asphyxia/anoxia; petition, 42692

**Customs and Border Protection Bureau**
RULES
Organization and functions; field organization, ports of entry, etc.:
Fargo, ND; port of entry establishment, 42587–42589
Portland, ME; port limits expansion, 42586–42587
PROPOSED RULES
Organization and functions; field organization, ports of entry, etc.:
Chicago, IL; port limits extension, 42650–42651

**Defense Department**
*See* Army Department

**Employment Standards Administration**
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 42784–42785

**Energy Department**
*See* Federal Energy Regulatory Commission

**Environmental Protection Agency**

RULES

Air pollutants, hazardous; national emission standards:
Chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills
Correction, 42603–42605
Air programs:
Stratospheric ozone protection—
Chlorobromomethane production and consumption; phaseout, 42883–42895
Hazardous waste program authorizations:
Georgia, 42605–42608

PROPOSED RULES

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
Pennsylvania, 42657–42661
Air quality implementation plans; approval and promulgation; various States:
Georgia, 42653–42657
Hazardous waste program authorizations:
Georgia, 42662

NOTICES

Committees; establishment, renewal, termination, etc.:
Science Advisory Board, 42703–42704
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 42705–42706
Weekly receipts, 42704–42705
Meetings:
Science Advisory Board, 42706–42707
Pesticide registration, cancellation, etc.:
Bayer CropScience et al., 42707–42709
Pesticides; experimental use permits, etc.:
Syngenta Crop Protection, Inc., et al., 42709–42710
Reports and guidance documents; availability, etc.:
Acute exposure guideline levels; values, 42710–42726
Superfund; response and remedial actions, proposed settlements, etc.:
Radiation Technology, Inc. Site, NJ, 42727
Superfund program:
Prospective purchaser agreements—
Sand Creek Site, CO, 42727
Toxic and hazardous substances control:
New chemicals—
Test marketing exemption approvals, 42727–42728
Water programs:
Drinking water contaminant candidate list; primary contaminants; regulatory determinations, 42897–42906
Water supply:
National primary drinking water regulations—
Existing drinking water standards; review, 42907–42929

**Farm Service Agency**

NOTICES

Agency information collection activities; proposals, submissions, and approvals, 42675–42676

**Federal Aviation Administration**

RULES

Air carrier certification and operations:
Digital flight data recorder upgrade requirements, 42931–42941
Large cargo airplanes; flightdeck security, 42873–42882
Airworthiness directives:
Aerospatiale, 42577–42580
Boeing, 42573–42577, 42583–42585
Bombardier, 42580–42583

PROPOSED RULES

Airworthiness directives:
Air Cruisers Co., 42647–42650

NOTICES

Air traffic operating and flight rules, etc.:
High density airports; takeoff and landing slots, slot exemption lottery, and slot allocation procedures—
Reagan National Airport; lottery allocation procedures, 42796

**Federal Communications Commission**

RULES

Radio services, special:
Fixed microwave services—
Multichannel Video Distribution and Data Service; NGSO FSS systems co-frequency operation with GSO and terrestrial systems in Ku-Band frequency range, 42610–42613
Radio stations; table of assignments:
California, 42609
Florida, 42608–42609
Texas, 42609–42610
Virginia and North Carolina, 42608

PROPOSED RULES

Digital television stations; table of assignments:
Texas, 42662–42663
Radio stations; table of assignments:
Arizona, 42665–42666
California and Texas, 42664–42665
Michigan, 42666
Texas, 42665
Texas and New York, 42663
Various States, 42663–42664

**Federal Energy Regulatory Commission**

NOTICES

Electric rate and corporate regulation filings:
Eagle Energy Partners, Inc., et al., 42696–42698
Wisvest-Connecticut, LLC, et al., 42698–42699
Environmental statements; availability, etc.:
Tehama and Shasta Counties, CA; Battle Creek Salmon and Steelhead Restoration Project, 42758–42759
Environmental statements; notice of intent:
Weaver's Cove Energy L.L.C. et al., 42699–42701
Hydroelectric applications, 42701–42702
Practice and procedure:
Off-the-record communications, 42703
*Applications, hearings, determinations, etc.:*
Chevron Products Co.; correction, 42693
EnergyNorth Natural Gas, Inc., 42693
FPL Energy Seabrook, LLC, et al., 42693–42694
PacifiCorp et al., 42694
Pinnacle West Energy Corp. et al., 42694–42695
Tennessee Gas Pipeline Co. et al., 42695
Transcontinental Gas Pipe Line Corp., 42695
Whiting Leasing LLC; correction, 42695–42696
Wyckoff Gas Storage Co., LLC, 42696

**Federal Reserve System**

NOTICES

Banks and bank holding companies:
Change in bank control, 42728–42729
Formations, acquisitions, and mergers, 42729
Permissible nonbanking activities, 42729–42730

**Financial Management Service**

*See* Fiscal Service

**Fiscal Service**
NOTICES
Surety companies acceptable on Federal bonds:
Commercial Casualty Insurance Co. of North Carolina; termination, 42812

**Fish and Wildlife Service**
PROPOSED RULES
Endangered and threatened species:
Slickspot peppergrass, 42666–42668

**Food and Drug Administration**
RULES
Animal drugs, feeds, and related products:
Laidlomycin, 42589–42590
Sponsor name and address changes—
Cross Vetpharm Group Ltd.; correction, 42589
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42742–42743

**Food and Nutrition Service**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42676–42677

**Foreign-Trade Zones Board**
NOTICES
*Applications, hearings, determinations, etc.:*
Texas
Mactor Corp.; data storage products assembly and warehousing facilities, 42685–42686

**Forest Service**
NOTICES
Environmental statements; notice of intent:
Dixie National Forest, UT, 42677–42679

**Grain Inspection, Packers and Stockyards Administration**
PROPOSED RULES
Fees:
Processed commodity analytical services, 42644–42646

**Health and Human Services Department**
*See* Centers for Disease Control and Prevention
*See* Food and Drug Administration
*See* Substance Abuse and Mental Health Services Administration

**Homeland Security Department**
*See* Coast Guard
*See* Customs and Border Protection Bureau

**Housing and Urban Development Department**
PROPOSED RULES
Public and Indian housing:
Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee; meetings, 42651
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42745–42746
Grants and cooperative agreements; availability, etc.:
Ending chronic homelessness through employment and housing—
Working for freedom, opportunity, and real choice through community employment (WorkFORCE), 42817–42872
Facilities to assist homeless—
Excess and surplus Federal property, 42746–42749
Organization, functions, and authority delegations:
Assistant Secretary for Policy Development and Research, 42749
Assistant Secretary for Public and Indian Housing, 42749–42751

**Indian Affairs Bureau**
PROPOSED RULES
No Child Left Behind Act; implementation:
No Child Left Behind Negotiated Rulemaking Committee—
Membership, 42651–42652
NOTICES
Grants and cooperative agreements; availability, etc.:
Education facilities replacement construction priority list; correction, 42815

**Interior Department**
*See* Fish and Wildlife Service
*See* Indian Affairs Bureau
*See* Land Management Bureau
*See* National Park Service
*See* Reclamation Bureau

**Internal Revenue Service**
RULES
Estate and gift taxes:
Right to recover gift tax, and tax consequences, 42593–42595
Income taxes:
Tax attributes reduction due to discharge of indebtedness, 42590–42593
PROPOSED RULES
Income taxes:
Tax attributes reduction due to discharge of indebtedness; cross-reference, 42652–42653
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42812–42813

**International Trade Administration**
NOTICES
Antidumping:
Tetrahydrofurfuryl alcohol from—
China, 42686–42689

**International Trade Commission**
NOTICES
Import investigations:
Wax and wax/resin thermal transfer ribbons from—
Various countries, 42759–42760
Meetings; Sunshine Act, 42760

**Judicial Conference of the United States**
NOTICES
Meetings:
Judicial Conference Advisory Committee on—
Bankruptcy Procedure Rules, 42761
Civil Procedure Rules, 42761
Criminal Procedure Rules, 42761
Evidence Rules, 42760
Practice and Procedure Rules, 42760–42761

**Labor Department**
*See* Employment Standards Administration

NOTICES
Grants and cooperative agreements; availability, etc.:
Ending chronic homelessness through employment and housing—
Working for freedom, opportunity, and real choice through community employment (WorkFORCE), 42817–42872
Ugandan workplaces; combating HIV/AIDS through community/faith-based organizations, 42761–42783
International Labor Affairs Bureau
Australia; labor rights and laws governing exploitative child labor; information request, 42783–42784

**Land Management Bureau**
NOTICES
Meetings:
Resource Advisory Committees—
Coos Bay District, 42751
Survey plat filings:
Oregon and Washington, 42751–42752

**Maritime Administration**
NOTICES
Coastwise trade laws; administrative waivers:
BEAU GESTE, 42796
CINNAMON TEAL, 42796–42797
GOLDEN DAYS, 42797
HORIZON, 42797–42798
JACQUELINE, 42798
JOHN A., 42798–42799
LADY SHARON GALE, 42799
MAGNOLIA, 42799
OUR JEWEL, 42799–42800
THE FURRY FIVE, 42800
Deepwater ports; license applications:
Port Pelican LLC, 42744–42745

**Mississippi River Commission**
NOTICES
Meetings; Sunshine Act, 42785

**National Oceanic and Atmospheric Administration**
RULES
Fishery conservation and management:
Magnuson-Stevens Act provisions—
Pacific Coast groundfish; fishing capacity reduction program, 42613–42643
West Coast States and Western Pacific fisheries—
Pacific whiting, 42643
PROPOSED RULES
Fishery conservation and management:
Magnuson-Stevens Act provisions—
Domestic fisheries; exempted fishing permit applications, 42668–42671
Northeastern United States fisheries—
Atlantic mackerel, squid, and butterfish, 42671
NOTICES
Permits:
Marine mammals, 42689–42690
Reports and guidance documents; availability, etc.:
National Marine Sanctuary Program; artificial reef development; permit applications policy, 42690

**National Park Service**
NOTICES
Environmental statements; availability, etc.:
Biscayne National Park, FL, 42752
Statue of Liberty National Monument and Ellis Island, NY and NJ; correction, 42752
Meetings:
Aniakchak National Monument Park Subsistence Resource Commission, 42752–42753
Cape Cod National Seashore Advisory Commission, 42753
Denali National Park Subsistence Resource Commission, 42753–42754
Kaloko-Honokohau National Historical Park Advisory Commission, 42754
Lake Clark National Park and Preserve Subsistence Resource Commission, 42754
National Historic Landmarks Survey:
San Luis de Apalache National Historic Landmark, Leon County, FL, 42754–42755
National Register of Historic Places:
Pending nominations, 42755–42756
Native American human remains and associated funerary objects:
Phoebe A. Hearst Museum of Anthropology, University of California, CA—
Inventory from various sites in Kern County, CA, 42756–42757
San Diego State University, CA—
Inventory from Santee and Rancho Santa Fe, CA, 42757–42758

**National Science Foundation**
NOTICES
Meetings; Sunshine Act; correction, 42815

**Natural Resources Conservation Service**
NOTICES
Field office technical guides; changes:
Indiana, 42679–42680
Oregon, 42672

**Nuclear Regulatory Commission**
RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list, 42570–42573
PROPOSED RULES
Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list, 42646–42647
NOTICES
Meetings:
Nuclear Waste Advisory Committee, 42786
*Applications, hearings, determinations, etc.:*
CFC Logistics, Inc., 42785–42786

**Pension Benefit Guaranty Corporation**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42786–42788

**Public Debt Bureau**
*See* Fiscal Service

**Reclamation Bureau**
NOTICES
Environmental statements; availability, etc.:
Tehama and Shasta Counties, CA; Battle Creek Salmon and Steelhead Restoration Project, 42758–42759

**Rural Utilities Service**
NOTICES
Grants and cooperative agreements; availability, etc.:
Broadband Pilot Program, 42680

Public Television Station Digital Transition Program, 42680–42683

**Securities and Exchange Commission**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42788–42789
Investment Company Act of 1940:
Exemption applications—
Integrity Life Insurance Co. et al., 42789–42792
Meetings; Sunshine Act, 42792
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 42792–42793
Municipal Securities Rulemaking Board, 42793–42794

**Small Business Administration**
NOTICES
Disaster loan areas:
Indiana, 42794
Kentucky, 42795
West Virginia, 42795

**State Department**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42795
Meetings:
President's Refugee Admissions Program (2004 FY), 42795

**Substance Abuse and Mental Health Services Administration**
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42743–42744

**Surface Transportation Board**
NOTICES
Rail carriers:
Control exemptions—
RailAmerica, Inc., et al., 42800–42801
Railroad operation, acquisition, construction, etc.:
Union Pacific Railroad Co., 42801
Railroad services abandonment:
Greenville County Economic Development Corp., 42801–42802

**Transportation Department**
*See* Federal Aviation Administration
*See* Maritime Administration
*See* Surface Transportation Board

**Treasury Department**
*See* Community Development Financial Institutions Fund
*See* Fiscal Service
*See* Internal Revenue Service

RULES
Acquisition regulations:
Revision
Correction, 42815
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 42802–42806

**Veterans Affairs Department**
RULES
Adjudication; pensions, compensation, dependency, etc.:
Cirrhosis of liver in former prisoners of war; presumptive service connection, 42602–42603
NOTICES
Meetings:
Capital Asset Realignment for Enhanced Services Commission, 42814
Privacy Act:
Computer matching programs, 42814

---

**Separate Parts In This Issue**

**Part II**
Housing and Urban Development Department; Labor Department, 42817–42872

**Part III**
Transportation Department, Federal Aviation Administration, 42873–42882

**Part IV**
Environmental Protection Agency, 42883–42895

**Part V**
Environmental Protection Agency, 42897–42906

**Part VI**
Environmental Protection Agency, 42907–42929

**Part VII**
Transportation Department, Federal Aviation Administration, 42931–42941

---

**Reader Aids**
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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## CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.


**7 CFR**
1487 ..... 42563
**Proposed Rules:**
868 ..... 42644

**9 CFR**
53 ..... 42565

**10 CFR**
72 ..... 42570
**Proposed Rules:**
72 ..... 42646

**14 CFR**
39 (6 documents) ..... 42573, 42577, 42578, 42580, 42581, 42583
121 (2 documents) ..... 42874, 42932
125 ..... 42932
129 ..... 42874
135 ..... 42932
**Proposed Rules:**
39 ..... 42647

**15 CFR**
50 ..... 42585
80 ..... 42585

**19 CFR**
101 (2 documents) ..... 42586, 42587
122 ..... 42587
**Proposed Rules:**
101 ..... 42650

**21 CFR**
522 ..... 42589
556 ..... 42589
558 ..... 42589

**24 CFR**
**Proposed Rules:**
1000 ..... 42651

**25 CFR**
**Proposed Rules:**
Ch. I ..... 42651

**26 CFR**
1 ..... 42590
20 ..... 42593
25 ..... 42593
**Proposed Rules:**
1 ..... 42652

**33 CFR**
2 ..... 42595
26 ..... 42595
62 ..... 42595
64 ..... 42595
95 ..... 42595
100 ..... 42595
120 ..... 42595
165 ..... 42595

**38 CFR**
3 ..... 42602

**40 CFR**
63 ..... 42603
82 ..... 42884
271 ..... 42605
**Proposed Rules:**
52 (2 documents) ..... 42653, 42657
81 ..... 42657
271 ..... 42662

**46 CFR**
7 ..... 42595
28 ..... 42595

**47 CFR**
73 (4 documents) ..... 42608, 42609
101 ..... 42610
**Proposed Rules:**
73 (7 documents) ..... 42662, 42663, 42664, 42665, 42666

**48 CFR**
Ch. 10 ..... 42817

**50 CFR**
600 ..... 42613
660 ..... 42643
**Proposed Rules:**
17 ..... 42666
600 (3 documents) ..... 42668, 42669, 42670
648 ..... 42671

# Rules and Regulations

Federal Register

Vol. 68, No. 138

Friday, July 18, 2003

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

### Commodity Credit Corporation

### 7 CFR Part 1487

**RIN 0551–AA63**

### Technical Assistance for Specialty Crops Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule finalizes the interim rule which implemented the Commodity Credit Corporation's Technical Assistance for Specialty Crops program to help open, retain, and expand markets for U.S. specialty crops.

**DATES:** This rule is effective August 18, 2003. *Applicability date:* This rule does not apply to projects approved prior to the effective date.

**FOR FURTHER INFORMATION CONTACT:** Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250–1042, or telephone: (202) 720–4327.

**SUPPLEMENTARY INFORMATION:**

**Executive Order 12866**

This rule is issued in conformance with Executive Order 12866. It has been determined significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

**Executive Order 12988**

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have preemptive effect with respect to any State or local laws, regulations or policies which conflict with such provisions or which otherwise impede their full implementation; does not have retroactive effect; and does not require administrative proceedings before suit may be filed.

**Executive Order 12372**

This program is not subject to the provisions of Executive Order 12372, which require intergovernmental consultation with State and local officials. *See* the notice related to 7 CFR part 3014, subpart V, published at 48 FR 29115 (June 24, 1983).

**Regulatory Flexibility Act**

It has been determined that the Regulatory Flexibility Act is not applicable to this rule because the Commodity Credit Corporation is not required by any provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

**The Unfunded Mandates Reform Act of 1995**

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

**Paperwork Reduction Act of 1995**

In accordance with provisions of the Paperwork Reduction Act of 1995, the Foreign Agricultural Service submitted an information collection package to the Office of Management and Budget (OMB control number 0551–0038) to support an interim rule published in the **Federal Register** on September 10, 2002, (67 FR 57326–57329) which implemented the Technical Assistance for Specialty Crops program. Copies of the information collection may be obtained from Kimberly Chisley, the Agency Information Collection Coordinator, on (202) 720–2568 or by e-mail to *Kimberly.Chisley@fas.usda.gov.*

**Government Paperwork Elimination Act**

The Foreign Agricultural Service is committed to compliance with the Government Paperwork Elimination Act, which requires Government agencies, in general, to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. Accordingly, applications for participation in the Technical Assistance for Specialty Crops program may be submitted online, and requests for reimbursement as well as all payments to participants will be handled electronically.

**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 will 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.

**Background**

The Commodity Credit Corporation (CCC) will periodically publicly announce that proposals may be submitted for participation in the Technical Assistance for Specialty Crops (TASC) program, which is administered by personnel of the Foreign Agricultural Service (FAS). On May 13, 2002, the President signed the Farm Security and Rural Investment Act of 2002. Section 3205 of that Act directs the Secretary of Agriculture to establish an export assistance program to address barriers that prohibit or threaten the export of U.S. specialty crops. The statute directs the Secretary to make available $2,000,000 of CCC resources for the TASC program in each of fiscal years 2002 through 2007. The TASC program is designed to assist U.S. organizations by providing funding for projects which address sanitary, phytosanitary, and technical barriers that prohibit or threaten the export of U.S. specialty crops. For the purpose of this rule, U.S. specialty crops include all cultivated plants, or the products thereof, produced in the U.S., except wheat, feed grains, oilseeds, cotton, rice, peanuts, sugar, and tobacco.

**Summary and Analysis of Comments**

On September 10, 2002, the CCC published an interim rule in the **Federal Register** (67 FR 57326–57329) implementing the TASC program. That rule also requested that interested parties submit comments on the rule by November 12, 2002. The FAS received one comment on the interim rule.

*Comment:* To be more effective in addressing sudden and unpredictable technical barriers to trade, access to TASC program funds should not be

limited to once per year. Rather, TASC program funding should be made available as the need arises, perhaps by utilizing a quick-response mechanism.

*Response:* The agency agrees with this comment and has included language in § 1487.5 to provide for the establishment of a formal quick-response process. The periodic announcements indicating that the CCC will be accepting applications also will provide the details of the various application options that are available.

In addition to the language that was incorporated in § 1487.5 in response to the public comment, this final rule adds a new provision in § 1487.6(a)(8) to complement § 1487.2 and clearly indicate that the TASC program is intended to benefit the represented industry rather than a specific company or brand. This final rule also includes other minor organizational, administrative and editorial changes so as to improve the clarity and consistency of the regulations.

**Effective Date**

This rule is effective August 18, 2003 but does not apply to projects approved prior to the effective date.

**List of Subjects in 7 CFR Part 1487**

Agricultural commodities, Exports, Specialty crops.

■ In consideration of the foregoing, the interim rule published at 67 FR 57326–57329, September 10, 2002, adding 7 CFR part 1487 is adopted as final with the following changes:

## PART 1487—TECHNICAL ASSISTANCE FOR SPECIALTY CROPS

■ 1. The authority citation for 7 CFR part 1487 continues to read as follows:

**Authority:** Sec. 3205 of Pub. L. 107–171.

■ 2. Section 1487.1 is amended by adding the following new definitions in alphabetical order:

### § 1487.1 What special definitions apply to the TASC program?

* * * * *

*Eligible Organization*—Any U.S. organization, including, but not limited to, U.S. government agencies, State government agencies, non-profit trade associations, universities, agricultural cooperatives, and private companies.

* * * * *

*Participant*—An entity which has entered into a TASC agreement with the CCC.

* * * * *

■ 3. Section 1487.5 is amended as follows:

a. By revising paragraphs (a) and (b)(2)(ii);

b. By redesignating paragraphs (b)(2l)(iii) through (b)(2)(vii) as paragraphs (b)(2)(iv) through (b)(2)(viii); and

c. By adding a new paragraph (b)(2)(iii).

The revision and addition read as follows:

### § 1487.5 What is the process for submitting proposals?

(a) *General.* Periodically the CCC will inform the public of the process by which interested eligible organizations may submit proposals for TASC program funding. This announcement will, among other things, include information on any deadlines for submitting proposals and the address of the office to which the proposals should be sent. The CCC also may announce the availability of a Quick Response Fund within the TASC program. Proposals submitted under any form of quick response process may be submitted at any time during the year but must meet the basic requirements of the program and any specific requirements of that particular process. Organizations interested in participating in the TASC program may submit their proposals electronically or in paper copy. Although no specific format is required, a sample format for proposals is available from the address provided in this rule.

(b) * * *

(2) * * *

(ii) The amount of funding requested and a justification for why federal funding is needed;

(iii) Beginning and ending dates for the proposed project;

* * * * *

■ 4. Section 1487.6 is amended as follows:

a. By removing paragraph (a)(7);

b. By redesignating paragraph (a)(1) as paragraph (a)(7);

c. By redesignating paragraphs (a)(2) through (a)(6) as paragraphs (a)(1) through (a)(5);

d. By redesignating paragraph (a)(8) as paragraph (a)(6);

e. By revising newly redesignated paragraph (a)(2); and

f. By adding a new paragraph (a)(8).

The revision and addition read as follows:

### § 1487.6 How are proposals evaluated?

(a) * * *

(2) The potential trade impact of the proposed project on market retention, market access, and market expansion, including the potential for expanding commercial sales in the targeted market;

* * * * *

(8) In cases where the CCC receives multiple proposals from different applicants which address essentially the same barrier, the nature of the applicant organization will be taken into consideration, with a greater weight given to those organizations with the broadest base of producer representation.

* * * * *

■ 5. Section 1487.7 is revised to read as follows:

### § 1487.7 How are agreements formalized?

Following the approval of a proposal, the CCC will enter into a written agreement with the organization that submitted the proposal. This program agreement will incorporate the proposal as approved by the FAS, include a maximum dollar amount that may be reimbursed (the funding level), and identify terms and conditions under which the CCC will reimburse certain costs of the project. Program agreements also will outline any specific responsibilities of the participant, including, but not limited to, the timely and effective implementation of program activities and the submission of a written report(s), on no less than an annual basis, which evaluates the TASC project using the performance measures presented in the approved proposal.

■ 6. Section 1487.8 is removed.

■ 7. Section 1487.9 is redesignated as 1487.8 and revised to read as follows:

### § 1487.8 How are payments made?

(a) *Reimbursement.* (1) Following the implementation of a project for which the CCC has agreed to provide funding, a participant may submit claims for reimbursement of eligible expenses to the extent that the CCC has agreed to pay such expenses. Any changes to approved activities must be approved in writing by the FAS before any reimbursable expenses associated with the change can be incurred. A participant will be reimbursed after the CCC reviews the claim and determines that it is complete.

(2) All claims for reimbursement must be received no later than 90 calendar days following the expiration or termination date of the program agreement. For program agreements which extend beyond twelve months, all claims for reimbursement must be received no later than 90 calendar days following the next anniversary of the effective date of the agreement.

(3) Participants shall maintain complete records of all program expenditures, identified by TASC agreement number, program year, country or region, activity number and cost category. Such records shall be accompanied by original documentation

which supports the expenditure and shall be made available to the FAS upon request.

(4) Participants shall maintain all records and documents relating to TASC projects, including the original documentation which supports reimbursement claims, for a period of three calendar years following the expiration or termination date of the program agreement. Such records and documents will be subject to verification by the FAS Compliance Review Staff and shall be made available upon request to authorized officials of the U.S. Government. The FAS may deny a claim for reimbursement if the claim is not supported by acceptable documentation.

(5) In the event that a reimbursement claim is overpaid or is disallowed after payment already has been made, the participant shall return the overpayment amount or the disallowed amount to the CCC within 30 days after realizing the overpayment or receiving notification of the overpayment or disallowed amount.

(b) *Advances.* Participants may request advances of funds, not to exceed 85 percent of the funding approved in any given program year. All advanced funds must be either fully expended or the balance returned by check made payable to the CCC no later than the 90th calendar day following the date of disbursement of the advance to the participant. Upon the expenditure of advance funds, participants must submit reimbursement claims to offset the advance charged to them.

(c) *Interest.* Participants shall deposit and maintain advanced funds in insured, interest-bearing accounts. Interest earned on outstanding advances must be returned by check made payable to the CCC at the time the advance is either fully expended or itself returned.

Dated: July 11, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.*

[FR Doc. 03–18266 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–10–P

## DEPARTMENT OF AGRICULTURE

## Animal and Plant Health Inspection Service

## 9 CFR Part 53

**[Docket No. 02–048–2]**

**RIN 0579–AB46**

## Low Pathogenic Avian Influenza; Payment of Indemnity

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

**ACTION:** Final rule.

**SUMMARY:** We are adopting as a final rule, with several changes, an interim rule that amended our general indemnity regulations by allowing the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Virginia. As amended by this document, payments may also be made for poultry destroyed because of low pathogenic avian influenza associated with a disease situation in Texas. Also, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their losses and the remaining amount being paid to the owner of the flock. Additionally, this document makes eligible for compensation losses due to eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

**EFFECTIVE DATE:** July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dr. Cheryl Hall, Staff Veterinarian, National Center for Animal Health Programs, Certification and Control Team, VS, APHIS, 4700 River Road Unit 46, Riverdale, MD 20737–1231; (301) 734–4924.

**SUPPLEMENTARY INFORMATION:**

### Background

The Animal and Plant Health Inspection Service (APHIS) of the United States Department of Agriculture (the Department) administers regulations at 9 CFR part 53 (referred to below as the regulations) that provide for the payment of indemnity to owners of animals and materials that are required to be destroyed because of foot-and-mouth disease, pleuropneumonia, rinderpest, exotic Newcastle disease, highly pathogenic avian influenza, infectious salmon anemia, or any other communicable disease of livestock or poultry that, in the opinion of the Secretary of Agriculture, constitutes an emergency and threatens the U.S. livestock or poultry population. Payment for animals destroyed is to be based on the fair market value of the animals.

*Payment of Indemnity*

Section 53.2 of the regulations authorizes the APHIS Administrator to cooperate with a State in the control and eradication of disease. In an interim rule published in the **Federal Register** on November 4, 2002, and made effective December 9, 2002 (67 FR 67089–67096, Docket No. 02–048–1), we amended the regulations to allow the Department to pay indemnity to contract growers and owners for poultry destroyed because of low pathogenic avian influenza (LPAI) associated with a disease situation in Virginia. We provided that, subject to available funding, the Department may pay all eligible losses of contract growers and up to 50 percent of eligible losses of owners, minus any amount paid to the contract grower of a flock. Additionally, we provided that value of poultry destroyed due to the disease may be determined after destruction and disposal of the poultry, and required, except in limited situations, a waiting period of 7 days following cleaning and disinfection before premises that contained poultry affected by the disease may be restocked.

We solicited comments concerning the interim rule for 30 days ending December 4, 2002. We received 41 comments by that date. They were from poultry and egg producers, poultry federations, a farm bureau federation, a State Department of Agriculture, Federal and State congressional officials, and other members of the public. We have carefully considered all of the comments we received. They are discussed below by topic.

*Recommendation That Indemnity Be Paid for a Disease Situation in Texas*

In April 2002, birds in a poultry operation in Texas were identified as being affected with the LPAI H5 virus. The disease was subsequently identified in another poultry operation in Texas. All of the affected flocks were depopulated. A number of commenters recommended that indemnity be paid to producers of poultry in Texas for losses incurred from the occurrence of LPAI in that State. Some of the commenters stated that the disease situation in Texas was not as widespread as in Virginia only because Texas producers had been voluntarily taking part in a testing

program, and that those producers should not be denied indemnity for losses simply because they took part in an effective program. The commenters stated that not compensating Texas producers would serve as a disincentive to take part in ongoing surveillance programs in the future.

We recognize the proactive efforts of producers and animal health officials in Texas to contain and eradicate LPAI when it occurred in that State in 2002, and we recognize the effects on producers of the LPAI situation in Texas. In this final rule, we are amending the provisions in part 53 to allow the Administrator to pay claims for eligible losses incurred by owners and contract growers related to the 2002 disease situation in Texas associated with the H5 virus. We will apply those payment conditions that we are applying to the disease situation in Virginia to the disease situation in Texas.

*Flock Owners in North Carolina*

Several commenters requested similarly that compensation be paid to producers in North Carolina for losses due to LPAI.

Our interim rule provided that the Department would pay compensation for birds in States other than Virginia if those birds were depopulated because of being epidemiologically linked to the situation in Virginia. Compensation has been paid for flocks in North Carolina epidemiologically linked to the situation in Virginia.

*Percentage of Value Used for Compensation*

Several commenters requested that poultry owners be compensated at a rate higher than 50 percent of the value of poultry destroyed minus the amount paid to contract growers.

In this final rule, we are providing that, subject to available funding, the Department may pay up to 75 percent of eligible total losses with contract growers being compensated at 100 percent of their eligible losses and the remaining amount being paid to the owner of the flock.

*Payment for Eggs and Semen*

Several commenters requested that compensation be paid for destroyed eggs from affected premises, including destroyed hatching eggs that had been moved to a hatchery after the disease was detected on the premises but before the poultry from that premises were destroyed.

We agree with the commenters that such losses should be eligible for compensation. Additionally, semen collected from or used in affected flocks poses a risk of transmitting the LPAI virus and should be destroyed as part of the eradication process. Therefore, we are providing in this final rule that compensation will be paid for eggs, as well as any poultry semen, destroyed because of LPAI associated with the disease situations in Virginia and Texas.

*Miscellaneous Items*

One commenter expressed concern that the interim rule did not provide for payment for certain items other than poultry on affected premises. The commenter requested indemnity for feed and containers destroyed on affected premises. Additionally, the commenter requested compensation for custom-printed supplies that would not be used again because the destruction of birds and eggs would make it impossible to resume business operations. Other commenters requested compensation for feed used to sustain poultry from the time the disease was diagnosed on a premises until the time of depopulation and for poultry litter that could not be sold and moved from a quarantined premises.

We are making no changes based on the comments. Under the interim rule, growers were compensated fully for production losses and owners were compensated in part for poultry destroyed because of LPAI. With regard to feed and other materials destroyed, it has historically not been the Department's policy to compensate for such materials that were not required to be destroyed by the Department, such as in the Virginia and Texas outbreaks, where actions to control and eradicate the disease were initiated by the States. Any decision to no longer use supplies that were not contaminated by the disease was a voluntary business decision by the entity involved. The issue of compensating for feed used to sustain poultry is further inapplicable because, for those poultry that were allowed to move to slaughtering establishments (controlled slaughter), owners recouped the cost of feed for the poultry. In cases where affected poultry did not go to controlled slaughter, the poultry were required to be destroyed within 24 hours of diagnosis. Litter in the affected area was permitted to be moved from the area after meeting requirements to ensure that it was not contaminated by the LPAI agent.

*The LPAI Compensation Plan*

The interim rule based payments on the age (in weeks) of birds destroyed. Several commenters requested that the indemnification value of breeder flocks be calculated as of the date that the flock was diagnosed positive for LPAI, because, following that date, hatching eggs produced by the flock could not be moved from the premises. One commenter requested that, at the minimum, the value of a breeding bird be calculated as of the last full week of age of the bird before depopulation. For instance, it was requested that, if a flock was 44 weeks and 5 days old when depopulated, we consider the age of that flock to be only 44 weeks. One commenter recommended that the per-bird value in the LPAI compensation plan be prorated to the day of the bird's age.

We are making no changes based on the comments. We decided to be consistent with the method used to determine age, whether the birds were meat birds or breeding birds. We rounded up or down in standard fashion according to how old in days beyond a full week a bird was (*e.g.*, a bird 1 week and 2 days old will be considered 1 week old; a bird 1 week and 5 days old will be considered 2 weeks old). Although meat birds and replacement breeders gain in value as they age, breeder birds lose value as they age. An attempt to consider birds in all cases to be only as old as the last full week would have provided overcompensation to some owners and undercompensation to others. Calculation of compensation of a large number of birds based on days of age would delay payments and increase taxpayer expense to process the claims, and, on the average, using daily values would not change the overall payment made.

Several commenters stated that, practically speaking, the LPAI compensation plan bases payments to contract growers of breeder poultry on production records from one flock, whereas payments to growers of meat birds are based on an average of three to seven flocks. The commenters requested that a three-flock average be used to determine compensation for losses of breeder poultry.

We would find it acceptable to use a three-flock average for breeder birds. If companies provide APHIS with breeder data for the past three flocks, then all three flocks can be used in estimating flock productivity.

One commenter recommended that, in calculating a broiler breeder producer's projected flock income for the purposes of compensation, the previous three-flock income average be divided by the capitalized number of hens, and that the resulting payment per unit be multiplied by the capitalized number of hens in the LPAI-affected flock.

We would find the method described by the commenter an acceptable method of calculating projected flock income, provided documentation is provided to support the numbers provided.

One commenter asked whether any payment would be due a producer of broiler breeder birds if the age of the LPAI-affected flock was older than the average age of previous flocks.

It is not clear to us what the commenter means. Payment will be calculated for contract growers based on the amount they received for previous flocks. Contract growers will be compensated at 100 percent of their eligible losses, minus any compensation they already received from the owner. One possible but unlikely scenario the commenter may be referring to would be based on the fact that producers of breeding eggs often receive payment during the production cycle. Thus, it is possible, if the depopulated flock had much greater productivity and lasted in production longer than previous flocks, for the payment already received from the owner to be greater than the average amount received from previous flocks. If such a situation occurred, then no additional compensation would be paid to the producer, because the producer would have already received payment equal to previous flocks.

Several commenters stated that, under the interim rule, compensation would not be paid for male birds in broiler breeder flocks associated with the Virginia disease situation. The commenters requested that payment be made for such male birds disposed of due to the disease.

The compensation plan for Virginia does take into account losses for male birds in broiler breeder flocks; however, that may not be immediately apparent. The per bird compensation value for breeder broilers is shown in Table 1 of that compensation plan. (The compensation plan can be accessed as an appendix to the full economic analysis of the interim rule at *http://www.aphis.usda.gov/ppd/rad/avianecon.html*.) An explanation of how to apply that value is set out in the compensation plan under the heading ''Female Breeder Birds (in lay), Table Egg Birds (in lay).'' *See* section XXVI, which states, ''Per bird compensation values for broiler breeders include the cost of males, thus bird count should be of hens only.'' In other words, the value given the hens takes into account the value of male birds in the flock.

*Growers Who Cease Business*

One poultry owner stated that, in cases where a contract grower is ruled ineligible for payment because the grower did not adhere to the cleaning and disinfection requirements of the interim rule due to cessation of business, the poultry owner should nonetheless be compensated the total amount the owner is eligible to receive.

In such a case, the owner would receive compensation for the total eligible losses. However, based on the information available to us, all growers have chosen to clean and disinfect affected premises.

*Requests for Additional Compensation*

Several commenters requested that compensation be paid for income and production losses associated with delays in restocking a premises or neighboring premises after an LPAI test-positive flock had been depopulated and disposed of.

We are making no changes based on the comments. It has traditionally been the policy of the Department not to pay for ''downtime.''

Several commenters requested that compensation be paid for the cost of cleaning and disinfecting affected premises.

We are making no changes based on the comments. We consider the amounts that will be paid in accordance with the interim rule, as amended by this final rule, to be equitable compensation for losses incurred.

Several commenters requested that compensation be paid for reduced income to producers whose flocks tested negative, but who, as a precautionary measure due to detection of the disease in premises in the area, sent the flocks to slaughter earlier and at less value than they would have normally.

We recognize that some producers whose flocks were not affected chose to send their birds to slaughter due to detection of the disease in the area. However, APHIS, by law, may compensate only for birds and materials destroyed because they are considered to be infected with or exposed to the disease.

*Payment for Poultry Linked to the Situation*

One commenter requested confirmation that compensation would be paid for losses incurred from the destruction of poultry in States other than Virginia that were epidemiologically linked to the Virginia situation.

The commenter is correct in concluding that compensation will be paid for poultry in States other than Virginia that were destroyed because of an epidemiological link to the situation in Virginia.

*Opposition to the Interim Rule*

One commenter opposed the payment of indemnity under the interim rule, stating that losses due to disease are normal costs of doing business for any livestock industry.

We are making no changes based on this comment. In the event of a potentially serious disease situation, it is important to have a rapid, coordinated response by the public and private sectors in the early stages of the situation. The purpose of compensation is to remove possible sources of delay in eradicating the disease, such as grower and owner reluctance to report incidences of the diseases because of uncertainty about whether they will be compensated for losses.

Therefore, for the reasons given in the interim rule and in this document, we are adopting the interim rule as a final rule, with the changes discussed in this document.

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

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule are under review by the Office of Management and Budget under OMB control number 0579–0208.

**Government Paperwork Elimination Act Compliance**

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734—7477.

**Effective Date**

Pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find good cause for making this rule effective less than 30 days after publication in the **Federal Register.** The interim rule adopted as final by this rule was effective on December 9, 2002. This rule expands and increases the compensation to be paid for losses associated with an LPAI situation in Virginia and allows compensation to be paid for losses associated with an LPAI

situation in Texas. Immediate action is warranted to expedite compensation of persons who incurred eligible losses due to the disease situations.

**Executive Order 12866 and Regulatory Flexibility Act**

This rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget.

Below is the economic analysis of the changes in indemnity contained in this document with regard to LPAI in Virginia and Texas. Our November 4, 2002, interim rule included a summary of an initial regulatory flexibility analysis and cost-benefit analysis of the potential economic effects of the interim rule regarding the LPAI situation in Virginia. The full economic analysis for the interim rule, along with addendum for this final rule (the compensation plan for Texas), are available for review at *http://www.aphis.usda.gov/ppd/rad/avianecon.html.* This final economic analysis affirms the information contained in the economic analysis for the interim rule, with the changes discussed below.

As amended by this document, subject to available funding, the Department may pay up to 75 percent of eligible total losses associated with LPAI outbreaks in Virginia and Texas, with contract growers being compensated at 100 percent of their eligible losses and the remaining amount being paid to the owner of the flock. However, total payments may not exceed 75 percent of all eligible costs. Additionally, this document makes eligible for compensation those losses incurred because of eggs and semen that were destroyed because of low pathogenic avian influenza associated with the disease situations in Virginia and Texas. These actions are necessary to provide appropriate compensation for losses incurred due to this disease.

The interim rule provided for compensation of all eligible losses of contract growers and eligible losses of owners related to the LPAI situation in Virginia, up to 50 percent of the value of affected poultry. However, the interim rule, as does this final rule, provided that payments to owners would be net payments after payments to growers were subtracted. Changes in this final rule will have the effect of more fully compensating poultry owners for losses associated with the LPAI situations in Virginia and Texas.

*Disease Situation in Virginia*

The economic analysis accompanying the interim rule estimated a total of $50.99 million in compensation due to the LPAI situation in Virginia, with $37.1 million going to owners and $13.9 million going to growers, based on the assumption that compensation would be paid for 4.7 million birds depopulated. Fewer birds (3.7 million) were actually depopulated and eligible for compensation than had originally been predicted. Additionally, although the interim rule provided that total Federal payments would be reduced by any amounts paid by slaughtering establishments for birds sent to slaughter, the original compensation estimate did not assume that any such payments would occur. However, approximately $9 million was realized by the companies at controlled slaughter. Consequently, eligible losses were reduced by this amount and this reduction is reflected in the final rule.

The numbers in Table 1, below, reflect more up-to-date and accurate information on numbers of birds depopulated and average payout per bird. Total payments due to the disease situation in Virginia are expected to be close to $52.4 million—which includes compensation for destroyed eggs ($1.6 million) and disposal costs ($7.7 million)—with approximately $47.8 million of the total going to owners and approximately $4.6 million going to growers. This information was current as of January 28, 2003. No substantial changes were expected after this date, although a few small claims could still be presented for payment.

TABLE 1.—DISEASE SITUATION RELATED TO VIRGINIA

| | Number of birds depopulated | Number of birds sent to controlled slaughter | Average per bird compensation value (based on average payout values to date)** | Total compensation |
|---|---|---|---|---|
| Chicken broilers (meat birds) | 586,363 | 210,000 | $1.12 | $656,727 |
| Chicken broiler breeders | 533,715 | 0 | 12.00 | 6,404,580 |
| Table egg layers | 83,600 | 0 | 4.61 | 385,396 |
| Turkey breeders* | 171,990 | 140,300 | 58.70 | 22,836,456 |
| Turkey meat birds | 2,328,321 | 625,680 | 5.50 | 12,805,766 |
| Total birds | 3,703,989 | 975,980 | ..... | 43,088,924 |
| Eggs destroyed | ..... | ..... | ..... | 1,634,372 |
| Disposal | ..... | ..... | ..... | 7,656,597 |
| Total | ..... | ..... | ..... | 52,379,893 |

*The only birds sent to controlled slaughter for which compensation was paid were turkey breeders. For breeder birds, USDA pays the difference between slaughter price and estimated bird value. Compensation is not paid for turkey or chicken meat birds sent to controlled slaughter.
** Dollar amounts are based on a 75 percent compensation rate.

Under the final rule, growers continue to be compensated for 100 percent of their losses. However, the total dollar amount expected to be paid to growers is less than had originally been anticipated. A number of factors are responsible for the lower total payment to growers.

First, fewer grower farms were eligible for compensation. A significant number of meat birds went to controlled slaughter, plus fewer farms had contract growers than were initially assumed. In the original analysis, we assumed that every farm had a contract grower, but, in reality, this assumption holds true only for meat flocks. Breeder flocks, especially the more valuable turkey breeders, tend to be raised on company farms. Only 20 percent of turkey breeders were raised on grower farms.

Second, the average actual per-bird payout to growers was less than estimated. Actual per-bird payout to growers depends on the age of the flock

in weeks and also historical payout records.

Third, a few contract growers refused, for religious reasons, to accept payments from the Federal Government.

*Disease Situation in Texas*

The LPAI situation in Texas differed from that in Virginia. Only two operations were affected in Texas. One was a single-site table egg producer; the other was a collection site for spent breeding hens obtained from commercial broiler breeders for subsequent sale to urban live bird markets. Birds owned by two poultry owners from the second operation were depopulated. Therefore, a total of three owners were directly affected in the Texas situation.

As shown in Table 2, below, 238,838 birds were destroyed from the table egg operation. Using a compensation rate of 75 percent, compensation for those birds will total close to $430,000. With the addition of payment for disposal costs at a 75 percent rate, payments for this operation will total approximately $443,000. From the operation with the spent birds, the first party had 5,770 birds depopulated. The second party had 1,429 birds depopulated. Neither party incurred disposal costs. Total compensation for the spent bird operation will be approximately $10,800. Total compensation due to the LPAI situation in Texas will be approximately $453,800.

TABLE 2.—DISEASE SITUATION IN TEXAS

| | Number of birds depopulated | Number of birds sent to controlled slaughter | Average per bird compensation value* | Total compensation |
|---|---|---|---|---|
| First Operation: | | | | |
| Table egg layers | 238,838 | 0 | $1.80 | $429,658 |
| Disposal | | | | 13,365 |
| Second Operation: | | | | |
| First party (Spent birds) | 5,770 | 0 | 1.50 | 8,665 |
| Second party (Spent birds) | 1,429 | 0 | 1.50 | 2,144 |
| Total | | | | 453,822 |

*Dollar amounts are based on a 75 percent compensation rate.

*Regulatory Flexibility Analysis—Potential Effect on Small Entities*

To the extent that the interim and final rules contribute to the elimination of LPAI in Virginia and Texas, all affected entities should benefit over the long term. In the short term, however, the economic effects will vary.

In Virginia, five or six poultry companies/integrators who owned the affected poultry and 197 contract grower farm/flocks in the Shenandoah Valley of Virginia will be affected by the November 2002 interim rule and this final rule. Three contract grower operations outside the Shenandoah Valley will also be affected. In addition, other entities not yet identified may be directly or indirectly affected by the disease event and/or the final rule. The poultry companies/integrators that own the birds are all large, vertically integrated concerns that do not meet the Small Business Administration (SBA) small-entity criteria. It is unclear at this time exactly how many contract growers will qualify for consideration as small entities. The SBA defines small poultry operations as those earning gross per-farm receipts of no more than $750,000 annually.[1]

In Texas, the two owners of spent birds are most likely small entities. It is unclear whether the table egg producer is a small entity. In any case, all three parties will benefit from the compensation payments provided by this rule.

**List of Subjects in 9 CFR Part 53**

Animal diseases, Indemnity payments, Livestock, Poultry and poultry products.

■ Accordingly, the interim rule amending 9 CFR part 53 that was published at 67 FR 67089–67096 on November 4, 2002, is adopted as a final rule with the following changes:

## PART 53—FOOT–AND–MOUTH DISEASE, PLEUROPNEUMONIA, RINDERPEST, AND CERTAIN OTHER COMMUNICABLE DISEASES OF LIVESTOCK OR POULTRY

■ 1. The authority citation for part 53 continues to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

■ 2. In § 53.4, paragraphs (a) and (b) are revised to read as follows:

### § 53.4 Destruction of animals.

(a) Except as provided in paragraph (b) of this section, animals infected with or exposed to disease shall be killed promptly after appraisal and disposed of by burial or burning, unless otherwise specifically provided by the Administrator, at his or her discretion. In the case of animals depopulated due to infectious salmon anemia, salvageable fish may be sold for rendering, processing, or any other purpose approved by the Administrator. In the case of poultry depopulated because of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, poultry may be slaughtered and sold. The proceeds gained from the sale of the fish or poultry will be subtracted from any payment from APHIS for which the producer or owner is eligible under § 53.2(b) or § 53.11.

(b) In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, the value of poultry depopulated because of the disease may be calculated following destruction and disposal of the poultry, based on the number, type, and age of the animals destroyed.

* * * * *

■ 3. Section 53.7 is revised to read as follows:

### § 53.7 Disinfection of premises, conveyances, and materials.

All premises, including barns, corrals, stockyards and pens, and all cars, vessels, aircraft, and other conveyances, and the materials thereon, shall be cleaned and disinfected under supervision of an APHIS employee whenever necessary for the control and eradication of disease. Expenses incurred in connection with such cleaning and disinfection shall be shared according to the agreement

[1] Small Business Administration, *http://www.SBA.gov/size*. This includes small broiler operations (112320), small turkey operations (112330), small hatchery operations (112340), and other small poultry operations (112390).

reached under § 53.2 with the State in which the work is done. In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, premises may not be restocked with poultry until at least 7 days following such cleaning and disinfection, unless the Administrator determines that a shorter or longer period of time is adequate or necessary to protect new poultry against infection.

■ 4. In § 53.8, paragraphs (b) and (c) are revised to read as follows:

**§ 53.8 Presentation of claims.**

* * * * *

(b) In the case of claims made under § 53.11, claims for compensation for losses from poultry, eggs, and poultry semen destroyed or to be destroyed must be presented to APHIS, through the inspector in charge, on a form approved by the Administrator. The claim must specify the number, type, and age of the poultry; the number and type of eggs; and the type and amount of semen, as applicable.

(c) To be considered by the Department, claims made under § 53.11 must be submitted to APHIS within 90 days after December 9, 2002, or the destruction of poultry, whichever is later, except that claims made for eggs or poultry semen, and claims made for other eligible losses associated with the disease situation in Texas, must be submitted to APHIS within 90 days after July 18, 2003 or the destruction of the eggs, semen, or poultry, whichever is later.

* * * * *

■ 5. Section 53.11 is amended by revising the introductory text and paragraph (b) to read as follows:

**§ 53.11 Payments arising from low pathogenic avian influenza; conditions for payment.**

In the case of low pathogenic avian influenza related to the 2002 disease situations in Virginia and Texas associated with the H5 or H7 virus, the Administrator may pay claims, subject to available funding, as follows:

* * * * *

(b) *For owners.* The Administrator, in accordance with § 53.4, may pay an owner up to 75 percent of the value of the poultry, eggs, and semen destroyed plus 75 percent of the costs of destruction and disposal of the poultry, eggs, and semen, in accordance with the LPAI compensation plan, minus the amount paid in accordance with paragraph (a) of this section to the contract grower of the poultry.

* * * * *

Done in Washington, DC, this 14th day of July, 2003.

**Bill Hawks,**

*Under Secretary for Marketing and Regulatory Programs.*

[FR Doc. 03–18253 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–34–P

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 72

**RIN 3150–AH20**

## List of Approved Spent Fuel Storage Casks: NAC–MPC Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Direct final rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is amending its regulations revising the NAC International, Inc., Multipurpose Canister cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to Certificate of Compliance (CoC) Number 1025. This amendment incorporates changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and makes corrections to the Connecticut Yankee technical specifications. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kilograms (kg) [950 pounds (lb)]; revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the American Society of Mechanical Engineers (ASME) Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes in the CoC.

**DATES:** The final rule is effective October 1, 2003, unless significant adverse comments are received by August 18, 2003. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. If the rule is withdrawn, timely notice will be published in the **Federal Register**.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH20) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public, in their entirety, on the NRC rulemaking website. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* Address questions about our rulemaking website to Carol Gallagher (301) 415–5905; email *cag@nrc.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays (telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking website at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.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. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.* An electronic copy of the proposed CoC and Technical Specifications (TS) and the preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML031330790, ML031340571, and ML031330792, respectively.

CoC No. 1025, the revised TS, the underlying SER for Amendment No. 3, and the Environmental Assessment, are available for inspection at the NRC Public Document Room, 11555

Rockville Pike, Rockville, MD. Single copies of these documents may be obtained from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email *jmm2@nrc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, telephone (301) 415–6219, e-mail *jmm2@nrc.gov*, of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 218(a) of the Nuclear Waste Policy Act of 1982, as amended (NWPA), requires that ''[t]he Secretary (of the Department of Energy (DOE)) shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the (Nuclear Regulatory) Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission.'' Section 133 of the NWPA states, in part, that ''[t]he Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under Section 218(a) for use at the site of any civilian nuclear power reactor.''

To implement this mandate, the NRC approved dry storage of spent nuclear fuel in NRC-approved casks under a general license by publishing a final rule in 10 CFR part 72 entitled, ''General License for Storage of Spent Fuel at Power Reactor Sites'' (55 FR 29181; July 18, 1990). This rule also established a new subpart L within 10 CFR part 72, entitled ''Approval of Spent Fuel Storage Casks'' containing procedures and criteria for obtaining NRC approval of spent fuel storage cask designs. The NRC subsequently issued a final rule on March 9, 2000 (65 FR 12444), that approved the NAC-Multipurpose Canister (NAC–MPC) cask design and added it to the list of NRC-approved cask designs in § 72.214 as Certificate of Compliance Number (CoC No.) 1025.

## Discussion

On April 18, 2002, and as supplemented May 15, 2002, July 17, 2002, October 3, 2002, and January 17, 2003, NAC International, Inc. (NAC) submitted an application to the NRC to amend CoC No. 1025 to incorporate changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and make corrections to the Connecticut Yankee TS. The amendment specifically incorporates fuel enrichment tolerances, 432-kg (950-lb) fuel assemblies, damaged fuel, damaged fuel cans, and recaged fuel for Yankee Rowe. For Connecticut Yankee, the amendment corrects the tables for fuel assembly limits and intact fuel assembly characteristics. The amendment also incorporates editorial and administrative changes in the CoC.

No other changes to the NAC–MPC cask system design were requested in this application. The NRC staff performed a detailed safety evaluation of the proposed CoC amendment request and found that an acceptable safety margin is maintained. In addition, the NRC staff has determined that there is still reasonable assurance that public health and safety and the environment will be adequately protected.

This direct final rule revises the NAC–MPC cask design listing in § 72.214 by adding Amendment No. 3 to CoC No. 1025. The amended TS are identified in the NRC staff's SER for Amendment No. 3.

The amended NAC–MPC cask system, when used in accordance with the conditions specified in the CoC, the TS, and NRC regulations, will meet the requirements of part 72; thus, adequate protection of public health and safety will continue to be ensured.

## Discussion of Amendments by Section

*Section 72.214 List of Approved Spent Fuel Storage Casks*

Certificate No. 1025 is revised by adding the effective date of Amendment No. 3.

## Procedural Background

This rule is limited to the changes contained in Amendment No. 3 to CoC No. 1025 and does not include other aspects of the NAC–MPC cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The amendment to the rule will become effective on October 1, 2003. However, if the NRC receives significant adverse comments by August 18, 2003, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**. A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or TS.

These comments will be addressed in a subsequent final rule. The NRC will not initiate a second comment period on this action. However, if the NRC receives significant adverse comments by August 18, 2003, then the NRC will publish a document that withdraws this action and will address the comments received in response to the proposed amendments published elsewhere in this issue of the **Federal Register**.

## Voluntary Consensus Standards

The National Technology Transfer 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 the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, the NRC would revise the NAC–MPC cask system design listed in § 72.214 (List of NRC-approved spent fuel storage cask designs). This action does not constitute the establishment of a standard that establishes generally applicable requirements.

## Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this

rule is classified as Compatibility Category ''NRC.'' Compatibility is not required for Category ''NRC'' regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the Atomic Energy Act of 1954, as amended (AEA) or the provisions of Title 10 of the Code of Federal Regulations. Although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

**Plain Language**

The Presidential Memorandum dated June 1, 1998, entitled ''Plain Language in Government Writing,'' directed that the Government's writing be in plain language. The NRC requests comments on this direct final rule specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed under the heading **ADDRESSES** above.

**Finding of No Significant Environmental Impact: Availability**

Under the National Environmental Policy Act of 1969, as amended, and the NRC regulations in subpart A of 10 CFR part 51, the NRC has determined that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. The rule would amend the CoC for the NAC–MPC cask system within the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites under a general license. The amendment will modify the present cask system design to incorporate changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and make corrections to the Connecticut Yankee technical specifications. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kg (950 lb); revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the ASME Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes to the CoC. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. Single copies of the environmental assessment and finding of no significant impact are available from Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6219, email *jmm2@nrc.gov.*

**Paperwork Reduction Act Statement**

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, Approval Number 3150–0132.

**Public Protection Notification**

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

**Regulatory Analysis**

On July 18, 1990 (55 FR 29181), the NRC issued an amendment to 10 CFR part 72 to provide for the storage of spent nuclear fuel under a general license in cask designs approved by the NRC. Any nuclear power reactor licensee can use NRC-approved cask designs to store spent nuclear fuel if it notifies the NRC in advance, spent fuel is stored under the conditions specified in the cask's CoC, and the conditions of the general license are met. A list of NRC-approved cask designs is contained in § 72.214. On March 9, 2000 (65 FR 12444), the NRC issued an amendment to part 72 that approved the NAC–MPC cask design by adding it to the list of NRC-approved cask designs in § 72.214. On April 18, 2002, and as supplemented May 15, 2002, July 17, 2002, October 3, 2002, and January 17, 2003, NAC International, Inc., submitted an application to the NRC to amend CoC No. 1025 to incorporate changes in support of the Yankee Rowe fuel loading campaign and make corrections to the Connecticut Yankee TS. Specifically, the amendment incorporates fuel enrichment tolerances; incorporates fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kg (950 lb); revises the average surface dose rate limits for the concrete cask; incorporates administrative changes in the ASME Code Alternatives; corrects the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporates editorial and administrative changes in the CoC.

The alternative to this action is to withhold approval of this amended cask system design and issue an exemption to each general license. This alternative would cost both the NRC and the utilities more time and money because each utility would have to pursue an exemption.

Approval of the direct final rule will eliminate this problem and is consistent with previous NRC actions. Further, the direct final rule will have no adverse effect on public health and safety. This direct final rule has no significant identifiable impact or benefit on other Government agencies. Based on this discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the direct final rule are commensurate with the NRC's responsibilities for public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, and thus, this action is recommended.

**Regulatory Flexibility Certification**

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the NRC certifies that this rule will not, if issued, have a significant economic impact on a substantial number of small entities. This direct final rule affects only the licensing and operation of nuclear power plants, independent spent fuel storage facilities, and NAC International, Inc. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR part 121.

**Backfit Analysis**

The NRC has determined that the backfit rule (10 CFR 50.109 or 10 CFR 72.62) does not apply to this direct final rule because this amendment does not involve any provisions that would impose backfits as defined. Therefore, a backfit analysis is not required.

**Small Business Regulatory Enforcement Fairness Act**

In accordance with the Small Business Regulatory Enforcement Fairness 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, Office of Management and Budget.

**List of Subjects In 10 CFR Part 72**

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ For the reasons set out in the preamble 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 72.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OFSPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

■ 1. The authority citation for Part 72 continues to read as follows:

**Authority:** Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c),(d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C.10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

* * * * *

Certificate Number: 1025.

Initial Certificate Effective Date: April 10, 2000.

Amendment Number 1 Effective Date: November 13, 2001.

Amendment Number 2 Effective Date: May 29, 2002.

Amendment Number 3 Effective Date: October 1, 2003.

SAR Submitted by: NAC International, Inc.

SAR Title: Final Safety Analysis Report for the NAC-Multipurpose Canister System (NAC–MPC System).

*Docket Number:* 72–1025.

Certificate Expiration Date: April 10, 2020.

Model Number: NAC–MPC.

* * * * *

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 7th day of July, 2003.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 03–18260 Filed 7–17–03; 8:45 am]

BILLING CODE 7590–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–395–AD; Amendment 39–13228; AD 2003–14–09]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that currently requires repetitive detailed inspections to detect cracked, corroded, or stained collar fittings on both inboard trailing edge flaps; and follow-on corrective actions, if necessary. This amendment expands the applicability in the existing AD, and adds repetitive inspections for discrepancies of the collar fittings, torque tube, and splined bushings on both inboard trailing edge flaps; and follow-on and corrective actions, if necessary. The actions specified by this AD are intended to prevent failure of the collar fittings, which could result in separation of the inboard trailing edge flap and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 22, 2003.

The incorporation by reference of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001, is approved by the Director of the Federal Register as of August 22, 2003.

The incorporation by reference of Boeing Alert Service Bulletin 767–57A0066, Revision 1, dated August 6, 1998, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 12, 1998 (63 FR 57577, October 28, 1998).

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Suzanne Masterson, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6441; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–22–12, amendment 39–10859 (63 FR 57577, October 28, 1998), which is applicable to certain Boeing Model 767 series airplanes, was published in the **Federal Register** on January 3, 2003 (68 FR 324). The action proposed to continue to require repetitive detailed inspections to detect cracked, corroded, or stained collar fittings on both inboard trailing edge flaps; and follow-on corrective actions, if necessary. The new action proposed to expand the applicability in the existing AD, and would add repetitive inspections for discrepancies of the collar fittings, torque tube, and splined bushings on both inboard trailing edge flaps; and follow-on and corrective actions, if necessary.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter concurs with the contents of the proposed AD.

**Request Credit for Previously Accomplished Inspections**

One commenter asks for credit for accomplishment of the inspections required by paragraphs (c) and (f) of the proposed AD before the effective date of the AD. The commenter states that the information specified in paragraph (f) provides instructions for operators that have done paragraph (c) for an initial inspection and follow-on actions if the corrosion inhibiting compound (CIC) Titanine JC5A has been used, or if the type of CIC that was used is unknown. The commenter states that there are no guidelines for inspection of airplanes on which BMS 3–27 CIC was used. The commenter adds that airplanes on which the inspections were done in accordance with Part 3 of the referenced service bulletin should meet the inspection requirements, provided that BMS 3–27 CIC was used and the repetitive inspections are being done in lieu of the terminating action.

We agree with the commenter for the reasons provided. We have added a new paragraph (g) to this final rule (and reordered subsequent paragraphs accordingly) to give credit for the inspections required by paragraphs (c) and (f) of the final rule done before the effective date of the AD, under the conditions set forth by the commenter.

**Request To Change Paragraph (a)(2)**

One commenter asks that paragraph (a)(2) of the proposed AD be changed to add the option of installing a serviceable collar fitting. The commenter states that a serviceable collar fitting is crack- and corrosion-free, and provides the same level of safety as a new collar fitting.

We agree with the commenter as allowing the option of installing a serviceable collar fitting to paragraph (a)(2) of this final rule would be a relieving action for operators. Therefore, paragraph (a)(2) of the final rule has been changed accordingly.

**Request To Clarify or Remove Paragraph (f)**

One commenter asks that paragraph (f) of the proposed AD be changed for clarification, or removed from the proposed AD. The commenter states that it is not clear which ''inspections'' paragraph (f) is referencing, and the commenter reiterates the contents of that paragraph. The commenter does not understand what the inspection required by paragraph (a) of the proposed AD is for, or why Revision 2 of the referenced service bulletin is singled out. Nor does the commenter understand what the most recent inspection is. The commenter asks if the inspection specified is the spline or the collar fitting inspection. The commenter adds that if the inspection is the spline inspection, it will cause an undue burden on the operator because 22 airplanes will be required to have their flaps removed within 90 days.

The same commenter recommends that paragraph (f) be removed from the proposed AD because it appears to be applicable to any airplane on which paragraph (c) of the proposed AD has not been previously complied with, and paragraph (c) requires the spline inspection. The commenter adds that, until the spline inspection is done, the 120-day collar fitting inspections are being done and any discrepancies will be found before failure occurs.

We agree that paragraph (f) of the proposed AD needs clarification; however, we do not agree that it should be removed. We have rewritten paragraph (f) of the final rule for clarity and defined the type of inspection required. Revision 2 of the service bulletin is ''singled out'' because it recommended using CIC Titanine JC5A, which does not provide adequate corrosion protection for the joints specified, and Revision 3 recommends refinishing those joints with CIC BMS 3–27 or BMS 3–38, which does provide adequate corrosion protection. The definition of ''the most recent inspection,'' as specified in paragraph (f) of the proposed AD, is the last spline inspection completed as of the effective date of the AD. In addition, we have added sub-paragraphs (f)(1) and (f)(2) to this final rule to add an optional inspection, which would extend the compliance time for the current inspection to 6 years and adds the option of doing either the Part 1 (which is not as extensive as Part 3) or the Part 3 inspection within 3 years after the most recent inspection done in accordance with Revision 2 of the service bulletin, or within 90 days after the effective date of this AD. This change matches the compliance time recommended in Revision 3 of the referenced service bulletin, and also alleviates any undue burden to operators caused by the compliance time specified in the proposed AD.

**Request To Change Cost Impact**

One commenter estimates the tasks generated by the inspections specified in the proposed AD would require 128 work hours per airplane at an overall cost of $985,600. The commenter states that the proposed AD specifies 2 work hours for the current inspections and 2 work hours for the new inspections. The commenter notes that these estimates are substantially lower than the actual cost impact. The commenter also states that there is no cost specified for the spline rework or replacement.

We agree that access to the area under the inboard trailing edge flaps is not a task normally accomplished during routine maintenance, as the flaps are never removed during such maintenance, so the work hours required for access and close up should be added. We have changed the work hours for the spline inspection specified in the Cost Impact section in this final rule from 2 to 127 work hours (we estimate an additional 125 work hours). We also have reduced the number of airplanes specified in this section as it has changed since issuance of the proposed AD. We do not agree that the work hours for the spline rework or replacement should be added to the final rule as this is an on-condition action that would be done only if discrepancies are found. No change to the final rule is necessary in this regard.

**Request for Editorial Changes**

One commenter asks for the following editorial changes to the proposed AD:

- Change the service bulletin reference in paragraph (a)(3) of the proposed AD from ''Part 4'' to ''Figure 4.'' The commenter states that Part 4 provides spline rework instructions, and Figure 4 provides instructions for the external corrosion removal for the collar fitting.

We agree with the commenter, as we inadvertently referenced ''Part 4'' instead of ''Figure 4'' in paragraph (a)(3) of the proposed AD. We have changed paragraph (a)(3) of this final rule accordingly.

- Change paragraph (a)(4)(ii) of the proposed AD to reference Part 3 of the service bulletin as follows ''* * * before further flight, repair the corrosion in accordance with Part 3 and Part 4 of the Accomplishment Instructions of Revision 3 of the service bulletin * * *'' The commenter states that Part 3 provides procedures for spline component removal and an inspection required before accomplishing the rework in Part 4 of the service bulletin.

We agree with the commenter that paragraph (a)(4)(ii) of the proposed AD, which would require accomplishment of Part 2 and repair of any corrosion in accordance with Part 4, should be clarified. Part 2 of the service bulletin specifies doing Part 3 and Part 4 if corrosion of the collar fittings and torque tube is found. We have changed paragraph (a)(4)(ii) of this final rule accordingly.

- Change paragraph (d) of the proposed AD to add, ''* * * refinish

and reassemble the parts in accordance with the service bulletin.''

We agree with the commenter that paragraph (d) of the proposed AD should be changed. We have changed paragraph (d) of this final rule, for clarification and consistency, to state, ''* * * refinish and reassemble the parts with liberal coatings of corrosion-inhibiting compound (CIC) BMS 3–27 or BMS 3–38, in accordance with the service bulletin.''

• Change paragraph (h) of the proposed AD to explicitly specify line numbers 704, 719, and 720, and change the end of the last sentence, for clarification, to read, at the time specified in paragraph (g) of this AD.'' The commenter states that this change is necessary for clarification of the applicability and compliance time specified in this paragraph. The commenter notes that paragraph (h) of the proposed AD is applicable only to those three airplanes which were assembled with BMS 3–27, not the MIL–G–23827 grease, after the proposed AD was issued. The commenter adds that without this change operators may be confused as to the applicability and the exact compliance time.

We agree with the commenter that paragraph (i) of the final rule (paragraph (h) of the proposed AD) should be changed, for the reasons specified. Paragraph (i) of this final rule has been changed to specify line numbers 704, 719, and 720, and to add, ''at the time specified in paragraph (h) of this AD'' (paragraph (g) of the proposed AD) at the end of the last sentence, for clarity.

## Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

## Cost Impact

There are approximately 691 airplanes of the affected design in the worldwide fleet. The FAA estimates that 293 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 98–22–12 take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions is estimated to be $120 per airplane, per inspection cycle.

The new inspections and refinishing that are required by this AD action will take approximately 127 work hours (including access and close up) per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections and refinishing required by this AD on U.S. operators is estimated to be $2,232,660, or $7,620 per airplane, per cycle.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as planning time, or time necessitated by other administrative actions.

## Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ''**ADDRESSES.**''

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–10859 (63 FR 57577, October 28, 1998), and by adding a new airworthiness directive (AD), amendment 39–13228, to read as follows:

**2003–14–09 Boeing:** Amendment 39–13228. Docket 2001 NM–395–AD. Supersedes AD 98–22–12, Amendment 39–10859.

*Applicability:* Model 767 series airplanes, line numbers 1 through 749 inclusive, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (k)(1) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the collar fittings on the inboard trailing edge flaps, which could result in separation of the flap and consequent reduced controllability of the airplane, accomplish the following:

**Restatement of Requirements of AD 98–22–12**

*Detailed Inspections/Corrective Actions*

(a) For airplanes having line numbers 1 through 721 inclusive, except as provided by paragraphs (c) and (e) of this AD: Within 8 years since the date of manufacture of the airplane, or within 90 days after November 12, 1998 (the effective date of AD 98–22–12, amendment 39–10859), whichever occurs later; perform a detailed inspection of the collar fittings of both inboard trailing edge flaps to detect cracks, corrosion, or staining, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 1, dated August 6, 1998; or Revision 3, including Appendices A and B, dated December 19, 2001. As of the effective date of this AD, only Revision 3 shall be used.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by

the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

(1) If no cracked, corroded, or stained collar fitting is found, repeat the detailed inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 120 days until accomplishment of paragraph (d) or (e) of this AD, as applicable.

(2) If any cracked collar fitting is found, prior to further flight, install a new or serviceable collar fitting in accordance with Part 2 of the Accomplishment Instructions of the alert service bulletin.

(3) If any corroded collar fitting is found, prior to further flight, repair the corrosion in accordance with Figure 4 of the Accomplishment Instructions of Revision 3 of the service bulletin; or in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA.

(4) If any stained collar fitting is found, accomplish the requirements of paragraphs (a)(4)(i) and (a)(4)(ii) of this AD at the compliance times specified.

(i) Repeat the detailed inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 45 days; and

(ii) Within 18 months after finding the stained collar fitting, accomplish Part 2 of the Accomplishment Instructions of the alert service bulletin. If any corroded collar fitting is found, before further flight, repair the corrosion in accordance with Part 3 and Part 4 of the Accomplishment Instructions of Revision 3 of the service bulletin; or in accordance with a method approved by the Manager, Seattle ACO.

**New Requirements of This AD**

*Detailed Inspection*

(b) For airplane line number 723: Within 8 years since the date of manufacture of the airplane, or within 90 days after the effective date of this AD, whichever is later; do a detailed inspection of the collar fittings of both inboard trailing edge flaps to detect cracks, corrosion, or staining, as specified in paragraph (a) of this AD, in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001. Then do the applicable actions specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD.

*Repetitive Inspections/Follow-On and Corrective Actions*

(c) For airplanes having line numbers 1 through 703 inclusive, 705 through 715 inclusive, 717, 718, 721, and 723; and for the right-hand side of the airplane on line number 716: Within 10 years since the date of manufacture of the airplane, or within 4 years after the effective date of this AD, whichever is later; do a spline inspection of the collar fittings, torque tube, and splined bushings for discrepancies (including cracks, fractures, corrosion, corrosion pits, and light wear), in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001. Accomplishment of the inspections required by this paragraph, before the initial inspection required by paragraph (a) of this AD, meets the inspection requirements in paragraph (a) of this AD.

(d) If no discrepancy is found during any inspection required by paragraph (c) or (h) of this AD, before further flight, refinish and reassemble the parts with liberal coatings of corrosion-inhibiting compound (CIC) BMS 3–27 or BMS 3–38, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001; and repeat the inspection every 24,000 flight cycles or 12 years, whichever is first. Accomplishment of this paragraph terminates the repetitive inspections required by paragraph (a) of this AD.

(e) If any discrepancy is found during any inspection required by paragraph (c) or (h) of this AD, before further flight, do the actions specified in either paragraph (e)(1) or (e)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001. Accomplishment of this paragraph terminates the repetitive inspections required by paragraph (a) of this AD.

(1) Replace the affected part with a new part, and reassemble the joint with liberal coatings of CIC BMS 3–27 or BMS 3–38, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the applicable inspection specified in paragraph (c) or (h) of this AD every 24,000 flight cycles or 12 years, whichever is first.

(2) Rework the affected part, and reassemble the joint with liberal coatings of CIC BMS 3–27 or BMS 3–38, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the applicable inspection specified in paragraph (c) or (h) of this AD, as specified in paragraph (e)(2)(i), (e)(2)(ii), or (e)(2)(iii) of this AD, as applicable.

(i) If five or fewer spline lengths are reworked per Figure 8 of the service bulletin, repeat the inspection every 24,000 flight cycles or 12 years, whichever is first.

(ii) If more than five spline lengths, but fewer than or equal to the maximum number of spline lengths allowed per Figure 8 of the service bulletin are reworked, repeat the inspection every 12,000 flight cycles or 6 years, whichever is first.

(iii) If more than the maximum number of spline lengths allowed per Figure 8 of the service bulletin are reworked, before further flight, replace the splined component and repeat the inspection every 24,000 flight cycles or 12 years, whichever is first.

*Additional Inspections for Airplanes Inspected per Revision 2 of the Service Bulletin*

(f) For any airplane on which the spline inspection was done in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 2, dated February 18, 1999; and on which the CIC Titanine JC5A was used, or the maintenance records are inconclusive of the type of CIC used: Do the applicable inspection specified in Part 1 or Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001; at the applicable time specified in paragraph (f)(1) or (f)(2) of this AD.

(1) Within 3 years after the last spline inspection done in accordance with Revision 2 of the service bulletin, or within 90 days after the effective date of this AD, whichever is later, do the applicable inspection specified in either Part 1 or Part 3 of Revision 3 of the service bulletin. Before further flight after accomplishment of the Part 1 inspection, do the applicable follow-on actions specified in paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this AD. Before further flight after accomplishment of the Part 3 inspection, do the applicable follow-on actions specified in paragraphs (d) and (e) of this AD.

(2) Within 6 years after the last spline inspection done in accordance with Revision 2 of the service bulletin, do the spline inspection specified in Part 3 of Revision 3 of the service bulletin, unless already accomplished per paragraph (f)(1) of this AD. Before further flight after accomplishment of the inspection, do the applicable follow-on actions specified in paragraphs (d) and (e) of this AD.

*Credit for Previously Accomplished Inspections*

(g) Accomplishment of the spline inspection of the collar fittings, torque tube, and splined bushings per Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 2, dated February 18, 1999; and on which the maintenance records are conclusive that CIC Titanine JC5A was not used, is considered acceptable for the initial inspections required by paragraphs (c) and (h) of this AD.

*Airplanes Assembled With BMS 3–27*

(h) For airplanes having line numbers 704, 719, 720, 722, and 724 through 749 inclusive; and for the left-hand side of the airplane on line number 716: Within 12 years since the date of manufacture of the airplane, or within 24,000 flight cycles after the effective date of this AD, whichever is first; do a spline inspection of the collar fittings, torque tube, and splined bushings for discrepancies (including cracks, fractures, corrosion, corrosion pits, and light wear). Do the inspection in accordance with Part 3 of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001; then, before further flight, do the applicable actions specified in either paragraph (d) or (e) of this AD.

(i) For airplanes having line numbers 704, 719, and 720: If the initial inspection required by paragraph (a) of this AD has not been done as of the effective date of this AD, operators may do the inspection required by paragraph (h) of this AD in lieu of the inspection required by paragraph (a) of this AD, at the time specified in paragraph (h) of this AD.

*Use of Titanine JC5A Prohibited*

(j) As of the effective date of this AD, no person shall use the CIC Titanine JC5A on the collar fittings, torque tube, and splined bushings on any airplane.

*Alternative Methods of Compliance*

(k)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 98–22–12, Amendment 39–10859, are not considered to be approved as alternative methods of compliance with this AD.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

*Special Flight Permits*

(l) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

*Incorporation by Reference*

(m) Unless otherwise provided in this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 767–57A0066, Revision 1, dated August 6, 1998; or Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001.

(1) The incorporation by reference of Boeing Alert Service Bulletin 767–57A0066, Revision 3, including Appendices A and B, dated December 19, 2001, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Alert Service Bulletin 767–57A0066, Revision 1, dated August 6, 1998, as listed in the regulations, was approved previously by the Director of the Federal Register as of November 12, 1998 (63 FR 57577, October 28, 1998).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(n) This amendment becomes effective on August 22, 2003.

Issued in Renton, Washington, on July 7, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–17692 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–401–AD; Amendment 39–13233; AD 2003–14–14]**

**RIN 2120–AA64**

## Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR72 series airplanes, that requires installing brackets and ramps under floor panels between frames 23C and 23D and installing wire bundles on the ramps. The actions specified by this AD are intended to prevent chafing damage to the electrical wire cables, which could lead to an electrical short circuit and potential for a fire under the floor panels. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR72 series airplanes was published in the **Federal Register** on April 11, 2003 (68 FR 17755). That action proposed to require installing brackets and ramps under floor panels between frames 23C and 23D and installing wire bundles on the ramps.

**Comments**

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

**Conclusion**

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

**Changes to 14 CFR Part 39/Effect on the AD**

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

**Cost Impact**

After the proposed AD was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 to $65 per work hour. The economic impact information below has been revised to reflect this increase in the specified hourly labor rate.

The FAA estimates that 65 Aerospatiale Model ATR 72 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Required parts will cost approximately $1,844 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $145,210, or $2,234 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

## Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003–14–14 Aerospatiale:** Amendment 39–13233. Docket 2001–NM–401–AD.

*Applicability:* Model ATR72 series airplanes, certificated in any category; except those airplanes on which modification 5297 has been accomplished in production, or on which Avions de Transport Regional (ATR) Service Bulletin ATR72–92–1006, dated September 28, 2001, has been accomplished in service.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent chafing damage to the electrical wire cables, which could lead to an electrical short circuit and potential for a fire under the floor panels, accomplish the following:

**Installation**

(a) Within 12 months after the effective date of this AD, perform the actions specified in paragraphs (a)(1) and (a)(2) of this AD, per the Accomplishment Instructions of Avions de Transport Regional (ATR) Service Bulletin ATR72–92–1006, dated September 28, 2001.

(1) Install brackets and ramps under floor panels between frames 23C and 23D.

(2) Install wire bundles on the ramps.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Incorporation by Reference**

(d) The actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR72–92–1006, dated September 28, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 2001–505–059(B), dated October 17, 2001.

**Effective Date**

(e) This amendment becomes effective on August 22, 2003.

Issued in Renton, Washington, on July 8, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–17774 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–280–AD; Amendment 39–13232; AD 2003–14–13]**

**RIN 2120–AA64**

## Airworthiness Directives; Aerospatiale Model ATR42 Series Airplanes and Model ATR72 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; that requires replacement of a certain Automatic Takeoff Power Control System (ATPCS) test selector switch with a different test selector switch. This action is necessary to prevent shorting of a contact in the ATPCS test selector switch due to abnormal wear of contact surfaces, which could result in dual engine power drop with associated loss of both alternating current wild and main hydraulic power during ground maneuvers, and consequent reduced controllability of the airplane and increased flightcrew workload. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer,

International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; was published in the **Federal Register** on April 1, 2003 (68 FR 15682). That action proposed to require replacement of a certain Automatic Takeoff Power Control System (ATPCS) test selector switch with a different test selector switch.

## Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

## Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

## Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

## Change to Labor Rate

After the proposed AD was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

## Cost Impact

The FAA estimates that 133 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required replacement, and that the average labor rate is $65 per work hour. Required parts will cost approximately $536 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $105,868, or $796 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

## Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003–14–13 Aerospatiale:** Amendment 39–13232. Docket 2001–NM–280–AD.

*Applicability:* Model ATR42–200, –300, –320, and –500 series airplanes; and Model ATR72 series airplanes; certificated in any category; equipped with IPP JANCO Automatic Takeoff Power Control System (ATPCS) test selector switch, part number (P/N) ACE 0002; except those airplanes having received modification 5162 in production and on which no replacement of the ATPCS test selector switch has been performed afterwards.

**Note 1:** This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent shorting of a contact in the ATPCS test selector switch due to abnormal wear of contact surfaces, which could result in dual engine power drop with associated loss of both alternating current wild and main hydraulic power during ground maneuvers, and consequent reduced controllability of the airplane and increased flightcrew workload, accomplish the following:

**Replacement**

(a) Within 5 years after the effective date of this AD, replace the IPP JANCO ATPCS test selector switch having P/N ACE 0002 on panel 114VU (FIN 22KF) with an IEC Electronique test selector switch having P/N 097–037–00, per Avions de Transport Regional Service Letter ATR42–61–5012 (for Model ATR42 series airplanes) or ATR72–61–6008 (for Model ATR72 series airplanes), both dated April 23, 2002; as applicable.

**Parts Installation**

(b) As of the effective date of this AD, no person shall install an IPP JANCO ATPCS test selector switch, P/N ACE 0002, on any airplane.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who

may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

(d) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

**Incorporation by Reference**

(e) The actions shall be done in accordance with Avions de Transport Regional Service Letter ATR42–61–5012, dated April 23, 2002; or Avions de Transport Regional Service Letter ATR72–61–6008, dated April 23, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directives 2001–214–084(B) and 2001–215–057(B), both dated May 30, 2001.

**Effective Date**

(f) This amendment becomes effective on August 22, 2003.

Issued in Renton, Washington, on July 8, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–17773 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–50–AD; Amendment 39–13236; AD 2003–14–17]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, that requires the installation of protective tape on the fire and overheat control unit located in the flight compartment. The actions specified by this AD are intended to prevent fluid contamination inside the fire and overheat control unit, which could result in a false fire alarm and consequent emergency landing. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 series airplanes was published in the **Federal Register** on August 23, 2001 (66 FR 44326). That action proposed to require the installation of protective tape on the fire and overheat control unit located in the flight compartment.

### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

### Request To Credit Work Done per Prior Service Bulletin Version

Bombardier Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000, was cited in the proposed AD as the appropriate source of service information for the proposed actions. One commenter, an operator, requests that the proposed AD be revised to consider accomplishment of the actions specified in the original issue of the service bulletin (dated August 4, 2000) to also be acceptable for compliance with the requirements of the AD. The commenter reports that all of its 97 airplanes have been modified in accordance with the original issue of the service bulletin.

The FAA agrees. Both the original issue and Revision ''A'' of the service bulletin specify installing protective tape on the external cover of the fire and overheat control unit located in the flight compartment; the original issue of the service bulletin included an action for specifically installing protective tape over the connectors. The connectors were later determined to be adequately sealed to prevent liquid ingress to the control unit; Revision ''A'' was then issued to remove the action of taping the connectors. However, taping the connectors does not degrade the level of safety, so airplanes modified with the additional protective tape would also be in full compliance with the requirements of this AD. The final rule has been revised to add new paragraph (b), which provides credit for actions done in accordance with the original issue of the service bulletin.

### Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

### Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the proposed AD regarding that material.

### Change to Airplane Identification

The identity of the affected airplanes has been changed in this final rule to more accurately reflect the listing on the type certificate data sheet for affected airplanes.

### Cost Impact

The FAA estimates that 160 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $9,600, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003–14–17 Bombardier, Inc.** (Formerly Canadair): Amendment 39–13236. Docket 2001–NM–50–AD.

*Applicability:* Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, as listed in Bombardier Alert Service Bulletin A601R–26–017, Revision 'A,' dated September 8, 2000; certificated in any category.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fluid contamination inside the fire and overheat control unit, which could result in a false fire alarm and consequent emergency landing, accomplish the following:

**Installation of Protective Tape**

(a) Within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, install protective tape on the external cover of the fire and overheat control unit located in the flight compartment per Bombardier Alert Service Bulletin A601R–26–017, Revision 'A,' dated September 8, 2000.

(b) Installation of protective tape on the external cover of the fire and overheat control in the flight compartment, done before the effective date of this AD per Bombardier Alert Service Bulletin A601R–26–017, dated August 4, 2000, is acceptable for compliance with the requirements of this AD.

**Alternative Methods of Compliance**

(c) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office (ACO), FAA is authorized to approve alternative methods of compliance for this AD.

**Incorporation by Reference**

(d) Unless otherwise provided in this AD: The actions must be done in accordance with Bombardier Alert Service Bulletin A601R–26–017, Revision 'A,' dated September 8, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note:** The subject of this AD is addressed in Canadian airworthiness directive CF–2000–35, dated December 14, 2000.

**Effective Date**

(e) This amendment becomes effective on August 22, 2003.

Issued in Renton, Washington, on July 9, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–17816 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–391–AD; Amendment 39–13241; AD 2003–14–22 ]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes. This AD requires modification of the No. 3 electrical equipment panel behind the avionics rack, and modification of the No. 2 propeller de-ice timer. This action is necessary to prevent incorrect altitude information transmitted by the Mode S transponder and simultaneous loss of the Traffic Alert and Collision Avoidance System (TCAS), and increasing the possibility of an air traffic conflict. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 22, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 22, 2003.

**ADDRESSES:** The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Douglas G. Wagner, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes was published in the **Federal Register** on May 23, 2003 (68 FR 28177). That action proposed to require modification of the No. 3 electrical equipment panel behind the avionics rack, and modification of the No. 2 propeller de-ice timer.

Interested persons have been afforded an opportunity to participate in the making of this amendment. We received no comments on the proposal or on the determination of the cost to the public.

## Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

## Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

## Revised Labor Rate Estimate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, reflects this increase in the specified hourly labor rate.

## Cost Impact

We estimate that 197 airplanes of U.S. registry will be affected by this proposed AD.

It will take about 4 work hours per airplane to modify the No. 3 electrical equipment panel behind the avionics rack, at an average labor rate of $65 per work hour. The cost for required parts will be minimal. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be $51,220, or $260 per airplane.

It will take about 2 work hours per airplane to modify the No. 2 propeller de-ice timer, at an average labor rate of $65 per work hour. The cost for required parts will be minimal. Based on these figures, the cost impact of this modification on U.S. operators is estimated to be $25,610, or $130 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

## Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003–14–22 Bombardier, Inc. (Formerly de Havilland, Inc.):** Amendment 39–13241. Docket 2001–NM–391–AD.

*Applicability:* Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 airplanes; certificated in any category; having serial numbers 003 through 559 inclusive.

*Compliance:* Required as indicated, unless accomplished previously.

To prevent incorrect altitude information transmitted by the Mode S transponder and simultaneous loss of the Traffic Alert and Collision Avoidance System (TCAS), and increasing the possibility of an air traffic conflict, accomplish the following:

**Modifications**

(a) Within 6 months after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the No. 3 electrical equipment panel behind the avionics rack (including changing the spacer lengths for the installation of the propeller timer units and the main harness run, and securing the wiring and harness in close proximity by installing 5 tie wraps to avoid fouling conditions) per Bombardier Service Bulletin 8–34–200, dated June 26, 2001.

(2) Modify the No. 2 propeller de-ice timer (including replacing the existing spacers that support the timer with shorter spacers) per Bombardier Service Bulletin 8–30–36, dated July 13, 2000.

**Alternative Methods of Compliance**

(b) In accordance with 14 CFR 39.19, the Manager, New York Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

**Incorporation by Reference**

(c) The actions must be done in accordance with Bombardier Service Bulletin 8–30–36, dated July 13, 2000; and Bombardier Service Bulletin 8–34–200, dated June 26, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal

Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note:** The subject of this AD is addressed in Canadian airworthiness directive CF–2001–38, dated October 11, 2001.

**Effective Date**

(d) This amendment becomes effective on August 22, 2003.

Issued in Renton, Washington, on July 11, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–18083 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2002–NM–205–AD; Amendment 39–13229; AD 2003–14–10]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767–200 and –300 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767–200 and –300 series airplanes. This action requires modification of the wire bundles of the video control center (VCC) of the passenger address and entertainment system, and an operational test if necessary. This action is necessary to prevent chafing of the wire bundles of the VCC against the rudder and/or elevator control cables, which could result in arcing of the wires in the wire bundles and severing of the cables. Severed cables, if combined with an engine-out during takeoff, or a high crosswind during takeoff or landing, could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective August 4, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 4, 2003.

Comments for inclusion in the Rules Docket must be received on or before September 16, 2003.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–205–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–205–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Barbara Mudrovich, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 917–6477; fax (425) 917–6590.

**SUPPLEMENTARY INFORMATION:** During post-delivery modifications of certain Boeing Model 767–200 and –300 series airplanes, the manufacturer found that the rudder cables and the First Officer's elevator control cables may come in contact with the video control center (VCC) wires, which could result in possible chafing and subsequent arcing of the wires in the wire bundles and severing of the cables. Severed cables, if combined with an engine-out during takeoff, or a high crosswind during takeoff or landing, could result in reduced controllability of the airplane.

### Explanation of Relevant Service Information

We have reviewed and approved the following Boeing alert service bulletins:

| Service bulletin | Revision level | Date | Model |
|---|---|---|---|
| 767–23A0147, including Appendix A | Original | April 6, 2000 | 767–300 |
| 767–23A0154 | Original | March 15, 2001 | 767–300 |
| 767–23A0155, including Appendix A | Original | March 29, 2001 | 767–300 |
| 767–23A0156, including Appendix A | Original | April 19, 2001 | 767–200, –300 |
| 767–23A0157 | Original | May 3, 2001 | 767–300 |

These service bulletins describe procedures for modification of the wire bundles of the VCC of the passenger address and entertainment system. The modification includes, but is not limited to, installation of a wiring shroud and associated hardware between the VCC master control unit wiring and the flight control cables; re-routing of the VCC wire bundles above the flight control pulley box; and replacement of existing clamps with new clamps; as applicable. Service bulletins 767–23A0154 and 767–23A0157 also describe procedures for an operational test after accomplishment of the modification. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition.

### Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent chafing of the wire bundles of the VCC against the rudder and/or elevator control cables, which could result in arcing of the wires in the wire bundles and severing of the cables. Severed cables, if combined with an engine-out during takeoff, or a high crosswind during takeoff or landing, could result in reduced controllability of the airplane. This AD requires modification of the wire bundles of the VCC of the passenger address and entertainment system. The actions are required to be accomplished in accordance with the applicable service bulletin described previously, except as discussed below.

**Difference Between the Service Bulletins and This AD**

Although the service bulletins recommend accomplishing the specified actions at the earliest maintenance opportunity when manpower and materials are available, we have determined that such an imprecise compliance time would not address the identified unsafe condition in a timely manner. In developing an appropriate compliance time for this AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average utilization of the affected fleet, and the time necessary to perform the modification (2 work hours). In light of all of these factors, we find a 6-month compliance time for completing the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

**Changes to 14 CFR Part 39/Effect on the AD**

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. Because we have now included this material in part 39, we no longer need to include it in each individual AD; however, this AD identifies the office authorized to approve alternative methods of compliance.

**Revised Labor Rate**

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

**Cost Impact**

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required modification, at an average labor rate of $65 per work hour. Parts cost would be between $64 and $915 per airplane. Based on these figures, the cost impact of the modification required by this AD would be between $194 and $1,045 per airplane.

**Determination of Rule's Effective Date**

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

**Comments Invited**

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–205–AD.'' The postcard will be date stamped and returned to the commenter.

**Regulatory Impact**

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

For the reasons discussed above, I certify that this action: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

■ 2. Section 39.13 is amended by adding the following new airworthiness directive:

**2003–14–10 Boeing:** Amendment 39–13229. Docket 2002–NM–205–AD.

*Applicability:* This AD applies to the airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

| Model— | As listed in— |
|---|---|
| 767–200, –300 series airplanes | Boeing Alert Service Bulletin 767–23A0156, dated April 19, 2001. |
| 767–300 series airplanes | Boeing Alert Service Bulletins 767–23A0147, dated April 6, 2000; 767–23A0154, dated March 15, 2001; 767–23A0155, dated March 29, 2001; and 767–23A0157, dated May 3, 2001. |

*Compliance:* Required as indicated, unless accomplished previously.

To prevent chafing of the wire bundles of the video control center (VCC) against the rudder and/or elevator control cables, accomplish the following:

**Modification**

(a) Within 6 months after the effective date of this AD: Modify the wire bundles of the VCC of the passenger address and entertainment system, and do an operational test if applicable, per the Accomplishment Instructions of the applicable Boeing alert service bulletin listed in Table 2 of this AD, as follows:

TABLE 2.—SERVICE BULLETINS

| Model | Service bulletin | Revision level | Date |
|---|---|---|---|
| 767–300 | 767–23A0147, including Appendix A | Original | April 6, 2000. |
| 767–300 | 767–23A0154 | Original | March 15, 2001. |
| 767–300 | 767–23A0155, including Appendix A | Original | March 29, 2001. |
| 767–200, –300 | 767–23A0156, including Appendix A | Original | April 300 19, 2001. |
| 767–300 | 767–23A0157 | Original | May 3, 2001. |

**Alternative Methods of Compliance**

(b) In accordance with 14 CFR 39.19, the Manager, Seattle Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance for this AD.

**Incorporation by Reference**

(c) The actions shall be done in accordance with the applicable Boeing alert service bulletin listed in Table 3 of this AD, as follows:

TABLE 3.—SERVICE BULLETINS

| Service bulletin | Date |
|---|---|
| 767–23A0147, including Appendix A. | April 6, 2000. |
| 767–23A0154 | March 15, 2001. |
| 767–23A0155, including Appendix A. | March 29, 2001. |
| 767–23A0156, including Appendix A. | April 19, 2001. |
| 767–23A0157 | May 3, 2001. |

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Effective Date**

(d) This amendment becomes effective on August 4, 2003.

Issued in Renton, Washington, on July 7, 2003.

**Ali Bahrami,**

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

[FR Doc. 03–17693 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF COMMERCE

## Bureau of the Census

## 15 CFR Parts 50 and 80

**[Docket Number 010828220–3161–02]**

**RIN 0607–AA24**

## Amendments to Age Search Procedures

**AGENCY:** Bureau of the Census, Department of Commerce.

**ACTION:** Notice of final rulemaking.

**SUMMARY:** The Bureau of the Census (Census Bureau) is issuing this final rule to clarify and revise the general information requirements pertaining to its Age Search Program. The Census Bureau is making these clarifications to ensure that there are no misunderstandings about the program requirements as a result of ambiguous language. The intent of the Census Bureau in taking these actions is to clarify and revise processing requirements and legal restrictions.

**EFFECTIVE DATE:** August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Mark Grice, Assistant Division Chief (Processing), National Processing Center, U.S. Census Bureau, 1201 East 10th Street, Room 247, Building 66, Jeffersonville, IN 47132, by telephone on (812) 218–3579, or by fax on (812) 218–3293.

**SUPPLEMENTARY INFORMATION:**

### Background

The age and citizenship searching service is a self-supporting operation of the Census Bureau in accordance with Title 31, United States Code, Section 9701. Under this statute, all expenses incurred in the retrieval of personal information from decennial census records and the preparation of census transcripts are covered by fees paid by individuals who request this service. The Age Search census transcript provides proof of age to qualify individuals for social security or other retirements benefits, proof of citizenship to obtain passports, proof of family relationships for rights of inheritance, or to satisfy other situations where a birth certificate is required but not available. Census records also are considered a valuable tool for genealogical research. The 1910 through 2000 censuses in custody of the Census Bureau are confidential and protected from disclosure by Title 13, United States Code.

On September 17, 2001 (66 FR 48013), the Census Bureau published in the

**Federal Register** a notice of proposed rulemaking and request for comment on the subject. The Census Bureau did not receive any public comments.

**Program Requirements**

In order to clarify and update the general rules applying to the Age Search Program, the Census Bureau is making the following four amendments to Title 15, Code of Federal Regulations (CFR), parts 50 and 80:

- Amend Section 50.1 to change the time frame from 120 days to 90 days for submitting any required additional information after completing an initial, unsuccessful search. This change is consistent with current policy on the issue.
- Amend Section 50.5 to update the note following the chart on the fee structure. The Census Bureau has not had a fee increase since 1993.
- Amend Section 80.1 to clarify the procedures for releasing census information. This change is consistent with current policy on the issue.
- Amend Section 80.1 to reflect the current address.

**Regulatory Flexibility Act**

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification was published with the proposed rule. No comments were received regarding the economic impact of this rule. As a result, no final regulatory flexibility analysis was prepared.

**Executive Orders**

This rule has been determined to be not significant for purposes of Executive Order 12866. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

**Paperwork Reduction Act**

This notice contains a collection of information requirements subject to the Paperwork Reduction Act. The Form BC–600, referenced in the amended language for section 80.1, has been cleared under OMB control number 0607–0117.

**List of Subjects**

*15 CFR Part 50*

Census data, Population census, Statistics.

*15 CFR Part 80*

Census data, Population census, Statistics.

■ For reasons set out in the preamble, 15 CFR parts 50 and 80 are amended as follows:

## PART 50—SPECIAL SERVICES AND STUDIES BY THE BUREAU OF THE CENSUS

■ 1. The authority citation for 15 CFR part 50 continues to read as follows:

**Authority:** Sec. 3, 49 Stat. 293, as amended; and 15 U.S.C. 192a. Interprets or applies Sec. 1, 40 Stat. 1256, as amended; Sec. 1, 49 Stat. 292; Sec. 8, 60 Stat. 1013, as amended; 15 U.S.C. 192, 189a; and 13 U.S.C. 8.

■ 2. Amend § 50.1 by revising paragraph (d) to read as follows:

### § 50.1 General.

* * * * *

(d) If a search is unsuccessful and additional information for a further search is requested by the Census Bureau, such information must be received within 90 days of the request or the case will be considered closed. Additional information received after 90 days must be accompanied by a new fee and will be considered a new request.

■ 3. Amend § 50.5 by revising the following note on the chart to read as follows:

### § 50.5 Fee structure for age search and citizenship information.

* * * * *

**Note.** —The $10.00 for each full schedule requested is in addition to the $40.00 transcript fee.

## PART 80—FURNISHING PERSONAL CENSUS DATA FROM CENSUS OF POPULATION SCHEDULES

■ 1. The authority citation for 15 CFR part 80 continues to read as follows:

**Authority:** Sec. 1, Pub. L. 83–1158, and 68 Stat. 1013 (13 U.S.C. 8).

■ 2. Amend § 80.1 by revising paragraphs (c) and (g) to read as follows:

### § 80.1 General requirements.

* * * * *

(c) Requests for information from decennial census of population records (herein ''Census Information'') should be made available on Form BC–600, which is available from offices at the Census Bureau in Suitland, Maryland 20233, and Jeffersonville, Indiana 47131; all county courthouses; Social Security Administration field offices; post offices; and Immigration and Naturalization Service offices. A letter request—without Form BC–600—will be accepted only if it contains the information necessary to complete a Form BC–600. No application will be processed without payment of the required fee as set forth in 15 CFR 50.5.

* * * * *

(g) Census information will not be furnished to another person unless the person to whom the information relates authorizes such release in the space provided on the Form BC–600.

Dated: July 14, 2003.

**Charles Louis Kincannon,**

*Director, Bureau of the Census.*

[FR Doc. 03–18264 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–07–P

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## DEPARTMENT OF HOMELAND SECURITY

## Bureau of Customs and Border Protection

## 19 CFR Part 101

**[CBP Dec. 03—08]**

## Expansion of the Port Limits of Portland, ME

**AGENCY:** Customs and Border Protection, Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations pertaining to the field organization of Customs by extending the geographical limits of the port of entry of Portland, Maine, to include the City of Auburn, Maine. This change is being made to provide better service to carriers, importers, and the general public.

**EFFECTIVE DATE:** August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** John P. Wagner, Office of Field Operations, (202) 927–3825.

**SUPPLEMENTARY INFORMATION:**

**Background**

A Notice of Proposed Rulemaking was published in the **Federal Register** (68 FR 1172) on January 9, 2003, which proposed to amend § 101.3(b)(1), Customs Regulations (19 CFR 101.3(b)(1)), to extend the geographical limits of the port of entry of Portland, Maine, to include the City of Auburn in order to provide better service to carriers, importers, and the general public. The proposal was made in order to include the City of Auburn within the port limits to facilitate the clearance of international cargo at the Auburn Intermodal Facility (''AIF''). AIF is a rail/truck intermodal facility with a high cube, doublestack intermodal terminal.

**Analysis of Comments**

Three comments were received in response to the proposal. AlI three comments strongly supported the inclusion of the City of Auburn in the port of Portland, Maine, for the purposes of international trade facilitation and of expanded economic development in the Auburn area.

According to the comments, the AIF will afford the Bureau of Customs and Border Protection (CBP) great flexibility in protecting our borders against terrorist activities when conducting examinations and clearance of cargo entering the United States. The expansion of the port of Portland will also help to eliminate needless truck traffic on the highway system by allowing examinations and clearance closest to the point of entry. Trucks will no longer need to travel further in bound to be examined. These benefits are in addition to the economic boost which is expected to occur as a result of the port expansion.

**Conclusion**

CBP believes that the expansion of the port of Portland, Maine, to include the City of Auburn is a positive step in the facilitation of the processing of international cargo. Accordingly, CBP has decided to proceed with the proposed expansion.

**New Port Limits**

The port limits of the port of entry of Portland, Maine, are expanded to include the City of Auburn. The territory included in the port of Portland is as follows:

Portland, Maine and the territory embracing the municipalities of Auburn, South Portland, Falmouth, and Cape Elizabeth, in the State of Maine, and Peak, Long, Cliff, Cushing and Diamond Islands, in the State of Maine.

**Authority**

This change is being made under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

**Regulatory Flexibility Act and Executive Order 12866**

CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. Although a notice was issued for public comment on this subject matter, because this document relates to agency management and organization, it is not subject to the notice and procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C.601 *et. seq.*). Agency organization matters such as this port expansion are not subject to Executive Order 12866.

**Drafting Information**

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 101**

Customs duties and inspection, Exports, Imports, Organization and functions (Government agencies).

**Amendment to the Regulations**

■ For the reasons set forth above, 19 CFR part 101 of the Customs Regulations is amended as set forth below.

## PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and the specific authority citation for § 101.3 continue to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1623, 1624, and 1646a. Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b.

* * * * *

■ 2. In the list of ports in § 101.3(b)(1), under the state of Maine, the ''Limits of port'' column adjacent to ''Portland'' in the ''Ports of entry'' column is amended by removing the citation ''E.O. 9297, Feb. 1, 1943 (8 FR 1479)'' and by adding in its place ''CBP Dec. 03–08''.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

Dated: July 14, 2003.

**Tom Ridge,**

*Secretary, Department of Homeland Security.*

[FR Doc. 03–18172 Filed 7–17–03; 8:45 am]

BILLING CODE 4820–02–P

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## DEPARTMENT OF HOMELAND SECURITY

## Bureau of Customs and Border Protection

## 19 CFR Parts 101 and 122

**[CBP Dec. 03–09]**

## Customs and Border Protection Field Organization; Fargo, ND

**AGENCY:** Customs and Border Protection, Homeland Security.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Customs Regulations pertaining to the field organization of Customs and Border Protection (CBP) by establishing a new port of entry at Fargo, North Dakota. The new port of entry includes Hector International Airport, located in the city of Fargo, Cass County, North Dakota, which is currently operated as a user-fee airport; and a portion of Clay County in Minnesota. This change will assist CBP in its continuing efforts to provide better service to carriers, importers, and the general public.

**EFFECTIVE DATE:** August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Balaban, Mission Support, Office of Field Operations, Bureau of Customs and Border Protection, (202) 927–0031.

**SUPPLEMENTARY INFORMATION:**

**Background**

As part of its continuing efforts to provide better service to carriers, importers, and the general public, on December 2, 2002, Customs (then under the Department of the Treasury) published a document in the **Federal Register** (67 FR 71510) that proposed to amend parts 101 and 122 of the Customs Regulations (19 CFR parts 101 and 122) to establish a port of entry at Fargo, North Dakota, to include Hector International Airport, located in the city of Fargo, Cass County, North Dakota, which is currently operated as a user-fee airport, and, accordingly, to remove Hector International Airport as a user-fee airport. As well as including Hector International Airport, the port limits of Fargo were also proposed to include a portion of Clay County in Minnesota. The proposed change of status for Hector International Airport from a user-fee airport to being included within the boundaries of a port of entry would subject the airport to the passenger processing fee provided for at 19 U.S.C. 58c(a)(5)(B).

The proposal to establish Fargo, North Dakota as a port of entry was based on Customs analysis of the following information:

1. Fargo is serviced by three modes of transportation:

(a) rail (the Burlington Northern Santa Fe railroad);

(b) air (at Hector International Airport, two passenger carriers (Northwest and United Express) and five courier-delivery carriers (Air Bourne Express, Corporate Express, DHL, FED EX, and UPS)); and

(c) highway (two U.S. interstate highways: I–29 and I–94);

2. The Fargo, North Dakota area has a population of approximately 175,000, with the potential to increase even further;

3. Regarding the five actual or potential workload criteria:

(a) Hector International Airport had 2,911 international air passengers for FY 2001, an increase of 61% over FY 2000;

(b) Hector International Airport had 151 formal consumption entries for FY 2001, with no single company accounting for more than half of the projected entries; and

(c) Hector International Airport had 814 scheduled international aircraft arrivals for FY 2001, an increase of 65% over FY 2000.

Customs believed that significant benefits would be provided to the North Dakota business community by creating a port of entry at Fargo and that the cost of providing the services of one full-time and one part-time Customs official would be minimal to the Federal Government.

*Conditional Status*

Based on the information above and the level and pace of development in the Fargo area, Customs believed that there was sufficient justification for the establishment of Fargo, North Dakota, as a port of entry on a conditional basis.

In the Notice, Customs stated that if it is decided to create a port of entry at Fargo and to terminate Hector International Airport's designation as a user-fee airport, Customs will notify the airport of that determination in accordance with the provisions of 19 CFR 122.15(c). However, it was also noted that the proposal relied on potential, rather than actual, workload figures. Therefore, even if the proposed port of entry designation were adopted as a final rule, Customs would review the actual workload generated within the new port of entry in one year. If that review indicated that the actual workload was below the port of entry criteria established in T.D. 82–37, as revised by T.D. 86–14, procedures may be instituted to revoke the port of entry status. In such case, the airport could reapply to become a user-fee airport under the provisions of 19 U.S.C. 58b.

The public comment period for the proposed amendments closed January 31, 2003.

On March 1, 2003, the U.S. Customs Service was transferred from the Department of the Treasury to the Department of Homeland Security, and was redesignated as the Bureau of Customs and Border Protection (CBP).

**Discussion of Comments**

One comment was received that was favorable to the establishment of Fargo as a port of entry.

*Comment*

The commenter requested that, should Customs (now CBP) revoke the port of entry status of Fargo after the one-year conditional status period, Hector International Airport's status should automatically be reverted back to a user-fee airport. The commenter stated that it was concerned that there could be a lapse in Customs services if the reapplication language contained in the Notice was strictly followed. The commenter further stated that Customs and the airport authority could coordinate any transition procedures.

*CBP Response*

CBP concurs with this comment. Accordingly, the terms and conditions in the Memorandum of Agreement between CBP and the airport authority will provide for the procedure by which the airport may again be designated as a user fee airport, should its status as a port of entry be terminated.

*Comment*

The same commenter stated that the description of the proposed port of entry limits needed to be adjusted to include more of the Fargo-area community in North Dakota and less of the Clay County area in Minnesota. According to the commenter, the revised geographical limits for the new Fargo port of entry would more accurately reflect the area served by Fargo's processing facilities and Customs personnel. Accordingly, the commenter stated that the port of limit boundaries be established as follows:

*Eastern boundary*—The proposed Eastern boundary of the port of entry in Clay County, Minnesota, needs to be moved west from Clay County highway 11 to a north-south line represented by Clay County Road 78 south of U.S. 10 and Clay County Road 90 north of U.S. 10;

*Southern boundary*—The proposed Southern boundary of the port of entry in both North Dakota and Minnesota needs to be extended south from U.S. Interstate 94 to an east-west line that is in accordance with 64th Avenue South in Fargo, North Dakota; and

*Western boundary*—The proposed Western boundary of the port of entry in Cass County, North Dakota, needs to be extended west from U.S. Interstate 29 in Fargo to a north-south line represented by 25th Street south of the intersection of U.S. Interstate 29 and U.S. 10 and 26th Street north of the intersection of U.S. Interstate 29 and U.S. 10 in West Fargo.

*CBP Response*

CBP concurs with this comment. Accordingly, the description of the geographical limits of the port of entry is revised as stated by the commenter.

**Conclusion**

After further review and consideration of this matter, CBP has determined that a port of entry will be established at Fargo—with the geographical limits of the port of entry modified as discussed in this document—and that Hector International Airport, because it is within the limits of this port of entry, will no longer be designated as a user-fee airport. This document amends the Customs Regulations to reflect this determination. It is noted that the designation of Fargo as a port of entry is on a conditional basis for one year. If, after a year, it is determined that Fargo does not merit port of entry status, a new document will be prepared for the **Federal Register** removing Fargo's designation.

**Limits of Port of Entry Limits**

The description of the geographical limits of the Fargo port of entry is as follows:

In Cass County, North Dakota:

*Northern boundary,* Cass County highway 20,

*Southern boundary,* an east-west line in accordance with 64th Avenue South in Fargo, North Dakota, and

*Western boundary,* a north-south line represented by 25th Street south of the intersection of U.S. Interstate 29 and U.S. 10 and 26th Street north of the intersection of U.S. Interstate 29 and U.S. 10 in West Fargo.

In Clay County, Minnesota:

*Northern boundary,* Clay County highway 22.

*Southern boundary,* an east-west line in accordance with 64th Avenue South in Fargo, Cass County, North Dakota, and

*Eastern boundary,* a north-south line represented by Clay County Road 78 south of U.S. 10 and Clay County Road 90 north of U.S. 10.

**Authority**

This amendment is promulgated pursuant to Customs authority under 5 U.S.C. 301 and 19 U.S.C. 2, 66, and 1624.

**Inapplicability of the Regulatory Flexibility Act and Executive Order 12866**

Although Customs solicited public comments, no notice and public procedure was required pursuant to 5 U.S.C. 553 because this matter relates to agency management and organization. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, matters involving agency management and organization

are not subject to Executive Order 12866.

**Drafting Information**

The principal author of this document was Gregory R. Vilders, Attorney, Office of Regulations and Rulings, Regulations Branch. However, personnel from other offices participated in its development.

**List of Subjects in 19 CFR Part 101**

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Shipments, User fee facilities.

*119 CFR Part 122*

Administrative practice and procedure, Air carriers, Aircraft, Airports, Air transportation, Commercial aircraft, Customs duties and inspection, Freight, Imports, Organization and functions (Government agencies), Reporting and recordkeeping requirements.

**Amendments to the Regulations**

■ For the reasons stated above, parts 101 and 122 of the Customs Regulations (19 CFR parts 101 and 122) are amended as set forth below:

## PART 101—GENERAL PROVISIONS

■ 1. The general authority citation for part 101 and specific authority citation for § 101.3 continue to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a; Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b;

* * * * *

■ 2. In § 101.3, the list of ports in paragraph (b)(1) is amended by adding, in alphabetical order, under the State of North Dakota, ''Fargo'' in the ''Ports of entry'' column and ''CBP Dec. 03–'' in the adjacent ''Limits of port'' column.

## PART 122—AIR COMMERCE REGULATIONS

■ 3. The general authority citation for part 122 continues to read as follows:

**Authority:** 5 U.S.C. 301; 19 U.S.C. 58b, 66, 1431, 1433, 1436, 1448, 1459, 1590, 1594, 1623, 1624, 1644, 1644a:

* * * * *

■ 4. In § 122.15, the list of user fee airports in paragraph (b) is amended by removing ''Fargo, North Dakota'' in the column headed ''Location'' and, on the same line, by removing ''Hector International Airport'' in the column headed ''Name''.

Dated: July 14, 2003.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

**Tom Ridge,**

*Secretary, Department of Homeland Security.*

[FR Doc. 03–18174 Filed 7–17–03; 8:45 am]

BILLING CODE 4820–02–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 522

## Implantation or Injectable Dosage Form New Animal Drugs; Change of Sponsor; Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of June 10, 2003 (68 FR 34533). The document amended the animal drug regulations to reflect a change of sponsor for two approved new animal drug applications (NADAs) from Anthony Products Co. to Cross Vetpharm Group Ltd. The document was published with an error. This document corrects that error.

**EFFECTIVE DATE:** July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Joyce A. Strong, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

**SUPPLEMENTARY INFORMATION:** In the FR Doc. 03–14547, appearing on page 34533 in the **Federal Register** of Tuesday, June 10, 2003, the following correction is made:

**§ 522.1696b [Corrected]**

■ 1. On page 34534, in the second column, the last line in the amendatory language for § 522.1696b *Penicillin G procaine aqueous suspension* is corrected to read ''010515, 053501, 059130, and 61623''.

Dated: July 7, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 03–18161 Filed 7–17–03; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Parts 556 and 558

## New Animal Drugs; Laidlomycin

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Alpharma Inc. The supplemental NADA provides for the establishment of a tolerance for residues of laidlomycin in cattle liver. The previously established acceptable daily intake (ADI) for total residues of laidlomycin is also being codified.

**DATES:** This rule is effective July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Eric S. Dubbin, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0232, e-mail: *edubbin@cvm.fda.gov.*

**SUPPLEMENTARY INFORMATION:** Alpharma Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, filed a supplement to NADA 141–025 for use of CATTLYST (laidlomycin propionate potassium) Type A medicated articles used to formulate Type C medicated feeds for cattle. The supplemental NADA provides for the establishment of a tolerance for residues of laidlomycin in cattle livers. FDA is also taking this opportunity to codify the previously established ADI for total residues of laidlomycin. The supplemental NADA is approved as of May 12, 2003, and parts 556 and 558 (21 CFR parts 556 and 558) are amended by adding new § 556.346 and by revising § 558.305. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or

cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

**List of Subjects**

*21 CFR Part 556*

Animal drugs, Foods.

*21 CFR Part 558*

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 556 and 558 are amended as follows:

## PART 556–TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

■ 1. The authority citation for 21 CFR part 556 continues to read as follows:

**Authority:** 21 U.S.C. 342, 360b, 371.

■ 2. Section 556.346 is added to read as follows:

**§ 556.346 Laidlomycin.**

(a) *Acceptable daily intake (ADI)*. The ADI for total residues of laidlomycin is 7.5 micrograms per kilogram of body weight per day.

(b) *Tolerance*. The tolerance for parent laidlomycin (the marker residue) in the liver (the target tissue) of cattle is 0.2 part per million (ppm).

## PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 3. The authority citation for 21 CFR part 558 continues to read as follows:

**Authority:** 21 U.S.C. 360b, 371.

■ 4. Section 558.305 is amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e); and by adding new paragraph (c) to read as follows:

**§ 558.305 Laidlomycin.**

* * * * *

(c) *Tolerances*. See § 556.346 of this chapter.

* * * * *

Dated: July 7, 2003.

**Stephen F. Sundlof,**

*Director, Center for Veterinary Medicine.*

[FR Doc. 03–18162 Filed 7–17–03; 8:45 am]

BILLING CODE 4160–01–S

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

**[TD 9080]**

**RIN 1545–BC47**

## Reduction of Tax Attributes Due to Discharge of Indebtedness

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

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains regulations relating to the reduction of tax attributes under sections 108 and 1017 of the Internal Revenue Code. These temporary regulations affect taxpayers that exclude discharge of indebtedness income from gross income under section 108. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These temporary regulations are effective July 17, 2003.

*Applicability Date:* These temporary regulations apply to discharges of indebtedness occurring after July 17, 2003.

**FOR FURTHER INFORMATION CONTACT:** Theresa M. Kolish (202) 622–7930 of the Office of the Associate Chief Counsel (Corporate) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

*The Debt Discharge Rules*

Pursuant to section 61(a)(12), gross income includes income from the discharge of indebtedness (COD income). Section 108(a)(1), which reflects the amendments enacted in the Bankruptcy Tax Act of 1980, Public Law 96–589, section 2, 94 Stat. 3389 (1980) (1980–2 C.B. 607), however, provides that, where the discharge occurs in a title 11 case, where the taxpayer is insolvent, or where the indebtedness is ''qualified farm indebtedness'' or ''qualified real property business indebtedness,'' gross income does not include any amount that otherwise would be includible in gross income by reason of that discharge (in whole or in part) of the indebtedness of the taxpayer.

Although section 108(a) excludes COD income from gross income under those circumstances, section 108(b) requires the reduction of certain tax attributes in an amount that reflects the amount excluded from gross income, thereby generally deferring, rather than permanently eliminating, the inclusion of COD income. Section 108(b)(2) requires the reduction of the following tax attributes of the taxpayer in the following order: (A) Net operating losses; (B) general business credits; (C) minimum tax credits; (D) capital loss carryovers; (E) adjusted basis of property; (F) passive activity losses and credit carryovers; and (G) foreign tax credit carryovers. Section 108(b)(4)(A) provides that the reductions are made after the determination of the tax imposed for the taxable year of the discharge. Section 108(b)(4)(B) provides that the reductions of net operating losses and capital loss carryovers are made first in the loss for the taxable year of the discharge and then in the carryovers to such taxable year in the order of the taxable years from which each such carryover arose. If the excluded COD income exceeds the sum of the taxpayer's tax attributes, the excess is disregarded such that it does not result in income or have other tax consequences. *See* H.R. Rep. No. 96–833, at 11 (1980).

Instead of reducing tax attributes in the order set forth in section 108(b)(2), a taxpayer may elect under section 108(b)(5) to reduce first the adjusted bases of depreciable property to the extent of the excluded COD income. The amount to which the election applies is limited to the aggregate adjusted basis of the depreciable property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs. If the adjusted bases of depreciable property are insufficient to offset the entire amount of excluded COD income, the taxpayer must then reduce any remaining tax attributes in the order set forth in section 108(b)(2). Congress intended the election under section 108(b)(5) to allow debtors, including debtors in bankruptcy, to account for a debt discharge amount in a manner most favorable to their tax situations. *See* S. Rep. No. 96–1035, at 10 (1980); H.R. Rep. No. 96–833, at 9 (1980).

Section 1017(a) provides that when any portion of COD income excluded from gross income under section 108(a) is to be applied to reduce basis, then such portion shall be applied to reduce the basis of any property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs. Section 1017(b)(1) provides that the amount of reduction under section 1017(a), and the particular properties the bases of which

are to be reduced, shall be determined under regulations.

*The Reorganization Rules*

Section 368(a)(1) defines a reorganization to include certain types of asset acquisitions. Under section 361, a corporation that is a party to a reorganization recognizes neither gain nor loss when it exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation that is a party to the reorganization. If the corporation receives in the exchange not only stock or securities permitted to be received without the recognition of gain, but also other property or money, then the corporation may be required to recognize gain. Under section 362(b), if property is acquired by a corporation in connection with a reorganization, then the basis is the same as it would be in the hands of the transferor, increased by the amount of gain recognized to the transferor on such transfer.

Section 332(a) provides that a corporation recognizes no gain or loss on the receipt of property distributed in complete liquidation of another corporation. Section 337(a) provides that a liquidating corporation recognizes no gain or loss on the distribution to the 80-percent distributee of any property in a complete liquidation to which section 332 applies. Under section 334(b)(1), if property is received by a corporate distributee in a distribution in a complete liquidation to which section 332 applies, the basis of such property in the hands of such distributee is the same as it would be in the hands of the transferor. However, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee is the fair market value of the property at the time of the distribution.

Section 381 provides that a corporation that acquires the assets of another corporation in a distribution to which section 332 applies or in a transfer to which section 361 applies (but only if the transfer is in connection with certain reorganizations described in sections 368(a)(1)(A), (C), (D), (F), or (G)) shall succeed to, and take into account, as of the close of the day of distribution or transfer, the items described in section 381(c) of the distributor or transferor corporation, subject to certain conditions and limitations. Among those items described in section 381(c) are net operating loss carryovers, capital loss carryovers, general business credits, and minimum tax credits. With respect to net operating loss carryovers and capital loss carryovers, the regulations under section 381 reflect that the acquiring corporation succeeds to only those carryovers that remain after the application of sections 172 and 1212 and their carryforward and carryback provisions. *See* §§ 1.381(c)(1)–1; 1.381(c)(3)–1. Furthermore, those regulations provide that the acquiring corporation succeeds to only those general business credits that remain unused by the transferor corporation after computing its taxable income for the year of the transfer. *See* § 1.381(c)(23)–1. Section 381(b)(1) provides that, except in the case of an acquisition in connection with a reorganization described in section 368(a)(1)(F), the taxable year of the distributor or transferor corporation ends on the date of distribution or transfer.

*Interaction Between Debt Discharge and Reorganization Rules*

Questions have arisen regarding the application of the attribute reduction rules of sections 108 and 1017 when a transaction described in section 381(a) ends a taxable year in which the transferor excludes COD income from gross income. If section 108(b)(4)(A) and section 1017 were interpreted to require attribute reduction to occur after the close of the taxable year of discharge and after the transfer of assets and carryover of items described in section 381(c), then arguably no attributes described in section 108(b)(2) would be available for reduction.

**Explanation of Provisions**

The IRS and Treasury Department believe that the rule of section 108(b)(4)(A) prescribes an ordering of calculations. First, section 108(b)(4)(A) requires a determination of the taxpayer's tax for the taxable year of discharge in order to identify the amounts, if any, of the tax attributes described in section 108(b)(2) that remain available for reduction. Second, section 108(b)(4)(A) requires the reduction of those attributes. This ordering rule affords the taxpayer the use of certain of its tax attributes described in section 108(b)(2), including any losses carried forward to the taxable year of discharge, for purposes of determining its tax for the taxable year of discharge, before subjecting those attributes to reduction.

Similarly, the IRS and Treasury believe that the rule of section 1017 prescribes an ordering of calculations. The Bankruptcy Tax Act of 1980 reflects that Congress enacted the rule of section 1017 ''to avoid interaction between basis reduction and reduction of other attributes.'' S. Rep. No. 96–1035, at 14 (1980); H. Rep. No. 96–833, at 11 (1980). Without this rule, a circular calculation could be required. The taxpayer's net operating loss for the year of the discharge of indebtedness might be based in part on the amount of cost recovery deductions allowed to the taxpayer. The amount of cost recovery deductions, however, would depend on the taxpayer's basis in its depreciable or amortizable property at the end of the year. Because net operating losses are reduced by excluded COD income prior to the reduction of asset basis absent an election under section 108(b)(5), the amount of basis required to be reduced would depend on the amount of net operating losses. Reducing the basis of property held by the taxpayer at the beginning of the taxable year following the taxable year in which the discharge occurs avoids this circularity.

The position that sections 108 and 1017 require the reduction of attributes, including the basis of transferred assets, in cases where the debtor's taxable year ends with a transfer of assets in a transaction described in section 381 is consistent with the policies underlying sections 108 and 1017 and the corporate reorganization provisions, including ''deferring, but eventually collecting within a reasonable period, tax on ordinary income realized from debt discharge.'' S. Rep. No. 96–1035, at 10 (1980). For example, assume that a debt of corporation X is discharged in a title 11 case. X's attributes described in section 108(b)(2) consist solely of basis in property. As part of a plan of reorganization, X transfers all of its assets to a newly formed corporation, Y. Under section 368(a)(3)(C), even though the transaction also qualifies as a reorganization under section 368(a)(1)(F), the transaction is treated as qualifying as a reorganization only under section 368(a)(1)(G). If sections 108 and 1017 were interpreted to not require a reduction of the bases of the property transferred, X would permanently exclude from gross income the COD income, notwithstanding that X underwent nothing more than a mere change in identity, form, or place of organization. Accordingly, consistent with the legislative history of the Bankruptcy Tax Act of 1980, the IRS and Treasury Department believe that the basis reduction rules of sections 108 and 1017 apply to property of a debtor transferred in a transaction described in section 381(a).

The legislative history of the Bankruptcy Tax Act of 1980 reflects that Congress specifically anticipated that amounts that carry over in a transaction described in section 381, including the

basis of transferred property, are to be adjusted under the rules of sections 108 and 1017 to account for excluded COD income. *See* H.R. Rep. No. 96–833, at 32–34 (1980). The legislative history states:

> Assume that Corporation A is in a bankruptcy case commenced after October 1, 1979. Immediately prior to a transfer under a plan of reorganization, A's assets have an adjusted basis of $75,000 and a fair market value of $100,000. A has a net operating loss carryover of $200,000. A has outstanding bonds of $100,000 (on which there is no accrued but unpaid interest) and trade debts of $100,000.
>
> Under the plan of reorganization, A is to transfer all its assets to Corporation B in exchange for $100,000 of B stock. Corporation A will distribute the stock, in exchange for their claims against A, one-half to the security holders and one-half to the trade creditors. A's shareholders will receive nothing.
>
> The transaction would qualify as a reorganization under new section 368(a)(1)(G) of the Code, since all the creditors are here treated as proprietors for continuity of interest purposes. Thus, A would recognize no gain or loss on the transfer of its assets to B (sec. 361). B's basis in the assets would be $75,000 (sec. 362), and B would succeed to A's net operating loss carryover (sec. 381).
>
> Under the bill, * * * [o]n the distribution of B stock to A's trade creditors, A excludes from gross income the debt discharge amount of $50,000—*i.e.*, the difference between the $100,000 debt held by non-security creditors and the $50,000 worth of stock given for such debt. A may elect to reduce the basis of its depreciable assets transferred to B by all or part of the $50,000 debt discharge amount; to the extent the election is not made, the debt discharge amount reduces A's net operating loss carryover by the remainder of the debt discharge amount.

H.R. Rep. No. 96–833, at 34 (1980). The treatment of the net operating loss and basis in the legislative history demonstrates that, in a transaction described in section 381, the transferor's attributes, including the basis of transferred property, that carry over to the transferee are reduced.

Accordingly, these temporary regulations clarify that, in the case of a transaction described in section 381(a) that ends a year in which the distributor or transferor corporation excludes COD income from gross income under section 108(a), any tax attributes to which the acquiring corporation succeeds and the basis of property acquired by the acquiring corporation in the transaction shall reflect the reductions required by sections 108 and 1017. For this purpose, all attributes listed in section 108(b)(2) of the distributor or transferor corporation immediately prior to the transaction described in section 381(a), including the basis of property, but after the determination of tax for the year of the discharge, are available for reduction under section 108(b)(2).

These temporary regulations also clarify that the tax attributes subject to reduction under section 108(b)(2) that are carryovers to the taxable year of the discharge, or that may be carried back to taxable years preceding the year of the discharge, are first taken into account by the taxpayer for the taxable year of the discharge or the preceding years, as the case may be, before such attributes are reduced pursuant to section 108(b)(2).

These temporary regulations apply to discharges of indebtedness occurring after July 17, 2003.

## Special Analyses

It has been determined that these temporary regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these temporary regulations, and, because no preceding notice of proposed rulemaking is required for these temporary regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply. Pursuant to section 7805(f) of the Internal Revenue Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

## Drafting Information

The principal author of these temporary regulations is Theresa M. Kolish, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

## Amendments to the Regulations

■ Accordingly, 26 CFR part 1 is amended as follows:

## PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding the following entry in numerical order to read as follows:

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

Section 1.108–7T also issued under 26 U.S.C. 108. * * *

■ **Par. 2.** Section 1.108–7T is added to read as follows:

### § 1.108–7T Reduction of attributes (temporary).

(a) *In general.* (1) If a taxpayer excludes discharge of indebtedness income (COD income) from gross income under section 108(a)(1)(A), (B), or (C), then the amount excluded shall be applied to reduce the following tax attributes of the taxpayer in the following order:

(i) Net operating losses.

(ii) General business credits.

(iii) Minimum tax credits.

(iv) Capital loss carryovers.

(v) Basis of property.

(vi) Passive activity loss and credit carryovers.

(vii) Foreign tax credit carryovers.

(2) The taxpayer may elect under section 108(b)(5), however, to reduce first the basis of depreciable property to the extent of the excluded COD income. If the basis of depreciable property is insufficient to offset the entire amount of the excluded COD income, the taxpayer must then reduce any remaining tax attributes in the order specified in section 108(b)(2). If the excluded COD income exceeds the sum of the taxpayer's tax attributes, the excess is permanently excluded from the taxpayer's gross income. For rules relating to basis reductions required by sections 108(b)(2)(E) and 108(b)(5), *see* sections 1017 and 1.1017–1. For rules relating to the time and manner for making an election under section 108(b)(5), *see* § 1.108–4.

(b) *Carryovers and carrybacks.* The tax attributes subject to reduction under section 108(b)(2) and paragraph (a)(1) of this section that are carryovers to the taxable year of the discharge, or that may be carried back to taxable years preceding the year of the discharge, are taken into account by the taxpayer for the taxable year of the discharge or the preceding years, as the case may be, before such attributes are reduced pursuant to section 108(b)(2) and paragraph (a)(1) of this section.

(c) *Transactions to which section 381 applies.* In the case of a transaction described in section 381(a) that ends a taxable year in which the distributor or transferor corporation excludes COD income under section 108(a), any tax attributes to which the acquiring corporation succeeds and the basis of property acquired by the acquiring corporation in the transaction shall reflect the reductions required by section 108(b). For this purpose, all attributes listed in section 108(b)(2) of the distributor or transferor corporation immediately prior to the transaction described in section 381(a), but after the determination of tax for the year of the discharge, including basis of property,

shall be available for reduction under section 108(b)(2).

(d) *Examples.* The following examples illustrate the application of this section:

*Example 1.* (i) *Facts.* In Year 4, X, a corporation in a title 11 case, is entitled under section 108(a)(1)(A) to exclude from gross income $100,000 of COD income. For Year 4, X has gross income in the amount of $50,000. In each of Years 1 and 2, X had no taxable income or loss. In Year 3, X had a net operating loss of $100,000, the use of which when carried over to Year 4 is not subject to any restrictions other than those of section 172.

(ii) *Analysis.* Pursuant to paragraph (b) of this section, X takes into account the net operating loss carryover from Year 3 in computing its taxable income for Year 4 before any portion of the COD income excluded under section 108(a)(1)(A) is applied to reduce tax attributes. Thus, the amount of the net operating loss carryover that is reduced under section 108(b)(2) and paragraph (a) of this section is $50,000.

*Example 2.* (i) *Facts.* The facts are the same as in *Example 1,* except that in Year 4 X sustains a net operating loss in the amount of $100,000. In addition, in each of Years 2 and 3, X reported taxable income in the amount of $25,000.

(ii) *Analysis.* Pursuant to paragraph (b) of this section and section 172, the net operating loss sustained in Year 4 is carried back to Years 2 and 3 before any portion of the COD income excluded under section 108(a)(1)(A) is applied to reduce tax attributes. Thus, the amount of the net operating loss that is reduced under section 108(b)(2) and paragraph (a) of this section is $50,000.

*Example 3.* (i) *Facts.* In Year 2, X, a corporation in a title 11 case, has outstanding trade debts of $200,000 and a depreciable asset that has an adjusted basis of $75,000 and a fair market value of $100,000. X has no other assets or liabilities. X has a net operating loss of $80,000 that is carried over to Year 2 but has no general business credit, minimum tax credit, or capital loss carryovers. Under a plan of reorganization, X transfers its asset to Corporation Y in exchange for Y stock with a value of $100,000. X distributes the Y stock to its trade creditors in exchange for release of their claims against X. X's shareholders receive nothing in the transaction. The transaction qualifies as a reorganization under section 368(a)(1)(G) that satisfies the requirements of section 354(a)(1)(A) and (B). For Year 2, X has gross income of $10,000 (without regard to any income from the discharge of indebtedness) and is allowed a depreciation deduction of $10,000 in respect of the asset. In addition, it generates no general business credits.

(ii) *Analysis.* On the distribution of Y stock to X's trade creditors, under section 108(a)(1)(A), X is entitled to exclude from gross income the debt discharge amount of $100,000. (Under section 108(e)(8), X is treated as satisfying $100,000 of the debt owed the trade creditors for $100,000, the fair market value of the Y stock transferred to those creditors.) In Year 2, X has no taxable income or loss because its gross income is exactly offset by the depreciation deduction. As a result of the depreciation deduction, X's basis in the asset is reduced by $10,000 to $65,000. Pursuant to paragraph (c) of this section, the amount of X's net operating loss to which Y succeeds pursuant to section 381 and the basis of X's property transferred to Y must take into account the reductions required by section 108(b). Pursuant to paragraph (a) of this section, X's net operating loss carryover in the amount of $80,000 is reduced by $80,000 of the COD income excluded under section 108(a)(1). In addition, X's basis in the asset is reduced by $20,000, the extent to which the COD income excluded under section 108(a)(1) did not reduce the net operating loss. Accordingly, as a result of the reorganization, there is no net operating loss to which Y succeeds under section 381. Pursuant to section 361, X recognizes no gain or loss on the transfer of its property to Y. Pursuant to section 362(b), Y's basis in the asset acquired from X is $45,000.

*Example 4.* (i) *Facts.* The facts are the same as in *Example 3,* except that X elects under section 108(b)(5) to reduce first the basis of its depreciable asset.

(ii) *Analysis.* As in *Example 3,* on the distribution of Y stock to X's trade creditors, under section 108(a)(1)(A), X is entitled to exclude from gross income the debt discharge amount of $100,000. In addition, in Year 2, X has no taxable income or loss because its gross income is exactly offset by the depreciation deduction. As a result of the depreciation deduction, X's basis in the asset is reduced by $10,000 to $65,000. Pursuant to paragraph (c) of this section, the amount of X's net operating loss to which Y succeeds pursuant to section 381 and the basis of X's property transferred to Y must take into account the reductions required by section 108(b). As a result of the election under section 108(b)(5), X's basis in the asset is reduced by $65,000 to $0. In addition, X's net operating loss is reduced by $35,000, the extent to which the amount excluded from income under section 108(a)(1)(A) does not reduce X's asset basis. Accordingly, as a result of the reorganization, Y succeeds to X's net operating loss in the amount of $45,000 under section 381. Pursuant to section 361, X recognizes no gain or loss on the transfer of its property to Y. Pursuant to section 362(b), Y's basis in the asset acquired from X is $0.

(e) *Effective date.* This section applies to discharges of indebtedness occurring after July 17, 2003.

■ **Par. 3.** Section 1.1017–1 is amended by adding paragraph (b)(4) to read as follows:

**§ 1.1017–1 Basis reductions following a discharge of indebtedness.**

* * * * *

(b) * * *

(4) For further guidance, *see* § 1.1017–1T(b)(4).

* * * * *

■ **Par. 4.** Section 1.1017–1T is added to read as follows:

**§ 1.1017–1T Basis reductions following a discharge of indebtedness (temporary).**

(a) Through (b)(3) [Reserved]. For further guidance, *see* § 1.1017–1(a) through (b)(3).

(4) *Transactions to which section 381 applies.* In the case of a transaction described in section 381(a) that ends a taxable year in which the distributor or transferor corporation excludes COD income from gross income under section 108(a), the basis of property acquired by the acquiring corporation in the transaction shall reflect the reductions required by section 1017 and this section. For this purpose, the basis of property of the distributor or transferor corporation immediately prior to the transaction described in section 381(a), but after the determination of tax for the year of the discharge, shall be available for reduction under section 108(b)(2). *See* § 1.108–7T. This paragraph (b)(4) applies to discharges of indebtedness occurring after July 17, 2003.

(c) Through (i) [Reserved]. For further guidance, *see* § 1.1017–1(c) through (i).

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 9, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

[FR Doc. 03–18145 Filed 7–17–03; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Parts 20 and 25

**[TD 9077]**

**RIN 1545–AY91**

## Net Gift Treatment Under Section 2519

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating both to the amount treated as a transfer under section 2519 of the Internal Revenue Code when there is a right to recover gift tax under section 2207A(b) and to the related gift and estate tax consequences if the right to recover the gift tax is not exercised. The final regulations will affect donee spouses who make lifetime dispositions of all or part of a qualifying income interest in qualified terminable interest property.

**EFFECTIVE DATE:** These regulations are effective July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** DeAnn K. Malone, (202) 622–7830 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

On July 22, 2002, the IRS and the Treasury Department published in the **Federal Register** (67 FR 47755) a notice of proposed rulemaking (REG–123345–01) relating to the amount treated as a transfer under section 2519 of the Internal Revenue Code when there is a right to recover gift tax under section 2207A(b) and the related gift tax consequences if the right to recover the gift tax is not exercised. Written comments responding to the notice were received. No public hearing was requested or held. This document adopts final regulations with respect to the notice of proposed rulemaking. The principal comments received and revisions in response to those comments are discussed below.

## Explanation of Provisions

Under the proposed regulations, any delay in the exercise of the right of recovery was treated as an interest-free loan with the resulting Federal tax consequences. One commentator suggested that the regulations be revised to provide a thirty-day safe harbor to ease the administrative burden to taxpayers and to avoid complex loan calculations. Accordingly, the commentator suggested that section 7872 would not apply if the transferor received reimbursement of the amount of gift tax within thirty days after paying the tax.

Whether a transaction involves a below-market loan subject to section 7872 depends on all the facts and circumstances of the particular case. Section 1.7872–5T(b)(14) of the Temporary Income Tax Regulations exempts from the application of section 7872 loans the interest arrangements of which the taxpayer is able to show have no significant effect on any Federal tax liability of the lender or the borrower, as described in § 1.7872–5T(c)(3). Section 1.7872–5T(c)(3) provides that whether a loan is without significant effect is determined according to all of the facts and circumstances. Among the factors to be considered are: (1) Whether items of income and deduction generated by the loan offset each other; (2) the amount of such items; (3) the cost to the taxpayer of complying with the provisions of section 7872 if the section were applied; and (4) any non-tax reasons for deciding to structure the transaction as a below-market loan rather than a loan with interest at a rate equal to or greater than the applicable Federal rate and a payment by the lender to the borrower. The Treasury Department and the IRS believe that, in most cases, a reasonable delay in the exercise of the right of recovery will result in a loan without significant tax effect under the facts and circumstances test in § 1.7872–5T(c)(3). Accordingly, these final regulations do not create an additional safe harbor for a payment received within thirty days of payment of the tax.

The final regulations have been revised to more completely describe the interrelation of section 2207A and section 7872. Specifically, the final regulations provide that a delay in the exercise of the right of recovery (that is, the request for and receipt of the amount of the tax) will be treated as a below-market loan if the loan does not provide for the payment of sufficient interest. Depending on the facts and circumstances as described in § 1.7872–5T(c)(3), a loan arising from the delay may be a loan exempt from the application of section 7872 because it is a loan the interest arrangements of which do not have a significant effect on any Federal tax liability of the lender or the borrower. The estate tax regulations under section 2207A are revised to be consistent with the gift tax regulations.

In response to a comment, the final regulations clarify that the enforceability of the right of recovery is determined under applicable law.

Commentators requested simplification of the method of determining when a right to recovery is no longer enforceable. One commentator suggested adopting a three-year period for determining whether or not the right of recovery is enforceable, and thus whether the gift is complete for gift tax purposes if the right of recovery is not exercised. The final regulations instead provide that the transferor may waive the right of recovery thus causing the gift from the transferor to the donee to be complete upon the later of the date of the waiver or the date of the payment of the Federal gift tax. The Treasury Department and the IRS believe that the waiver allows for the certainty requested by the commentators, and is more efficient for a taxpayer who will not exercise the right of recovery because the gift of the unrecovered tax can be completed simultaneously with the lifetime disposition of the qualifying income interest.

## Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding this final rule were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## Drafting Information

The principal author of these regulations is DeAnn K. Malone, Office of the Chief Counsel, IRS. Other personnel from the IRS and Treasury Department participated in their development.

## List of Subjects

*26 CFR Part 20*

Estate taxes, Reporting and recordkeeping requirements.

*26 CFR Part 25*

Gift taxes, Reporting and recordkeeping requirements.

## Adoption of Amendments to the Regulations

■ Accordingly, 26 CFR parts 20 and 25 are amended as follows:

## PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

■ **Paragraph 1.** The authority citation for part 20 continues to read in part as follows:

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

■ **Par. 2.** Section 20.2207A–1 is amended by removing the last two sentences of paragraph (a)(2) and adding three new sentences in their place to read as follows:

### § 20.2207A–1 Right of recovery of estate taxes in the case of certain marital deduction property.

(a) * * *

(2) * * * The transfer is considered made when the right of recovery is no longer enforceable under applicable law. A delay in the exercise of the right of recovery without payment of sufficient interest is a below-market loan. Section 1.7872–5T of the Temporary Income Tax regulations describes factors that are used to determine, based on the facts and circumstances of a particular case, whether a loan otherwise subject to

imputation under section 7872 (relating to the treatment of below-market loans) is exempted from its provisions.

* * * * *

## PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

■ **Par. 3.** The authority citation for part 25 continues to read in part as follows:

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

■ **Par. 4.** Section 25.2207A–1 is amended by adding the text of paragraph (b) to read as follows:

### § 25.2207A–1 Right of recovery of gift taxes in the case of certain marital deduction property.

* * * * *

(b) *Failure of a person to exercise the right of recovery.* (1) The failure of a person to exercise a right of recovery provided by section 2207A(b) upon a lifetime transfer subject to section 2519 is treated as a transfer for Federal gift tax purposes of the unrecovered amounts to the person(s) from whom the recovery could have been obtained. *See* § 25.2511–1. The transfer is considered to be made when the right to recovery is no longer enforceable under applicable law and is treated as a gift even if recovery is impossible. A delay in the exercise of the right of recovery without payment of sufficient interest is a below-market loan. Section 1.7872–5T of this chapter describes factors that are used to determine, based on the facts and circumstances of a particular case, whether a loan otherwise subject to imputation under section 7872 (relating to the treatment of below-market loans) is exempted from its provisions.

(2) The transferor subject to section 2519 may execute a written waiver of the right of recovery arising under section 2207A before that right of recovery becomes unenforceable. If a waiver is executed, the transfer of the unrecovered amounts by the transferor is considered to be made on the later of—

(i) The date of the valid and irrevocable waiver rendering the right of recovery no longer enforceable; or

(ii) The date of the payment of the tax by the transferor.

* * * * *

■ **Par. 5.** Section 25.2519–1 is amended as follows:

■ 1. Paragraph (c)(1) is amended by adding a sentence to the end of the paragraph.

■ 2. The paragraph heading for paragraph (c)(4) is revised and the text of paragraph (c)(4) is added.

■ 3. Paragraph (g) introductory text is revised.

The additions and revisions read as follows:

### § 25.2519–1 Dispositions of certain life estates.

* * * * *

(c) * * * (1) * * * See paragraph (c)(4) of this section for the effect of gift tax that the donee spouse is entitled to recover under section 2207A.

* * * * *

(4) *Effect of gift tax entitled to be recovered under section 2207A on the amount of the transfer.* The amount treated as a transfer under paragraph (c)(1) of this section is further reduced by the amount the donee spouse is entitled to recover under section 2207A(b) (relating to the right to recover gift tax attributable to the remainder interest). If the donee spouse is entitled to recover gift tax under section 2207A(b), the amount of gift tax recoverable and the value of the remainder interest treated as transferred under section 2519 are determined by using the same interrelated computation applicable for other transfers in which the transferee assumes the gift tax liability. The gift tax consequences of failing to exercise the right of recovery are determined separately under § 25.2207A–1(b).

* * * * *

(g) *Examples.* The following examples illustrate the application of paragraphs (a) through (f) of this section. Except as provided otherwise in the examples, assume that the decedent, D, was survived by spouse, S, that in each example the section 2503(b) exclusion has already been fully utilized for each year with respect to the donee in question, that section 2503(e) is not applicable to the amount deemed transferred, and that the gift taxes on the amount treated as transferred under paragraph (c) are offset by S's unified credit. The examples are as follows:

* * * * *

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

Approved: July 9, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury (Tax Policy).*

[FR Doc. 03–18018 Filed 7–17–03; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Parts 2, 26, 62, 64, 95, 100, 120, and 165

## 46 CFR Parts 7 and 28

**[USCG–2001–9044]**

**RIN 1625–AA30**

## Territorial Seas, Navigable Waters, and Jurisdiction

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** This rule conforms the Coast Guard's definitions of jurisdictional terms to existing law. We have made these changes so that our regulatory definitions will reflect statutory changes and Presidential proclamations affecting our jurisdiction. These changes are intended to clarify how the Coast Guard interprets its jurisdiction to enforce treaties, laws, and regulations of the United States.

**DATES:** This final rule is effective August 18, 2003.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG–2001–9044 and are available for inspection or copying at the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call Alex Weller, Office of Maritime and International Law, U.S. Coast Guard, telephone 202–267–0097. If you have questions on viewing the docket, call Dorothy Beard, Chief, Dockets, Department of Transportation, telephone 202–366–5149.

**SUPPLEMENTARY INFORMATION:**

### Regulatory History

On October 22, 1975, we published a rule in the **Federal Register** entitled ''Jurisdiction and Navigable Waters'' that established general duties and jurisdiction regulations in part 2 of Title 33 of the Code of Federal Regulations (33 CFR part 2) (40 FR 49326). Most of those regulations have not changed since 1975.

In an effort to conform the Coast Guard's definitions of jurisdictional

terms to existing law, we published a notice of proposed rulemaking (NPRM) on August 14, 2002, entitled ''Territorial Seas, Navigable Waters, and Jurisdiction'' (67 FR 52906)(USCG–2001–9044, under former DOT RIN 2115–AG13). And on September 18, 2002, we published a correction to that proposed rule noting that we did not intend to omit the contents of a footnote in our proposed revision of 33 CFR part 2 (67 FR 58752). No public hearing was requested and none was held.

A little more than 3 months after we published our NPRM, the Maritime Transportation Security Act of 2002 (MTSA) was enacted (Pub. L. 107–295, 116 Stat. 2064). The MTSA extended the territorial seas jurisdiction from 3 to 12 nautical miles for two domestic statutes by amending section 1 of title XIII of the Act of June 15, 1917, as amended by the Magnuson Act of August 9, 1950 (''Magnuson Act''), 50 U.S.C. 195, and section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)).

On the same date the MTSA was enacted, November 25, 2002, the Homeland Security Act of 2002 (HLSA) (Pub. L. 107–296, 116 Stat. 2135) was also enacted. The HLSA established the Department of Homeland Security (DHS) and directed the transfer of the Coast Guard from the Department of Transportation to DHS.

Regulatory amendments reflecting these recent MTSA, non-discretionary changes in jurisdiction and revisions to reflect our move to DHS under the HLSA, concern only interpretations, agency organization, and rules of agency procedure, and thus, under 5 U.S.C. 553(b)(A), are exempt from the rulemaking notice requirement. Therefore, we have included these MTSA and HLSA changes in this final rule. All changes in the rule based on the recent passage of MTSA and HLSA are described below in the *Discussion of Comments and Changes* section.

**Background and Purpose**

This rule changes definitions of jurisdictional terms, primarily in 33 CFR part 2, to reflect current statutes and other legal authorities on which these definitions are based. In the preamble of our NPRM, we discussed various legal authorities on which we based the proposed changes to our jurisdictional regulations (67 FR 52906–52908, August 14, 2002). The Coast Guard uses the definitions for these jurisdictional terms—*e.g.*, ''internal waters,'' ''inland waters,'' ''navigable waters,'' ''territorial sea,'' ''exclusive economic zone,'' ''high seas,'' and ''waters subject to the jurisdiction of the United States''—to enforce treaties, laws, and regulations of the United States.

**Discussion of Comments and Changes**

We received three letters commenting on the proposed rule. And, in response, we have incorporated changes in the final rule. The final rule also reflects changes from the proposed rule based on the November 25, 2002 enactment of the MTSA and HLSA.

*Navigable Waters*

One commentator wrote that our proposed definition of ''navigable waters'' differed from the U.S. Environmental Protection Agency's (EPA's) definition in 40 CFR part 110 (specifically in 40 CFR 110.1) and that with respect to the Federal Water Pollution Control Act Amendments, known as the Clean Water Act, EPA has the primary federal responsibility to define this jurisdictional term. We agree that EPA has the primary federal responsibility to define this term with respect to the Clean Water Act.

After conferring with the EPA, we have decided not to revise the text in 33 CFR 2.05–25, as we proposed. Instead, all we have revised in that section is: (1) The section number itself—to § 2.36—to conform to the renumbering of sections in 33 CFR part 2, and (2) we removed the footnote. As we explained in our September 18, 2002, correction (67 FR 58752), the contents of that footnote have been moved to the note for § 2.5, Specific definitions control. Also, because we had included references to paragraph (b) of our proposed § 2.36 in §§ 2.38, 62.3, 64.06, and 100.05, we have had to change those four references to paragraph (a) to reflect the corresponding § 2.36 language in the final rule.

The EPA, jointly with the Army Corps of Engineers (ACOE), has already issued an ''Advanced Notice of Proposed Rulemaking on the Clean Water Act Regulatory Definition of 'Waters of the United States' '' (68 FR 1991, January 15, 2003). As we did in our NPRM, the EPA and ACOE's ANPRM discusses the U.S. Supreme Court's decision, *Solid Waste Agency of Northern Cook County* v. *U.S. Army Corps of Engineers,* 531 U.S. 159 (2001)(*SWANCC*), interpreting ''waters of the United States'' and ''navigable waters'' as used in the Clean Water Act. To ensure that our definitions are consonant with the EPA's and ACOE's, we will await the results of their rulemaking before amending our corresponding definitions in redesignated § 2.36. In the meantime, it should be understood that we are not taking a position in this rulemaking on the definitions of those terms in the *SWANCC* case.

*High Seas*

We received two comments expressing concern that our definition of ''high seas'' in proposed § 2.32(d) would include the exclusive economic zones of both the United States and other nations and that this might undermine the doctrine that U.S. statutes are presumed not to apply outside of U.S. territory unless Congress expresses a clear statement of extraterritorial application. In response to these comments, the Coast Guard conferred with the Department of State, U.S. Navy, and other federal agencies, and has revised both § 2.32(c) and (d) to read:

(c) For the purposes of 14 U.S.C. 89(a), and 33 U.S.C. 1471 *et. seq., high seas* includes the exclusive economic zones of the United States and other nations, as well as those waters that are seaward of territorial seas of the United States and other nations.

(d) Under customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea and without prejudice to high seas freedoms that may be exercised within exclusive economic zones pursuant to article 58 of the United Nations Convention on the Law of the Sea, and unless the context clearly requires otherwise (*e.g.*, The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto), *high seas* means all waters that are not the exclusive economic zone (as defined in 2.30), territorial sea (as defined in 2.22), or internal waters of the United States or any other nation.

We also received a comment that we are not required to include the Great Lakes as a discrete part of our ''high seas'' definition in § 2.32(a). We agree and have deleted the reference to the Great Lakes in that paragraph dealing with special maritime and territorial jurisdiction under 18 U.S.C. 7.

*Exclusive Economic Zone*

In conferring with the Department of State about the proposed rule, it was suggested that we insert the word ''including'' after the ''United States'' in proposed § 2.30 to match language in the President's Exclusive Economic Zone Proclamation 5030 of March 10, 1983 (97 Stat. 1557) and that we make certain other textual changes. We agree, and have made those revisions. Specifically, we have deleted a reference to the Covenant and the United Nations Trusteeship Agreement, and added reference to Guam, American Samoa, the U.S. Virgin Islands, and any other territory or possession over which the United States exercises sovereignty. Finally, we have clarified the rights of

the United States and all other nations in the waters of the exclusive economic zone (EEZ) as stated in Presidential Proclamation 5030.

*Vessel Bridge-to-Bridge Radiotelephone Act*

We have revised 33 CFR 2.22(a)(i) and 26.02, and 46 CFR 7.5 to reflect the MTSA's extension of the application of the Vessel Bridge-to-Bridge Radiotelephone Act, 33 U.S.C. 1201–1208, to all waters of the United States territorial sea described in Presidential Proclamation 5928. Specifically, to reflect MTSA's sec. 321 amendment of 33 U.S.C. 1203(b), we added the Vessel Bridge-to-Bridge Radiotelephone Act to statutes listed in our territorial seas definition in 33 CFR 2.22(a)(1); changed the reference to the territorial sea definition in 33 CFR 26.02 from § 2.22(a)(2) to § 2.22(a)(1); and in 46 CFR 7.5, Rules for establishing boundary lines, we changed the ''3 miles'' territorial sea reference to ''12 nautical miles''.

*Magnuson Act*

When we drafted our proposed rule, the Magnuson Act, which amended the Act of June 15, 1917, applied in the United States territorial sea out to a seaward limit of 3 nautical miles. Sec. 104 of the MTSA expanded the Act of June 15, 1917's reach to 12 nautical miles. We added the Act of June 15, 1917, as amended, to 33 CFR 2.22(a)(i), and revised paragraph (c) in 33 CFR 165.9, Geographical application of limited and controlled access areas and regulated navigation areas, to reflect that now both the terms ''navigable waters of the United States'' in the Ports and Waterways Safety Act, as amended (33 U.S.C. 1221–1232), and ''territorial waters of the United States'' in the Magnuson Act have the same seaward limit—12 miles.

*Authority Citations*

The authority citations for CFR parts in the final rule differ from those in our proposed rule. These differences reflect recent jurisdictional changes created by the MTSA and organizational changes caused by the HLSA. Also, we have converted the U.S. Code citation for the Ports and Waterways Safety Act, as amended, from ''(33 U.S.C. 1221 *et seq.*)'' to the more specific ''(33 U.S.C. 1221–1232).'' This helps clarify that regulations in 33 CFR part 100, for example, issued under authority of 33 U.S.C. 1233, are not issued under the authority of the PWSA.

**Regulatory Evaluation**

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary because we are merely conforming our jurisdictional definitions to reflect authority given to the Coast Guard by current statues and Presidential proclamations.

**Small Entities**

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

We are merely conforming our jurisdictional definitions to statutory authority and presidential proclamations. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

**Assistance for Small Entities**

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking by providing the phone number and address of Alex Weller to address questions concerning provisions of the rulemaking.

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

**Collection of Information**

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

**Federalism**

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

**Unfunded Mandates Reform Act**

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

**Taking of Private Property**

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

**Civil Justice Reform**

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

**Protection of Children**

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

**Indian Tribal Governments**

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

Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

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

**Environment**

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(a), of the Instruction, from further environmental documentation. Where a statute does not mandate a change, we will revise the existing language to maintain the status quo for geographical scope. These changes should also be categorically excluded. The Coast Guard believes that merely updating the regulations to reflect movement of the boundary of the territorial sea from 3 nautical miles to 12 nautical miles from shore will not have any impact on the environment. An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

**List of Subjects**

*33 CFR Part 2*

Administrative practice and procedure, Law enforcement.

*33 CFR Part 26*

Communications equipment, Marine safety, Radio, Telephone, Vessels.

*33 CFR Part 62*

Navigation (water).

*33 CFR Part 64*

Navigation (water), Reporting and recordkeeping requirements.

*33 CFR Part 95*

Alcohol abuse, Drug abuse, Marine safety, Penalties.

*33 CFR Part 100*

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

*33 CFR Part 120*

Passenger vessels, Reporting and recordkeeping requirements, Security measures.

*33 CFR Part 165*

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

*46 CFR Part 7*

Law Enforcement, Vessels.

*46 CFR Part 28*

Fire prevention, Fishing vessels, Marine safety, Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR parts 2, 26, 62, 64, 95, 100, 120, and 165 and 46 CFR parts 7 and 28 as follows:

## TITLE 33—NAVIGATION AND NAVIGABLE WATERS

## PART 2—JURISDICTION

■ 1. Revise part 2 to read as follows:

**PART 2—JURISDICTION**

**Subpart A—General**

Sec.
2.1 Purpose.
2.5 Specific definitions control.

**Subpart B—Jurisdictional Terms**

2.20 Territorial sea baseline.
2.22 Territorial sea.
2.24 Internal waters.
2.26 Inland waters.
2.28 Contiguous zone.
2.30 Exclusive Economic Zone.
2.32 High seas.
2.34 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.
2.36 Navigable waters of the United States, navigable waters, territorial waters.
2.38 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.

**Subpart C—Availability of Jurisdictional Decisions**

2.40 Maintenance of decisions.
2.45 Decisions subject to change or modification and availability of lists and charts.

**Authority:** 14 U.S.C. 633, 33 U.S.C. 1222, 80 Stat. 931 (49 U.S.C. 108); Pub. L. 107–296, 116 Stat. 2135, 2249; Department of Homeland Security Delegation No. 0170.

## PART 2—JURISDICTION

## Subpart A—General

### § 2.1 Purpose

(a) The purpose of this part is to define terms the Coast Guard uses in regulations, policies, and procedures, to determine whether it has jurisdiction on certain waters in cases where specific jurisdictional definitions are not otherwise provided.

(b) Figure 2.1 is a visual aid to assist you in understanding this part.

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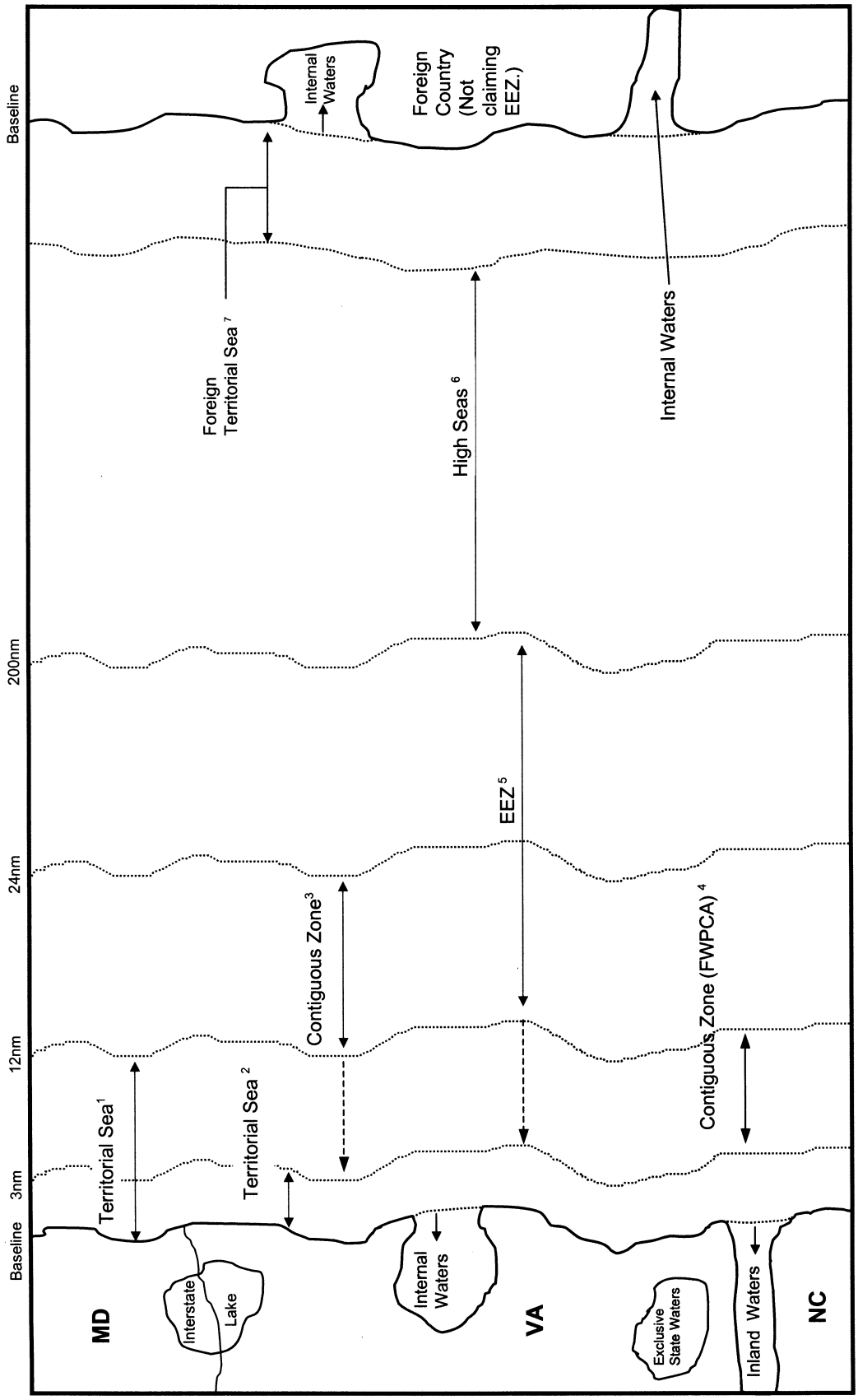
# FIGURE 2.1. JURISDICTIONAL AREAS




[1] Territorial sea for purposes identified in §2.22(a)(1).
[2] Territorial sea for purposes identified in §2.22(a)(2).
[3] Contiguous zone as described in §2.28(b), varies with territorial sea width for particular purpose involved.
[4] Contiguous zone as described in §2.28(a), for Federal Water Pollution Control Act purposes.
[5] Exclusive Economic Zone (EEZ) is measured from the seaward limit of the territorial sea, as variously defined in §2.22(a), to a distance of 200 nautical miles from the baseline. The inner (shoreward) boundary of the EEZ will vary for particular purposes..
[6] High seas as defined in §2.32(d). When a nation has not proclaimed an EEZ, the high seas begin at the seaward edge of their territorial sea
[7] The U.S. recognizes territorial sea claims of other nations up to a maximum distance of 12 nautical miles from the baseline.

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**§ 2.5 Specific definitions control.**

In cases where a particular statute, regulation, policy or procedure provides a specific jurisdictional definition that differs from the definitions contained in this part, the former definition controls.

**Note to § 2.5:** For example, the definition of ''inland waters'' in the Inland Navigational Rules Act of 1980 (33 U.S.C. 2003(o)) would control the interpretation of inland navigation rules created under that Act and the ''inland waters'' definition in 46 CFR 10.103 would control regulations in 46 CFR part 10. Also, in various laws administered and enforced by the Coast Guard, the terms ''State'' and ''United States'' are defined to include some or all of the territories and possessions of the United States. The definitions in §§ 2.36 and 2.38 should be considered as supplementary to these statutory definitions and not as interpretive of them.

## Subpart B—Jurisdictional Terms

**§ 2.20 Territorial sea baseline.**

*Territorial sea baseline* means the line defining the shoreward extent of the territorial sea of the United States drawn according to the principles, as recognized by the United States, of the Convention on the Territorial Sea and the Contiguous Zone, 15 U.S.T. 1606, and the 1982 United Nations Convention on the Law of the Sea (UNCLOS), 21 I.L.M. 1261. Normally, the territorial sea baseline is the mean low water line along the coast of the United States.

**Note to § 2.20:** Charts depicting the territorial sea baseline are available for examination in accordance with § 1.10–5 of this chapter.

**§ 2.22 Territorial sea.**

(a) With respect to the United States, the following apply—

(1) *Territorial sea* means the waters, 12 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline, for—

(i) Statutes included within subtitle II, title 46, U.S.C.; the Ports and Waterways Safety Act, as amended (33 U.S.C. 1221–1232); the Act of June 15, 1917, as amended (50 U.S.C. 191–195); and the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201–1208), and any regulations issued under the authority of these statutes.

(ii) Purposes of criminal jurisdiction pursuant to Title 18, United States Code.

(iii) The special maritime and territorial jurisdiction as defined in 18 U.S.C. 7.

(iv) Interpreting international law.

(v) Any other treaty, statute, or regulation, or amendment thereto, interpreted by the Coast Guard as incorporating the definition of territorial sea as being 12 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline.

(2) Unless otherwise specified in paragraph (a)(1) of this section, *territorial sea* means the waters, 3 nautical miles wide, adjacent to the coast of the United States and seaward of the territorial sea baseline.

(3) In cases where regulations are promulgated under the authority of statutes covered by both paragraphs (a)(1) and (a)(2) of this section, the Coast Guard may use the definition of territorial sea in paragraph (a)(1) of this section.

(b) With respect to any other nation, *territorial sea* means the waters adjacent to its coast that have a width and baseline recognized by the United States.

**§ 2.24 Internal waters.**

(a) With respect to the United States, *internal waters* means the waters shoreward of the territorial sea baseline.

(b) With respect to any other nation, *internal waters* means the waters shoreward of its territorial sea baseline, as recognized by the United States.

**§ 2.26 Inland waters.**

*Inland waters* means the waters shoreward of the territorial sea baseline.

**§ 2.28 Contiguous zone.**

(a) For the purposes of the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*), *contiguous zone* means the zone, 9 nautical miles wide, adjacent to and seaward of the territorial sea, as defined in § 2.22(a)(2), that was declared to exist in Department of State Public Notice 358 of June 1, 1972 and that extends from 3 nautical miles to 12 nautical miles as measured from the territorial sea baseline.

(b) For all other purposes, *contiguous zone* means all waters within the area adjacent to and seaward of the territorial sea, as defined in § 2.22(a), and extending to 24 nautical miles from the territorial sea baseline, but in no case extending within the territorial sea of another nation, as declared in Presidential Proclamation 7219 of September 2, 1999 (113 Stat. 2138).

**§ 2.30 Exclusive Economic Zone.**

(a) With respect to the United States, including the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the United States Virgin Islands, and any other territory or possession over which the United States exercises sovereignty, *exclusive economic zone* means the zone seaward of and adjacent to the territorial sea, as defined in § 2.22(a), including the contiguous zone, and extending 200 nautical miles from the territorial sea baseline (except where otherwise limited by treaty or other agreement recognized by the United States) in which the United States has the sovereign rights and jurisdiction and all nations have the high seas freedoms mentioned in Presidential Proclamation 5030 of March 10, 1983.

(b) Under customary international law as reflected in Article 56 of the 1982 United Nations Convention on the Law of the Sea, and with respect to other nations, *exclusive economic zone* means the waters seaward of and adjacent to the territorial sea, not extending beyond 200 nautical miles from the territorial sea baseline, as recognized by the United States.

**§ 2.32 High seas.**

(a) For purposes of special maritime and territorial jurisdiction of the United States as defined in 18 U.S.C. 7, *high seas* means all waters seaward of the territorial sea baseline.

(b) For the purposes of section 2 of the Act of February 19, 1895, as amended (33 U.S.C. 151) and the Inland Navigational Rules Act of 1980 (33 U.S.C. Chapter 34), *high seas* means the waters seaward of any lines established under these statutes, including the lines described in part 80 of this chapter and 46 CFR part 7.

(c) For the purposes of 14 U.S.C. 89(a), and 33 U.S.C. 1471 *et. seq., high seas* includes the exclusive economic zones of the United States and other nations, as well as those waters that are seaward of territorial seas of the United States and other nations.

(d) Under customary international law as reflected in the 1982 United Nations Convention on the Law of the Sea and without prejudice to high seas freedoms that may be exercised within exclusive economic zones pursuant to article 58 of the United Nations Convention on the Law of the Sea, and unless the context clearly requires otherwise (*e.g.*, The International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, including annexes thereto), *high seas* means all waters that are not the exclusive economic zone (as defined in §2.30), territorial sea (as defined in §2.22), or internal waters of the United States or any other nation.

**§ 2.34 Waters subject to tidal influence; waters subject to the ebb and flow of the tide; mean high water.**

(a) *Waters subject to tidal influence and waters subject to the ebb and flow of the tide* are waters below mean high water. These terms do not include waters above mean high water caused by flood flows, storms, high winds, seismic waves, or other non-lunar phenomena.

(b) *Mean high water* is the average of the height of the diurnal high water at a particular location measured over a lunar cycle of 19 years.

**§ 2.36 Navigable waters of the United States, navigable waters, and territorial waters.**

(a) Except as provided in paragraph (b) of this section, *navigable waters of the United States, navigable waters,* and *territorial waters* mean, except where Congress has designated them not to be navigable waters of the United States:

(1) Territorial seas of the United States;

(2) Internal waters of the United States that are subject to tidal influence; and

(3) Internal waters of the United States not subject to tidal influence that:

(i) Are or have been used, or are or have been susceptible for use, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce, notwithstanding natural or man-made obstructions that require portage, or

(ii) A governmental or non-governmental body, having expertise in waterway improvement, determines to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with other waters, as highways for substantial interstate or foreign commerce.

(b) *Navigable waters of the United States* and *navigable waters,* as used in sections 311 and 312 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1321 and 1322, mean:

(1) Navigable waters of the United States as defined in paragraph (a) of this section and all waters within the United States tributary thereto; and

(2) Other waters over which the Federal Government may exercise Constitutional authority.

**§ 2.38 Waters subject to the jurisdiction of the United States; waters over which the United States has jurisdiction.**

*Waters subject to the jurisdiction of the United States* and *waters over which the United States has jurisdiction* mean the following waters—

(a) Navigable waters of the United States, as defined in § 2.36(a).

(b) Waters, other than those under paragraph (a) of this section, that are located on lands for which the United States has acquired title or controls and—

(1) Has accepted jurisdiction according to 40 U.S.C. 255; or

(2) Has retained concurrent or exclusive jurisdiction from the date that the State in which the lands are located entered the Union.

(c) Waters made subject to the jurisdiction of the United States by operation of the international agreements and statutes relating to the former Trust Territory of the Pacific Islands, and waters within the territories and possessions of the United States.

## Subpart C—Availability of Jurisdictional Decisions

**§ 2.40 Maintenance of decisions.**

(a) From time to time, the Coast Guard makes navigability determinations of specific waterways, or portions thereof, in order to determine its jurisdiction on those waterways. Copies of these determinations are maintained by the District Commander in whose district the waterway is located.

(b) If the district includes portions of the territorial sea, charts reflecting Coast Guard decisions as to the location of the territorial sea baseline for the purposes of Coast Guard jurisdiction are maintained by the District Commander in whose district the portion of the territorial sea is located.

**§ 2.45 Decisions subject to change or modification and availability of lists and charts.**

The determinations referred to in § 2.40 are subject to change or modification. The determinations are made for Coast Guard use at the request of Coast Guard officials. Determinations made or subsequently changed are available to the public under § 1.10–5(b) of this chapter. Inquiries concerning whether a determination has been made for specific waters, for the purposes of Coast Guard jurisdiction, should be directed to the District Commander of the district in which the waters are located.

## PART 26—VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE REGULATIONS

■ 2. The authority citation for part 26 is revised to read as follows:

**Authority:** 14 U.S.C. 2, 33 U.S.C. 1201–1208; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170. Rule 1, International Regulations for the Prevention of Collisions at Sea.

■ 3. In § 26.02, add, in alphabetical order, the definition of ''territorial sea'' to read as follows:

**§ 26.02 Definitions.**

* * * * *

*Territorial sea* means all waters as defined in § 2.22(a)(1) of this chapter.

* * * * *

## PART 62—UNITED STATES AIDS TO NAVIGATION SYSTEM

■ 4. The authority citation for part 62 is revised to read as follows:

**Authority:** 14 U.S.C. 85; 33 U.S.C. 1222, 1233; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.

■ 5. In § 62.3, revise paragraph (g) to read as follows:

**§ 62.3 Definition of terms.**

* * * * *

(g) *Navigable waters of the United States.* The term navigable waters of the United States is defined in § 2.36(a) of this chapter.

## PART 64—MARKING OF STRUCTURES, SUNKEN VESSELS AND OTHER OBSTRUCTIONS

■ 6. The authority citation for part 64 is revised to read as follows:

**Authority:** 14 U.S.C. 633; 33 U.S.C. 409, 1231; 42 U.S.C. 9118; 43 U.S.C. 1333; Department of Homeland Security Delegation No. 0170.

■ 7. In § 64.06, add, in alphabetical order, a definition of ''navigable waters of the United States'' to read as follows:

**§ 64.06 Definition of terms.**

* * * * *

*Navigable waters of the United States* means those waters described in § 2.36(a) of this chapter, specifically including the waters described in § 2.22(a)(2) of this chapter.

* * * * *

## PART 95—OPERATING A VESSEL WHILE UNDER THE INFLUENCE OF ALCOHOL OR A DANGEROUS DRUG

■ 8. The authority citation for part 95 is revised to read as follows:

**Authority:** 33 U.S.C. 2071; 46 U.S.C. 2302; Department of Homeland Security Delegation No. 0170.

■ 9. In § 95.010, add, in alphabetical order, a definition of ''waters subject to the jurisdiction of the United States'' to read as follows:

**§ 95.010 Definition of terms as used in this part.**

* * * * *

*Waters subject to the jurisdiction of the United States* means those waters described in § 2.38 of this chapter.

## PART 100—MARINE EVENTS

■ 10. The authority citation for part 100 is revised to read as follows:

**Authority:** 33 U.S.C. 1233; Department of Homeland Security Delegation No. 0170.

■ 11. In § 100.05, add paragraph (e) to read as follows:

**§ 100.05 Definition of terms used in this part.**

* * * * *

(e) *Navigable waters of the United States* means those waters described in § 2.36(a) of this chapter, specifically including the waters described in § 2.22(a)(2) of this chapter.

## PART 120—SECURITY OF PASSENGER VESSELS

■ 12. The authority citation for part 120 is revised to read as follows:

**Authority:** 33 U.S.C. 1231; Department of Homeland Security Delegation No. 0170.

■ 13. In § 120.110, revise the definitions of ''high seas'' to read as follows:

**§ 120.110 Definitions.**

* * * * *

*High seas* means the waters defined in § 2.32(d) of this chapter.

* * * * *

## PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 14. The authority citation for part 165 is revised to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 50 U.S.C. 191, 195; 46 U.S.C. Chapter 701; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.

■ 15. Add § 165.9 to read as follows:

**§ 165.9 Geographic application of limited and controlled access areas and regulated navigation areas.**

(a) *General.* The geographic application of the limited and controlled access areas and regulated navigation areas in this part are determined based on the statutory authority under which each is created.

(b) *Safety zones and regulated navigation areas.* These zones and areas are created under the authority of the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232. Safety zones established under 33 U.S.C. 1226 and regulated navigation areas may be established in waters subject to the jurisdiction of the United States as defined in § 2.38 of this chapter, including the territorial sea to a seaward limit of 12 nautical miles from the baseline.

(c) *Security zones.* These zones have two sources of authority—the Ports and Waterways Safety Act, 33 U.S.C. 1221–1232, and the Act of June 15, 1917, as amended by both the Magnuson Act of August 9, 1950 (''Magnuson Act''), 50 U.S.C. 191–195, and sec. 104 the Maritime Transportation Security Act of 2002 (Pub. L. 107–295, 116 Stat. 2064). Security zones established under either 33 U.S.C. 1226 or 50 U.S.C. 191 may be established in waters subject to the jurisdiction of the United States as defined in § 2.38 of this chapter, including the territorial sea to a seaward limit of 12 nautical miles from the baseline.

(d) *Naval vessel protection zones.* These zones are issued under the authority of 14 U.S.C. 91 and 633 and may be established in waters subject to the jurisdiction of the United States as defined in § 2.38 of this chapter, including the territorial sea to a seaward limit of 3 nautical miles from the baseline.

## TITLE 46—SHIPPING

## PART 7—BOUNDARY LINES

■ 16. The authority citation for part 7 is revised to read as follows:

**Authority:** 14 U.S.C. 633; 33 U.S.C. 151, 1222; Department of Homeland Security Delegation No. 0170.

**§ 7.5 [Amended]**

■ 17. In § 7.5(a), remove the distance ''3 miles'' and add, in its place, the distance ''12 nautical miles''.

■ 18. Revise § 7.105 to read as follows:

**§ 7.105 Marquesas Keys, FL to Rio Grande, TX.**

A line drawn from Marquesas Keys, Florida at approximate position latitude 24°47.5′ N, longitude 82°11.2′ W; along the 12-mile line which marks the seaward limits of the territorial sea (as defined in 33 CFR 2.22(a)(1)) to Rio Grande, Texas at approximate position latitude 25°58.6′ N, longitude 96°55.5′ W.

## PART 28–REQUIREMENTS FOR COMMERCIAL FISHING INDUSTRY VESSELS

■ 19. The authority citation for part 28 is revised to read as follows:

**Authority:** 46 U.S.C. 3316, 4502, 4505, 4506, 6104, 10603; Department of Homeland Security Delegation No. 0170.

■ 20. In § 28.50, revise the definitions of ''boundary lines'' and ''coastline'', to read as follows:

**§ 28.50 Definition of terms used in this part.**

* * * * *

*Boundary lines* means the lines described in part 7 of this chapter. In general, they follow the trend of the seaward high water shorelines and cross entrances to small bays, inlets, and rivers. In some areas, they are along the 12-mile line that marks the seaward limits of the territorial sea and, in other areas, they come ashore.

* * * * *

*Coastline* means the territorial sea baseline as defined in 33 CFR 2.20.

* * * * *

Dated: May 28, 2003.

**Calvin M. Lederer,**

*Acting Chief Counsel, U.S. Coast Guard.*

[FR Doc. 03–18135 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–15–P

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## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR Part 3

**RIN 2900–AL36**

## Presumption of Service Connection for Cirrhosis of the Liver in Former Prisoners of War

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the Department of Veterans Affairs (VA) adjudication regulations concerning presumptive service connection for certain diseases by adding cirrhosis of the liver to the list of diseases for which entitlement to service connection is presumed for former prisoners of war (POWs). The intended effect is to make it easier for former POWs to obtain compensation benefits for cirrhosis based on scientific and medical research showing a higher risk of death from cirrhosis in former WWII POWs than in the general population.

**DATES:** Effective Date: July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Beth McCoy, Consultant, Regulations Staff, Compensation and Pension Service (211A), Veterans Benefits Administration, Department of Veterans Affairs, 111 W. Huron St, Buffalo, NY 14202, (716) 551–4842.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal**

**Register** on February 10, 2003 (68 FR 6679), we proposed to amend the VA adjudication regulations to add cirrhosis of the liver to the list of diseases for which entitlement to service connection is presumed for former POWs under 38 CFR 3.309(c).

We asked interested persons to submit comments on or before April 11, 2003. We received no comments. Based on the rationale set forth in the proposed rule, we are adopting the proposed rule as a final rule without change.

**Administrative Procedures Act**

Because this rule solely provides for a new benefit it is not subject to the effective date provisions of 5 U.S.C. 553.

**Paperwork Reduction Act of 1995**

This rule contains no provisions constituting collections of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**Regulatory Flexibility Act**

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. The reason for this certification is that this amendment will not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final flexibility analysis requirements of sections 603 and 604.

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule will have no such effect on State, local, or tribal governments, or the private sector.

**Catalog of Federal Domestic Assistance**

The Catalog of Federal Domestic Assistance number is 64.109.

**List of Subjects in 38 CFR Part 3**

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: July 2, 2003.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, VA amends 38 CFR part 3 as follows:

## PART 3–ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.309 [Amended]**

■ 2. Section 3.309(c) is amended by adding ''Cirrhosis of the liver.'' following ''Peripheral neuropathy except where directly related to infectious causes.'' and before the explanatory note.

[FR Doc. 03–18233 Filed 7–17–03; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 63

**[OAR–2002–0045, FRL–7528–3]**

**RIN 2060–AK53**

## National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills

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

**ACTION:** Final rule; amendments.

**SUMMARY:** On February 18, 2003, the EPA promulgated amendments to the national emission standards for hazardous air pollutants (NESHAP) for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills, as a direct final rule with a parallel proposal. We indicated in that action that we would withdraw any part of the rule on which we received adverse comment. We received timely adverse comment on certain provisions of the direct final rule, but our withdrawal notice was not printed in the **Federal Register** before the May 19, 2003 effective date of the provisions. This action amends the subpart MM rule by deleting the provisions which were the subject of adverse comment. We are also amending portions of the subpart MM rule added by the February 18, 2003 direct final rule to correct a typographical error and a cross-referencing error.

**DATES:** These amendments are effective July 18, 2003.

**ADDRESSES:** Docket number OAR–2002–0045, containing supporting information used in the development of this notice, is available for public viewing at the EPA Docket Center (Air Docket), EPA West, Room B–108, 1301 Constitution Avenue, NW, Washington, DC 20460. The Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Telander, Minerals and Inorganic Chemicals Group, Emission Standards Division (C504–05), Office of Air Quality Planning and Standards, U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541–5427, facsimile number (919) 541–5600, electronic mail (e-mail) address *telander.jeff@epa.gov.*

**SUPPLEMENTARY INFORMATION:** *Docket.* The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0045. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air Docket in the EPA Docket Center, Room 108, 1301 Constitution Ave., NW, Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744. The telephone number for the Air Docket is (202) 566–1742.

*Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at *http://www/epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov.edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select ''search,'' then key in the

appropriate docket identification number.

*Background.* On February 18, 2003, we published a direct final rule (68 FR 7706) and a parallel proposal (68 FR 7735) amending the NESHAP for chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills (40 CFR part 63, subpart MM). The amendments clarified and consolidated the monitoring and testing requirements and added a site-specific alternative standard for one pulp mill. We stated in the preamble to the direct final rule and parallel proposal that if we received significant adverse comment by March 20, 2003 on one or more distinct provisions in the direct final rule, we would withdraw those provisions. We subsequently received timely adverse comments on seven of the amendments:

- 40 CFR 63.864(a) through (c), related to a site-specific monitoring plan;
- 40 CFR 63.864(d)(1) and (2), related to monitoring specifications for continuous opacity monitoring systems;
- 40 CFR 63.864(e)(1) through (9), related to monitoring specifications for continuous parameter monitoring systems;
- 40 CFR 63.864(f), related to flow monitoring provisions;
- 40 CFR 63.864(h) and (i), related to data availability restrictions;
- 40 CFR 63.864(j)(5), related to requirements for establishing the operating range for monitoring parameters; and
- 40 CFR 63.864(j)(6), related to an operation and maintenance log for the period between the compliance date and performance test date.

We prepared an action withdrawing these amendments, but the Office of the Federal Register was unable to publish it before May 19, 2003 (the direct final rule's effective date). The final rule amends the subpart MM rule by deleting the provisions which were the subject of adverse comment, consistent with our originally stated intention. If we again address these issues related to monitoring, we will do so by acting on the proposed rule (68 FR 7735) after considering the comments received. We will not institute a second comment period.

We are also amending portions of the subpart MM rule added by the direct final rule to make two technical corrections to inadvertent errors in rule language. The first is a correction to a typographical error affecting one term in Equation 1 of 40 CFR 63.865(a)(1). The second is a correction to a cross-referencing error in 40 CFR 63.687(a)(3).

The Administrative Procedure Act, in 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment. With respect to the amendment deleting the provisions related to monitoring, we are amending the rule to carry out our stated intention of not allowing provisions of the direct final rule to take effect if they were the subject of adverse comment. There has already been notice and opportunity for comment on this action, and, under these circumstances, opportunity for further comment is unnecessary. Moreover, failure to amend the rule by deleting the provisions on which EPA received adverse comment would be contrary to public expectation based on EPA's express promise. There may in fact be detrimental reliance on EPA's promise, further supporting EPA's finding that there is good cause for immediate revision of the rule. The other changes to the rule are minor, noncontroversial technical corrections, which do not substantively change the rule's requirements. Thus, notice and opportunity for public comment on these technical corrections is also unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Section 553(d) allows an agency, upon a finding of good cause, to make a rule effective immediately. Because today's amendments delete regulatory language that was the subject of adverse comment, do not add any requirements necessitating additional time for compliance, and otherwise do not substantively change the requirements of the rule, we find good cause to make these amendments effective immediately.

**Statutory and Executive Order Review**

Under Executive Order 12866 (58 FR 51736, October 4, 1993), this action is not a ''significant regulatory action'' and is, therefore, not subject to review by the Office of Management and Budget. Because EPA has made a ''good cause'' finding that this action is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of the UMRA. This action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This action 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 (64 FR 43255, August 10, 1999). This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA is not proposing/adopting any voluntary consensus standards in this action.

This action does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing these amendments, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of these amendments in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. These amendments do not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that, before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule

effective sooner than otherwise provided by the Congressional Review Act if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary, or contrary to the public interest. This determination must be supported by a brief statement (5 U.S.C. 808(2)). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of July 18, 2003. The EPA will submit a report containing the 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

**List of Subjects in 40 CFR Part 63**

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Reporting and recordkeeping requirements.

Dated: July 7, 2003.

**Jeffrey R. Holmstead,**

*Assistant Administrator for Air and Radiation.*

■ For the reasons set out in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is 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 MM—[AMENDED]

■ 2. Section 63.864 is amended by removing and reserving paragraphs (a) through (c), (d)(1) and (2), (e)(1) through (9), (f), (h), (i), and (j)(5) and (6).

■ 3. Section 63.865 is amended by revising paragraph (a)(1) to read as follows:

**§ 63.865 Performance test requirements and test methods.**

* * * * *

(a) * * *

(1) Determine the overall PM emission limit for the chemical recovery system at the mill using Equation 1 of this section as follows:

$$EL_{PM} = \frac{\left[\left(C_{ref,RF}\right)\left(Q_{RFtot}\right) + \left(C_{ref,LK}\right)\left(Q_{LKtot}\right)\right](F1)}{\left(BLS_{tot}\right)} + ER1_{ref,SDT}$$

Where:

$EL_{PM}$ = Overall PM emission limit for all existing process units in the chemical recovery system at the kraft or soda pulp mill, kg/Mg (lb/ton) of black liquor solids fired;

$C_{ref,\ RF}$ = Reference concentration of 0.10 g/dscm (0.044 gr/dscf) corrected to 8 percent oxygen for existing kraft or soda recovery furnaces;

$Q_{RFtot}$ = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 8 percent oxygen for all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill, dry standard cubic meters per minute (dscm/min) (dry standard cubic feet per minute (dscf/min));

$C_{ref,\ LK}$ = Reference concentration of 0.15 g/dscm (0.064 gr/dscf) corrected to 10 percent oxygen for existing kraft or soda lime kilns;

$QLK_{tot}$ = Sum of the average volumetric gas flow rates measured during the performance test and corrected to 10 percent oxygen for all existing lime kilns in the chemical recovery system at the kraft or soda pulp mill, dscm/min (dscf/min);

F1 = Conversion factor, 1.44 minutes·kilogram/day·gram (min·kg/d·g) (0.206 minutes·pound/day·grain (min·lb/d·gr));

$BLS_{tot}$ = Sum of the average black liquor solids firing rates of all existing recovery furnaces in the chemical recovery system at the kraft or soda pulp mill measured during the performance test, megagrams per day (Mg/d) (tons per day (ton/d)) of black liquor solids fired; and

$ER1_{ref,\ SDT}$ = Reference emission rate of 0.10 kg/Mg (0.20 lb/ton) of black liquor solids fired for existing kraft or soda smelt dissolving tanks.

* * * * *

■ 4. Section 63.867 is amended by revising paragraph (a)(3) to read as follows:

**§ 63.867 Reporting requirements.**

(a) * * *

(3) In addition to the requirements in subpart A of this part, the owner or operator of the hog fuel dryer at Weyerhaeuser Paper Company's Cosmopolis, Washington, facility (Emission Unit no. HD–14) must include analysis and supporting documentation demonstrating conformance with EPA guidance and specifications for bag leak detection systems in § 63.864(e)(12) in the Notification of Compliance Status.

* * * * *

[FR Doc. 03–18001 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 271

**[FRL–7530–9]**

## Georgia: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Georgia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Georgia's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This Final authorization will become effective on September 16, 2003 unless EPA receives adverse written comment by August 18, 2003. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Send written comments to Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960; (404) 562–8440. We must receive your comments by August 18, 2003. You can view and copy Georgia's application from 8 a.m. to 4:30 p.m. at The Georgia Department of Natural Resources, Environmental Protection Division, 2 Martin Luther King, Jr. Drive, Suite 1154 East, Atlanta, Georgia 30334–4910, and from 8:30 a.m. to 3:45 p.m. EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone number (404) 562-8190, Patricia Strougal, Librarian.

**FOR FURTHER INFORMATION CONTACT:** Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960; (404) 562–8440.

**SUPPLEMENTARY INFORMATION:**

### A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

### B. What Decisions Have We Made in This Rule?

We conclude that Georgia's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Georgia Final authorization to operate its hazardous waste program with the changes described in the authorization application. Georgia has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Georgia, including issuing permits, until the State is granted authorization to do so.

### C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Georgia subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Georgia has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions

This action does not impose additional requirements on the regulated community because the regulations for which Georgia is being authorized by today's action are already effective, and are not changed by today's action.

### D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

### E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

### F. What Has Georgia Previously Been Authorized for?

Georgia initially received Final authorization on August 7, 1984, effective August 21, 1984 (49 FR 31417), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on July 7, 1986, effective September 18, 1986 (51 FR 24549), July 28, 1988, effective September 26, 1988 (53 FR 28383), July 24, 1990, effective September 24, 1990 (55 FR 30000), February 12, 1991, effective April 15, 1991 (56 FR 5656), May 11, 1992, effective July 10, 1992 (57 FR 20055), November 25, 1992, effective January 25, 1993 (57 FR 55466), February 26, 1993, effective April 27, 1993 (58 FR 11539), November 16, 1993, effective January 18, 1994 (58 FR 60388), April 26, 1994, effective June 27, 1994 (59 FR 21664), May 10, 1995, effective July 10, 1995 (60 FR 24790), August 30, 1995, effective October 30, 1995 (60 FR 45069), March 7, 1996, effective May 6, 1996 (61 FR 9108), September 18, 1998, effective November 17, 1998 (63 FR 49852), October 14, 1999, effective December 13, 1999 (64 FR 55629), November 28, 2000, effective March 30, 2001 (66 FR 8090), July 16, 2002, effective September 16, 2002 (67 FR 46600), and November 19, 2002, effective January 21, 2003 (67 FR 69690).

### G. What Changes Are We Authorizing With Today's Action?

On March 31, 2003, Georgia submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Georgia's revision consists of provisions

promulgated July 1, 2000 through June 30, 2001, otherwise known as RCRA Cluster XI. The Georgia Board of Natural Resources adopted RCRA Cluster XI rules on January 23, 2002, effective February 25, 2002, and December 4, 2002, effective December 30, 2002. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Georgia's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Georgia Final authorization for the following program changes:

| Description of Federal requirement | *Federal Register* | Analogous State authority [1] |
|---|---|---|
| Checklist 188, NESHAPS: Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors; Technical Corrections Hazardous Air Pollutant Standards; Technical Corrections. | 65 FR 42292–42302, 7/10/2000 ..... amended, 66 FR 24270–24272, 5/14/01 amended, 66 FR 35087–35107, 7/3/2001 | Rule 391–3–11–.07(1). Rule 391–3–11–.22(7)(d). Rule 391–3–11–.10(2).[2] |
| Checklist 189, Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Chlorinated Aliphatics Production Wastes; Land Disposal Restrictions for Newly Identified Wastes; and CERCLA Hazardous Substance Designation and Reportable Quantities. | 65 FR 67068–67133, 11/8/2000 ..... | Rule 391–3–11–.07(1). Rule 391–3–11–.16. |
| Checklist 190, Deferral of Phase IV—Standards for PCBs as a Constituent Subject to Treatment in Soil. Land Disposal Restrictions Phase IV—Deferral for PCBs in Soil. | 65 FR 81373–81381, 12/26/2000 ..... | Rule 391–3–11–.16. |
| Checklist 191, Storage, Treatment, Transportation, and Disposal of Mixed Waste. Mixed Waste Rule. | 66 FR 27218–27266, 5/16/2001 ..... | Rule 391–3–11–.10(3). |
| Checklist 192 A and B, Hazardous Waste Identification Rule (HWIR): Revisions to the Mixture and Derived-From Rules. | 66 FR 27266–27297, 5/16/2001. | |
| A. Mixture and Derived from Rules Revisions. | | Rule 391–3–11–.07(1). |
| B. Land Disposal Restrictions Corrections | | Rule 391–3–11–.16. |
| Checklist 193, Change of Official EPA Mailing Address; Additional Technical Amendments and Corrections.. | 66 FR 34374–34376, 6/28/2001 ..... | Rule 391–3–11–.02(1). |

[1] The Georgia Provisions are from the Georgia Hazardous Waste Management Regulations effective February 25, 2002.
[2] Rule effective December 30, 2002.

**H. Where Are the Revised State Rules Different From the Federal Rules?**

There are no State requirements in this program revision considered to be more stringent or broader in scope than the Federal requirements.

**I. Who Handles Permits After the Authorization Takes Effect?**

Georgia will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until they expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Georgia is not yet authorized.

**J. What Is Codification and Is EPA Codifying Georgia's Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart L for this authorization of Georgia's program changes until a later date.

**K. Administrative Requirements**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not

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

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

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

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

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indians' lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 2, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03–18297 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2112; MB Docket No. 03–47; RM–10592]**

### Radio Broadcasting Services; Orange, VA, Midlothian, VA, Reidsville, NC and South Hill, VA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Piedmont Communications, Inc., licensee of FM Station WJMA, Orange, Virginia, and Old Belt Broadcasting Corporation, licensee of FM Station WKSK, South Hill, Virginia, deletes Orange, Virginia, Channel 255A, from the FM Table of Allotments, allots Channel 255B1 at Midlothian, Virginia, as the community's first local FM service, and modifies the license of FM Station WJMA to specify operation on Channel 255B1 at Midlothian. The order further substitutes Channel 270A for Channel 255B3 at South Hill, Virginia, and substitutes Channel 271C0 for Channel 271C at Reidsville, North Carolina. Channel 255B1 can be allotted to Midlothian, Virginia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.7 km (7.9 miles) northwest of Midlothian. The coordinates for Channel 255B1 at Midlothian, Virginia, are 37–30–21 North Latitude and 77–38–58 West Longitude. Channel 270A can be allotted to South Hill, Virginia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 12.4 km (7.7 miles) northwest of South Hill. The coordinates for Channel 270A at South Hill, Virginia, are 36–43–35 North Latitude and 78–07–45 West Longitude. Channel 271C0 can be substituted for Channel 271C at Reidsville, North Carolina, at the existing licensed coordinates for FM Station WJMH.

**DATES:** Effective August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Deborah Dupont, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03–47, adopted July 1, 2003, and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Information Center, Portals II, 445 12th Street, SW, Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, (202) 863–2893, facsimile (202) 863–2898, or via e-mail *qualexint@aol.com.*

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under North Carolina, is amended by removing Channel 271C and by adding Channel 271C0 at Reidsville.

■ 3. Section 73.202(b), the Table of FM Allotments under Virginia, is amended by removing Orange, Channel 255A; by adding Midlothian, Channel 255B1; by removing Channel 255C3 and by adding Channel 270A at South Hill.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18229 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2106; MB Docket No. 03–89, RM–10689]**

### Radio Broadcasting Services; Okeechobee, FL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of George S. Kalman, allots Channel 291A to Okeechobee, Florida, as the community's first local aural transmission service. *See* 68 FR 18180, April 15, 2003. Channel 291A can be allotted to Okeechobee, in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 13 kilometers (8.1 miles) northwest of the community. The reference coordinates for Channel 291A at Okeechobee are 27–20–30 North Latitude and 80–54–08 West Longitude. A filing window for Channel 291A at Okeechobee, Florida, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**DATES:** Effective August 18, 2003.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03–89, adopted July 1, 2003, and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

## PART 73—RADIO BROADCAST SERVICES

■ 1.The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

### § 73.202 [Amended]

■ 2.Section 73.202(b), the Table of FM Allotments under Florida, is amended by adding Okeechobee, Channel 291A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18230 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 03–2107; MB Docket No. 03–79, RM–10673]**

## Radio Broadcasting Services; Ridgecrest, CA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Audio Division, at the request of Dana J. Puopolo, allots Channel 252A to Ridgecrest, California, as the community's third FM commercial service. *See* 68 FR 17593, April 10, 2003. Channel 252A can be allotted to Ridgecrest, in compliance with the Commission's minimum distance separation requirements, provided there is a site restriction of 12.5 kilometers (7.7 miles) west of the community. The reference coordinates for Channel 252A at Ridgecrest are 35–39–19 North Latitude and 117–48–06 West Longitude. A filing window for Channel 252A at Ridgecrest, California, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

**DATES:** Effective August 18, 2003.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03–79, adopted July 1, 2003, and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 Twelfth Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

### List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 252A at Ridgecrest.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18250 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 03–2105; MB Docket No. 03–86 RM–10685]**

## Radio Broadcasting Services; George West, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document, the Commission allots Channel 250A at George West, Texas, in response to a petition filed by Charles Crawford. *See* 68 FR 18178 (April 15, 2003). Channel 250A can be allotted at George West, Texas, with a site restriction 12 kilometers (7.4 miles) southwest of the community at coordinates 28–14–07 and 98–09–43. Although Mexican concurrence has been requested for the allotment of Channel 250A at George West, notification has not been received. Therefore, operation with the facilities specified for George West herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the 1992 USA-Mexico FM Broadcast Agreement or if specifically objected to by Mexico. With this action, this proceeding is terminated. A filing window for channel 250A at George West will not be opened at this time. Instead, the issue of opening this allotment for auction will be addressed by the Commission in a subsequent order.

**DATES:** Effective August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report

and Order, MB Docket No. 03–86, adopted July 1, 2003, and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 250A at George West.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18251 Filed 7–17–03; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 101

**[ET Docket No. 98–206; RM–9147; RM–9245; FCC 03–152]**

## Commission's Rules To Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In this document we revise our service area definition and build out requirement for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). Specifically, we adopt Designated Market Areas (DMAs) as the service area definition for MVDDS. We also conclude that a five-year substantial service build out requirement is more appropriate for the MVDDS. We believe that these actions will better facilitate the delivery of advanced wireless services in the 12 GHz band and promote expeditious deployment of such services to a wide range of populations, including unserved and underserved communities.

**DATES:** Effective September 16, 2003.

**ADDRESSES:** Federal Communications Commission 445 12th Street, SW., TW–A325, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Burton, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau at (202) 418–0680, email *jburton@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** This is a summary of the FCC's *Third Report and Order,* FCC 03–152, adopted on June 25, 2003, and released on July 7, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. In the *Third R&O,* we revise our service area definition and build out requirement for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). In the *Second Further Notice of Proposed Rule Making (Second Further Notice),* 68 FR 19486, (April 21, 2003), in this proceeding, we sought further comment on the most appropriate service area definition for the geographic licensing of MVDDS. In this connection, we sought comment on whether use of the DMAs defined by Nielsen Media Research (Nielsen) will facilitate delivery of advanced wireless services, such as video and data broadband services, to a wide range of populations, including those areas that are unserved and underserved. In addition, we sought comment on whether we should modify the MVDDS build out requirement as a means to foster expeditious deployment of advanced wireless services to these communities as well.

2. Upon consideration of the record in this proceeding, including but not limited to the comments filed in response to the *Second Further Notice,* we adopt DMAs as the service area definition for MVDDS. We also conclude that a five-year substantial service build out requirement is more appropriate for the MVDDS. We believe that these actions will facilitate delivery of advanced wireless services in the 12 GHz band and promote expeditious deployment of such services to a wide range of populations, including unserved and underserved communities.

**Procedural Matters**

*Final Regulatory Flexibility Analysis*

3. The Final Regulatory Flexibility Analysis, required by section 603 of the Regulatory Flexibility Act, as amended by the Congressional Review Act, Public Law No. 104–121 (1996).

*Paperwork Reduction Act*

4. The *Third R&O* contains modified information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under the PRA. OMB, the general public and other Federal agencies are invited to comment on the modified information collection(s) contained in this proceeding.

**Final Regulatory Flexibility Analysis**

5. As required by the Regulatory Flexibility Act (RFA), we incorporated an Initial Regulatory Flexibility Analysis (IRFA) in the *Second Further Notice of Proposed Rule Making.* In view of the fact that we have adopted a further rule amendment in the *Third Report and Order,* we have included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

*Need for, and Objectives of the Third Report and Order*

6. In the *Third Report and Order,* we revisit the geographic licensing plan adopted in the *Second Report and Order,* 67 FR 63279, (October 11, 2002), and adopt a revised licensing framework for MVDDS. In the *Second Report and Order*, the Commission adopted a service area definition for MVDDS on the basis of Component Economic Areas (CEAs). Based on the previously-established record in this proceeding, differing responsive comments to the January 20, 2003 *Auction PN* received from Northpoint Technology, Ltd. (Northpoint) and MDS America on the issue of service area designations, and on subsequent discussions between Commission staff and Nielsen representatives concerning the use of its DMAs, we revisited the service area designation. We are persuaded to adopt a service area definition for MVDDS on

the basis of DMAs instead of CEAs. We believe that licensing MVDDS on the basis of DMAs may place wireless competitors on the same economic footing as cable systems, which generally have a royalty-free statutory copyright license to retransmit local television programming within the DMA of the station being rebroadcast. In addition, we believe that the use of DMAs may be administratively easier for licensees due to the close nexus between the television viewer market areas as determined by the DMA delineation and the proposed use of the service (the delivery of television programming).

7. We also took the opportunity to explore whether the current build out requirement sufficiently promotes expeditious deployment of service. We believe that reducing the build out period from ten years to five years will ensure effective use of the spectrum and a faster deployment of service to the public.

*Summary of Significant Issues Raised by Public Comments in Response to the FRFA*

8. We received no comments in response to the IRFA in the *Second Further Notice.*

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

9. The RFA directs agencies to provide a description of, and, where feasible an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

10. *Small Multichannel Video Programming Distributors (MVPDs).* The SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. We address below each service individually to provide a more precise estimate of small entities.

11. *Cable Services.* The Commission has developed, with SBA's approval, a definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. In 1996, the Commission estimated that 1,439 cable operators qualified as small cable companies. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to merge with other cable operators. Consequently, using this definition, we estimate that the decisions and rules may affect fewer than 1,439 small entity cable system operators.

12. The Communications Act defines a small cable system operator as ''a cable operator that, directly or through an affiliate, serves in the aggregate less than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, we deem an operator serving fewer than 617,000 subscribers to be a small operator under the Communications Act definition, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

13. DBS Service. DBS falls within the SBA definition of Cable and Other Program Distribution (NAICS 513220). As noted, this definition provides that a small entity has $12.5 million or less in annual receipts. The operational licensees of DBS services in the United States are governed by Part 100 of the Commission's Rules. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees meeting this definition that could be impacted by these rules. DBS service requires a great investment of capital for operation, and we acknowledge that there are entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business by the SBA, if independently owned and operated.

14. *Auxiliary, Special Broadcast and other program distribution services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radio stations (NAICS 513112), and television broadcasting (NAICS 513120). These definitions provide, respectively, that a small entity is one with either $6 million or less in annual receipts or $12 million in annual receipts. The numbers of these stations are very small. The Commission does not collect financial information on these auxiliary broadcast facilities. The Commission, however, continues to believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most of these types of services are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either $6 million for a radio station or $12 million for a TV station). Furthermore, they do not meet the SBA's definition of a ''small business concern'' because they are not independently owned and operated.

15. *Private Operational Fixed Service.* Incumbent microwave services in the 12.2–12.7 GHz bands include common carrier, private operational fixed (POF), and broadcast auxiliary service (BAS) services. Presently, there are approximately 22,015 common carrier licensees, and approximately 61,670 POF licensees and broadcast auxiliary radio licensees in the microwave service. Inasmuch as the Commission has not yet defined a small business

with respect to these incumbent microwave services, we utilized the SBA's definition applicable to cellular and other wireless telecommunications companies (NAICS 513322); *i.e.*, an entity with no more than 1,500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

16. The rules set forth in the *Third Report and Order* will affect all entities that intend to provide terrestrial MVDDS operations in the 12.2–12.7 GHz band.

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

17. The *Third Report and Order* modifies the reporting, recordkeeping or other compliance requirements previously adopted in this proceeding. We are changing the service area designation from CEAs to DMAs, resulting in a change in the number and definition of the service areas. In addition, we are changing the build out period from ten years to five years, resulting in compliance with these rules in half the time. However, we believe that these rule changes will not have a burdensome result, especially in light of our finding that small businesses will benefit from the new service area designation and because the record indicates that interested parties will have no difficulty complying with the new five year build out.

*Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

18. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

19. Regarding our revisiting the service area issue to utilize DMAs in the *Third Report and Order* in lieu of the CEA service area designation adopted in the *Second Report and Order*, we do not anticipate any adverse impact on small entities. We believe that the use of DMAs better comports with the proposed service and that this decision will place wireless competitors to cable services on the same economic footing as cable systems, which generally have a royalty-free statutory copyright license to retransmit local TV programming within the DMA of the station being rebroadcast.

20. We also revisited the build out requirement to establish a five-year construction period in the *Third Report and Order*, in lieu of the ten-year construction period established in the *Second Report and Order.* We do not anticipate any adverse impact on small entities. We determined that the revised time frame was necessary in order to promote timely service to the public, and that those interested in providing service will have ample time to modify their business plans prior to a competitive bidding procedure.

*Report to Congress*

21. The Commission will send a copy of the *Third Report and Order*, including this FRFA, in a report to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Third Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

**Ordering Clauses**

22. Pursuant to the authority contained in sections 4(i), 7(a), 301, 303(c), 303(f), 303(g), 303(r), 308, and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 301, 303(c), 303(f), 303(g), 303(r), 308, 309(j), the *Third Report and Order* is adopted.

23. Part 101 of the Commission's Rules is amended as specified in rule changes, effective September 16, 2003. This action is taken pursuant to sections 4(i), 303(c), 303(f), 303(g), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(c), 303(f), 303(g), 303(r) and 309(j).

**List of Subjects in 47 CFR Part 101**

FCC equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

**Rule Changes**

■ For the reasons discussed in the preamble the FCC amends 47 CFR part 101 as follows:

## PART 101—FIXED MICROWAVE SERVICES

■ 1. The authority citation for part 101 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303.

■ 2. Section 101.1401 is revised to read as follows:

### § 101.1401 Service areas.

Multichannel Video Distribution and Data Service (MVDDS) is licensed on the basis of Designated Market Areas (DMAs). The 214 DMA service areas are based on the 210 Designated Market Areas delineated by Nielsen Media Research and published in its publication entitled U.S. Television Household Estimates, September 2002, plus four FCC-defined DMA-like service areas.

(a) Alaska—Balance of State (all geographic areas of Alaska not included in Nielsen's three DMAs for the state: Anchorage, Fairbanks, and Juneau);

(b) Guam and the Northern Mariana Islands;

(c) Puerto Rico and the United States Virgin Islands; and

(d) American Samoa.

■ 3. Section 101.1413 is amended by revising paragraph (b) introductory text to read as follows:

### § 101.1413 License term and renewal expectancy.

* * * * *

(b) Application of a renewal expectancy is based on a showing of substantial service at the end of five years into the license period and ten years into the license period. The substantial service requirement is defined as a service that is sound, favorable, and substantially above a level of mediocre service which might minimally warrant renewal. At the end of five years into the license term and ten years into the license period, the Commission will consider factors such as:

* * * * *

■ 4. Section 101.1421 is amended by revising paragraphs (b) and (c) to read as follows:

### § 101.1421 Coordination of adjacent area MVDDS stations and incumbent public safety POFS stations.

* * * * *

(b) Harmful interference to public safety stations, co-channel MVDDS stations operating in adjacent geographic areas, and stations operating on adjacent channels to MVDDS stations is prohibited. In areas where the DMAs are in close proximity, careful consideration should be given to power

requirements and to the location, height, and radiation pattern of the transmitting and receiving antennas. Licensees are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(c) Licensees shall coordinate their facilities whenever the facilities have optical line-of-sight into other licensees' areas or are within the same geographic area. Licensees are encouraged to develop operational agreements with relevant licensees in the adjacent geographic areas. Incumbent public safety POFS licensee(s) shall retain exclusive rights to its channel(s) within the relevant geographical areas and must be protected in accordance with the procedures in § 101.103 of this part. A list of public safety incumbents is attached as Appendix I to the Memorandum Opinion and Order and Second Report and Order, Docket 98–206 released May 23, 2002. Please check with the Commission for any updates to that list.

[FR Doc. 03–18221 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[Docket No. 030509119–3168–02; I.D. 032603D]**

**RIN 0648–AQ99**

## Magnuson-Stevens Act Provisions; Fishing Capacity Reduction Program; Pacific Coast Groundfish Fishery; California, Washington, and Oregon Fisheries for Coastal Dungeness Crab and Pink Shrimp

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

**ACTION:** Final notice of proposed fishing capacity reduction program.

**SUMMARY:** NMFS issues this final notice about a voluntary fishing capacity reduction program in the Pacific Coast groundfish fishery. After a successful referendum, harvesters accepted to participate would be paid to surrender their fishing permits and restrict their vessels. A loan, which would be repaid by fishermen remaining in the fishery, will finance the majority of the program's cost. The program will invite bids from owners of groundfish trawl permits (except those harvesting whiting and processing it at sea) that are willing to surrender their fishing privileges, score the bids in a reverse auction against the value of bidders' harvests, and then conduct a referendum regarding repayment of the loan. If the referendum is successful, accepted bidders must relinquish their California, Oregon, and Washington fishing licenses for coastal Dungeness crab and pink shrimp. Accepted bidders must also surrender their Federal groundfish permits, as well as all other Federal fishing licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to vessels named in their bids (or to persons on the basis of their operation or ownership of those vessels). The fishing vessels involved will never again be eligible to fish. If the referendum is not successful, bidders are excused from all such obligations. The groundfish program aims to increase the remaining harvesters' productivity, help financially stabilize the fishery, and help conserve and manage its fish. This notice also contains the groundfish program's invitation to bid and bidding document.

**DATES:** The final notice is effective July 18, 2003.

**ADDRESSES:** Copies of the environmental assessment and regulatory impact review are available from NMFS upon request from Michael L. Grable, Chief, Financial Services Division, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3282. Comments involving the reporting burden estimates or any other aspects of the collection of information requirements should be sent both to Michael L. Grable at the above address and to the National Oceanic and Atmospheric Administration Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Comments sent by Internet or e-mail will not be accepted.

**FOR FURTHER INFORMATION CONTACT:** Michael L. Grable, (301) 713–2390.

**SUPPLEMENTARY INFORMATION:**

### I. General

Enacted on February 20, 2003, Section 212 of Division B, Title II, of Pub. L. 108–7 (section 212) authorizes a fishing capacity reduction program (program) for that portion of the limited entry trawl fishery under the Pacific Coast Groundfish Fishery Management Plan whose permits, excluding those registered to whiting catcher-processors, are endorsed for trawl gear operation (reduction fishery). The program's objective is to reduce the number of vessels and permits endorsed for the operation of groundfish trawl gear. Vessels that catch and process whiting at sea are ineligible to participate. The program also involves corollary fishing capacity reduction in the California, Oregon, and Washington fisheries for coastal Dungeness crab and pink shrimp (fee-share fisheries). Sections 1111 and 1112 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1279f and 1279g) (Title XI) authorize loans for financing the cost of fishing capacity reduction programs (reduction loans).

The program has two appropriations. A $10 million appropriation, authorized by section 501(b) of Division N, Title V, of Public Law 108–7, directly funds part of the program's cost. The second, a $0.5 million appropriation, included in Pub. L. 107–206, funds the Federal Credit Reform Act cost of authorizing a $36 million reduction loan.

Section 212 supersedes some of the provisions of both the fishing capacity reduction framework regulations (50 CFR 600.1000 *et seq.*) and the Magnuson-Stevens Act fishing capacity reduction provisions (16 U.S.C. 1861a(b)–(e)).

When fishing capacity reduction is undertaken pursuant to the Magnuson-Stevens Act provisions, NMFS implements each reduction program by adding an implementing section to the framework regulations. Section 212, however, renders some of the Magnuson-Stevens Act provisions and the framework regulations inapplicable. Among other things, the groundfish program applies to more than one fishery. Section 212 also requires NMFS to implement the groundfish program by publishing a notification and an invitation to bid in the **Federal Register** rather than by promulgating additional regulations. In addition, section 212 supersedes one provision of Title XI, by extending the reduction loan's term to 30 years.

### II. Reduction Cost

The amount paid to harvesters in exchange for relinquishing their fishery privileges (reduction cost) may equal, but may not exceed, $46 million. A $10 million appropriation will fund part of the reduction, and future harvesters will finance any remainder.

### III. Summary of Comments

NMFS received comments from nine entities. Comments from both individuals and organizations represent the views of many parties. Most of the comments supported fishing capacity reduction in the reduction fishery, although some comments disagreed

with some aspects of the proposed notice.

*Comment 1:* Three comments suggested that NMFS offer flat permit-relinquishment payments to groundfish reduction permit owners who own no reduction vessel.

*Response:* This was not specifically contemplated in the statute and therefore NMFS does not have the authority to implement such a payment scheme.

*Comment 2:* Three comments suggested that NMFS allow entities that own reduction vessels to be co-bidders with other entities that own groundfish reduction permits but not reduction vessels.

*Response:* NMFS agrees and has expanded the definition of bidder to allow co-bidder participation. A bid can include multiple parties owning or holding the different reduction components required for a bid.

*Comment 3:* One comment requested that NMFS change ''Dungeness crab'' to ''ocean Dungeness crab'' to ensure that Dungeness crab inside Puget Sound is excluded from this program.

*Response:* NMFS agrees that Puget Sound Dungeness crab should be excluded as a fee-share fishery and has added the term ''coastal'' to clarify the Dungeness crab eligible for this program. This term is intended to encompass California, Oregon, and Washington state's description of Dungeness crab fisheries and permit systems outside of Puget Sound.

*Comment 4:* Two comments requested that NMFS remove the provisions requiring relinquishment of fee-share reduction permits not registered to reduction vessels.

*Response:* NMFS agrees and has clarified the language to require that only fee-share permits registered to a reduction vessel be relinquished.

*Comment 5:* Two comments state that NMFS' request for information regarding catch history as a requirement of the bid is unnecessary because such information on how fishermen got their permits is irrelevant.

*Response:* NMFS agrees and has made the appropriate revisions.

*Comment 6:* One comment suggested clarifying that relinquishing Federal permits other than the groundfish reduction permit is restricted to Federal permits registered to the reduction vessel.

*Response:* NMFS agrees and has made the appropriate revision.

*Comment 7:* One comment suggests that bid scoring should include the average landings values of only those fee-share fisheries that match the bidder's fee-share reduction permits.

*Response:* NMFS agrees and has clarified that such values should correspond to the bidder's fee-share reduction permits.

*Comment 8:* Two comments requested that NMFS allow bidders to document alternative landings values higher than those in the official fish-ticket databases.

*Response:* In order to provide a fair opportunity for all bidders to document their landings, NMFS determined the best evidence of landings is the official fish-ticket databases.

*Comment 9:* One comment suggested that in situations involving bids with identical scores, where accepting both would exceed funding levels, NMFS should accept the bid with the lowest value first rather than the bid first received.

*Response:* NMFS agrees that the process for accepting bids with identical scores should be revised. However, to be consistent with the purposes of the Program, where there is not sufficient reduction funding to accept all bids, NMFS will accept the bid that removes the greatest amount of capacity without exceeding funding limits. If both bids remove the same amount of capacity, the bid received first will be accepted.

*Comment 10:* One comment suggested that NMFS delay notifying bidders that bids have been accepted until after a successful referendum.

*Response:* NMFS agrees and will notify accepted bidders after the referendum.

*Comment 11:* One comment suggested that NMFS clarify that the loan sub-amount calculation's dividend is derived from the bid-scoring period landing values of the accepted bidders.

*Response:* NMFS agrees and has changed the notice accordingly.

*Comment 12:* One comment suggests that NMFS establish a specific time for every accepted bidder to stop fishing, as opposed to the proposed notice and addenda provisions that each accepted bidder must stop fishing upon receipt of NMFS' request for payment instructions. The suggestion is that fishing cease 30 days after the certification of referendum results.

*Response:* NMFS agrees that this provision should be modified so that all accepted bidders will cease fishing at the same time. The provision has been revised so that the bidder must have stopped fishing and must have retrieved all fishing gear previously deployed from the reduction vessel 30 days after the publication of the reduction payment tender notice.

*Comment 13:* Two comments suggest that NMFS revise the notice and addenda language which holds accepted bidders accountable for the actions of new owners to whom accepted bidders may, after buyback, transfer reduction vessels.

*Response:* NMFS agrees that accepted bidders cannot be held responsible for the future actions of unrelated third parties to whom they transfer these vessels. Any violations by the new owners will be addressed under existing statutory authority.

*Comment 14:* One comment questioned if ''inside waters'' fishing count for bid scoring purposes.

*Response:* All landings, including in inside waters, associated with the management of federal groundfish and with state coastal fisheries for pink shrimp and Dungeness crab will be used for bid scoring purposes.

*Comment 15:* One commenter questioned if accepted bidders may fish a reduction vessel in ''inside waters'' or sell the vessel to Mexico or Alaska.

*Response:* A reduction vessel may not be fished anywhere. It may not be sold into any foreign registry or operation but can be sold to an Alaska resident, although it cannot fish there or anywhere else.

*Comment 16:* One comment asked NMFS to establish the ''basic trawl permit price without a past harvest''.

*Response:* Congress established a bidding formula, which requires past harvest revenues.

*Comment 17:* One comment asked if NMFS buys back only his permit, if he could fish his reduction vessel in inside waters.

*Response:* This capacity reduction program compensates fishermen for relinquishing not only the reduction permits but the fishery endorsement of the reduction vessel. Therefore, the reduction vessel cannot fish anywhere. If the reduction vessel is a state registered vessel, it must be scrapped.

*Comment 18:* One comment asked what to do with a reduction vessel.

*Response:* The owner of a reduction vessel may do whatever he chooses with a reduction vessel as long as he does not fish with the reduction vessel or move it into a foreign registry or operation, except for non-Federally registered vessels which must be scrapped.

*Comment 19:* One comment suggested that a reduction vessel be saleable into a foreign fishery because this is most beneficial to the buyback.

*Response:* The authorizing statute prohibits such a sale.

*Comment 20:* One comment asked if a reduction vessel can be used for tendering and for the definition of ''fishing''.

*Response:* The definition of ''fishing'' is contained in the Magnuson-Stevens

Act and would preclude a reduction vessel from tendering.

*Comment 21:* One comment asked if income from NMFS fisheries research charters can be included in landings for bid scoring.

*Response:* Yes, but only the income from the sale of the groundfish recorded on fish tickets.

*Comment 22:* One comment asked what happens to fish in deployed gear at the time of tender, when fishing must cease.

*Response:* Any fish caught within the 30 day time period may be legally retained and sold. After that date, the gear should have been pulled up and no longer fishing.

*Comment 23:* One comment implies that coastal Dungeness crab and pink shrimp gear should be included in the capacity reduction program.

*Response:* No statutory authority exists to buy back fishing gear.

*Comment 24:* One comment implies that accepted bidders should be prevented from using their reduction payments to buy existing coastal Dungeness crab or pink shrimp permits and crab or shrimp gear and leasing them to vessels already in these fisheries.

*Response:* No statutory authority exists to make this change.

*Comment 25:* One comment implies that the existence of latent permits in coastal Dungeness crab and pink shrimp fisheries exacerbates problems described in comments (23) and (24).

*Response:* Latent permits in these fisheries is an issue that should be addressed by state fisheries managers.

*Comment 26:* One comment implies that accepted bidders should, themselves, be prevented from ever fishing again.

*Response:* No statutory authority exists to make this change.

*Comment 27:* One comment suggested that all reduction vessels should be scrapped.

*Response:* The authorizing statute allows for retention of the reduction vessel as long as the fishery endorsement is cancelled. This affords more capacity removal from the targeted fisheries at less cost.

*Comment 28:* One comment stated that neither the notice nor its addenda indicate whether a reduction vessel which has a multi-year NMFS trawl-survey charter can continue with the charter after the buyback.

*Response:* The vessel's fishery endorsement will have been withdrawn and therefore the vessel can no longer fish. However, NMFS will work internally to ensure that any fishermen who is bought out will not be subject to a Governmental action for breach of contract based on inability to fish due to the buyback.

*Comment 29:* One comment stated that NMFS lacks legal authority regarding the coastal Dungeness crab and pink shrimp fisheries noting that they are managed by the respective states.

*Response:* NMFS acknowledges that these are state-managed fisheries and will work with the states to implement this voluntary program as directed by the authorizing legislation to revoke the fee-share fishery reduction permits. Nevertheless, this does not affect fee payment and collection.

*Comment 30:* One comment questioned NMFS' legal authority regarding processors of trawl groundfish noting that there are no Federal requirements for permits or reporting groundfish landings.

*Response:* The Fishery Management Plan for Pacific Coast Groundfish incorporates by reference state requirements to record landings on state fish tickets.

*Comment 31:* One comment stated that Congress intended for NMFS to follow existing practices for fee collection.

*Response:* The authorizing legislation provides an option for the U.S. may enter into agreements with California, Oregon, and Washington to collect the fees that repay the reduction loan. Unless and until NMFS arranges to do so, however, fish sellers will pay the fees and fish buyers will collect the fees in accordance with the framework regulations.

*Comment 32:* One comment states that the volume and size of fish buyers dictates special circumstances to avoid an administrative nightmare for NMFS.

*Response:* NMFS believes that the fee collection system currently in place should be adequate.

*Comment 33:* One comment strongly suggests that NMFS enter into fee collection arrangements with the States.

*Response:* Because of specific statutory time constraints, NMFS must defer this matter's resolution until after the buyback, at which time we will explore optional state fee collection.

*Comment 34:* One comment states that the program's Environmental Assessment and Regulatory Impact Review (EA/RIR) does not estimate how many small businesses may be required to participate in the fee collection process.

*Response:* Section 3.6 or the EA/RIR discusses the processing sector by reviewing data on the 1,780 purchasers of fish from West coast harvesters during 2000. Fish buyers are categorized according to ''large'' and ''small'' buyers based on the amount of fish purchased. However, available analyses on the diversity and size of the processing sector as well as state participation in the fee collection process precludes NMFS from developing definitive estimates of processor involvement. According to SBA (See Section 6.6), a ''large'' processor is a processor with more than 500 employees. NMFS does not have complete data on processing employment by processing site or by company. (Some companies control several sites). However, based on available descriptions of companies and ownership, NMFS believes that almost all of the processors on the West Coast would be considered ''small'' under the SBA definition. Sections 3.6 and 6.6 of the EA/RIR will be revised accordingly.

*Comment 35:* One comment questioned the analysis undertaken in Section 4.2 of the EA/RIR to show the remaining fishermen the benefit of the program will outweigh the program costs passed on to them.

*Response:* The program is statutorily mandated but participation is voluntary. It is difficult to quantify the effects of a capacity reduction program before it occurs due to many unknown variables. However, the success of a fishing capacity reduction program depends upon certain assumptions such as the number of fish after a reduction remaining constant, preventing new capacity from replacing retired capacity, and fish prices remaining constant. If these assumptions are true then revenue for the remaining participants after fee payment would likely increase. A majority of those voting in the referendum would need to support it in order for the industry fee system to be approved.

*Comment 36:* One comment asserted that the analysis in Section 4.8 of the EA/RIR repeats an untrue assumption that removing permits from the coastal Dungeness crab and pink shrimp fisheries will benefit fishermen by increasing access to a greater portion of management quotas and trip limits.

*Response:* The appropriate sections of the EA/RIR will be clarified to reflect that trip limits and quotas are not used in the management of coastal Dungeness Crab and Pink Shrimp. However, NMFS maintains that in general terms, these fisheries would benefit because fewer fishermen would remain fishing for the same amount of fish. In addition, if the Buyback Program provides conservation benefits to the groundfish fish stocks, current groundfish bycatch restrictions on the non-groundfish fisheries, particularly the Pink Shrimp fisheries may be relaxed. However, the

commenter raises valid issues in noting that benefits to non-groundfish fee share fisheries may be limited by the extent that latent capacity is activated, purchased capacity is replace through the issuance of new state permits, or effort is increased as the result of buyback program. The Commenter estimates that at least 100 of the the Oregon Dungeness Crab fishery permits are latent permits. As described in the EA/RIR, the Oregon Pink shrimp fishery has a requirement that if the number of active permits falls below 150, a lottery is to be held to return the number of issued permits to 150. Currently, there are 186 Oregon permits issued. Therefore, depending on the state fishery, the benefits will be hard to assess until it is known what permits are to be purchased and how the States are to respond to the statutory language that states: ''It is the sense of Congress that the States of Washington, Oregon, and California should revoke all relinquishment permits in each of the fee-share fisheries immediately after the reduction payment, and otherwise to implement appropriate State fisheries management and conservation provisions in each of the fee-share fisheries that establishes a program that meets the requirements of 16 U.S.C. 141861a(b)(1)(B) as if it were applicable to fee-share fisheries.''

## IV. Summary of Revisions

The following sections of this final notice revise the proposed notice.

(1) The term co-bidder has been added to include third parties who own and/or hold reduction components and will participate in the bidding with the qualifying bidder.

(2) Bid-scoring includes the average landings values of only those fee-share fisheries that match the bidder's fee-share reduction permits included in the bid.

(3) For identical bid scores where there is not sufficient reduction funding to accept both, NMFS will accept the bid that removes the greatest amount of capacity without exceeding funding limits or if both bids remove identical amounts of capacity, the first received.

(4) Notification of accepted bidders will occur after the referendum.

(5) Accepted bidders must have stopped fishing and must have retrieved all fishing gear previously deployed from the reduction vessel 30 days after NMFS publishes the reduction payment tender notice in the **Federal Register**.

## V. Program Summary

NMFS will mail to each ''permit owner'' (as 50 CFR 660.302 defines the term ''permit owner'') of a groundfish permit endorsed for trawl gear operation (other than those issued to whiting catcher-processors) an advance notice that NMFS will formally invite bids for capacity reduction by mailing them a bidding package. Such notice and the bidding package will be mailed to the permit owner at the owner's permit address of record.

The bidding package will contain, among other things, an invitation to bid and a bidding document. The invitation to bid will specify the terms and conditions under which bids are made and accepted. If the Secretary formally accepts a bid, the bidding document, in conjunction with the invitation to bid, will constitute a reduction contract between the bidder and the United States.

No bidder may bid before receiving the bidding package. Bidders must submit bids on provided forms and in strict conformance with the requirements of the invitation to bid. NMFS will reject any nonconforming bids.

The invitation to bid and bidding document will be similar to the pro forma invitation to bid and bidding document (*see* addenda to this notification). What follows is a general summary of the relevant provisions.

To submit a bid, bidders must mail or otherwise deliver their bids to NMFS at the address specified in the invitation to bid. Each bidder is responsible for ensuring that NMFS receives his or her bid before the specified bid closing date. NMFS will reject any bid that arrives after the bid closing date; such a bid will be deemed unresponsive to the invitation to bid. All terms and conditions of the invitation to bid or the bidding document are final at the time NMFS mails the bidding package. Thereafter, NMFS will not alter or negotiate any term or condition.

Each bid must specify:

(a) The exact bid price (also referenced as Reduction Payment),

(b) The reduction vessel the bidder proposes to remove from fishing (reduction vessel),

(c) The groundfish reduction permit,

(d) Any other Federal permits registered to or used on the reduction vessel,

(e) All California, Oregon, or Washington issued permits for coastal Dungeness crab or pink shrimp registered to or used on the reduction vessel (fee-share reduction permits).

Parties other than the qualifying groundfish permit owner who hold or own the other different components required for a bid may be co-bidders. Between them, bidders or co-bidders must own or hold all required bid components. The groundfish reduction permit must be registered for use on the reduction vessel. The bidder must also include in the bid all Federal fishery licenses, fishery permits, area and species endorsements, and any other fishing privileges issued to a reduction vessel or to the bidder co-bidder on the basis of its operation or ownership of the reduction vessel.

By completing and submitting a bidding document to NMFS, each bidder makes an irrevocable offer to the United States. No bidder, once having submitted a bid to NMFS, is entitled to withdraw or in any way amend the bid.

Each bidder must offer to relinquish all of his or her Federal permits and any state permits for pink shrimp or coastal Dungeness crab. Additionally, each person submitting a bid must offer to relinquish the reduction vessel's legal authority to participate in any fishery, by offering to permanently:

(a) Allow imposition of title restrictions that remove the reduction vessel's fisheries endorsement,

(b) Relinquish eligibility for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of the reduction vessel under foreign registry or operation under the authority of a foreign country, and

(c) Relinquish any other present or future reduction vessel fishing privilege or fishery eligibility claim of any kind, including any based on the reduction vessel's catch history.

If a reduction vessel is registered only under state jurisdiction (*i.e.*, it is not Federally documented), it must be scrapped.

After bidding, the bidder must continue to hold all reduction permits and own the reduction vessel until: NMFS notifies the bidder that NMFS rejects the bid, the bid expires without NMFS having accepted or rejected it, NMFS notifies the bidder that a reduction contract between the bidder and the United States no longer exists, or NMFS tenders reduction payment to the bidder and the bidder relinquishes all reduction permits and the reduction vessel's fishing privileges.

NMFS will determine which bids it accepts by using a reverse auction. Upon receipt of each bid, NMFS will determine a bid score by dividing each bid amount by the average annual total ex-vessel dollar value of the Pacific groundfish, coastal Dungeness crab, and pink shrimp landed by the bidder's reduction vessel that corresponds to the bidder's fee-share reduction permits. NMFS will average the three highest total annual revenues from groundfish,

coastal Dungeness crab, and pink shrimp during 1998, 1999, 2000, or 2001.

NMFS will accept the responsive bid with the lowest bid score and then successively accept each additional responsive bid with the next lowest bid score until either there are no more bids to accept or acceptance of the bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same and there is not sufficient reduction funding to accept both, NMFS will accept the bid that removes the greatest amount of capacity, or in the event more that one such bid removes the same amount of capacity, the bid it received first.

NMFS will accept or reject each bid but will notify bidders accordingly only after a successful referendum occurs. NMFS' acceptance of a bid offer will form a fully binding reduction contract between the bidder (and any co-bidders) and the United States. Each party's obligation to perform in accordance with the terms and conditions of any reduction contract will, however, be subject to a successful fee referendum.

After bids are formally accepted, NMFS will establish up to seven reduction loan sub-amounts, one for the reduction fishery and one for each of the fee share fisheries. A reduction sub-amount is a fishery's share of the reduction loan and is in proportion to the fishery's share of the total ex-vessel dollar value of the groundfish, coastal Dungeness crab, and pink shrimp which all reduction vessels landed during the four-year period from 1998 through 2001. Post-reduction fees from each of these fisheries will repay its respective reduction loan sub-amount.

Specifically, NMFS will calculate each reduction loan sub-amount as follows. NMFS will separately add the total ex-vessel values of the accepted bidders landings, for the four-year period from 1998 through 2001, for the reduction fishery (*i.e.*, groundfish trawl fishery) and the fee-share fisheries (the three coastal Dungeness crab fisheries and the three pink shrimp fisheries). Then NMFS will divide each of the seven totals by the aggregate value of all of the landings from all seven fisheries to derive seven quotients. NMFS will then multiply the reduction loan amount by each of the quotients to determine the loan sub-amount that each of these fisheries must repay.

NMFS will conduct the referendum as soon as practicable. The referendum's sole purpose will be to determine whether the voters who cast referendum ballots authorize the fee required to repay the reduction loan.

NMFS will mail referendum information, voting instructions, and a referendum ballot(s) to the permit owner of each groundfish permit in the reduction fishery and to the person who is the holder of record of each state-issued pink shrimp or coastal Dungeness crab permit (collectively, eligible voters). NMFS will include information about the following bid acceptance results:

(a) The program's reduction cost,

(b) The seven reduction loan sub-amounts,

(c) The number of permits that will be relinquished,

(e) The number of reduction vessels, and

(f) The total ex-vessel dollar values of reduction vessel landings in the reduction fishery and in each of the six fee-share fisheries, during each year from 1998 through 2001.

NMFS will mail eligible voters a separate referendum ballot for each groundfish permit they own and every pink shrimp or coastal Dungeness crab permit they hold. In other words, eligible voters will have one ballot for every such permit they hold.

Immediately after the deadline for NMFS' receipt of ballots, NMFS will tally votes, fishery by fishery, and multiply each tally by the quotients used in calculating the reduction loan sub-amounts. The products of this multiplication will be the vote tallies for the respective fisheries weighted in proportion to each fishery's reduction loan sub-amount.

If the weighted total of approving votes is greater than the weighted total of disapproving votes, the referendum is successful. The referendum is unsuccessful if the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes. NMFS will mail each eligible voter a notice about the referendum's outcome. If the referendum is successful, NMFS will mail to each bidder a bid acceptance or rejection notice.

If the referendum is unsuccessful, the fee will not be approved; and NMFS will mail a notice to each bidder that neither the bidder nor the United States has any further obligation under any reduction contract.

If the referendum is successful, NMFS will request, from each accepted bidder, specific and written payment instructions for disbursing the reduction payment. Within thirty days after the publication in the **Federal Register** of the reduction payment tender notice (which notifies the bidder that NMFS intends to pay the bidder and needs payment instructions), the bidder must have stopped fishing and must retrieve all fishing gear previously deployed from the reduction vessel. The bidder must also certify that they have complied with the requirements of the reduction contract.

NMFS will:

(a) Revoke all groundfish permits and all other federal reduction permits,

(b) Notify California, Oregon, and Washington that accepted bidders have relinquished their fee-share reduction permits,

(c) Request the Secretary under whom the U.S. Coast Guard operates to revoke the fisheries endorsements of all Federally-documented reduction vessels, and

(d) Request the Secretary under whom the U.S. Maritime Administration operates to make all Federally-documented reduction vessels permanently ineligible for any present or future U.S. Government approval under section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. 808(c)(2)) for placement of a reduction vessel under foreign registry or operation under the authority of a foreign country.

These reduction vessel revocations and restrictions run with the vessels' titles and apply to all subsequent owners.

The bidder must immediately scrap any state-registered reduction vessel and allow NMFS to observe and certify the scrapping.

After receiving a bidder's payment instructions and certification of compliance, NMFS will disburse the reduction payment unless NMFS has reason to believe that the bidder has not performed in accordance with his or her reduction contract duties and obligations. NMFS will disburse reduction payments only to accepted bidders, unless they explicitly instruct NMFS to do otherwise. If a reduction vessel needs to be scrapped, NMFS will withhold funds sufficient to cover the cost of such scrapping until its completion.

## VI. Program Process

The following table outlines, in chronological order, the program's process:

| STEP | ACTION |
|---|---|
| One | NMFS publishes a final notice in the **Federal Register**, together with the final draft of the invitation to bid and bidding document. |
| Two | NMFS mails each permit owner of a groundfish trawl permit (other than those issued to whiting catcher-processors) a notice that NMFS will subsequently mail him or her a bidding package. |
| Three | NMFS formally invites each qualified bidder to bid by mailing to him or her a bidding package that also informs him or her that a referendum will occur after NMFS has accepted bids. |
| Four | NMFS mails a notice to persons holding any fee-share fishery permit(other than those to whom NMFS sent the mailing in step three) that NMFS has invited bids. The notice will also state that NMFS will, without further notice, mail him or her a referendum ballot(s) and voting instructions after NMFS has accepted bids. |
| Five | Bidders submit bids. |
| Six | NMFS receives bids until the bid closing date. |
| Seven | NMFS scores and tallies the bids. |
| Eight | NMFS mails to each person eligible to vote in the referendum a ballot(s) and voting instructions. |
| Nine | The referendum occurs. |
| Ten | NMFS receives votes until the vote receipt deadline and afterwards tallies the votes. |
| Eleven (A) | If the referendum fails:<br>(a) NMFS mails to each eligible voter a notice that the referendum is unsuccessful, and<br>(b) NMFS mails to each bidder a notice that the reduction bids are without force and/or effect. |
| Eleven (B) | If the referendum is successful:<br>(a) NMFS mails to each bidder a notice that the referendum is successful, the bid is either accepted or rejected, and reminds accepted bidders that he or she must perform the reduction contract duties and obligations,<br>(b) NMFS mails to each person who voted a notice indicating that the referendum was successful,<br>(c) NMFS publishes a reduction payment tender notification in the **Federal Register**,<br>(d) NMFS tenders reduction payments to each accepted bidder by requesting the bidder's written payment instructions,<br>(e) Accepted bidders relinquish their reduction permits and reduction vessel fishing privileges, and<br>(f) Accepted bidders certify their compliance with their contractual obligations |
| Twelve | NMFS disburses reduction payments upon its receipt of payment instructions and certification of compliance. |
| Thirteen | NMFS undertakes a separate rulemaking about fee payment and collection. |
| Fourteen | NMFS establishes fee amounts. |
| Fifteen | (a) NMFS mails fish sellers and fish buyers a reduction loan fee payment and collection notice.<br>(b) Fish sellers begin paying the fees, and fish buyers begin collecting and disbursing the fees to NMFS, and<br>(c) NMFS receives collected-fee disbursements from fish buyers. |

## VII. Reduction Loan

The reduction loan's repayment maturity will be 30 years. Its principal amount will be the total of all reduction payments made under this program, less $10 million. NMFS will determine the reduction loan's interest rate in accordance with the framework regulations at 50 CFR 600.1012.

## VIII. Fee Payment and Collection

Section 212 provides that the United States may enter into agreements with California, Oregon, and Washington to collect the fees that repay the reduction loan. Unless and until NMFS arranges to do so, however, fish sellers will pay the fees and fish buyers will collect, deposit, disburse, record, and report on the fees in accordance with the applicable portions of the framework regulations and the Magnuson-Stevens Act.

NMFS will establish any fee rates necessary for fish sellers to repay the reduction loan sub-amount applicable to the reduction fishery and to each of the six fee-share fisheries. NMFS will undertake a separate rulemaking to do this. The fee rates may not exceed five percent of the delivery value of fee fish from each of these fisheries, but will be less if NMFS determines that smaller percentages are sufficient to amortize the respective reduction loan sub-amounts over the 30-year reduction loan's term.

## IX. Invitation To Bid and Bidding Document

The addenda to this notification are sample pro forma invitation to bid and bidding document.

## Classification

The Assistant Administrator for Fisheries, NMFS, determined that this action is consistent with Public Law 107–206, Public Law 108–7, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws.

In compliance with the National Environmental Policy Act, NMFS prepared an environmental assessment for this action. The assessment discusses the program's impact on the natural and human environment. NMFS will send the assessment to anyone who requests NMFS to do so (*see* **ADDRESSES**).

The Office of Management and Budget has determined that this notice is significant under Executive Order 12866. NMFS has prepared a Regulatory Impact Review (RIR) for this action (*see* **ADDRESSES**).

NMFS believes any Federalism implications arising from this notice are highly unlikely, however, consultations with the States of Washington, Oregon, and California are ongoing.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) has approved these information collections under OMB control number 0648–0376. NMFS estimates that the public reporting burden for these requirements will average 4 hours for submitting a bid, 4 hours for voting in a referendum, and 1 hour for advice (if any) about a conflict on a vessel ownership or permit claim. Persons affected by this action would also be subject to other collection-of-information requirements referred to in this action and also approved under 0648–0376. These requirements and their associated response times are 10 minutes for completing and filing a fish

ticket, 2 hours for submitting a monthly fish buyer report, 4 hours for submitting an annual fish buyer report, and 2 hours for making a fish buyer/fish seller report when one party fails to either pay or collect the fee.

These response estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to both NMFS and OMB (*see* **ADDRESSES**).

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

NMFS has determined that this notice will not significantly affect the coastal zone of any state with an approved coastal zone management program. This determination has been submitted for review by the States of Washington, Oregon, and California.

**Authority:** Pub. L. 107–206, Pub. L. 108–7, 16 U.S.C. 1861a (b–e), and 50 CFR 600.1000 *et seq.*

Dated: July 15, 2003.

**Rebecca Lent,**

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

**BILLING CODE 3510–22–P**

[These addenda will not be codified in the Code of Federal Regulations.]

# ADDENDUM 1-INVITATION TO BID: FISHING CAPACITY REDUCTION PROGRAM FOR THE PACIFIC COAST GROUNDFISH FISHERY

## I. Invitation:

The United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Financial Services Division (referred to herein as "NMFS"), does hereby extend an invitation to those holding limited entry fishing permits endorsed for the operation of trawl gear and issued under the Federal Pacific Coast Groundfish Fishery Management Plan, other than those issued for vessels harvesting and processing whiting in the catcher-processors sector (as defined under section 660.323(a)(4)(A) of title 50, Code of Federal Regulations), to submit bids for the West (Pacific) Coast Groundfish Fishing Capacity Reduction Program (Program), in response to this invitation.

After a successful industry referendum, and in exchange for the payments specified in their respective bids, those accepted for participation shall relinquish their abovementioned groundfish trawl permits, other than permits for whiting catcher-processors, (herein referenced as "groundfish reduction permit"); relinquish all permits for pink shrimp or coastal Dungeness crab issued by the States of Washington, Oregon or California and registered to the reduction vessel (herein referenced collectively as "fee-share reduction permits"); relinquish any of their Federal permits or privileges issued on the basis of their operation or ownership of the vessel or vessels named in their respective bids (hereinafter known as the reduction vessel); scrap the reduction vessel or allow the revocation of fishing endorsements and the restriction of title of the reduction vessel; and relinquish any other present or future rights, entitlements, privileges, fishing permits or harvest authorizations derived, in whole or in part, from the use or ownership of the reduction vessels or from any harvests made under any permit, license or other harvest authorization. Those participating shall do so voluntarily.

## II. Eligible Parties:

NMFS invites, as qualified bidders, all those who possess groundfish reduction permits to submit bids for capacity reduction. All those submitting bids must be able to relinquish such groundfish reduction permits, fee-share reduction permits, other Federal permits associated with the reduction vessel, as well as relinquish or surrender any claim to any future harvest privileges stemming from such permits. In addition, bidders must be able to agree to scrap their reduction vessels or agree to title restrictions that permanently revoke their vessels' legal authority to fish. Although only qualified bidders may submit bids in response to this invitation, all persons holding permits for any reduction fishery or fee-

share fishery may vote in the abovementioned referendum. Each such person will have one vote for every permit he or she holds.

The qualifying bidder owning the groundfish reduction permit can include as co-bidders other parties owning or holding the different components required for a bid and submitting one bid as co-bidders. The bidder or co-bidders must both own the reduction vessel and the groundfish reduction permit and be the registered holder of all other reduction permits.

## III. Bid Submissions:

To submit a bid, you must complete the section of the "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction" entitled "Fishing Capacity Bid Submission" (also referenced herein as "bidding document") by providing the requested information, entering the dollar amount of the desired reduction payment, and signing where indicated. Upon completion, send this bidding document to the address found below.

A bid may not be submitted on any form other than the bidding document that NMFS mailed to you.

Complete and submit the bidding document only if it is your intention to create an irrevocable offer to the United States to permanently relinquish your groundfish reduction permit, fee-share reduction permits, and other Federal permits associated with your reduction vessel, as well as allow either the scrapping (at your expense) or the revocation of your reduction vessel's legal authority to fish anywhere in the world.

NMFS will not accept bids that fail to reflect the terms and conditions set forth in this invitation to bid, although NMFS may, at its option, contact a bidder in an attempt to correct deficiencies. The submission of any bid containing false information may subject the bidder to substantial penalties as described in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. §1801 et seq., and other applicable law.

## IV. Required Bid Contents

Bidder. The term bidder is used to include both a qualifying bidder owning a groundfish reduction permit and bidding alone, as well as a qualified bidder bidding together with co-bidders who own other reduction components.

Groundfish reduction permit. You must identify and offer your groundfish reduction permit. At the time of bidding, you must be the permit owner, as that term is defined in 50 C.F.R. 660.302, of such groundfish reduction permit.

Reduction Vessel. You must identify the vessel for whose operation your groundfish reduction permit is registered at the time you bid. You must be, at the time you bid, the owner of record of the reduction vessel.

If, at the time of reduction payment tender, your reduction vessel is not documented under Federal law, you must immediately scrap the reduction vessel at your own expense and afford NMFS full opportunity to observe and confirm such scrapping.

Reduction Vessel's Fishing Privileges. You must offer to relinquish the reduction vessel's legal authority to fish anywhere in the world by agreeing to restrictions that remove: (1) fisheries trade endorsement, pursuant to 46 U.S.C. §12108; (2) any qualification for any present or future U.S. Government approval for placing the vessel under foreign registry or operating under the authority of a foreign country, pursuant to section (9)(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)); and (3) any other privilege, right or entitlement that allows your reduction vessel to fish anywhere else in the world.

The abovementioned restrictions shall run with the reduction vessel's title, such that you or any future owners may never use the reduction vessel for fishing. After reduction payment tender, the reduction vessel may only operate under United States flag. If you continue to own your reduction vessel and it is ever re-flagged or ever again used for fishing after reduction payment tender, the reduction vessel is subject to being scrapped at your expense.

Fee-share Reduction Permit. Your bidding document must identify and include each fee-share reduction permit (if any) that the official permit records of California, Oregon, or Washington indicate that you held on May 28, 2003 and which was registered to your bid's reduction vessel on such date.

Other reduction permit. Your bidding document must identify and include any and all other Federal permits associated with the reduction vessel (if any) that NMFS' permit records show you held on May 28, 2003, and which was registered to your reduction vessel on such date or, if such permit was not then so registered, which was used based on the ownership or operation of the reduction vessel.

## V. Bidding Document Completion

In the bidding document entitled, "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction," you must:

(1) State your name, business address of record, telephone number, and (if available) electronic mail address;

(2) State your bid amount in U.S. dollars;

(3) Identify, by groundfish permit number, your bid's groundfish reduction permit and include an exact photocopy of this permit (which NMFS issued);

(4) If your bid's reduction vessel is Federally documented, identify it by vessel name and official number and include an exact photocopy of the vessel's official document (which the National Vessel Documentation Center issued);

(5) If your bid's reduction vessel is not Federally documented, identify it by vessel name and state registration or other identification number and include an exact photocopy of whatever official vessel registration, identification, or other documentation the controlling authority issued;

(6) Identify, by permit number, each of your fee-share reduction permits that the appropriate state fishery management authority issued, and include an exact photocopy of each of them;

(7) Identify, by permit number, each of your other Federal permits associated with the reduction vessel and include an exact photocopy of each of them (which NMFS issued);

(8) Identify any liens or security interests on any item specified in your bid;

(9) Make certain statements, declarations, and affirmations with respect to your reduction fishing interest and provide any other information that the bidding document may require;

(10) Sign the bidding document. In circumstances where there are co-bidders, each co-bidder must also sign the bidding document; and

(11) Acknowledge your signature of the bidding document before a notary public.

In the event that you are submitting a bid on behalf of another person or entity, include proof that you are authorized to bind such person or entity. For instance, if you are signing for a corporation, include a photocopy of your corporate by-laws, articles of incorporation, board resolution, or other document indicating that you are authorized to submit a bid and thereby bind the corporation. If necessary, please consult your legal advisor for assistance.

Your signature and submission of the bidding document constitutes an irrevocable offer, consistent with the bidding document's terms and conditions, to the United States.

## VI. Bidding Procedures:

Bidding Package Mailing Date. Prior to the Bidding Opening Date, NMFS will mail a bidding package to each groundfish reduction permit owner. The mailing will include, among other things, this document, a bidding document, and further instructions for completing your bid and submitting it to NMFS. You may not submit a bid until after you have received your bidding package.

Bidding Opening Date. The bidding opening date is *[BIDDING OPENING DATE TO BE LATER DETERMINED AND INSERTED HERE]*. You should not submit your bid before this date.

Bidding Closing Date. The bidding closing date is *[BIDDING CLOSING DATE TO BE LATER DETERMINED AND INSERTED HERE]*. You must mail or otherwise deliver your bid so that NMFS physically receives it on or before this date. NMFS will stamp your bid

with the date and time NMFS first receives your bid. Your bid will be rejected if its stamped date and time is later than the bidding closing date.

Bid Expiration Date. The bid expiration date is *[BID EXPIRATION DATE TO BE LATER DETERMINED AND INSERTED HERE]*. Your bid will expire on this date unless NMFS notifies you that NMFS has accepted your bid by mailing its written acceptance notice to you at your address of record.

Delivering Your Bid. You must mail or otherwise deliver your bid to NMFS. You may choose to use U.S. mail, deliver it by an express mail service, or deliver it in person. However, you solely bear any risk associated with your method of delivery. NMFS is not responsible for mail or deliveries that are lost or misdirected. NMFS will deem your bid to be "submitted" only when NMFS receives your bid.

All bids must be addressed and delivered to:

Michael L. Grable
Chief, Financial Services Division
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
Room 13100
1315 East-West Highway
Silver Spring, MD 20910

Bid Scoring and Acceptance.

NMFS will determine a bid score by dividing each bid amount by the average annual total ex-vessel dollar value of the Pacific groundfish, coastal Dungeness crab, and pink shrimp landed by the bidder's reduction vessel that corresponds to the bidder's fee-share reduction permits. NMFS will average the three highest total annual revenues from groundfish, coastal Dungeness crab, and pink shrimp during 1998, 1999, 2000, or 2001.

NMFS will determine which responsive bids it will formally accept by using a reverse auction in which NMFS first accepts the responsive bid with the lowest bid score and successively accepts each additional responsive bid with the next lowest bid score until either there are no more responsive bids to accept or acceptance of the last responsive bid with the next lowest bid score would cause the reduction cost to exceed the maximum reduction cost. If any two or more bid scores are exactly the same and there is not sufficient reduction funding to accept both, NMFS will accept the bid that removes the greatest amount of capacity, or, if more than one such bid removes the same amount of capacity, the bid it receives first.

After a successful referendum, NMFS will mail each bidder, at their address of record, either a bid acceptance notice or a bid rejection notice.

NMFS's formal acceptance of your bid will create a binding contract between you and the United States (referred to herein as "reduction contract"). In case of a breach of a

reduction contract provision, the reduction contract may be specifically enforced, as provided by applicable law.

If NMFS accepts your bid, NMFS will not transfer any groundfish reduction permit or other reduction permit in your bid to any other person unless, and until, the reduction contract is no longer in effect and such permits no longer need to be relinquished.

Bid Rejection. You must complete the bidding document in strict compliance with the requirements in this invitation to bid. NMFS will, regardless of bid scores, reject any bid that is unresponsive to, or does not fully accord with, this invitation to bid and other applicable law. NMFS will reject a bid that:

(1) Is incomplete or inaccurate;

(2) Is submitted on a document other than the bidding document;

(3) Specifies a qualified bidder that is not the owner of the required groundfish reduction permit;

(4) Specifies a qualified bidder that is not the holder of record of any required fee-share reduction permit(s) or other reduction permit(s);

(5) Specifies a qualified bidder that is not the owner of record of the required reduction vessel;

(6) Fails to include an element the groundfish program requires;

(7) Attempts to revise, alter, or negotiate any provision of the bidding document or of the bidding package;

(8) Is late; or

(9) Is otherwise not responsive to the bidding package and consistent with applicable law.

## VII. Other Program Rules:

All bid scorings, rankings, rejections, and acceptances shall constitute final agency action at the time NMFS acts.

Once you deliver your bid to NMFS, your bid is irrevocable. You may not alter, rescind, or substitute any aspect of your bid and your bid will remain in effect until the bid expiration date.

If an industry referendum approves the industry fee system, the United States will tender reduction payment by requesting written payment instructions from you. The United States shall, thereafter, accordingly disburse reduction payments equal to the bid amount

specified in each bid once you have certified your compliance with your contractual duties and obligations.

You must hold, own, or retain all of your reduction fishing interest, as included or specified in your bid, and remain fully and legally entitled to offer the same until:

(1) The bid expires;

(2) NMFS notifies you that NMFS rejects the bid;

(3) NMFS notifies you that a reduction contract does not exist; or

(4) NMFS tenders reduction payment and you comply with your reduction contract obligations.

You are directed to review the documents included in the bidding package, including this Invitation to Bid and the bidding document entitled "Fishing Capacity Reduction Bid and Terms of Agreement for Capacity Reduction", as well as the applicable law, for specific terms and conditions affecting this bid. Bidders are solely responsible for being aware of and understanding the full legal effects and implications of a bid submission. NMFS strongly suggests that you review these documents with your legal advisor.

## ADDENDUM 2-FISHING CAPACITY REDUCTION BID and TERMS OF AGREEMENT FOR CAPACITY REDUCTION

**THIS AGREEMENT,** entered by and between the Person(s) named in the portion of this document entitled "Fishing Capacity Reduction Bid Signature" as the Qualified Bidder (herein referenced as "Bidder") and the United States of America, acting by and through the Secretary of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service (NMFS), Financial Services Division (referenced herein as the "Secretary"). This agreement becomes final upon signature of the Secretary.

**WITNESSETH:**

**Whereas**, the Secretary has sent an Invitation to Bid for the Fishing Capacity Reduction Program (Program) to those holding limited entry fishing permits issued under the Federal Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) endorsed for the operation of trawl gear (other than whiting catcher-processors);

**Whereas**, such Program is carried out pursuant to authority found in Division B, Title II, § 212 of Pub. Law 108-7; Division N, Title V, § 501(b) of Pub. Law 108-7; § 212 of Pub. Law 107-206; as well as authority found in 16 U.S.C. §1861a (b)-(e) and other applicable law;

**Whereas**, in accordance with such authority, a notification was published in the Federal Register announcing Program requirements;

**Whereas,** the Secretary has promulgated framework regulations generally applicable to all fishing capacity reduction programs, portions of which are applicable to this Program, and such framework regulations are found at 50 CFR §600.1000 et seq.;

**Whereas**, the key terms, "Reduction Fishery" and "Fee-Share Fishery" are statutorily defined for this Program;

**Whereas**, such Program can only remove fishing capacity after an industry referendum approves an industry fee system;

**Whereas**, this Document will be submitted by the bidder in direct response to such aforementioned Invitation To Bid and is expressly subject to requirements in such Invitation To Bid and the requirements of the aforementioned regulations and other applicable law;

**Whereas,** the Groundfish Program's express objective is to permanently reduce harvesting capacity in the reduction fishery and the fee-share fisheries; and

**Whereas**, it is the expressed sense of Congress that the States of Washington, Oregon, and California should revoke and render void all state permits relinquished as a part of this program immediately after disbursement of reduction payment.

**NOW, THEREFORE**, for good and valuable consideration and the premises and covenants hereinafter set forth, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing recitals are true and correct and are expressly incorporated herein by this reference.

2. Incorporation of Invitation to Bid. The requirements of the Invitation to Bid are expressly incorporated herein by this reference.

3. Bidding Document. By completing the portion of this Document entitled the "Fishing Capacity Reduction Bid Submission" and submitting this Document to the Secretary in the manner the Invitation to Bid describes, the bidder hereby, irrevocably offers to relinquish its Federal fishing permit(s), as well as all of its coastal Dungeness crab permit(s) and pink shrimp permit(s) issued by the States of Washington, Oregon, or California and registered to the reduction vessel; offers to permanently remove its reduction vessel from fishing by either scrapping or allowing the placement of title restrictions; and offers to relinquish any other of the bidder's right, entitlement, fishery permit, fishery license, area and species endorsement, and any other fishery privilege or harvest authorization, if any, derived, in whole or in part, from either the use or ownership of its Reduction Vessel. (Such items offered shall be collectively referenced herein as "Reduction Fishing Interest".) If any deficiencies in a bid are discovered, prior to rejection, NMFS may, at its sole discretion, contact the bidder in an attempt to correct a bid deficiency.

4. Groundfish Reduction Permit. The bidder will specify, as a Groundfish Reduction Permit, a valid limited entry permit endorsed for the operation of groundfish trawl gear under the Pacific Coast Groundfish Fishery Management Plan. Such specification shall not include any permits registered to vessels harvesting and processing whiting in the catcher-processors sector, as defined in §660.323(a)(4)(A) of title 50, Code of Federal Regulations. The bidder acknowledges that it offers such Groundfish Reduction Permit for permanent revocation.

5. Fee-Share Reduction Permits. The bidder will specify any and all of its coastal Dungeness crab permit(s) and pink shrimp permits(s) for fisheries in the States of Washington, Oregon, or California (herein referenced, collectively, as "Fee-Share Reduction Permits") that have been registered to the bidder's Reduction Vessel. The bidder acknowledges that it offers to permanently relinquish the aforementioned Fee-Share Reduction Permits with the expectation that the issuing authorities will ultimately revoke them or otherwise permanently render them invalid.

6. Other Reduction Permits. The bidder will specify any and all Federal fishery permits, licenses, area and species endorsements, harvest authorizations, or fishery privileges which the bidder holds and which were, other than the Groundfish Reduction Permit, (herein referenced as "Other Reduction Permits") issued to either

the Reduction Vessel or to persons on the basis of their operation or ownership of that Reduction Vessel. The bidder will offer to relinquish, offer to surrender, or offer for revocation any such permits, licenses, endorsements, authorizations, or privileges, as well as any present or future claims of eligibility for any fishery based upon such permits, licenses, endorsements, authorizations, privileges or histories.

7. Reduction Permit(s) Held by Bidder. The bidder shall not specify in any bid any Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit for which the bidder is not the person to whom any such permit is issued according to NMFS' official permit records or the official permit records of California, Oregon, or Washington.

8. Reduction Vessel. The bidder will specify a Reduction Vessel. The Reduction Vessel must exist, i.e., neither be lost nor destroyed. The bidder shall only specify a Reduction Vessel for which it is the owner of record. If the bidder should specify a Reduction Vessel that lacks Federal documentation, the bidder shall offer to scrap such vessel at the bidder's expense.

9. Reduction Vessel Fishing Privileges. In the event that the bidder specifies a Federally documented vessel as a Reduction Vessel, the bidder will offer to impose or allow title restrictions that have the effect of permanently revoking or relinquishing such Reduction Vessel's legal ability to fish anywhere in the world. Such items subject to revocation or relinquishment (herein referenced collectively as "Reduction Vessel Fishing Privileges") are as follows: Reduction Vessel's fisheries trade endorsement under 46 U.S.C. §12108; the Reduction Vessel's eligibility for the approval required under section 9(c)(2) of the Shipping Act, 1916 (46 U.S.C. App. §808(c)(2)), for the placement of a vessel under foreign flag or registry, as well as its operation under the authority of a foreign country; and the Reduction Vessel's ability to fish under U.S. flag outside the U.S. Exclusive Economic Zone or anywhere else in the world.

10. Reduction Payment. The bidder will specify a dollar amount (herein referenced as "Reduction Payment") in exchange for which it is willing to surrender, relinquish, restrict, or allow the revocation of such items, including, but not necessarily limited to, the aforementioned Groundfish Reduction Permit, Fee-Share Reduction Permits, Other Reduction Permits, and Reduction Vessel Fishing Privileges. In the event that the bidder specifies a non-Federally documented vessel as a reduction vessel, the bidder must also be willing to scrap such vessel (in addition to surrendering, relinquishing, restricting, or allowing the revocation of such items detailed above) in exchange for such specified dollar amount.

11. Additional Elements. The bidder shall include with its bid an exact photocopy of each Reduction Vessel's official registration or vessel documentation (e.g. that issued by the U.S. Coast Guard's National Vessel Documentation Center (NVDC) for Federally documented vessels), and an exact photocopy of each Groundfish Reduction Permit, Fee-Share Reduction Permit, and Other Reduction Permit.

12. Use of Official Permit Databases. The Secretary shall use the appropriate official permit database to determine the bidder's address of record, verify the bidder's

eligibility to bid, determine the record holder of the bid's various specified Permits, and verify that every Groundfish Reduction Permit, Fee-Share Reduction Permit, or Other Reduction Permit associated with a specified Reduction Vessel is included in the bid.

13. Use of NVDC. The bidder acknowledges that the Secretary will use the records of the NVDC to determine the owner of record for a Federally documented Reduction Vessel and the appropriate State records to determine the owner of record of a non Federally documented vessel.

14. Bidder to Ensure Accurate Records. The bidder, to the best of its ability, will ensure that the records of the relevant permitting authorities and the NVDC are accurate and correct.

15. Bid Submissions are Irrevocable. The parties hereto acknowledge as the essence hereof that the bidder voluntarily submits to the United States a firm and irrevocable bid specifying a Reduction Payment for which the bidder is willing to relinquish, restrict, or allow the revocation of the Reduction Fishing Interest. Upon submission of a bid, the bidder hereby waives any privilege or right to change, modify, alter, rescind or cancel such bid. The Parties further agree that the time marked on the bid by NMFS upon the receipt thereof, pursuant to the terms of the Invitation to Bid, shall constitute the time of bid submission.

16. Bidder Retains Bid Elements. After submitting a bid, the bidder shall continue to hold, own, or retain each Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, Reduction Vessel and any other aspect of the Reduction Fishing Interest specified in this Document until such time as the bid expires, the bid is rejected, the bid or bidder is determined ineligible for participation, the Reduction Payment is tendered and the bidder complies with its obligations under the Reduction Contract, or the bidder's performance is otherwise excused by the Secretary.

17. Bid Rejection. A bid that fails to provide all of the required information or is deemed in any way unresponsive or not in conformance with the Invitation to Bid or applicable law will be deemed ineligible for consideration and will be rejected, unless the defect is corrected prior to the close of the Bid Submission Period.

18. Notarized Signatures of All Parties Required. A bid that fails to contain the notarized signatures of all parties will be deemed ineligible for consideration and will be rejected.

19. Rejections Constitute Final Agency Action. Rejections are conclusive and constitute final agency action as of the date of rejection.

20. Effect of Bid Submission. By submitting a bid, which constitutes an irrevocable offer, that conforms to the requirements, as stated within the Invitation to Bid and herein, the bidder is entitled to have the Secretary consider its bid for acceptance.

21. Acceptance by Reverse Auction. In accordance with applicable requirements, such

as those stated in this Document, the Invitation to Bid, and applicable law, the Secretary shall accept bids using a reverse auction. If the referendum is successful, the Secretary shall formally notify the bidder if its bid is accepted or rejected.

22. Reduction Contract Formed. The bidder acknowledges that the formal acceptance of a bid by the Secretary shall form a binding contract. Such binding contract constitutes a Reduction Contract. The terms of such Reduction Contract are contained in this Document and also incorporate the requirements of the Invitation to bid by reference exactly as if they had been fully and exactly stated within this Document.

23. Reduction Contract Binding. Upon such acceptance, the Reduction Contract will become enforceable against and binding on the parties. The Parties will abide by the terms and conditions of the resultant Reduction Contract unless the Secretary provides the bidder with written notice indicating that the bidder is excused from the performance of any or all such terms and conditions.

24. Reduction Contract Subject to Federal Law. Any Reduction Contract so formed will be subject to applicable Federal law.

25. Notice to Creditors. Upon notice of bid acceptance, the bidder agrees to notify creditors or other parties with interests in the Reduction Vessels or Groundfish Reduction Permits, Fee-Share Reduction Permits, or Other Reduction Permits that it has entered into a Reduction Contract.

26. Industry Referendum. Referendum approval of the industry fee system is an occurrence over which neither the bidder nor the Secretary has control.

27. Referendum Results. After an Industry Referendum, the Secretary shall inform the bidder of the results of such referendum.

28. Unsuccessful Referendum Excuses Performance. An unsuccessful referendum, wherein the weighted total of disapproving votes is the same as or exceeds the weighted total of approving votes, excuses the parties hereto from their obligations to perform their duties under any Reduction Contract formed by acceptance of this bid. In the event of such occurrence, the United States need not tender Reduction Payment nor does the bidder need to relinquish, transfer, restrict or allow the revocation of any element named below in the section entitled "Fishing Capacity Bid Submission."

29. Expiration of Reduction Contract. In the event that the aforementioned Referendum is unsuccessful, any reduction Contract or outstanding bid shall expire and be of no further force or effect.

30. Bidder Responsibilities upon Successful Referendum. Upon notice of a successful Industry Referendum, the bidder shall immediately become ready to relinquish, restrict, or allow the revocation of, as appropriate, all Groundfish Reduction Permits, Fee-Share Reduction Permits, Other Reduction Permits, or Reduction Vessel

Fishing Interests.

31. Written Payment Instructions. After a successful Industry Referendum, the Secretary shall request and the bidder shall give NMFS written payment instructions for Reduction Payment disbursement.

32. Request for Payment Instructions Constitutes Tender. Such aforementioned request for written payment instructions constitutes tender of Reduction Payment, as such is specified in 50 C.F.R. 1011.

33. Bidder Responsibilities upon Tender. Upon such aforementioned tender of Reduction Payment, the bidder shall immediately relinquish, restrict, or allow the revocation of, as appropriate, its Groundfish Reduction Permit, Fee-Share Reduction Permit(s), Other Reduction Permit(s), and Reduction Vessel Fishing Interest. The bidder must return its Groundfish Reduction Permit and Other Reduction Permits (if any) to NMFS. Thirty days after the publication of the reduction payment tender notice in the Federal Register, the bidder shall forever cease all fishing for any species with the Reduction Vessel and immediately retrieve all of its fixed fishing gear deployed in any fishery. The bidder shall certify compliance with its duties and obligations under the Reduction Contract and shall include such certification with the aforementioned payment instructions.

34. Reduction Vessel Lacking Federal Documentation. Upon Reduction Payment tender, the bidder shall immediately scrap any vessel that it specified as a Reduction Vessel that is documented solely under state law or otherwise lacks documentation under Federal law. Such vessel shall be scrapped at the bidder's expense. The bidder shall allow NMFS, its agents, or its appointees reasonable opportunity to observe and confirm such scrapping. The bidder shall conclude such scrapping within a reasonable time.

35. Future Harvest Privilege Extinguished. Upon Reduction Payment tender, the bidder shall waive, surrender, relinquish, withdraw, or extinguish by other means any other claim derived, in whole or in part, either from the use or ownership of the Reduction Vessel or from any harvests made under any permit, license or other harvest authorization, as specified below, that could ever qualify the bidder for any future limited access fishing license, fishing permit, and harvest authorization.

36. Post Tender Use of Federally Documented Reduction Vessel. After Reduction Payment tender, the bidder may continue to use a Federally documented Reduction Vessel for any legal purpose except fishing and can transfer the vessel, subject to all restrictions imposed by the Reduction Contract and applicable law, to a new owner. The bidder or any subsequent owner shall only operate such Reduction Vessel under the United States flag. In the event the bidder fails to abide by such restrictions, the bidder acknowledges and agrees to allow the United States to pursue any and all remedies available to it, including seizing the Reduction Vessel and scrapping it at the expense of the bidder.

37. Secretary's Actions upon Tender. Contemporaneously with tendering Reduction Payment, without regard to any party's refusal or failure to perform its duties and

obligations under a Reduction Contract, the Secretary will permanently render void the bidder's Groundfish Reduction Permit and any Other Reduction Permits, notify the relevant states that the bidder has relinquished its Fee-Share Reduction Permits, notify the NVDC in order to revoke the Reduction Vessel's fisheries trade endorsements, notify the U.S. Maritime Administration in order to make the Reduction Vessel ineligible for the approval of requests to place it under foreign registry or operate under a foreign country's authority; note in the appropriate NMFS records that any harvests made under any permit, license or other harvest authorization that could ever qualify the bidder for any future limited access fishing license, fishing permit, and harvest authorization accrued on the Reduction Vessel will never again be available to anyone for any fisheries purpose; and implement any other restrictions imposed by applicable law.

38. Material Disputes to be Identified. Members of the public shall be able to advise NMFS in writing of any material dispute with regard to any aspect of any bid, up until NMFS receives such aforementioned payment instructions. Such a material dispute shall neither relieve the bidder of any duties or obligations under any Reduction Contract nor shall it affect the United States' right to enforce performance of the terms and conditions of any Reduction Contract.

39. Reduction Payment Disbursement. Once the bidder's payment instructions and certification of compliance are received, the United States shall disburse to the bidder the amount specified as a Reduction Payment as soon as practicable, unless such disbursement is otherwise excused. Any Reduction Payment disbursement shall be in strict accordance with the bidder's payment instructions. Unless bidder's payment instructions direct NMFS to the contrary, the United States shall disburse the whole of the Reduction Payment to the bidder. If the bidder bid with co-bidders, payment instructions must be signed or approved by all parties.

40. Reduction Payment Withheld for Scrapping or for Other Reasons. In the event that a Reduction Vessel must be scrapped, the Secretary shall withhold from disbursement an amount sufficient to scrap such vessel. The Secretary shall withhold such sum until the vessel is completely scrapped. The Secretary may confirm, if the Secretary so chooses, that the vessel has been scrapped before disbursing any amount withheld. If the Secretary has reason to believe that the bidder has failed to comply with any of the terms and conditions as stated herein, the Secretary shall withhold disbursement until such time as the bidder performs in accordance with the terms and conditions of the Reduction Contract.

41. Bidder Assistance with Restriction. The bidder shall, upon the United States' request, furnish such additional documents, undertakings, assurances, or take such other actions as may be reasonably required to enable the United States to restrict, invalidate, or revoke any component of the bid's Reduction Fishing Interest in accordance with the terms and conditions of a Reduction Contract or requirements of applicable law.

42. Recordation of Restrictions. Upon revocation of all the Reduction Vessel Fishing Privileges, the bidder shall ensure that such revocation is recorded with the Reduction Vessel's title, such that the Reduction Vessel, regardless of its

subsequent ownership, may never again fish for any species anywhere in the world under any conditions. Such term "fishing" includes the full range of activities defined in 16 U.S.C. §1802.

43. Lack of State Revocation Notwithstanding. In the event that California, Oregon, or Washington should fail to permanently revoke any Fee-Share Reduction Permit, the bidder will nevertheless be permanently barred from ever exercising any fishing privilege or claim associated with any such Fee-Share Reduction Permit. Moreover, the bidder will neither transfer nor allow any other person to exercise any fishing privilege or claim associated with any such Fee-Share Reduction Permit.

44. Reduction Element Omission. In the event that the Secretary accepts a bid wherein the bidder failed, for any reason, to specify and designate any Groundfish Reduction Permit, Fee-Share Reduction Permit, Other Reduction Permit, or Reduction Vessel that should have been specified in this Document, any requirements or terms and conditions that should have otherwise applied to such omitted item shall nevertheless still be applicable. Upon discovery by either or both parties, the bidder shall act in accordance with Program requirements.

45. Remedy for Breach. As money damages may not be a sufficient remedy for breach of the terms and conditions as set forth in this Document, the Parties explicitly agree and authorize specific performance, in addition to any money damages, as a remedy for any breach of Reduction Contract terms. In the event of breach by the bidder, the Secretary will take any reasonable action he deems necessary to carry out the Program's purpose as set forth above.

46. Waiver of Data Confidentiality. The bidder consents to the public release of any information the bidder may provide pursuant to Program requirements, including any information provided as a part of this bid or any other means, so long as the Secretary finds that the release of such information is necessary to achieve this Program's stated goals. The bidder shall and hereby explicitly waives any claim of confidentiality otherwise afforded to financial, catch, or harvest data, as well as trade secrets, fishing histories, or other personal information, otherwise protected from release under 16 U.S.C. §1881a(b) or any other law. In the event such information is released, the bidder shall and hereby does forever fully and unconditionally release and hold harmless the United States and its officers, agents, employees, representatives, of and from any and all claims, demands, debts, damages, duties, causes of action, actions and suits whatsoever, in law or equity, on account of any act, failure to act, or event arising from, out of, or in any way related to, the release of any information associated with this Program.

47. Oral Agreements Invalid. This Document and the Invitation to Bid contain the final terms of any Reduction Contract between the bidder and the United States. They represent the entire and exclusive agreement between the parties. All parties hereto forever waive all right to sue, or otherwise counterclaim against each other based on any claim of past, present, or future oral agreement between the parties.

48. Severable Provisions. The provisions of this contract are severable and, in the event any portion thereof is held to be void, invalid, non-binding, or otherwise

unenforceable, the remaining portion thereof shall remain fully valid, binding, and enforceable against all parties hereto.

49. Disputes. Any and all disputes arising in connection with the Fishing Capacity Reduction Program, including, but not limited to, the Invitation to Bid, this bid or any Reduction Contract shall in all respects be governed by the Federal laws of the United States, and the bidders and all other parties to the Reduction Contract irrevocably submit themselves to the jurisdiction of the Federal courts of the United States and/or to any other Federal administrative body authorized to adjudicate such disputes, as set forth under applicable law.

50. Fishing Capacity Reduction Bid Submission.

I. Completion and submission. The bidder must fully, faithfully, and accurately complete this portion of this Document and thereafter submit this full Document to NMFS in accordance with the Invitation to Bid. If inserting any of the required information below requires more space than this Document provides, attach an addendum to this Document which includes and identifies any such information.

II. Bidder information.

(a) Bidder's name. This must be the full and exact legal name of record of each person, partnership, or corporation who is bidding.

In each case, the qualified Bidder is the owner of record, at the time of bidding, of the groundfish reduction permit. If the qualified Bidder is also the owner or record, at the time of bidding, of all other required reduction components, the qualified bidder is the sole Bidder. If, however, the owner of record, at the time of bidding, of any other required reduction component is not exactly the same as the qualified Bidder, then such owner of record is a co-Bidder, and the qualifying Bidder and each co-Bidder bid together and are jointly the collective Bidder.

Insert the name of the qualified Bidder and of each co-Bidder (if there is any co-Bidder), and check the appropriate box for each name listed.

| Bidder Name(s) | Check One Box For Each Name Listed | | | | |
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| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
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(b) Bidder's address of record. Insert the full and exact address of record for the qualified Bidder and for each co-Bidder (if there is any co-Bidder), and check the appropriate box for each address listed.

| Bidder Address(s) | Check One Box For Each Address Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
| | | i | ii | ii | iv |
| | | | | | |
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(c) Bidder's business telephone number. Insert the full and exact business telephone number of the qualified Bidder and of each co-Bidder (if there is any co-Bidder), and check the appropriate box for each number listed.

| Bidder Telephone Number(s) | Check One Box For Each Number Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
| | | i | ii | ii | iv |
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(d) Bidder's electronic mail address (if available). Insert the full and exact electronic mail address of the qualified Bidder and of each co-Bidder (if there is any co-Bidder), and check the appropriate box for each address listed.

| Bidder Electronic Mail Address(s), If Available | Check One Box For Each Address Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), if any, Number: | | | |
| | | i | ii | ii | iv |
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III. Groundfish Reduction Permit number. Insert the full and exact permit number of the Bid's Groundfish Reduction Permit. Enclose with this Document an exact photocopy of such permit.

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IV. Other Reduction Permit(s), if any. Insert the full and exact permit number(s) and fishery(s) for each of the Bid's Other Reduction Permits, and check the box corresponding with each such permit's ownership. Enclose with this document an exact photocopy of each such permit.

| Permit Number(s) and Fishery(s) For Each of Bid's Other Reduction Permits, If Any | Check One Box For Each Permit Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
| | | i | ii | ii | iv |
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V. Fee-Share Reduction Permit(s), if any. Insert the full and exact permit number(s), fishery(s), and issuing state(s) for each of the Bid's Fee-Share Reduction Permits, and check the box corresponding with each such permit's ownership. Enclose with this Document an exact photocopy of each such permit.

| Permit Number(s), Fishery(s), and Issuing States For Each of Bid's Fee-Share Reduction Permits, If Any | Check One Box For Each Permit Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
| | | i | ii | ii | iv |
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VI. Reduction Vessel. Insert the full and exact official name and official number for the Bid's reduction vessel, and check the appropriate box. Enclose with this Document an exact photocopy of such vessel's official document (if the vessel is federally documented) or other official form of registration (if the vessel is state registered) .

| Official Name and Number For Bid's Reduction Vessel | Check One Box For The Vessel Listed | | | | |
|---|---|---|---|---|---|
| | Qualified Bidder | Co-Bidder(s), If Any, Number: | | | |
| | | i | ii | ii | iv |
| | | | | | |

VII. Insert, in U.S. dollars, the bid's full and exact amount, both in words and in numbers.

| Reduction Payment In U.S. Dollars | |
|---|---|
| In Words | In Numbers |
| | |

VIII. Bid signature.

In compliance with applicable law, this Document and the Invitation to Bid, the Bidder submits the above written Reduction Payment as an irrevocable offer to the United States for the permanent revocation and surrender of the Groundfish Reduction Permit, any Fee-Share Reduction Permit(s), any Other Reduction Permits, and the Reduction Vessel's Fishing Privileges, all as identified in this bid or as required under applicable law.

The Bidder acknowledges that the United State's acceptance of this bid and tender of the Reduction Payment to the Bidder in the amount written above (less any sum withheld for scrapping any Reduction Vessel lacking Federal documentation) will, among other things, permanently render the Reduction Vessel ineligible for any fisheries worldwide, including, but not limited to, fishing on the high seas or in the jurisdiction of any foreign country while operating under United States flag, and will impose or create other legal and contractual restrictions and obligations that restrict or revoke the complete Reduction Fishing Interest, as well as revoke or restrict any other fishery privileges or claims associated with the Reduction Vessel, Groundfish Reduction Permit, any Fee-Share Reduction Permit, or any Other Reduction Permit, as more fully set forth in the Invitation to Bid and applicable law.

By completing the sections above and signing below, the Bidder acknowledges that the Bidder has fully and completely reviewed this Document and the Invitation to Bid. The Bidder attests and warrants that the Bidder is fully able to enter into a Reduction Contract. Any person or entity completing the sections above and signing below on behalf of another person or entity, attests and warrants that such person or entity has express, written permission or grant of authority to bind such other person or entity to the terms and conditions of a Reduction Contract. The Bidder expressly represents to the United States that the Bidder fully understands the consequences of a bid submission, pledges to abide by the terms and conditions of any Reduction Contract, and is aware of and consents to any and all remedies available upon the breach of any Reduction Contract or submission of a bid that fails to conform with applicable law. The Bidder expressly warrants and attests that all information included herein is accurate.

**IN WITNESS WHEREOF**, the Bidder has executed this Document, either as a qualified Bidder bidding alone or as a qualified Bidder and one or more co-Bidders, if any, jointly bidding together, in accordance with the requirements as specified above, on the date written below. This agreement constitutes a Reduction Contract as of the date the United States signs this Document.

The qualified Bidder and each co-Bidder, if any, must each sign this Document below and

insert: his/her name, title, the name of the Bidder on behalf of whom he/she is signing, and the date of signature. A notary public must complete the following certification and acknowledgment section for each signature.

(a) Qualified Bidder's signature and certification/acknowledgment.

| | |
|---|---|
| Signature | |
| Printed Name | |
| Title (If Signing of Behalf Of A Corporation or Partnership) | |
| Qualified Bidder's Name | |
| Date of Signature | |

State of: County of:

I certify that I know or have satisfactory evidence that_____is the person who appeared before me and said person acknowledged that he/she signed this Fishing Capacity Reduction Bid And Terms of Agreement for Capacity Reduction and on oath stated that he/she was authorized to execute such document and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in such document.

Notary Public's Signature: Dated:

My appointment Expires:

(b) Co-Bidder Number (i)'s, if any, signature and certification/acknowledgment.

| | |
|---|---|
| Signature | |
| Printed Name | |
| Title (If Signing of Behalf Of A Corporation or Partnership) | |
| Co-Bidder Number (i)'s Name | |
| Date of Signature | |

State of: County of:

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he/she signed this Fishing Capacity Reduction Bid And Terms of Agreement for Capacity Reduction and on oath stated that he/she was authorized to execute such document and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in such document.

Notary Public's Signature: Dated:

My appointment Expires:

(c) Co-Bidder Number (ii)'s, if any, signature and certification/acknowledgment.

| | |
|---|---|
| Signature | |
| Printed Name | |
| Title (If Signing of Behalf Of A Corporation or Partnership) | |
| Co-Bidder Number (ii)'s Name | |
| Date of Signature | |

State of: County of:

I certify that I know or have satisfactory evidence that_____is the person who appeared before me and said person acknowledged that he/she signed this Fishing Capacity Reduction Bid And Terms of Agreement for Capacity Reduction and on oath stated that he/she was authorized to execute such document and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in such document.

Notary Public's Signature: Dated:

My appointment Expires:

(d) Co-Bidder Number (iii)'s, if any, signature and certification/acknowledgment.

| | |
|---|---|
| Signature | |
| Printed Name | |
| Title (If Signing of Behalf Of A Corporation or Partnership) | |
| Co-Bidder Number (iii)'s Name | |
| Date of Signature | |

State of: County of:

I certify that I know or have satisfactory evidence that_____ is the person who appeared before me and said person acknowledged that he/she signed this Fishing Capacity Reduction Bid And Terms of Agreement for Capacity Reduction and on oath stated that he/she was authorized to execute such document and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in such document.

Notary Public's Signature: Dated:

My appointment Expires:

(e) Co-Bidder Number (iv)'s, if any, signature and certification/acknowledgment.

| | |
|---|---|
| Signature | |
| Printed Name | |
| Title (If Signing of Behalf Of A Corporation or Partnership) | |
| Co-Bidder Number (iv)'s Name | |
| Date of Signature | |

State of: County of:

I certify that I know or have satisfactory evidence that _____is the person who appeared before me and said person acknowledged that he/she signed this Fishing Capacity Reduction Bid And Terms of Agreement for Capacity Reduction and on oath stated that he/she was authorized to execute such document and acknowledged it to be the free and voluntary act of his/hers for the uses and purposes mentioned in such document.

Notary Public's Signature: Dated:

My appointment Expires:
(f) United States of America's signature.

United States of America,
Acting by and through the Secretary of Commerce,
National Atmospheric Administration,
National Marine Fisheries Service,
Financial Services Division

By: Dated:
Chief, Financial Services Division

[FR Doc. 03–18344 Filed 7–17–03; 8:45 am]
BILLING CODE 3510–22–C

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 660

**[Docket No. 021209300–3048–02; I.D. 071103A]**

## Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Primary Season and Resumption of Trip Limits for the Shore-based Fishery for Pacific Whiting

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

**ACTION:** Fishing restrictions; request for comments.

**SUMMARY:** NMFS announces the end of the 2003 primary season for the shore-based fishery for Pacific whiting (whiting) at 12 noon, local time (l.t.), July 14, 2003, because the allocation is projected to be reached. This action is intended to keep the harvest of whiting at the 2003 allocation levels.

**DATES:** Effective from 12 noon, l.t., July 14, 2003, until the effective date of the publication containing the 2004 specification and management measures for the Pacific Coast groundfish fishery, which will be published in the **Federal Register**, unless modified, superseded or rescinded. Comments will be accepted through August 4, 2003.

**ADDRESSES:** Submit comments to D. Robert Lohn, Administrator, Northwest Region (Regional Administrator), NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod Mcinnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

**FOR FURTHER INFORMATION CONTACT:** Becky Renko at 206–526–6110.

**SUPPLEMENTARY INFORMATION:** This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On March 7, 2003 (68 FR 11182), the levels of allowable biological catch (ABC), the optimum yield (OY), and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2003, the whiting OY is 148,200 mt (mt) and the commercial OY is 121,200 mt. Regulations at 50 CFR 660.323(a)(4) divide the commercial OY into separate allocations for the catcher/processor, mothership, and shore-based sectors of the whiting fishery. On June 16, 2003, the whiting sector allocations which were originally published on March 7, 2003 (68 FR 11182), were corrected (68 FR 35575). The 2003 allocations are 41,208 mt (34 percent) for the catcher/processor sector; 29,088 mt (24 percent) for the mothership sector; and 50,904 mt (42 percent) for the shore-based sector. When each sector's allocation is reached, the primary season for that sector is ended.

The shore-based sector is composed of vessels that harvest whiting for delivery to land-based processors. The regulations at 50 CFR 660.323(a)(3)(i) describe the primary season for the shore-based sector as the period when the large-scale target fishery is conducted (when trip limits under § 660.323(b) are not in effect). Before and after the primary seasons, per-trip limits are in effect for whiting.

The best available information on July 11, 2003, indicated that 34,314 mt had been taken through July 5, 2003, and that the 50,904 mt shore-based allocation would be reached by 12 noon, l.t., July 14, 2002. This **Federal Register** action announces the date that the primary season for the shore-based sector ends and that per-trip limits are reinstated. A 10,000–lb (4,536–kg) trip limit will be in place after the primary season unless otherwise announced in the **Federal Register**. Per-trip limits are intended to accommodate small bait and fresh fish markets, and bycatch in other fisheries. To minimize incidental catch of chinook salmon by vessels fishing shoreward of the 100–fm (183–m) contour in the Eureka, CA area, at any time during a fishing trip, a limit of 10,000 lb (4,536 kg) of whiting is in effect year round, except when landings of whiting are prohibited.

### NMFS Action

For the reasons stated above and in accordance with the regulations at 50 CFR 660.323(a)(4)(iii)(C), NMFS herein announces:

Effective 12 noon, l.t., July 14, 2003, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a catcher vessel participating in the shore-based sector of the whiting fishery, unless otherwise announced in the **Federal Register**. If a vessel fishes shoreward of the 100–fm (183–m) contour in the Eureka, CA area (43° N. lat. - 40°30′ N. lat.) at any time during a fishing trip, the 10,000–lb (4,536–kg) trip limit applies, as announced in the annual management measures at paragraph IV, B(3)(c)(ii), except when the whiting fishery is closed.

### Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The Assistant Administrator for fisheries, NMFS, finds good cause to waive the requirement to provide prior notice and opportunity for comment on this action pursuant to 5 U.S.C. 553(b)(B) because providing prior notice and opportunity would be impracticable. It would be impracticable because, if this closure were delayed in order to provide notice and comment, the fishery would be expected to greatly exceed the sector allocation. A delay to provide a cooling off period also would be expected to cause the fishery to exceed its allocation. Therefore, good cause also exists to waive the 30-day delay in effectiveness requirement of 5 U.S.C. 553(d)(3). The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323(a)(4)(iii)(C) and is exempt from review under E.O. 12866.

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

Dated: July 14, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03–18164 Filed 7–14–03; 4:20 pm]
BILLING CODE 3510–22–S

# Proposed Rules

Federal Register
Vol. 68, No. 138
Friday, July 18, 2003

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

### Grain Inspection, Packers and Stockyards Administration

### 7 CFR Part 868

**RIN 0580–AA84**

### Fees for Processed Commodity Analytical Services

**AGENCY:** Grain Inspection, Packers and Stockyards Administration, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Grain Inspection Service (FGIS), a program of the Grain Inspection, Packers and Stockyards Administration (GIPSA), is proposing to increase fees for the analytical testing of processed commodities and remove certain tests from the fee schedule for services that are no longer requested. These tests apply only to official processed commodity testing services performed under the Agricultural Marketing Act of 1946. These changes are needed to generate revenue sufficient to cover, as nearly as practicable, rising fixed costs and the 4.1 percent January 2003 Federal pay increase.

GIPSA anticipates that the increase in user fees will generate approximately $135,000 in additional revenue.

**DATES:** Written comments must be filed before September 16, 2003.

**ADDRESSES:** Interested persons are invited to submit comments concerning this proposal. Written comments must be submitted to Tess Butler, GIPSA, USDA, 1400 Independence Avenue, SW., Room 1647–S, Washington, DC 20250–3604, or faxed to (202) 690–2755. Comments may also be sent by e-mail to: *H.Tess.Butler@usda.gov*.

All comments received will be made available for public inspection in the above office during regular business hours (7 CFR 1.27 (b)).

**FOR FURTHER INFORMATION CONTACT:** Steven Tanner, Director, Technical Services Division, at his e-mail address: *Steven.N.Tanner@usda.gov* or telephone him at (816) 891–0401.

**SUPPLEMENTARY INFORMATION:**

### Executive Order 12866, Regulatory Flexibility Act, and the Paperwork Reduction Act

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

Also, pursuant to the requirements set forth in the Regulatory Flexibility Act, Donna Reifschneider, Administrator, GIPSA, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate. Additionally, GIPSA has and will continue to seek out cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to new or increased fees. However, even with these efforts, GIPSA has determined that its existing fee schedule will not generate sufficient revenues to cover program costs for providing processed commodity testing services. Further revenue losses are projected if adjustments to the existing fee schedule are not made. In FY 2002, GIPSA's operating costs for the processed commodity testing program were $233,707 with revenue of $104,380 that resulted in a negative margin of $129,327.

GIPSA has reviewed the financial position of the processed commodity testing program and concluded that $135,000 in additional yearly revenue is needed to fully recover operating costs. This is based on projected program costs of approximately of $240,000 a year and an estimated testing workload of approximately 1,700 samples per year. These changes are needed to generate revenue sufficient to cover, as nearly as practicable, operational costs resulting from a steep decline in requests for services and the associated loss of revenue and increased operational costs resulting from the mandated 4.1 percent January 2003 Federal pay increase. In Fiscal Year 1999, the number of samples tested was 16,377, with a revenue of $1,475,579; in FY 2000, 12,872 samples and $1,212,215; in FY 2001, 3,620 samples and $219,033 in revenue; in FY 2002, 1,755 samples and $104,380 in revenue.

The proposed rule will increase the fees charged to businesses for voluntary processed commodity analytical services and generate approximately $135,000 in additional revenue. Some of these businesses, which consist of processors and shippers of products such as wheat flour, vegetable oil, and corn meal, may meet the criteria for small entities established by the Small Business Administration criteria for small businesses. Even so, the new fees should not significantly affect those entities. It is estimated that there will be approximately nine entities effected. Further, those entities are under no obligation to use GIPSA services and, therefore, any decision on their part to discontinue the use of this service should not prevent them from marketing their products. Due to the decline in demand of the processed commodity analytical testing services, GIPSA will conduct another analysis of the demand for this program's services, including all costs and revenues generated specific to the program, one year after operating under the proposed fee increase.

There will be no additional reporting or record keeping requirements imposed by this action. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 35), the information collection and recordkeeping requirements in Part 868 have been previously approved by OMB under control number 0580–0012. GIPSA has not identified any other Federal rules which may duplicate, overlap, or conflict with this rule.

### Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. This action 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 that must be exhausted prior to any judicial challenge to the provisions of this rule.

### Proposed Action

The Agricultural Marketing Act (AMA) of 1946 (7 U.S.C. 1621, *et seq.*) authorizes GIPSA to provide official processed commodity testing services and to collect reasonable fees for

performing these services. Section 203(h) of the AMA (7 U.S.C. 1622(h)) provides for the establishment and collection of fees that are reasonable and, as nearly as practicable, cover the costs of the services rendered. These fees cover the GIPSA administrative and supervisory costs for the performance of official testing services, including personnel compensation and benefits, travel, rent, communication, utilities, contractual services, supplies, and equipment.

The processed commodity testing fees were last amended on April 4, 2001, and became effective May 4, 2001 (66 FR 17775). These fees were to cover, as nearly as practicable, the level of operating costs as projected for FY 2001 and FY 2002, respectively. GIPSA continually monitors its cost, revenue, and operating reserve levels to ensure that there are sufficient resources for operations. Further, GIPSA has implemented cost-saving measures in the processed commodity program in an effort to provide more cost-effective services. The cost containment measures included a reduction in full-time commodity testing laboratory personnel and increased cross utilization of personnel from other GIPSA programs.

GIPSA regularly reviews its user-fee-financed programs to determine if the fees are adequate and continues to seek out cost saving opportunities and implement appropriate changes to reduce costs. Such actions can provide alternatives to fee increases. However, even with these efforts, GIPSA's existing fee schedule will not generate sufficient revenues to cover program costs. Using the most recent data available, GIPSA's FY 2002 operating costs for this program were $233,707 with revenue of $104,380 that resulted in a negative margin of $129,327.

GIPSA has reviewed the financial position of its processed commodity testing program. Based on this review, GIPSA has concluded that it needs to generate $135,000 in additional yearly revenue to recover program costs. These changes are needed to generate revenue sufficient to cover, as nearly as practicable, operational costs resulting from a steep decline in requests for services and the associated loss of revenue and increased operational costs resulting from the 4.1 percent January 2003 Federal pay increase. Therefore, GIPSA proposes to revise section 868.90, paragraph (d), Table 2—Fees for Laboratory Test Services, to: (1) Increase the fees for laboratory testing services. These laboratory tests are: Ash, Brix, Calcium, Carotenoid Color, Cold test (oil), Color test (syrups), Cooking tests (pasta), Crude fat, Crude fiber, Falling number, Free fatty acid, Insoluble impurities (oils and shortenings), Iron enrichment, Lovibond color, Moisture, Moisture and volatile matter, Peroxide Value, Popping ratio, Protein, Sanitation (light filth), Sieve test, Smoke point, Solid fat index, Visual exam, Vomitoxin (Qualitative—Test Kit), and Vomitoxin (Quantitative—Test Kit); (2) establish new fees for new testing services: Aflatoxin (Quantitative—HPLC), Aflatoxin (Quantitative—Test Kit), Aflatoxin (Qualitative Test Kit) and Oxidative stability index (OSI); (3) eliminate references and fees for testing services that are no longer requested on a routine basis. These tests are: Alpha monoglycerides, Aflatoxin test (other than TLC or minicolumn method), Aflatoxin (TLC), Aflatoxin (Minicolumn method), Bacteria, count, Baking tests (cookies), Bostwick (cooked), Bostwick (uncooked/cook test/dispersibility), Dough handling (baking), E. coli, Fat (acid hydrolysis), Fat-Stability (A.O.M), Flash point (open and closed cup), Hydrogen ion activity—pH, Iodine number/value, Linolenic acid (Fatty acid profile), Lipid phosphorus, Margarine (nonfat solids), Moisture Average(crackers), Performance test (prepared bakery mix), Phosphorus, Popcorn kernels (total defects), Potassium bromate, Rope spore count, Salmonella, Salt or Sodium content, Specific volume (bread), Staphylococcus aureus, Texture, Tilletia controversa kuhn (TCK)(Qualitative), Tilletia controversa kuhn (TCK)(Quantitative), Unsaponifiable (matter), Urease activity, Visual exam (hop pellet), Visual exam (insoluble impurities, oils and shortenings), Visual exam (pasta), Visual exam (processed grain products), Visual exam (total foreign material other than cereal grains), Vitamin enrichment, Vomitoxin (TLC), Water activity, and Wiley melting point.

Due to the decline in demand of the processed commodity analytical testing services, GIPSA will conduct another analysis of the demand for this program's services, including all costs and revenues generated specific to the program, one year after operating under the proposed fee increase.

**List of Subjects in 7 CFR Part 868**

Administrative practice and procedure, Agricultural commodities.

For reasons set out in the preamble, 7 CFR Part 868 is proposed to be amended as follows:

## PART 868—GENERAL REGULATIONS AND STANDARDS FOR CERTAIN AGRICULTURAL COMMODITIES

1. The authority citation for part 868 continues to read as follows:

**Authority:** Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621, *et seq.*)

2. Section 868.90, paragraph (d) is revised to read as follows:

### § 868.90 Fees for certain Federal inspection services.

* * * * *

(d) Laboratory tests referenced in table 2 of this section will be charged at the applicable laboratory fee when performed at field locations other than at the applicant's facility.

TABLE 2.—FEES FOR LABORATORY TEST SERVICES [1]

| Laboratory tests | Fees |
|---|---|
| (1) Aflatoxin (Quantitative—HPLC) | $182.00 |
| (2) Aflatoxin (Quantitative—Test Kit) | 87.00 |
| (3) Aflatoxin (Qualitative—Test Kit) | 47.00 |
| (4) Appearance and odor | 7.00 |
| (5) Ash | 17.00 |
| (6) Brix | 16.00 |
| (7) Calcium | 27.00 |
| (8) Carotenoid Color | 27.00 |
| (9) Cold test (oil) | 20.00 |
| (10) Color test (syrups) | 13.00 |
| (11) Cooking tests (pasta) | 13.00 |
| (12) Crude fat | 20.00 |
| (13) Crude fiber | 27.00 |

TABLE 2.—FEES FOR LABORATORY TEST SERVICES [1]—Continued

| Laboratory tests | Fees |
|---|---|
| (14) Falling number | 24.00 |
| (15) Free fatty acid | 24.00 |
| (16) Insoluble impurities (oils and shortenings) | 9.00 |
| (17) Iron enrichment | 30.00 |
| (18) Lovibond color | 20.00 |
| (19) Moisture | 13.00 |
| (20) Moisture and volatile matter | 17.00 |
| (21) Oxidative stability index (OSI) | 54.00 |
| (22) Peroxide Value | 27.00 |
| (23) Popping ratio | 38.00 |
| (24) Protein | 16.00 |
| (25) Sanitation (light filth) | 47.00 |
| (26) Sieve test | 11.00 |
| (27) Smoke Point | 43.00 |
| (28) Solid fat index | 168.00 |
| (29) Visual exam | 22.00 |
| (30) Vomitoxin (Qualitative—Test Kit) | 61.00 |
| (31) Vomitoxin (Quantitative—Test Kit) | 81.00 |
| (32) Other laboratory analytical services (per hour per service representative) | 67.00 |

[1] When laboratory tests/services are provided for GIPSA by a private laboratory, the applicant will be assessed a fee, which, as nearly as practicable, covers the costs to GIPSA for the service provided.

Dated: July 15, 2003.

**Donna Reifschneider,**

*Administrator, Grain Inspection, Packers and Stockyards Administration.*

[FR Doc. 03–18265 Filed 7–17–03; 8:45 am]

**BILLING CODE 3410–EN–P**

## NUCLEAR REGULATORY COMMISSION

## 10 CFR Part 72

**RIN 3150–AH–20**

## List of Approved Spent Fuel Storage Casks: NAC–MPC Revision

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations revising the NAC International, Inc., Multipurpose Canister cask system listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 3 to the Certificate of Compliance (CoC). This amendment would incorporate changes in support of the Yankee Nuclear Power Station (Yankee Rowe) fuel loading campaign and make corrections to the Connecticut Yankee technical specifications. Specifically, the amendment would incorporate fuel enrichment tolerances; incorporate fuel assemblies with up to 20 damaged fuel rods, recaged assemblies, the Yankee Rowe damaged fuel can, and assembly weights up to 432 kilograms (950 pounds); revise the average surface dose rate limits for the concrete cask; incorporate administrative changes in the American Society of Mechanical Engineers (ASME) Code Alternatives; correct the Connecticut Yankee tables for fuel assembly limits and intact fuel assembly characteristics; and incorporate editorial and administrative changes in the CoC.

**DATES:** Comments on the proposed rule must be received on or before August 18, 2003.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AH20) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public, in their entirety, on the NRC rulemaking website. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking website at *http://ruleforum.llnl.gov.* Address questions about our rulemaking website to Carol Gallagher (301) 415–5905; email *cag@nrc.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 am and 4:15 pm Federal workdays (telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking website at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.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. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to pdr@nrc.gov. An electronic copy of the proposed Certificate of Compliance (CoC), Technical Specifications (TS), and preliminary safety evaluation report (SER) can be found under ADAMS Accession Nos. ML031330790, ML031340571, and ML031330792, respectively.

**FOR FURTHER INFORMATION CONTACT:** Jayne M. McCausland, telephone (301) 415–6219, e-mail, *jmm2@nrc.gov* of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule published in the final rules section of this **Federal Register**.

**Procedural Background**

This rule is limited to the changes contained in Amendment 3 to CoC No. 1025 and does not include other aspects of the NAC–MPC cask system design. The NRC is using the ''direct final rule procedure'' to issue this amendment because it represents a limited and routine change to an existing CoC that is expected to be noncontroversial. Adequate protection of public health and safety continues to be ensured. The direct final rule will become effective on October 1, 2003. However, if the NRC receives significant adverse comments by August 18, 2003, then the NRC will publish a document that withdraws the direct final rule and will subsequently address the comments received in a final rule. The NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, in a substantive response:

(a) The comment causes the NRC staff to reevaluate (or reconsider) its position or conduct additional analysis;

(b) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(c) The comment raises a relevant issue that was not previously addressed or considered by the NRC staff.

(2) The comment proposes a change or an addition to the rule, and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the NRC staff to make a change (other than editorial) to the CoC or technical specifications.

**List of Subjects in 10 CFR Part 72**

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

For the reasons set out in the preamble 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. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

## PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

**Authority:** Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C.10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244, (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1025 is revised to read as follows:

**§ 72.214 List of approved spent fuel storage casks.**

* * * * *

*Certificate Number:* 1025.

*Initial Certificate Effective Date:* April 10, 2000.

*Amendment Number 1 Effective Date:* November 13, 2001.

*Amendment Number 2 Effective Date:* May 29, 2002.

*Amendment Number 3 Effective Date:* October 1, 2003.

*SAR Submitted by:* NAC International, Inc.

*SAR Title:* Final Safety Analysis Report for the NAC-Multipurpose Canister System (NAC–MPC System).

*Docket Number:* 72–1025.

*Certificate Expiration Date:* April 10, 2020.

*Model Number:* NAC–MPC.

* * * * *

Dated at Rockville, Maryland, this 7th day of July, 2003.

For the Nuclear Regulatory Commission.

**William D. Travers,**

*Executive Director for Operations.*

[FR Doc. 03–18262 Filed 7–17–03; 8:45 am]

BILLING CODE 7590–01–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NE–31–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Air Cruisers Company Emergency Evacuation Slide/Raft System

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

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede an existing airworthiness directive (AD) for a certain Air Cruisers Company Emergency Evacuation Slide/Raft System. That AD currently requires a one-time unpacking and subsequent repacking of the slide/raft systems, identified by basic part number (P/N) with dash numbers, and serial numbers (SNs) listed in the AD, and mandates repacking of all other slide/raft systems of the same design at the next required normal maintenance schedule of the slide/raft system. This proposed AD contains the same requirements but replaces the specific slide/raft system P/N dash numbers with the word ''-series'', reduces the number of affected slide/raft systems to the SNs identified in paragraph (g) of this proposed AD, and eliminates mandating the utilization of the applicable Folding Procedures for subsequent repacking of all slide/raft systems of the same design during the normal scheduled maintenance. This proposed AD is prompted by recent information received that Air Cruisers Company has made modifications which have added new dash numbers to the slide/raft system basic P/N. This has affected some of the SN slide/raft systems listed in the AD. The actions specified in this proposed AD are intended to prevent failure of the slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency.

**DATES:** We must receive any comments on this proposed AD by September 16, 2003.

**ADDRESSES:** Use one of the following addresses to submit comments on this proposed AD:

- By mail: Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–31–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov.*

You may get the service information identified in this proposed AD from Air Cruisers Company, Technical Publications Department, PO Box 180, Belmar, NJ 07719–0180; telephone: (732) 681–3527, fax: (732) 280–8212.

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

**FOR FURTHER INFORMATION CONTACT:** Leung Lee, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, 3rd floor, Valley Stream, NY 11581–1200; telephone (516) 256–7509; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 99–NE–31–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this proposed AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications that affect you. You may get more information about plain language at *http://www.plainlanguage.gov.*

## Examining the AD Docket

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

## Discussion

On January 22, 2003, the FAA issued AD 2003–03–11, Amendment 39–13035 (68 FR 4897, January 31, 2003). That AD requires a one-time unpacking and subsequent repacking of the slideraft system, identified by basic P/N with dash numbers and SNs. That AD also mandates repacking of all other slide/raft systems of the same design at the next required normal maintenance schedule of the slide/raft system. That AD was prompted by reports of separation of the lower aspirator during a number of deployments. That condition, if not corrected, could result in failure of the slide/raft to properly inflate, which could result in the inability to evacuate the passenger cabin in the event of an airplane emergency.

## Actions Since AD 2003–03–11 Was Issued

Since that AD was issued, we became aware that the manufacturer has modified some slide/raft systems which has added some new dash numbers to the basic P/N of 62774. This proposed AD contains the same requirements as AD 2003–03–11, but replaces the specific slide/raft system P/N dash numbers with the word ''-series''. In addition, the number of affected slide/raft systems is now reduced to the SNs identified in paragraph (g) of this proposed AD. Also, this proposed AD eliminates mandating the utilization of the applicable Folding Procedures for subsequent repacking of all slide/raft systems of the same design during the normal scheduled maintenance.

## Relevant Service Information

We have reviewed and approved the technical contents of Air Cruisers Company Service Bulletin (SB) 777–107–25–06, dated February 19, 1999, that identifies improperly packed slide/rafts by SN, and references slide/raft folding procedure P–12054, and P–12064.

## FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would require a one-time unpacking and repacking of P/N 62774-series slide/raft systems, identified by SNs. The proposed AD would require that these actions be done per the service information described previously.

## Changes to 14 CFR Part 39—Effect on the Proposed AD

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

## Costs of Compliance

There are approximately 388 slide/raft systems of the affected design in the worldwide fleet. We estimate that 74 slide/raft systems installed on airplanes of U.S. registry would be affected by this proposed AD. We also estimate that it would take approximately 5 work hours per slide/raft system to perform the repacking, and that the average labor rate is $60 per work hour. Based on these figures, the total cost of the proposed AD to U.S. operators is estimated to be $22,200.

## Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this proposal and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 99–NE–31–AD'' in your request.

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–13035, (68 FR 4897, January 31, 2003), and by adding the following new airworthiness directive:

**Air Cruisers Company:** Docket No. 99–NE–31–AD. Supersedes AD 2003–03–11, Amendment 39–13035.

**Comments Due Date**

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by September 16, 2003.

**Affected ADs**

(b) This AD supersedes AD 2003–03–11, Amendment 39–13035.

**Applicability**

(c) This AD applies to all dash numbers of Air Cruisers Company Emergency Evacuation Slide/Raft System, part number (P/N) 62774. These Emergency Evacuation Slide/Raft Systems are installed on, but not limited to Boeing 777–200 and –300 series airplanes.

**Unsafe Condition**

(d) This AD is prompted by recent information received that Air Cruisers Company has made modifications which have added new dash numbers to the slide/raft system basic P/N. This has affected some of the SN slide/raft systems listed in AD 2003–03–11. In addition, this AD is prompted by the requirement to reduce the number of affected slide/raft systems to only the SNs identified in paragraph (g) of this AD. We are issuing this AD to prevent failure of the slide/raft to properly inflate, which could impede the emergency evacuation of passengers in the event of an airplane emergency.

**Compliance**

(e) If you have not already performed the actions required by this AD, you must perform the actions within the compliance times specified in this AD.

**Repacking**

(f) For slide/raft systems that have a SN listed in Table 1 of this AD, do the following: Table 1 follows:

TABLE 1.—AFFECTED SLIDE/RAFT SNS

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 0203 | 0207 | 0220 | 0234 | 0235 | 0239 | 0241 | 0245 | 0250 | 0255 |
| 0267 | 0277 | 0280 | 0302 | 0305 | 0306 | 0310 | 0312 | 0316 | 0318 |
| 0320 | 0330 | 0332 | 0333 | 0335 | 0339 | 0342 | 0343 | 0344 | 0345 |
| 0348 | 0349 | 0350 | 0351 | 0354 | 0355 | 0356 | 0358 | 0364 | 0365 |
| 0366 | 0368 | 0369 | 0372 | 0373 | 0374 | 0376 | 0378 | 0379 | 0380 |
| 0381 | 0384 | 0385 | 0388 | 0389 | 0390 | 0391 | 0392 | 0394 | 0395 |
| 0396 | 0397 | 0398 | 0399 | 0402 | 0403 | 0404 | 0406 | 0408 | 0409 |
| 0411 | 0413 | 0415 | 0417 | 0418 | 0419 | 0420 | 0421 | 0422 | 0423 |
| 0425 | 0426 | 0427 | 0428 | 0429 | 0430 | 0431 | 0433 | 0438 | 0443 |
| 0445 | 0455 | 0456 | | | | | | | |

(1) For slide/raft systems currently installed on airplanes, repack the slide/raft system within 2 months after the effective date of this AD in accordance with the Accomplishment Instructions described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, and the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999.

(2) For uninstalled slide/raft systems, repack before installation, in accordance with the Accomplishment Instructions described in Air Cruisers Company SB 777–107–25–06, dated February 19, 1999, and the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999.

(g) For slide/raft systems SN 0558 and lower that are not included in Table 1 of this AD, repack the slide/raft systems in accordance with the applicable Air Cruisers Company Folding Procedure P–12054 (for left-hand slide/rafts), Revision F, dated March 12, 1999, or Procedure P–12064 (for right-hand slide/rafts), Revision F, dated March 12, 1999, at the next required normal maintenance schedule of the slide/raft system, but no later than 18 months after the effective date of this AD.

**Credit for Previous Repacking**

(h) Slide/raft systems with a SN listed in Table 1 or identified in paragraph (g) of this AD that have already been repacked in accordance with Air Cruisers Company Folding Procedures P–12054, Revision F, dated March 12, 1999, or P–12064, Revision F, dated March 12, 1999, as applicable, are considered in compliance with the requirements of paragraph (f) or (g) of this AD.

(i) Slide/raft systems with a SN listed in Table 1 or identified in paragraph (g) of this AD that were repacked under AD 2003–11–03 are considered in compliance with the requirements of paragraph (f) or (g) of this AD.

**Alternative Methods of Compliance (AMOCs)**

(j) You must request AMOCs as specified in 14 CFR 39.19. All AMOCs must be approved by the Manager, New York Aircraft Certification Office, FAA.

**Material Incorporated by Reference**

(k) The repacking must be done in accordance with the following Air Cruisers Company service bulletin (SB) and Folding Procedures:

| Document No. | Pages | Revision | Date |
|---|---|---|---|
| SB 777–107–25–06 Total pages: 3 | All | Original | February 19, 1999. |
| P–12054 Total pages: 158 | All | F | March 12, 1999. |
| P–12064 Total pages: 156 | All | F | March 12, 1999. |

**Related Information**

(l) None.

Issued in Burlington, Massachusetts, on July 14, 2003.

**Robert E. Guyotte,**

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

[FR Doc. 03–18243 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF HOMELAND SECURITY

## Bureau of Customs and Border Protection

## 19 CFR Part 101

## Extension of Port Limits of Chicago, IL

**AGENCY:** Customs and Border Protection; Homeland Security.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document proposes to amend the Customs Regulations pertaining to the field organization of the Bureau of Customs and Border Protection (CBP) by extending the geographical limits of the port of Chicago, Illinois. The change is being proposed as part of CBP's continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the general public.

**DATES:** Comments must be received on or before September 16, 2003.

**ADDRESSES:** Written comments must be submitted to the Bureau of Customs and Border Protection, Office of Regulations and Rulings, (Attention: Regulations Branch), 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at the CBP, 799 9th Street, NW., Washington, DC during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

**FOR FURTHER INFORMATION CONTACT:** Lorraine Henderson, Office of Field Operations, (202) 927–1424.

**SUPPLEMENTARY INFORMATION:**

### Background

In order to facilitate the clearance of international freight at an intermodal facility in the City of Elwood, Illinois, CBP is proposing to amend § 101.3(b)(1) by extending the port limits of the port limits of the port of Chicago, to include certain parts of the City of Elwood, Illinois, as described below. The proposed extension of the port limits to include the specified territory will provide better service to importers and the rail transportation industry in central Illinois.

### Current Port Limits of Chicago, Illinois

The current port limits of Chicago, Illinois, are described as follows in Treasury Decision (T.D.) 71–121 of May 3, 1971:

Beginning at the point where the northern limits of Cook County, Illinois, intersect Lake Michigan, thence westerly along the Cook County-Lake County Line to the point where State Highway Fifty-Three (52) intersects this Line, thence in a southerly direction along State Highway Fifty-Three (53) to the point where this highway intersects the Dupage County-Will County Line, thence in a general easterly and southerly direction along the northern and eastern limits of Will County, Illinois, to the point where the Will County-Cook County Line intersects the Illinois-Indiana State Line, thence northerly along the Illinois-Indiana State Line to the point near Dyer, Indiana, where U.S. Route Thirty (30) intersects this Line, thence easterly along U.S. Route Thirty (30) to a point where this highway and Indiana State Highway Forty-Nine (49) intersect, thence in a northerly direction along Indiana State Highway Forty-Nine (49) to the place where the highway meets Lake Michigan.

### Proposed Port Limits of Chicago, Illinois

CBP proposes to extend the port limits of the port of Chicago, Illinois, to include additional territory in the City of Elwood, Illinois so that the description of the port limits would read as follows:

Beginning at the point where the northern limits of Cook County, Illinois, intersect Lake Michigan, thence westerly along the Cook County-Lake County Line to the point where Illinois Highway Fifty-Three (53) intersects this Line, thence in a southerly direction along Illinois State Highway Fifty-Three (53) to the point where this highway intersects Interstate Highway Fifty-Five (55), thence southwesterly along Interstate Highway Fifty-Five (55) to the point where this highway intersects the north bank of the Kankakee River, thence southeasterly to the point where the Kankakee River intersects State Highway Fifty-Three (53), thence northeasterly to the point where this highway intersects Interstate Highway Eighty (80), thence easterly to the point where this highway intersects the Cook County-Will County Line, thence in a general easterly and southerly direction along the northern and eastern limits of Will County, Illinois, to the point where the Will County-Cook County Line intersects the Illinois-Indiana State Line, thence northerly along the Illinois-Indiana State Line to the point near Dyer, Indiana, where U.S. Route Thirty (30) intersects this Line, thence easterly along U.S. Route Thirty (30) to the point where this highway and the Indiana State Highway Forty-Nine (49) intersect, thence in a northerly direction along Indiana State Highway Forty-Nine (49) to a place where this highway meets Lake Michigan.

### Authority

This change is proposed under the authority of 5 U.S.C. 301 and 19 U.S.C. 2, 66 and 1624.

### Comments

Before adopting this proposal, consideration will be given to any written comments that are timely submitted to CBP. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and § 103.11(b), Customs Regulations (19 CFR 103.11(b)) during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, Customs and Border Protection, Department of Homeland Security, 799 9th Street, NW., Washington, DC.

### Regulatory Flexibility Act and Executive Order 12866

CBP establishes, expands and consolidates CBP ports of entry throughout the United States to accommodate the volume of CBP-related activity in various parts of the country. Thus, although this document is being issued with notice for public comment, because it relates to agency management and organization it is not subject to the notice and public procedure requirements of 5 U.S.C. 553. Accordingly, this document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Agency organization matters such as this proposed port extension are exempt from consideration under Executive Order 12866.

### Drafting Information

The principal author of this document was Janet L. Johnson, Regulations Branch. However, personnel from other offices participated in its development.

Dated: July 14, 2003.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

**Tom Ridge,**

*Secretary, Department of Homeland Security.*

[FR Doc. 03–18173 Filed 7–17–03; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Part 1000

**[Docket No. FR–4676–N–10]**

## Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee; Meeting

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Notice of negotiated rulemaking committee meeting.

**SUMMARY:** This document announces a meeting of the Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee. The purpose of the Committee is to discuss and negotiate a proposed rule that would change the regulations for the Indian Housing Block Grant (IHBG) program allocation formula, and other regulatory issues that arise out of the allocation or reallocation of IHBG funds.

**DATES:** The committee meeting will be held on Monday, August 18, 2003, Tuesday, August 19, 2003, Wednesday, August 20, 2003, and Thursday, August 21, 2003. The committee meeting will begin at approximately 9 a.m. on Monday, August 18, 2003, and is scheduled to adjourn at 3 p.m. on Thursday, August 21, 2003.

**ADDRESSES:** The meeting will take place at the J.W. Marriott Hotel, 1331 Pennsylvania Avenue, Washington, DC 20004; telephone (202) 393–2000 (this is not a toll-free number).

**FOR FURTHER INFORMATION CONTACT:** Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Room 4126, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–5000, telephone, (202) 401–7914 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:**

### I. Background

HUD has established the Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee for the purposes of discussing and negotiating a proposed rule that would change the regulations for the Indian Housing Block Grant (IHBG) program allocation formula, and other IHBG program regulations that arise out of the allocation or reallocation of IHBG funds.

The IHBG program was established under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA). NAHASDA reorganized housing assistance to Native Americans by eliminating and consolidating a number of HUD assistance programs in a single block grant program. In addition, NAHASDA provides federal assistance for Indian tribes in a manner that recognizes the right of Indian self-determination and tribal self-government. Following the procedures of the Negotiated Rulemaking Act of 1990 (5 U.S.C. 561–570), HUD and its tribal partners negotiated the March 12, 1998 (63 FR 12349) final rule, which created a new 24 CFR part 1000 containing the IHBG program regulations.

### II. Negotiated Rulemaking Committee Meeting

This document announces a meeting of the Native American Housing Assistance and Self-Determination Negotiated Rulemaking Committee. The committee meeting will take place as described in the **DATES** and **ADDRESSES** section of this document. The agenda planned for the meeting includes work group sessions and the discussion of work group progress reports by the full committee. The meeting will be open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may be allowed to make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed in the **FOR FURTHER INFORMATION** section of this document.

Dated: July 11, 2003.

**Rodger J. Boyd,**

*Deputy Assistant Secretary for Native American Programs.*

[FR Doc. 03–18182 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–27–P

## DEPARTMENT OF THE INTERIOR

## Bureau of Indian Affairs

## 25 CFR Chapter I

## No Child Left Behind Negotiated Rulemaking Committee

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Membership of the No Child Left Behind Negotiated Rulemaking Committee.

**SUMMARY:** The Secretary of the Interior has established an advisory Committee to develop recommendations for proposed rules for Indian education under six sections of The No Child Left Behind Act of 2001. On May 5, 2003, the Secretary published the proposed membership for the No Child Left Behind Negotiated Rulemaking Committee and requested comments. Following review of the comments, the Secretary has named the members of the Committee.

**SUPPLEMENTARY INFORMATION:** The No Child Left Behind Negotiated Rulemaking Committee is an advisory committee formed under the No Child Left Behind Act of 2001 (Pub. L. 107–110), the Negotiated Rulemaking Act, and the Federal Advisory Committee Act. The purpose of the Committee is to negotiate and reach consensus on recommendations for proposed rules for Indian education under six sections of The No Child Left Behind Act of 2001. For more information on negotiated rulemaking under The No Child Left Behind Act, *see* **Federal Register** notices that we published on December 10, 2002 (67 FR 75828) and May 5, 2003 (68 FR 23631), or our Web site at *http://www.oiep.bia.edu* under ''Negotiated Rulemaking.''

The Secretary proposed 19 tribal Committee members and 6 Federal Committee members. Following selection of the tribal Committee members as proposed in the May 5, 2003, **Federal Register** notice, one of the proposed tribal Committee members, David Germany, Mississippi Band of Choctaw, was unable to serve. The Secretary has replaced Mr. Germany with Vanessa Girard, Education Planner, Gila River Indian Community. In response to the **Federal Register** notice of proposed membership of the Committee, the Secretary received 8 comments, including 6 additional nominations for Committee membership. The Secretary found that the membership of the Committee adequately represented the tribes with bureau-funded schools and the interests

previously identified. Therefore the Secretary did not select any of the new nominations for the Committee.

The Secretary has selected the following tribal representatives for the No Child Left Behind Negotiated Rulemaking Committee:

| Nominee | Tribal affiliation | Educational affiliation |
|---|---|---|
| Greg Anderson | Muscogee (Creek) Nation | Administrator, Creek Nation-Eufaula Dormitory. |
| Lorraine Begay | Navajo Nation | Director, Business Services, Greasewood Springs Community School, Inc. |
| Pauleen Billie | Navajo Nation | Executive Director, Navajo Area School Board Association. |
| Faye Blue Eyes | Navajo Nation | Director, Support Services, Shiprock Alternative Schools, Inc. |
| Roger Bordeaux | Potowatomi Nation | Superintendent, Tiospa Zina Tribal School. |
| Deborah Bordeaux | Oglala Sioux Tribe | Principal, Loneman School. |
| Doyce Cannon | Eastern Band of Cherokee Indians | Director of Education, Cherokee Central Schools. |
| Mary Helen Creamer | Navajo Nation | Program Manager, Tribal Education Department. |
| Laverne Dallas | Hopi Tribe | President, Hopi School Board. |
| Zachary Ducheneaux | Cheyenne River Sioux Tribe | District 6 Representative, Cheyenne River Sioux Tribal Council. |
| Gus Keene, Jr. | Navajo Nation | Director, Education Services, Ramah Navajo School Board. |
| Dolores McKerry | Navajo Nation | Program Manager, Navajo Education Center, North Central Association. |
| Wayne Newell | Pasamaquoddy Tribe | Director, Culture and Bilingual Education. |
| Tony Pivec | Cherokee Nation | Superintendent, Sequoyah High School. |
| Mark Sorenson | Navajo Nation | Executive Director, Little Singer Community School. |
| Terry Yellow Fat | Standing Rock Sioux Tribe | Superintendent, Standing Rock Community School. |
| Wayne Waddoups | Shoshone-Bannock | Superintendent, Shoshone Bannock School District # 512. |
| Vanessa Girard | Gila River Indian Community | Education Planner, Gila River Indian Community. |
| Linda Warner | Comanche Nation | Past Chief Executive Officer, Indian Community School of Milwaukee. |

In addition, the Secretary has selected the following Federal representatives for the No Child Left Behind Negotiated Rulemaking Committee:

| Name | Affiliation |
|---|---|
| Theresa Rosier | Office of the Assistant Secretary-Indian Affairs. |
| Sharon Wells | Special Assistant Deputy Director, School Operations, BIA. |
| Edith Blackwell | Associate Solicitor, Division of Indian Affairs, Office of the Solicitor. |
| Bruce Steele | Principal, Polacca Day School, BIA–OIEP–Hopi Agency. |
| Michael Rossetti | Counselor to the Secretary of the Interior. |
| Larry Byers | Principal, Chemawa School, BIA–OIEP. |

Dated: July 10, 2003.

**Aurene M. Martin,**

*Acting Assistant Secretary—Indian Affairs.*

[FR Doc. 03–18220 Filed 7–17–03; 8:45 am]

**BILLING CODE 4310–6W–P**

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 1

**[REG–113112–03]**

**RIN 1545–BB98**

## Reduction of Tax Attributes Due to Discharge of Indebtedness

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

**ACTION:** Notice of proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the reduction of tax attributes under sections 108 and 1017 of the Internal Revenue Code. The temporary regulations affect taxpayers that exclude discharge of indebtedness income from gross income under section 108. The text of those regulations also serves as the text of these proposed regulations.

**DATES:** Written or electronic comments must be received by October 16, 2003.

**ADDRESSES:** Send submissions to: CC:PA:RU (REG–113112–03), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG–113112–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically, via the IRS Internet site at: *http://www.irs.gov/regs.*

**FOR FURTHER INFORMATION CONTACT:** Theresa M. Kolish ((202) 622–7930) of the Office of the Associate Chief Counsel (Corporate) (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to sections 108 and 1017. The temporary regulations will affect taxpayers that exclude discharge of indebtedness income from gross income under section 108. The text of those temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

### Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the

regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Theresa M. Kolish, Office of Associate Chief Counsel (Corporate). However, other personnel from the IRS and Treasury Department participated in their development.

**List of Subjects in 26 CFR Part 1**

Income taxes, Reporting and recordkeeping requirements.

**Proposed Amendments to the Regulations**

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

## PART 1—INCOME TAXES

**Paragraph 1**. The authority citation for part 1 is amended by adding the following entry in numerical order to read as follows:

**Authority:** 26 U.S.C. 7805 * * *
Section 1.108–7 also issued under 26 U.S.C. 108. * * *

**Par. 2.** Section 1.108–7 is added to read as follows:

**§ 1.108–7 Reduction of attributes.**

[The text of the proposed § 1.108–7 is the same as the text for § 1.108–7T published elsewhere in this issue of the **Federal Register**].

**Par. 3.** Section 1.1017–1 is amended by adding paragraph (b)(4) to read as follows:

**§ 1.1017–1 Basis reductions following a discharge of indebtedness.**

* * * * *

(b) * * *

(4) [The text of the proposed § 1.1017–1(b)(4) is the same as the text for § 1.1017–1T(b)(4) published elsewhere in this issue of the **Federal Register**].

* * * * *

**Robert E. Wenzel,**

*Deputy Commissioner for Services and Enforcement.*

[FR Doc. 03–18146 Filed 7–17–03; 8:45 am]

BILLING CODE 4830–01–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[GA–62, GA–64–200314; FRL–7530–2]**

## Approval and Promulgation of Implementation Plans; Georgia: Approval of Revisions to the State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** On January 31, 2003, the Georgia Environmental Protection Division (GAEPD) submitted revisions to the ''Gasoline Marketing Rule,'' provided in Georgia's Rules for Air Quality Control, Chapter 391–3–1–.02(2)(bbb) (the Georgia Fuel Rule) to EPA. The revisions, which are in response to concerns regarding adequate gasoline supply, address the Georgia Fuel Rule's gasoline sulfur requirements, which would have been effective April 1, 2003, and associated reporting and testing requirements. On June 19, 2003, the GAEPD submitted a subsequent revision to the Georgia Fuel Rule to amend the effective date for the gasoline sulfur requirements to September 16, 2003, from the effective date cited in the previous State rule revision. In this action, EPA is proposing to approve both of GAEPD's requests for a revision to the gasoline sulfur requirement for the period of April 1, 2003, through December 31, 2003.

**DATES:** Written comments must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted by mail to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in [Part (I)(B)(1)(i) through (iii)] of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9036. Mr. Martin can also be reached via electronic mail at *martin.scott@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. General Information

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

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under GA–62, GA–64–200314. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the contact listed in the For Further Information Contact section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30 excluding federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354, telephone (404) 363–7000.

3. Electronic Access. You may access this **Federal Register** document electronically through the Regulation.gov web site located at

*http://www.regulations.gov* where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

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

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

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text ''Public comment on proposed rulemaking'' ''GA–62, GA–64–200314'' in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

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

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to *martin.scott@epa.gov.* Please include the text ''Public comment on proposed rulemaking'' ''GA–62, GA–64–200314'' in the subject line. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

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

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

2. *By Mail.* Send your comments to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Please include the text ''Public comment on proposed rulemaking'' ''GA–60, GA–61–200332'' in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30 excluding federal holidays.

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

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

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

*D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

**II. Background**

On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-

hour ozone national ambient air quality standard (NAAQS) for the Atlanta nonattainment area for inclusion into the Georgia state implementation plan (SIP). This submittal included a version of the low-sulfur/low-Reid Vapor Pressure (RVP) fuel regulations that was subsequently amended by the State, and that was submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001.

Additionally, on May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Clean Air Act (CAA or the ''Act'') as amended in 1990, the fuel control is necessary to achieve the NAAQS implemented by the applicable SIP. On November 9, 2001, the GAEPD submitted an updated ''necessity'' demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations. The extension for the attainment date from 2003 to 2004 resulted from a delay in implementation for the $NO_X$ SIP Call Rule (63 FR 57356). In the 2003 attainment demonstration, Georgia relied heavily on the benefits achieved through the $NO_X$ SIP Call measures. Originally, the Georgia Fuel Rule was developed with an attainment date of 2003 as a consideration. However, when the attainment date was extended to 2004, the GAEPD opted not to revise its Georgia Fuel Rule.

The Georgia ''necessity'' demonstration submittals contained data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Atlanta nonattainment area to achieve the ozone NAAQS. On December 11, 2001 (66 FR 63982), EPA published a notice of proposed rulemaking (NPR) to approve the Georgia Fuel Rule into the SIP. That NPR provided a detailed description of this action and EPA's rationale for proposed approval. The public comment period for this action ended on January 25, 2002. No comments, adverse or otherwise, were received on EPA's proposal. EPA finalized this approval action on February 22, 2002 (67 FR 8200). The effective date for this Federal approval was March 25, 2002.

On January 31, 2003, the GAEPD submitted revisions to the Georgia Fuel Rule to EPA to revise the effective date for the 30 parts per million (ppm) sulfur requirement from April 1, 2003, to January 1, 2004. The revisions, made in response to concerns regarding adequate gasoline supply, also address associated reporting and testing requirements. On June 19, 2003, the GAEPD submitted a subsequent revision for the Georgia Fuel Rule to revise the effective date of the Georgia Fuel Rule 30 ppm sulfur requirement from January 1, 2004, to September 16, 2003.

*Clean Air Act Requirements*

The SIP submittal, including the rule revision for Georgia's low-sulfur/low-RVP fuel control program, meets the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The first revision to the rule was formally adopted by the GAEPD Board on January 29, 2003, and became State effective on February 20, 2003. The second revision to the rule was formally adopted by the GAEPD Board on May 28, 2003, and became State effective on June 24, 2003.

These rule changes are within the scope of the ''necessity'' demonstration under section 211(c)(4)(C) of the Act because the changes do not affect the finding made at the time of the original SIP approval regarding the availability of non-fuel measures to bring about timely attainment. This fuel program, as currently modified, adds an intermediate level of sulfur control to a fuel program that now includes three levels of sulfur control instead of two. This additional level of sulfur control would not have affected the evaluation of potential non-fuel measures and their availability to achieve attainment as compared to the fuel program's contribution to the same attainment date.

## III. Analysis of State's Submittal

On January 31, 2003, the GAEPD submitted revisions to the Georgia Fuel Rule to EPA. The purpose of these revisions is to address the Georgia Fuel Rule's 2003 gasoline sulfur requirements, beginning April 1, 2003, through December 31, 2003, in response to concerns regarding adequate gasoline supply, and to revise associated reporting and testing requirements. Subsequently, the GAEPD submitted further revisions to the fuel rule on June 19, 2003, to reflect the revised effective date of the sulfur content annual average of 30 ppm (by weight) and per-gallon cap of 150 ppm from January 1, 2004, to September 16, 2003.

The requirements and compliance dates associated with this rule revision are below:

| Product | Producer or importer sampling | Effective date | Downstream sampling | Effective date |
|---|---|---|---|---|
| **April 1 through September 15, 2003** | | | | |
| Sulfur quarterly average | 90 ppm | April 1 | N/A | N/A. |
| Sulfur per gallon cap | 200 ppm | April 1 | 230 ppm | June 1. |
| RVP | 7.0 psi | June 1 | 7.3 psi | June 1–Sept 15. |
| **September 16, 2003 and beyond** | | | | |
| Sulfur annual average | 30 ppm | September 16, 2003 | N/A | N/A. |
| Sulfur per gallon cap | 150 ppm | September 16, 2003 | 230 ppm | (Thru March 31st). |
| | | | 175 ppm | June 1. |
| Seasonal sulfur per gallon cap | 80 ppm | June 1–Sept 15 | 95 ppm | June 1–Sept 15. |
| RVP | 7.0 psi | June 1–Sept. 15 | 7.3 psi | June 1–Sept 15. |

Additional revisions for this rule are described below:

Paragraph (iv) is being amended to clarify the beginning and ending dates, June 1 through September 15, for the

seasonal sulfur control which becomes effective June 1, 2004.

Paragraph 4 is being amended to remove conflicting annual reporting language and to clarify the content and due date of quarterly reports required from each producer and importer.

Paragraph 5 (iii) is being amended to revise the terminal-level sampling requirements for 2003 and beyond for consistency with the above described changes.

EPA is proposing to approve these revisions to the Georgia Fuel Rule, as requested by the GAEPD, because these revisions meet the requirements of the CAA as amended in 1990. Starting September 16, 2003, the sulfur content requirements will revert back to the annual average of 30 ppm (by weight) and the per-gallon cap of 150 ppm. EPA approved an attainment demonstration for Atlanta with an attainment date for the 1-hour ozone NAAQS of November 15, 2004. However, due to a challenge to EPA's approval of the attainment demonstration for metro Atlanta before the United States 11th Circuit Court of Appeals, EPA's approval was vacated on June 16, 2003. Atlanta's attainment date has reverted to the previously applicable date of 1999. Under the CAA, EPA is required to make a finding as to whether Atlanta attained the 1-hour ozone NAAQS on November 15, 1999. If EPA finds that Atlanta did not attain the 1-hour standard in 1999, Atlanta will be reclassified to a severe nonattainment area by operation of law. As a severe area, Atlanta's attainment date will be as expeditiously as practicable but no later than November 15, 2005. It is unknown at this time if Atlanta's severe area attainment date will be November 15, 2004, or November 15, 2005, however, under either scenario these revisions will not interfere with the Atlanta area's ability to attain the 1-hour ozone NAAQS. This rule revision will not cause a delay for either a 2004 or 2005 attainment date since the original 30 ppm sulfur level will be in effect starting September 16, 2003, well before the November 15, 2004, or November 15, 2005, attainment date.

*Tier 2 Credit*

EPA notes that refineries producing low sulfur gasoline with sulfur levels below a refinery's baseline established under EPA's Tier 2 Gasoline Sulfur Control Program prior to the start of this program in 2004 may generate sulfur credits and/or allotments which can provide economic benefits to the refinery. These sulfur credits and allotments may be used to allow the refinery to produce gasoline with slightly higher sulfur levels in future years, or they may be sold to other refiners. A refinery that meets the original April 1, 2003, requirement for supplying Georgia low sulfur gasoline may be eligible for more sulfur credits under EPA's Tier 2 Gasoline Sulfur Control Program than a refinery which meets the revised April 1, 2003, requirement for supplying Georgia low sulfur gasoline. Furthermore, such a refinery may also be eligible for sulfur allotments since allotments may be generated in 2003 by refineries that produce gasoline with an average sulfur level that is less than or equal to 60 ppm. For more information about EPA's Tier 2 Gasoline Sulfur Control Program, *see* EPA's rulemaking, Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, dated February 10, 2000, (65 FR 6698).

## IV. Proposed Action

EPA is proposing to approve the revisions to the Georgia SIP described above because they are consistent with EPA guidance and the CAA, as amended in 1990. EPA acknowledges that some companies, notably BP/Amoco and Chevron, stated in commenting upon the Georgia rule change that they had made the necessary investments and were prepared to meet the earlier April 1, 2003, deadline for supplying complying fuel. For example, Chevron worked pro-actively with the State of Mississippi and EPA Region 4 to develop an expedited permitting schedule to allow the necessary changes to their Pascagoula, MS, refinery in a good faith effort to meet the original rule deadlines. Although quantitative estimates are not available, today's proposed action will inevitably to some degree disadvantage companies who made these investments with an eye to meeting the original deadline as opposed to those companies which delayed making the necessary investments. EPA commends these companies for their commitment to environmental protection and, in keeping with EPA's policy and practice of encouraging early reductions, will be looking for ways to provide incentives for companies who comply ahead of regulatory deadlines.

## V. Statutory and Executive Order Reviews

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

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 9, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03–18153 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 52 and 81

**[PA189–4300; FRL–7530–7]**

## Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Liberty Borough $PM_{10}$ Nonattainment Area to Attainment and Approval of the Associated Maintenance Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a request from the Commonwealth of Pennsylvania to redesignate the Liberty Borough area of Allegheny County, Pennsylvania (the Liberty Borough area) from nonattainment to attainment for the national ambient air quality standard (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 microns ($PM_{10}$). The EPA is also proposing to approve a maintenance plan for the Liberty Borough area. Both the redesignation and maintenance plan were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). Approval of the maintenance plan, as a revision to the Pennsylvania State Implementation Plan (SIP), would put a plan in place for maintaining the $PM_{10}$ standard for the next ten years in the Liberty Borough area. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** Comments must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba A. Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21 U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to *morris.makeba@epa.gov* or to *http://www.regulations.gov,* which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in part V of the Supplementary Information section. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

**FOR FURTHER INFORMATION CONTACT:** Ruth E. Knapp, (215) 814–2191, or by e-mail at *knapp.ruth@epa.gov.*

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever ''we,'' ''us,'' or ''our'' is used we mean EPA.

**Table of Contents**

Introduction
I. When Was This Area Designated Nonattainment for $PM_{10}$?
II. What Are the Geographic Boundaries of the $PM_{10}$ Nonattainment area?
III. What Are the Criteria for Redesignation?
IV. Does the Area Meet the Criteria for Redesignation?
A. The Data Shows Attainment of the $PM_{10}$ NAAQS in the Liberty Borough Area
B. There Is a Fully Approved SIP Under Section 110(k) of the CAA
1. Section 110 Requirements
2. Part D Requirements
a. Subparts 1 and 4 of part D—sections 172(c) and 189(a)
b. Subpart 1 of part D—section 176 Conformity Provisions
C. The Improvement in—Air Quality Is Due to Permanent and Enforceable Measures
D. The Maintenance Plan Satisfies Section 175A
1. Maintenance Plan Requirements
a. Emissions Inventory
b. Maintenance Demonstration
c. Commitment to Continue Monitoring Air Quality
d. Verification of Continued Attainment
e. Contingency Plan
2. Commitment to Submit Subsequent Maintenance Plan Revisions
E. The Submittal Meets the Applicable Requirements of Section 110 and Part D
V. Proposed Action
VI. Statutory and Executive Order Reviews

### Introduction

Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3)(E). This includes full approval of a maintenance plan for the area. EPA may approve a maintenance plan which meets the requirements of section 175A. On October 28, 2002, the PADEP, on behalf of the ACHD, submitted a redesignation request and maintenance plan for the Liberty Borough moderate $PM_{10}$ nonattainment area. EPA is proposing to redesignate the Liberty Borough area from nonattainment to attainment of the $PM_{10}$ NAAQS. We are also proposing to approve the maintenance plan required under section 175A maintenance plan. Once approved the maintenance plan will become part of the Pennsylvania SIP for this area.

### I. When Was This Area Designated Nonattainment for $PM_{10}$?

On November 15, 1990, the CAA amendments were enacted. Pursuant to section 107(d)(4)(B), the Liberty Borough area in Allegheny County, Pennsylvania was designated nonattainment by operation of law. The nonattainment designation and classification as a moderate $PM_{10}$ area was codified in 40 CFR part 81 on November 6, 1991 (56 FR 56694).

### II. What Are the Geographic Boundaries of the $PM_{10}$ Nonattainment Area?

The Liberty Borough nonattainment area is comprised of the municipalities of Liberty Borough, the Borough of Lincoln, Port Vue Borough, the Borough of Glassport and the City of Clairton.

### III. What Are the Criteria for Redesignation?

Section 107(d)(3)(E) of the CAA specifies five requirements that must be met to redesignate an area from nonattainment to attainment as follows:

(1) The area has attained the applicable NAAQS;

(2) The area has a fully approved SIP under section 110(k);

(3) The air quality improvement is permanent and enforceable;

(4) The area has a fully approved maintenance plan pursuant to section 175A ; and

(5) The area has met all relevant requirements under section 110 and part D of the Act.

**IV. Does the Area Meet the Criteria for Redesignation?**

The EPA has reviewed the redesignation request submitted by PADEP, on behalf of the ACHD, for the Liberty Borough nonattainment area and finds that the request meets the five requirements of section 107(d)(3)(E).

*A. The Data Shows Attainment of the $PM_{10}$ NAAQS in the Liberty Borough Area*

The ACHD and PADEP have quality-assured $PM_{10}$ ambient air monitoring data showing that the Liberty Borough Area has met the $PM_{10}$ NAAQS. Four monitoring sites have been operating in the nonattainment area since 1992. Most of the sites are located downwind of major industrial sources. The Lincoln site is located downwind of U.S. Steel Clairton Works; the Glassport site is located downwind and east of the U.S. Steel Irvin Works; the Liberty site is located near the center of the nonattainment area; the Clairton site is located southwest of U.S. Steel Clairton Works. The redesignation request is based upon the three most recent years of quality-assured $PM_{10}$ air monitoring data (1998 -2000) available during preparation of the October 28, 2002 submittal. The $PM_{10}$ NAAQS includes both a daily and an annual standard. An area is attaining the daily and annual NAAQS if there are no violations, as determined in accordance with 40 CFR part 50.6 and Appendix K, based upon three complete consecutive calendar years of quality-assured monitoring data. The daily standard is met if the expected frequency of values above 150 ug/m$^3$ is 1.0 or less. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS). Subsequently the data was reported into EPA's new ambient air quality data system known as the Air Quality Subsystem (AQS).

The submittal included $PM_{10}$ monitoring data from 1992 through 2000. The redesignation request is based on the most recent data from 1998 through 2000. This data has been quality-assured and recorded in AQS. During the 1998 to 2000 time period, there were no actual exceedances of the daily standard, and the average annual number of expected exceedances is less than 1.0 for that same time period. The complete quality-assured data in AQS from 2001 also shows that no exceedances were recorded. With regard to 2002, there have been no exceedances recorded. Therefore, the area has attained and continues to attain the daily NAAQS. During 1998 through 2002, the maximum annual average recorded at these sites was 41 ug/m$^3$. As the annual standard of 50 ug/m$^3$ is based on the average annual mean over three years, the area has attained and continues to attain the annual $PM_{10}$ standard. Because the area has attained the daily and annual NAAQS based upon the most recent three years of quality-assured data available during preparation of the October 28, 2002 submittal, and continues to attain the NAAQS, the first criterion of section 107(d)(3)(E) has been satisfied. The ACHD and PADEP have committed to continue monitoring in this area in accordance with 40 CFR part 58.

*B. There Is a Fully Approved SIP Under Section 110(k) of the CAA*

1. Section 110 Requirements

On January 6, 1994, the PADEP submitted an attainment plan to EPA consisting of an attainment demonstration and control measures for the Liberty Borough area. On April 11, 1995 (60 FR 18385), EPA proposed to approve the January 1994 attainment plan submittal as well as two SIP revisions related to $PM_{10}$ that had been previously submitted by the Commonwealth. After EPA's April 11, 1995 proposal to approve the attainment plan was published in the **Federal Register**, the PADEP reported that the $PM_{10}$ NAAQS had been exceeded twice in March of 1995. These exceedances raised concerns about the attainment demonstration. Therefore, while EPA did take final action to approve the control measures portion of the attainment plan on June 12, 1996 (61 FR 29664), EPA took no action on the modeled attainment demonstration portion of the attainment plan at that time. Contingency measures for the Liberty Borough area were formally submitted to EPA on July 12, 1995. On September 8, 1998, EPA fully approved the attainment demonstration and contingency measures for the Liberty Borough area ( 63 FR 47434) and made a formal finding that the area had attained the $PM_{10}$ NAAQS (63 FR 47493).

Therefore, the $PM_{10}$ SIP for the Liberty Borough area has been fully approved by EPA as meeting all the requirements of section 110(a)(2)(I) of the Act, including the requirements of part D (relating to nonattainment).

2. Part D Requirements

Part D contains general provisions that apply to all nonattainment plans and certain sections that apply to specific criteria pollutants. Before EPA may redesignate the Liberty Borough $PM_{10}$ nonattainment area to attainment, the SIP must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas. EPA designated the Liberty Borough area as a moderate $PM_{10}$ nonattainment area on November 6, 1991 (codified at 40 CFR part 81.339). Therefore, to be redesignated to attainment, the Commonwealth must meet the applicable requirements of subpart 1 of part D of the CAA, specifically sections 172(c) and 176. Section 189(a) of subpart 4 of the CAA also must be met.

a. Subparts 1 and 4 of Part D—Sections 172(c) and 189(a)—Subpart 1 of part D addresses nonattainment areas in general and subpart 4 addresses $PM_{10}$ nonattainment areas specifically. All the relevant SIP requirements under sections 172(c) and 189(a) for Reasonably Available Control Measures; an emissions inventory; contingency measures; and an attainment demonstration were met by Pennsylvania and approved on June 12, 1996 (61 FR 29664) and September 8, 1998 ( 63 FR 47434). The Federal requirements for new source review (NSR) in nonattainment areas are contained in section 172(c)(5). EPA guidance indicates the permitting requirements of the part D NSR program for new major sources and major modifications shall be replaced by the prevention of significant deterioration (PSD) program's permitting requirements when an area has reached attainment and been redesignated, provided that the PSD program will be fully effective immediately upon redesignation. The ACHD was originally delegated the authority to implement and enforce the provisions of 40 CFR 52.21, on behalf of EPA, on December 14, 1983 (48 FR 55625). The ACHD adopted the PSD requirements promulgated in 40 CFR 52.21, incorporating them by reference in its regulations as provided in Article XXI, section 2102.07. On March 26, 2003, EPA renewed the ACHD's existing delegation to implement and enforce the provisions of 40 CFR 52.21 as well as any future revisions to these regulations (68 FR 14617). Therefore, the permitting

requirements of the PSD program will become fully effective in the Liberty Borough area immediately upon redesignation to attainment.

b. Subpart 1 of Part D—Section 176 Conformity Provisions—The Liberty Borough area was not required to have a transportation conformity budget for $PM_{10}$. It was determined that the significant causes of nonattainment in this area were emissions from steel and coke facilities in the area and not from mobile sources. The $PM_{10}$ emissions from public roads are less than 3% of the attainment emissions inventory for the Liberty Borough area. Because the $PM_{10}$ violations had been caused by industrial stationary sources and motor vehicles were not an important contributor to the nonattainment problem, for conformity purposes no additional quantitative analysis for transportation related $PM_{10}$ impacts is required. While Section 176 provides that a State's conformity revisions must be consistent with Federal Conformity regulations promulgated by EPA, given the nature of the area's former nonattainment problem, it is reasonable to interpret those conformity requirements as not applying for purposes of evaluating the redesignation request.

*C. The Improvement in Air Quality Is Due to Permanent and Enforceable Measures*

In order to redesignate an area, EPA must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions. The Commonwealth's approved 1994 $PM_{10}$ SIP for the Liberty Borough area identified measures to bring the area into attainment. These measures included emission standards and operating restrictions for various sources of $PM_{10}$ especially steel and coke facilities. Included among the facilities that were required to implement additional controls are U.S. Steel Clairton Works (formerly USX), U.S. Steel Irvin Works, Aristech (Koppers) Chemical, and the Glassport Transportation Center. Additional emission limitations were also imposed for the coke ovens and coke oven gases at U.S. Steel Clairton Works, Irvin Works, the Edgar Thompson Works as well as LTV Steel.

In addition to the emission reductions discussed above, other reductions have occurred since the attainment demonstration inventory was prepared and the modeled demonstration of attainment performed. The following sources of $PM_{10}$ emissions have shutdown: U.S. Steel Clairton Boilers 13 & 14; Duquesne Light (Orion Power), Philips (all boilers/processors); LTV Steel, Hazelwood (all boilers/processors); and McGraw Edison, Canonsburg ( all boilers/processes). The additional emission reductions resulting from these shutdowns are permanent and enforceable given that any reactivation of these facilities would be subject to applicable new source review requirements.

The October 28, 2002 redesignation request demonstrates that actual enforceable emission reductions are responsible for the air quality improvement in the Liberty Borough area. EPA finds that the emission reductions due to the SIP-approved control measures and emission limitations imposed by the 1994 attainment plan and the emission reductions due to permanent and enforceable shutdowns have reduced the ambient levels of $PM_{10}$ such that the Liberty Borough area attained the NAAQS and continues to attain the NAAQS.

*D. The Maintenance Plan Satisfies Section 175A*

Section 175A of the Act sets forth the necessary elements of a maintenance plan needed for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation to attainment. Eight years after the redesignation, a revised maintenance plan must be submitted which demonstrates attainment for the 10 years following the initial 10-year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems. Under section 175A(d) contingency provisions must include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area.

EPA is proposing to approve the maintenance plan for the Liberty Borough nonattainment area because EPA finds that the submittal meets the requirements of section 175A. The details of the maintenance plan requirements and how the submittal meets these requirements are detailed in the following paragraphs. A maintenance plan must contain the following elements:

(1) An emissions inventory reflective of $PM_{10}$ emissions in the monitored attainment years;

(2) A maintenance demonstration which is expected to provide adequate assurance of maintenance over the initial 10-year period;

(3) A commitment to continue monitoring in the area;

(4) A method for verifying continued attainment; and

(5) A contingency plan with specific indicators or triggers for implementation of the plan.

1. Maintenance Plan Requirements

a. Emissions Inventory—The maintenance plan includes the1994 emission inventory used to perform the modeling demonstration of attainment and updates that inventory for 1999. Emissions declined between 1994 and 1999 in the Liberty Borough area due to the previously described shutdowns. Any future increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration due to new or modifying stationary sources would be subject to new source review requirements including a demonstration that the NAAQS is protected.

b. Maintenance Demonstration—Steel and coke facilities were the main cause of nonattainment in the area. The attainment demonstration was based upon maximum allowable emission levels for stationary sources impacting the nonattainment area. The $PM_{10}$ emissions from public roads were less than 3% of the emission inventory therefore no conformity budget is in place for Allegheny County. Population has steadily decreased in the county since 1990 and this decline is expected to continue through 2020. Therefore, other sources of emissions related to population are expected to decline. Employment in manufacturing is expected to decrease significantly between 2002–2020. As a result of these factors, $PM_{10}$ emissions are expected to remain below the emission levels used to demonstrate attainment for the next 10 years and the area is expected to maintain the $PM_{10}$ NAAQS for the next 10 years. Moreover, as noted previously, any future increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration due to new or modifying stationary sources would be subject to new source review requirements including a demonstration that the NAAQS is protected.

c. Commitment to Continue Monitoring Air Quality—The

maintenance plan includes commitments to continue to operate and maintain the network of ambient $PM_{10}$ monitoring stations in the Liberty Borough area in accordance with provisions of 40 CFR part 58 to demonstrate ongoing attainment with the $PM_{10}$ NAAQS.

d. Verification of Continued Attainment—In addition to reviewing monitoring data in the Liberty Borough area to verify continued attainment, the ACHD will continue to examine the air quality impact of any new major sources or modifications through its PSD program to insure protection of the NAAQS. Furthermore, the air quality impacts of new minor sources or modifications resulting in any increases in emissions and/or significant changes to the stack configurations/parameters from those modeled in the attainment demonstration would be evaluated to assure protection and maintenance of the NAAQS in the area.

e. Contingency Plan—The contingency measures for the Liberty Borough area will be triggered upon a violation of the $PM_{10}$ standard, and the ACHD will notify effected sources within 60 days of a violation that contingency measures must be implemented. The same contingency measures that were approved on September 8, 1998 (63 FR 47434) for the attainment demonstration are being used as contingency measures for the maintenance plan. These measures require that procedures to capture pushing emissions from the coke batteries at U.S. Steel Clairton Works be improved (except for emissions from Battery B which is equipped with a coke-side shed). The measures must be implemented at the batteries within 30 days after receiving notification from ACHD that the measures were triggered.

2. Commitment To Submit Subsequent Maintenance Plan Revisions

A new maintenance plan must be submitted to EPA, as a SIP revision, within eight years of the redesignation of the nonattainment area, as required by section 175(A)(b). This subsequent maintenance plan must provide for the maintenance of the $PM_{10}$ NAAQS for a period of 10 years after the expiration of the initial 10 year maintenance period.

*E. The Submittal Meets the Applicable Requirements of Section 110 and Part D*

General SIP elements are delineated in section 110(a)(2) of Title I, part A. These requirements include but are not limited to the following: submittal of a SIP that has been adopted by the state after reasonable notice and public hearing, provisions for establishment and operation of appropriate apparatus, methods, systems and procedures necessary to monitor ambient air quality, implementation of a permit program, provisions for part C, Prevention of Significant Deterioration (PSD), and part D, New Source Review (NSR) permit programs, criteria for stationary source emission control measures, monitoring and reporting, and provisions for public and local agency participation. For the purposes of redesignation, the Pennsylvania SIP was reviewed to ensure that all requirements under the amended CAA were satisfied through approved SIP provisions for the Liberty Borough area. EPA has concluded that the Commonwealth's SIP for the Liberty Borough nonattainment area satisfies all of the Section 110 SIP requirements. As discussed previously in section IV. B. 2. of this document, all applicable part D requirements have been satisfied.

## V. Proposed Action

EPA review of the redesignation request and maintenance plan for the Liberty Borough moderate $PM_{10}$ nonattainment area submitted on October 28, 2002 by the PADEP, on behalf of the ACHD, indicates that all requirements for approval have been satisfied. EPA is, therefore, proposing to redesignate the Liberty Borough area from nonattainment to attainment of the $PM_{10}$ NAAQS. We are also proposing to approve the maintenance plan required under section 175A as a revision to the Pennsylvania SIP for this area. EPA has prepared a Technical Support Document (TSD) in support of this proposed rulemaking. Copies are available, upon request, from the person identified in the **FOR FURTHER INFORMATION CONTACT** section. EPA is soliciting public comment on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting either electronic or written comments. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA189–4300 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

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

1. *E-mail.* Comments may be sent by electronic mail (e-mail) to *morris.makeba@epa.gov,* attention PA189–4300. EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

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

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

B. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document. For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper,

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

**Submittal of CBI Comments**

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**Considerations When Preparing Comments to EPA**

You may find the following suggestions helpful for preparing your comments:

(1) Explain your views as clearly as possible.

(2) Describe any assumptions that you used.

(3) Provide any technical information and/or data you used that support your views.

(4) If you estimate potential burden or costs, explain how you arrived at your estimate.

(5) Provide specific examples to illustrate your concerns.

(6) Offer alternatives.

(7) Make sure to submit your comments by the comment period deadline identified.

(8) To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and Federal Register citation related to your comments.

**VI. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed rule to Liberty Borough $PM_{10}$ nonattainment area to attainment and to approve the maintenance plan does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**List of Subjects**

*40 CFR Part 52*

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

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

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

Dated: July 11, 2003.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

[FR Doc. 03–18294 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–7531–1]**

### Georgia: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** Georgia has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Georgia. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by August 18, 2003.

**ADDRESSES:** Send written comments to Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440. You can examine copies of the materials submitted by Georgia during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number: (404) 562–8190, Kathy Piselli, Librarian; or The Georgia Department of Natural Resources Environmental Protection Division, 2, Martin Luther King, Jr., Drive, Suite 1154 East, Atlanta Georgia 30334-4910, Phone number: 404–656–7802.

**FOR FURTHER INFORMATION CONTACT:** Narindar Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 2, 2003.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 03–18296 Filed 7–17–03; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2186, MB Docket No. 03–156, RM–10721]**

### Digital Television Broadcast Service; Laredo, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Eagle Creek Broadcasting of Laredo, LLC, requesting the substitution of DTV channel 31 for DTV channel 14 at Laredo, Texas. DTV Channel 31 can be allotted to Laredo at reference coordinates 27–31–19 N. and 99–31–19 W. with a power of 200, a height above average terrain HAAT of 262 meters. Since the community of Laredo is located within 275 kilometers of the U.S.-Mexican border, concurrence from the Mexican government must be obtained for this allotment.

**DATES:** Comments must be filed on or before August 28, 2003, and reply comments on or before September 15, 2003.

**ADDRESSES:** The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings*, GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis P. Corbett, Leventhal Senter & Lerman PLLC, 2000 K Street, NW., Suite 600, Washington, DC 20006–1809 (Counsel for Eagle Creek Broadcasting of Laredo, LLC).

**FOR FURTHER INFORMATION CONTACT:** Pam Blumenthal, Media Bureau, (202) 418–1600.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–156, adopted July 2, 2003, and released July 7, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via-e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Digital television broadcasting, Television.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.622 [Amended]**

2. Section 73.622(b), the Table of Digital Television Allotments under Texas is amended by removing DTV channel 14 and adding DTV channel 31 at Laredo.

Federal Communications Commission.

**Barbara A. Kreisman,**

*Chief, Video Division, Media Bureau.*

[FR Doc. 03–18148 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 03–2104; MB Docket No. 03–153, RM–10727; MB Docket No. 03–154, RM–10736; MB Docket No. 03–155, RM–10735]**

## Radio Broadcasting Services; Bangs, TX, De Beque, CO, Montauk, NY

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes three new allotments in Bangs, Texas, De Beque, Colorado, and Montauk, New York. The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 250C3 at Bangs, Texas, as the community's first local aural transmission service. Channel 250C3 can be allotted to Bangs in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.9 kilometers (7.4 miles) west to avoid a short-spacing to the license sites of Station KATX, Channel 249A, Eastland, Texas and Station KBFB, Channel 250C, Dallas, Texas. The reference coordinates for Channel 250C3 at Bangs are 31–41–32 North Latitude and 99–15–17 West Longitude. *See* Supplementary Information, *infra.*

**DATES:** Comments must be filed on or before August 25, 2003, and reply comments on or before September 9, 2003.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, TX 75205, Dan J. Alpert, Esq, c/o Garfield-Mesa County Line Broadcasters, 2120 N. 21st Road, Arlington, VA 22201, and Dana J. Puopolo, 2134 Oak Street, Unit C, Santa Monica, CA 90405.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 03–153, 03–154, 03–155, adopted July 1, 2003 and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW, Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Audio Division requests comments on a petition filed by Garfield-Mesa County Line Broadcasters proposing the allotment of Channel 275C3 at De Beque, CO, as the community's first local aural transmission service. Channel 275C3 can be allotted to De Beque in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.1 kilometers (4.4 miles) northwest to avoid a short-spacing to the license site of Station KPRU, Channel 277C2, Delta, CO. The reference coordinates for Channel 275C3 at De Beque are 39–22–36 North Latitude and 108–16–33 West Longitude.

The Audio Division requests comments on a petition filed by Dana J. Puopolo proposing the allotment of Channel 261A at Montauk, New York, as the community's third local aural transmission service. Channel 261A can be allotted to Montauk in compliance with the Commission's minimum distance separation requirements with a site restriction of 6.7 kilometers (4.2 miles) east to avoid a short-spacing to the license site of Station WEZN–FM, Channel 260B, Bridgeport, Connecticut. The reference coordinates for Channel 261A at Montauk are 41–03–13 North Latitude and 71–52–43 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding De Beque, Channel 275C3.

3. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Channel 261A at Montauk.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Bangs, Channel 250C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18231 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 03–2093; MB Docket No. 03–143, RM–10726; MB Docket No. 03–144, RM–10733; MB Docket No. 03–145, RM–10730; MB Docket No. 03–146, RM–10728]**

## Radio Broadcasting Services; Cove, AR, Gunnison, CO, Ridgecrest, CA, Robert Lee, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes four new allotments in Cove, Arkansas, Gunnison, Colorado, Ridgecrest, California, and Robert Lee, Texas. The Audio Division requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 232A at Cove, Arkansas, as the community's first local aural transmission service. Channel 232A can be allotted to Cove in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.9 kilometers (9.2 miles) southwest to avoid a short-spacing to the license site of Station KOLX, Channel 233C2, Barling, AR. The reference coordinates for Channel 232A at Cove are 34–22–17 North Latitude and 94–33–12 West Longitude. *See* Supplementary Information, *infra.*

**DATES:** Comments must be filed on or before August 22, 2003, and reply comments on or before September 8, 2003.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Charles Crawford, 4553 Bordeaux Avenue, Dallas, TX 75205, Dana J. Puopolo, 2134 Oak Street, Unit C, Santa Monica, CA 90405, Linda A. Davidson, 2134 Oak Street, Unit C, Santa Monica, CA 90405, and Katherine Pyeatt, 6655 Aintree Circle, Dallas, TX 75214.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket Nos. 03–143, 03–144, 03–145, 03–146, adopted June 30, 2003 and released July 1, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

The Audio Division requests comments on a petition filed by Dana J. Puopolo proposing the allotment of Channel 299C3 at Gunnison, CO, as the community's fourth local aural transmission service. Channel 299C3 can be allotted to Gunnison in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.5 kilometers (12.1 miles) northeast to avoid a short-spacing to the license site of Station KBKL, Channel 300C, Grand Junction, CO. The reference coordinates for Channel 299C3 at Gunnison are 38–40–48 North Latitude and 106–46–48 West Longitude.

The Audio Division requests comments on a petition filed by Linda D. Davidson proposing the allotment of Channel 229A at Ridgecrest, CA, as the community's third FM local aural transmission service. Channel 229A can be allotted to Ridgecrest in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The reference coordinates for Channel 229A at Ridgecrest are 35–37–30 North Latitude and 117–40–12 West Longitude.

The Audio Division requests comments on a petition filed by Katherine Pyeatt proposing the allotment of Channel 289A at Robert Lee, Texas, as the community's first local aural transmission service. Channel 289A can be allotted to Robert Lee in compliance with the Commission's minimum distance separation requirements with a site restriction of 14.3 kilometers (8.9 miles) north to avoid a short-spacing to the vacant allotment site of Channel 289C1, Ozona, Texas. The coordinates for Channel 289A at Robert Lee are 32–00–56 North Latitude and 100–26–20 West Longitude. Since Robert Lee is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested. Provisions of the Regulatory Flexibility Act I of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by adding Cove, Channel 232A.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 229A at Ridgecrest.

4. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Channel 299C3 at Gunnison.

5. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Robert Lee, Channel 289A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18227 Filed 7–17–03; 8:45 am]

**BILLING CODE 6712–01–P**

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## FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

**[DA 03–2092; MB Docket No. 03–147, RM–10722; MB Docket No. 03–148, RM–10724 MB Docket No. 03–149, RM–10725]**

## Radio Broadcasting Services; Barstow, CA; Grapeland, TX; Newcastle, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes three allotments to Barstow, CA; Grapeland, TX; and Newcastle, TX. The Audio Division requests comments on a petition filed by Linda A. Davidson proposing the allotment of Channel 267A at Barstow, California, as the community's third local FM transmission service. Channel 267A can be allotted to Barstow in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 267A are 34–53–55 North Latitude and 117–01–19 West Longitude. Since Barstow is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence of the Mexican government has been requested. *See* Supplementary Information, *infra.*

**DATES:** Comments must be filed on or before August 22, 2003, and reply comments on or before September 8, 2003.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Linda A. Davidson, 2134 Oak Street, Unit C, Santa Monica, California 90405, Charles Crawford, 4553 Bordeaux Avenue, Dallas, Texas 75205, and Robert Fabian, 4 Hickory Crossing Lane, Argyle, Texas 76226.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–147; MB Docket No. 03–148; and MB Docket No. 03–149; adopted June 30, 2003, and released July 1, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Quatex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554.

The Audio Division requests comments on a petition filed by Charles Crawford proposing the allotment of Channel 263A at Newcasle, Texas, as the community's first local aural transmission service. Channel 263A can be allotted to Newcastle in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.6 kilometers (2.2 miles) northeast to avoid a short-spacing to the licensed site of Station KHYS(FM), Channel 264C1 at Abilene, Texas. The coordinates for Channel 263A at Newcastle are 33–13–10 North Latitude and 98–43–01 West Longitude.

The Audio Division requests comments on a petition filed by Robert Fabian proposing the allotment of Channel 280A at Grapeland, Texas, as the community's second local FM transmission service. Channel 280A can be allotted to Grapeland in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.4 kilometers (7.0 miles) northeast to avoid short-spacings to the licensed sites of Station KJCS(FM), Channel 277C2, Nacogdoches, Texas, Station KXCS(FM), Channel 280C2, Cameron, Texas, and Station KKUS(FM), Channel 281C2, Tyler, Texas. The coordinates for Channel 280A at Grapeland, Texas are 31–32–45 North Latitude and 95–22–42 West Longitude.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 267A at Barstow.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 280A at Grapeland; and by adding Newcastle, Channel 263A.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Divison, Media Bureau.*

[FR Doc. 03–18228 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2094; MB Docket No. 03–95, RM–10652]**

### Radio Broadcasting Services; Clarendon, TX

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule; dismissal.

**SUMMARY:** The Audio Division dismisses a Petition for Rule Making filed by Maurice Salsa, requesting the allotment of Channel 237A at Clarendon, Texas, as that community's second local aural transmission service. *See* 68 FR 18179, April 15, 2003. Maurice Salsa, or no other party, filed comments in support of the allotment of Channel 237A to Clarendon, Texas. It is the Commission's policy to refrain from making a new allotment to a community absent a *bona fide* expression of interest.

**ADDRESSES:** Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Rolanda F. Smith, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MB Docket No. 03–95, adopted June 30, 2003, and released July 1, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC 20554. The complete text of this decision. may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18226 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2091; MB Docket No. 03–141; RM–10703]**

### Radio Broadcasting Services; Corona de Tucson and Sierra Vista, Arizona

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comment on a petition for rulemaking filed on behalf of Cochise Broadcasting, LLC, licensee of Station KKYZ(FM), Sierra Vista, Arizona, requesting the substitution of Channel 267C3 for Channel 269A at Sierra Vista, reallotment of Channel 267C3 from Sierra Vista to Corona de Tucson, Arizona and modification of the license of Station KKYZ(FM) to specify the new community. Channel 267C3 can be allotted at Corona de Tucson at a site 7.7 kilometers (4.8 miles) east of the community at coordinates NL 31–57–24 and WL 110–41–40. While this site is short-spaced to Channels 267B in Agua Prieta, Sonora, Mexico, and 266B, Sasabe, Sonora, Mexico, Petitioner has

pledged to protect those channels using contour protection in accordance with the US/Mexican Treaty. Concurrence of the Mexican government will also be requested for this allotment.

**DATES:** Comments must be filed on or before August 25, 2003, and reply comments on or before September 9, 2003.

**ADDRESSES:** Secretary, Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Victoria M. McCauley, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 02–382, adopted July 1, 2003 and released July 3, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CYA257, 445 Twelfth Street, SW., Washington, DC This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by adding Corona de Tucson, Channel 267C3 and removing Channel 269A at Sierra Vista.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18248 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 03–2090; MB Docket No. 03–142; RM–10539]**

### Radio Broadcasting Services; Glen Arbor, MI

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** This document requests comments on a petition for rulemaking filed by WKJF Radio, Inc., licensee of Station WKJF-FM, Cadillac, Michigan, proposing the deletion of Channel 227A at Glen Arbor, Michigan. The removal of Channel 227A at Glen Arbor will allow Station WKJF-FM to relocate its transmitter. Any party filing an expression of interest in retention of Channel 227A at Glen Arbor will be required to provide evidence of site availability demonstrating that it has obtained assurances from the owner of its proposed site that it will be able to buy or lease the location specified in comments. Failure to provide the requested information will result in a rejection of the expression of interest.

**DATES:** Comments must be filed on or before August 22, 2003, and reply comments on or before September 8, 2003.

**ADDRESSES:** Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel as follows: Dennis J. Kelly, Law Office of Dennis J. Kelly, Post Office Box 41177, Washington, DC 20018.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Media Bureau, (202) 418–2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–142, adopted June 30, 2003, and released July 1, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR Part 73 as follows:

## PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334 and 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Michigan, is amended by removing Channel 227A at Glen Arbor.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 03–18249 Filed 7–17–03; 8:45 am]

BILLING CODE 6712–01–P

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AI50**

### Endangered and Threatened Wildlife and Plants; Listing the Plant Lepidium papilliferum (Slickspot Peppergrass)

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; 6-month extension of the deadline for final

determination and reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a 6-month extension of the deadline for a final determination of whether to list *Lepidium papilliferum* (slickspot peppergrass) and reopening of the comment period on the proposed rule to list the species. We are taking this action because there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the proposed listing rule, making it necessary for us to solicit additional information by reopening the public comment period. Comments previously submitted need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final rule.

**DATES:** We will accept comments and information pertaining to the proposed rule through August 18, 2003. Comments must be received by 5:00 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action. The date for submitting our final determination on the proposed listing to the **Federal Register** is extended to January 15, 2004.

**ADDRESSES:** Copies of the draft proposal are available on the Internet at: *http://endangered.fws.gov/frpubs/02fedreg.htm* or by writing to the Supervisor, U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709.

If you wish to comment, you may submit written comments and information to the Supervisor at the address above. You may also send comments by electronic mail (e-mail) to: *fw1srbocomment@fws.gov.* See the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Supervisor, Snake River Fish and Wildlife Office, 1387 S. Vinnell Way, Room 368, Boise, ID 83709 (telephone 208/378–5243; facsimile 208/378–5262).

**SUPPLEMENTARY INFORMATION:**

## Background

*Lepidium papilliferum* is a herbaceous annual or biennial plant that occurs in sagebrush-steppe habitats. This species is found along the Snake River Plain and Owyhee Plateau in Ada, Canyon, Gem, Elmore, Payette, and Owyhee Counties, Idaho. *Lepidium papilliferum* is threatened by a variety of activities including urbanization, gravel mining, irrigated agriculture, habitat degradation due to cattle and sheep grazing, fire and fire rehabilitation activities, and continued invasion of habitat by non-native plant species. For further information regarding background biological information, previous Federal actions, factors affecting the species, and conservation measures available to *Lepidium papilliferum,* please refer to our proposed rule to list the species, which was published on July 15, 2002 (67 FR 46441).

## Previous Federal Action

On April 9, 2001, we received a petition dated April 4, 2001, from the Committee for Idaho's High Desert, the Western Watersheds Project, The Wilderness Society, and the Idaho Conservation League (Petitioners) requesting emergency listing of *Lepidium papilliferum* as threatened or endangered. We responded to the Petitioners with a letter dated April 27, 2001, stating that the species was already identified as a candidate, and we do not publish petition findings on candidate species since we have already determined that their listing is warranted (Service, *in litt.* 2001). We also stated that our initial review of their petition did not indicate an emergency action was warranted.

On November 6, 2001, the Petitioners filed a complaint for our failure to emergency list *Lepidium papilliferum* as threatened or endangered, and our failure to proceed with a proposed rule to list the species as endangered or threatened on a non-emergency basis (*Committee for Idaho's High Desert and Western Watersheds Project* v. *Anne Badgley, et al.* (Case No. CV 01–1641–AS)). On April 2, 2002, based on a settlement agreement with the Petitioners, the court signed an order requiring us to submit for publication in the **Federal Register** a proposal to list the species by July 15, 2002, and a final determination or finding by July 15, 2003.

On July 15, 2002, we published a proposed rule to list *Lepidium papilliferum* as an endangered species (67 FR 46441). During the initial public comment period, which closed on September 13, 2002, we published legal notices in local Idaho newspapers and held hearings. On September 25, 2002, we reopened the comment period for an additional 60 days to allow additional time for all interested parties to submit written comments on the proposal (67 FR 60206). The second comment period closed on November 25, 2002.

## Independent Scientific Review

In accordance with our July 1, 1994, Interagency Cooperative Policy on Peer Review (59 FR 34270), we requested the expert opinion of 12 independent scientists regarding the pertinent scientific or commercial data and assumptions concerning biological and ecological information used in the proposed rule. The purpose of such a review is to ensure that the listing decision is based on scientifically sound data, assumptions and analyses, including input of appropriate experts and specialists. The 12 reviewers we asked to review the proposed rule were selected based on their expertise on L. papilliferum natural history and ecology. We requested that they review the proposed rule and provide any relevant scientific data relating to taxonomy, distribution, population status, or the supporting biological and ecological data used in our analyses of the listing factors.

Six of the 12 scientific reviewers provided comment to us. One did so as part of the official comments of the U.S. Air Force. Five peer reviewers supported the sufficiency and the accuracy of the available data relevant to the proposed rule and one, through the U.S. Air Force comments, did not. The U.S. Air Force comments, dated September 11, 2002, were a compilation of reviews conducted by five Ph.D. scientists and one research agronomist. It was, by far, the most detailed and comprehensive review of the proposed rule conducted by any of the peer reviewers. The areas of substantial disagreement among the reviewers that were raised by the U.S. Air Force comments center around the sufficiency or accuracy of data used to represent population status and trends of *L. papilliferum,* and the likelihood of threats causing further declines of the species.

For example, the available scientific data on population status and trends since 1994 shows an increase from 38 to 75 in the number of known element occurrences (specific geographical location containing a species of concern) of *L. papilliferum.* The total area of all combined existing element occurrences within the known range of this species has nearly doubled since 1994. The total acreage of slickspots known to be occupied by *L. papilliferum* within the 20,500-acre area across the range of the species is not known. While the data also shows that 13 occurrences have become extinct since 1911 and 5 previously reported

collection areas have not been recently affirmed, there is substantial disagreement over whether or not the available data is sufficient to indicate a continuing trend of decline toward extinction. Furthermore, since annual population numbers are known to vary widely within element occurrences of *L. papilliferum,* there is substantial disagreement over whether or not the monitoring data collected since 1995 is sufficient to support either an increasing or a decreasing population trend.

A second example involves the threats to *L. papilliferum* caused by the conversion and degradation of the sagebrush-steppe ecosystem from agricultural conversion, urbanization, invasion of non-native plants, increased wildfire frequency, and livestock grazing. The impacts described in the proposed rule that are associated with these threats include extirpation of populations due to habitat conversion and wildfire, competition from non-native annual grasses that invade after fires, negative impacts from fire rehabilitation, and trampling by cattle while grazing. While there are reported and documented examples of these impacts occurring, there is substantial disagreement among the scientific reviewers about the number of reported observations being sufficient to conclude an overall negative impact to the species is likely to occur. This disagreement extends to important conclusions concerning the interaction of inherently vulnerable characteristics such as rarity of individuals and limited and isolated habitat types, as compared to the biological resiliency of *L. papilliferum.*

**Six-Month Extension**

In accordance with section 4(b)(6)(B)(i) of the Act, the 6-month extension of the deadline for our final determination on whether to list *L. papilliferum* will be used to solicit and evaluate additional data to further address the sufficiency or accuracy of the available data. During this time, we will employ additional techniques for organizing the data for further analysis and evaluation of the status of the species and the risks it faces.

In addition to soliciting data and conducting further analyses to address the disagreement in the sufficiency and accuracy of the available data, during the 6-month extension period the Service plans to draft a Conservation Agreement for *L. papilliferum* in coordination with the State of Idaho and other affected and interested parties. The Service believes that finalization and implementation of this agreement would have immediate benefit to the conservation of the species. The Service and the participating parties would be able to implement, through this agreement, a number of immediate conservation measures, and would therefore be able to bring protection to the species much more quickly than the conservation measures associated with section 7 consultations of the Act initiated upon the species listing and the recovery process. In addition, the conservation agreement would provide *L. papilliferum* with some protections the Service would not be able to obtain through the Act's legal requirements. Specifically, the conservation agreement would provide for some protections for the peppergrass, specifically with private land owners, which are not required pursuant to the Act.

Furthermore, during this 6-month extension the Service will work with the U.S. Air Force to update their Integrated Natural Resource Management Plan (INRMP) to further address the conservation needs of *Lepidium papilliferum.*

**Public Comments Solicited**

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Previously submitted written comments on this proposal need not be resubmitted. If you submit comments by e-mail, please submit them in ASCII file format and avoid the use of special characters and encryption. Please include ''Attn: RIN 1018–AI50'' and your name and return address in your e-mail message. If you do not receive a confirmation from our system that we have received your e-mail message, contact us directly by calling our Snake River Basin Fish and Wildlife Office at telephone number 208/378–5243. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Snake River Basin Fish and Wildlife Office (see **ADDRESSES**).

In making any final decision on the proposed action, we will take into consideration the comments and any additional information we receive, and such communications may lead to a final regulation that differs from the proposal.

**Author**

The primary author of this notice is Jeff Foss, U.S. Fish and Wildlife Service, Supervisor, Snake River Fish and Wildlife Office, Boise, ID.

**Authority**

The authority of this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 15, 2003.

**Marshall P. Jones,**

*Acting Director, Fish and Wildlife Service.*

[FR Doc. 03–18402 Filed 7–16–03; 12:56 pm]

**BILLING CODE 4310–55–P**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[I.D. 070703B]**

## Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits (EFPs)

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

**ACTION:** Notification of a proposal for EFPs to conduct experimental fishing; request for comments.

**SUMMARY:** The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Black Sea Bass Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow three vessels to conduct fishing

operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP would allow for exemptions from the minimum fish size requirement for the retention of undersized fish for data collection purposes. The EFP would allow this exemption for approximately 250 lb (114 kg) of undersized (juvenile) black sea bass (*Centropristis striata*) for the remainder of the 2003 fishing year. 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 on this document must be received on or before August 4, 2003.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on VIMS Black Sea Bass Population Biology EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135.

**FOR FURTHER INFORMATION CONTACT:** Brian Hooker, Fishery Management Specialist, phone 978–281–9220.

**SUPPLEMENTARY INFORMATION:** The Virginia Institute of Marine Science (VIMS) submitted an application for an EFP on June 23, 2003, with final revisions received June 24, 2003. The experimental fishing application requests authorization to allow the collection of undersized (juvenile) black sea bass for research into the reproductive biology and population dynamics of black sea bass. The VIMS researchers propose to enlist three fishing vessels to retain 25–50 lb (12–23 kg) of undersized black sea bass each month during the participation period (August 1–December 31, 2003). This would result in a maximum retention of 250 lb (114 kg) of under-sized black sea bass for the 2003 fishing year. The collections would take place using handline and fish pot fishing gear under the normal fishing operations of the participating vessels. The collections would take place off the coasts of Virginia and North Carolina in 30–minute squares 11, 12, 15, 16, 19, 20, 25, and 26. The participating vessels would be required to comply with applicable state landing laws and report all landings on the Federal Fishing Vessel Trip Report.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: July 14, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03–18339 Filed 7–17–03; 8:45 am]

**BILLING CODE 3510–22–S**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[I.D. 071003B]**

## Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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

**ACTION:** Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

**SUMMARY:** The Administrator, Northeast Region, NMFS (Regional Administrator) has made a preliminary determination that the subject EFP application contains all of the required information and warrants further consideration. The Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Atlantic Sea Scallop and Northeast Multispecies Fishery Management Plans (FMPs). However, consideration of comments on the proposal is required and further review and consultation may be necessary before a final determination is made that the activity will have no significant impacts on the human environment, and that the issuance of EFPs is warranted. NMFS is reviewing analyses prepared in an Environmental Assessment to help make final determinations. Therefore, NMFS announces that the Regional Administrator has made a preliminary decision to issue the EFP that would allow one federally permitted fishing vessel to conduct fishing operations otherwise restricted by the regulations governing the Atlantic sea scallop and Northeast multispecies fisheries. The EFP would allow the federally permitted vessel to compare a standard scallop dredge using a 6–inch (15.2–cm) twine top to a standard scallop dredge using various modified 10–inch (25.4–cm) twine tops in order to estimate finfish bycatch reduction in the modified dredge. The EFP is necessary to exempt the vessel from days-at-sea (DAS), scallop gear, and multispecies closed area restrictions. 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 5:00 p.m., Eastern Standard Time, August 4, 2003.

**ADDRESSES:** Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930–2298. Mark the outside of the envelope ''Comments on Scallop Dredge EFP Proposal.'' Comments may also be sent via facsimile (fax) to (978) 281–9135. A copy of the proposal and the Draft Environmental Assessment are available from the Northeast Regional Office at the address stated above.

**FOR FURTHER INFORMATION CONTACT:** Don Frei, Fisheries Management Specialist, 978–281–9221.

**SUPPLEMENTARY INFORMATION:** Ronald Smolowitz, Coonamessett Farm, Inc., submitted an application to conduct an experimental fishery to test experimental 10–inch (25.4–cm) twine top configurations on standard scallop dredges outside of scallop DAS and within Georges Bank including Closed Area I, II, and the Nantucket Lightship Closed Area. The experiment would be a continuation and expansion of experiments with similar gear that Coonamessett Farm, Inc., has conducted in the past.

The experiment is being proposed to expand the level of information and data that Mr. Smolowitz has collected on the experimental scallop dredge and to conduct the experimental fishing in areas where both scallops and finfish species are in high abundance relative to other areas. The standard scallop dredge will be used to test various combination modified 10–inch (25.4–cm) twine tops to reduce finfish bycatch. Prior experimental fishing has tested 10–inch (25.4–cm) twine tops along with other gear modifications. These tests demonstrated a reduction of the bycatch of yellowtail flounder by 40 percent, skate by 40 percent, and winter flounder by 50 percent, compared to a standard dredge with 10–inch (25.4–cm) twine top mesh. Comparisons of a standard dredge with modified 10–inch (25.4–cm) twine tops and a standard dredge with 6–inch (15.2–cm) twine top mesh would allow the researcher to distinguish the overall effectiveness of the modified dredge from the

effectiveness of the 10–inch (25.4–cm) twine top.

The proposed experiment would be conducted as soon as possible following approval of the EFP, if the final decision is to grant the EFP. The participating vessel would be authorized to take four trips in Georges Bank, including Closed Area I, II or the Nantucket Lightship Closed Area. Conducting the trips in both closed and open areas would allow the gear to be tested in areas of both extremely high and moderate scallop and finfish abundance. The information gathered from this experiment could be used in the consideration in future management actions under the Atlantic Sea Scallop FMP. The participating vessel would be allowed to retain up to 15,000 lb (6,804 kg) of scallops and the regulated amount of incidental catch of other species (e.g., 300 lb (136 kg) of regulated multispecies and monkfish) per trip. The EFP would allow exemptions from the following regulations for Fisheries of the Northeastern United States (50 CFR part 648): DAS notification requirements specified at § 648.10(b)(1)(i); scallop dredge twine top restrictions specified at § 648.51(b)(4)(iv); scallop DAS restrictions specified at § 648.53; and Northeast multispecies Closed Area I, II, and Nantucket Lightship Closed Area restrictions specified at § 648.81(b)(1) and (c)(1).

The participating vessel would land approximately 60,000 lb (27,216 kg) of scallops, 1,200 lb (544 kg) of Northeast multispecies, and 1,200 lb (544 kg) of monkfish. Minimal amounts of other legally retained bycatch species, such as skates, may be landed. The catch of scallops in excess of the 15,000–lb (6,804–kg) per trip allowance may occur in closed areas due to very high concentrations of scallops. This would result in some scallop discard, but discard survival rates of scallops is expected to be high. Discards of other species caught during experimental fishing is expected to be about 40,000 lb (18 mt) of flounder species and skates, 35,000 lb (16 mt) of monkfish, and 4,400 lb (2 mt) of other species. For comparison, the total allowed catch in the 2000 Georges Bank Sea Scallop Exemption Program (the same portions of Closed Area II and the Nantucket Lightship Closed Area are proposed for access in the experiment) for yellowtail flounder was 725 mt with no catch limits on other species. Although information on the survival of finfish discards is lacking, not all discarded fish would die. Based on the analyses of the proposed action, the relative impact of the expected catch overall during the proposed experiment does not appear to be significant. The increase in DAS (exempting one vessel from DAS restrictions for a total of 40 DAS) is approximately 0.14–percent of the overall DAS used in the scallop fishery on an annual basis.

Based on the results of this EFP, this action may lead to future rulemaking.

Dated: July 14, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03–18341 Filed 7–17–03; 8:45 am]

**BILLING CODE 3510–22–S**

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## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 600

**[I.D. 071403A]**

## Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit (EFP)

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

**ACTION:** Notification of a proposal for an EFP to conduct experimental fishing; request for comments.

**SUMMARY:** The Assistant Regional Administrator, Northeast Region, NMFS has made a preliminary determination that the subject EFP application contains all the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue an EFP. Therefore, NMFS announces that the Regional Administrator proposes to issue an EFP that would allow one vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the northeastern United States. The EFP would allow the vessel to fish outside the regulated fishing season for shrimp, which occurred in 2003 between January 15- February 27. The proposed experiment would test a semi-pelagic shrimp trawl using 180–ft (54.6–m) bridles, and small mesh (50 mm), with the codend left open. All experimental work would be monitored by University of New Hampshire (UNH) personnel.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 at the appropriate address or fax number (see **ADDRESSES**) on or before August 4, 2003.

**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 UNH Semi-Pelagic Shrimp Trawl EFP Proposal.'' Comments may also be sent via fax to (978) 281–9135. Comments will not be accepted if submitted via e-mail or the Internet.

**FOR FURTHER INFORMATION CONTACT:** Heather Sagar, Fisheries Management Specialist, 978–281–9341, or e-mail *heather.sagar@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** An initial application from UNH for an EFP was received on June 16, 2003, and the application was completed on July 1, 2003. The proposed study would test a semi-pelagic shrimp trawl net with small mesh (50 mm) and up to 180–ft (54.6–m) bridles, which would be designed in such a way as to reduce seabed impact when trawling for shrimp in the Gulf of Maine. The bridles would not be in contact with the seabed and, therefore, are not expected to adversely affect benthic organisms, demersal species, or the seabed itself. The codend would be left open throughout testing and no fish, therefore, would be retained. The proposed study would take place off the coast of Seabrook, NH, west of 70 W. long., excluding closed areas. One commercial vessel would fish a maximum 4 days, making approximately 6 tows per day, for a total of 24 tows for this study. Tow length would be approximately 1 hour. The participating vessel would be required to notify NMFS prior to commencing an experimental fishing trip. The final phase of the experiment would be data analysis and reporting, including an acoustic monitoring analysis and video analysis. A final report containing the results of the study would be provided to NMFS no later than 6 months following completion of the study.

The EFP would allow this vessel to fish outside the regulated fishing season for shrimp, which occurred in 2003 between January 15–February 27.

Based on the results of this EFP, this action may lead to future rulemaking.

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

Dated: July 14, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03–18342 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 648

**[I.D. 070703A]**

## Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fishery

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

**ACTION:** Notice of intent (NOI) to prepare an environmental impact statement (EIS); request for comments.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council) announces its intention to prepare, in cooperation with NMFS, an EIS in accordance with the National Environmental Policy Act to assess potential effects on the human environment of alternative measures for managing the Atlantic mackerel, squid, and butterfish fisheries pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The Council intends to develop Framework 4 to the Atlantic Mackerel, Squid and Butterfish Fishery Management Plan (FMP) to address the issue of expiration of the moratorium on entry to the commercial *Illex* squid fishery. This notification announces a public process for determining the impact on the human environment of measures proposed in Framework 4 relating to possible extension or expiration of the *Illex* moratorium. The intended effect of this notification is to alert the interested public of the development of the Draft EIS (DEIS) for this framework action and to provide for public participation.

**DATES:** Written comments on the intent to prepare an EIS must be received no later than 5 p.m., local time, on August 18, 2003.

**ADDRESSES:** Written comments on the intent to prepare the EIS and requests for other information related to the development of Framework 4 should be directed to Mr. Daniel T. Furlong, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New St., Dover, DE 19904. Comments may also be sent via facsimile (FAX) to (302) 674–5399. Comments will not be accepted if submitted by e-mail or Internet.

**FOR FURTHER INFORMATION CONTACT:** Daniel T. Furlong, Executive Director, 302–674–2331.

**SUPPLEMENTARY INFORMATION:** Prior to the 1980s, the fishery for *Illex illecebrosus*, (short finned squid) in the U.S. Exclusive Economic Zone (EEZ) was prosecuted primarily by foreign distant water fleets. With the implementation of the Atlantic Mackerel, Squid, and Butterfish FMP in 1982 and its subsequent amendments, the fishery became increasingly utilized by the domestic fishery. While the domestic fishery was undergoing development, new biological data became available which indicated that Illex is an annual species that resulted in smaller (or lower) revised estimates of the sustainable yield for the species.

In the 1990s, the simultaneous growth of the domestic squid fisheries and reduction in the estimate of sustainable yield resulted in the *Illex* fishery moving toward full capitalization and exploitation. As a result, a limited entry program became necessary and was implemented by a final rule for Amendment 5 to the FMP (62 FR 28638, May 27, 1997). However, due to concerns that capacity might be insufficient to fully exploit the annual quota for this fishery, a 5-year sunset provision was placed on the Illex moratorium when it was implemented in Amendment 5. Due to this sunset provision, the moratorium on entry to the *Illex* fishery was set to expire in July 2002, but was extended for one year by a final rule that implemented Framework 2 to the FMP (67 FR 44392, July 2, 2002). An additional one-year extension of the moratorium was implemented by a final rule that implemented Framework 3 (68 FR 31988, May 29, 2003). The Council is currently developing a DEIS through the development of Amendment 9 to the FMP. In addition to the limited access issue in the *Illex* fishery, the Council is also addressing a number of complex issues in Amendment 9 including those related to gear impacts on essential fish habitat, bycatch reduction, permitting of the Northwest Atlantic Fisheries Organization vessels to transit the U.S. EEZ, and the definition of overfishing for *Loligo* squid. The original NOI to develop a DEIS for Amendment 9 was published on November 29, 2001, (66 FR 56574) and the Council held the initial scoping meeting on December 12, 2001, in Atlantic City, NJ. The Council continued the development of Amendment 9 in 2002–2003 and submitted the DEIS for NMFS approval for public hearings in April 2003. NMFS identified a number of deficiencies in the DEIS for Amendment 9 at the March 19, 2003, Council meeting held in New York City, NY. As a result of those deficiencies, the Council was unable to adopt the DEIS for Amendment 9. At its June 25, 2003, meeting in Philadelphia, PA, the Council concluded that delays in development of the DEIS for Amendment 9 could result in a hiatus in the *Illex* limited access program if the moratorium for the *Illex* fishery expired before the final rule for Amendment 9 is implemented. Therefore, the Council decided to develop Framework 4, the sole purpose of which is to extend the moratorium on entry to the *Illex* fishery while the Council addresses this issue in Amendment 9 to the FMP. The Council concluded that new public scoping meetings are not necessary for this DEIS because this issue was considered during the original December 12, 2001, scoping meeting based on the original NOI. Applicable comments from that meeting will be considered along with the written comments received on this notification in the preparation of the DEIS for Framework 4.

The Council is considering the following alternatives for this framework action: (1) Extend the moratorium on entry to the *Illex* fishery for an additional 5 years (preferred alternative), (2) extend the moratorium on entry to the *Illex* fishery for an additional 2 years, (3) no action, and (4) extend the moratorium on entry to the *Illex* fishery without a sunset provision.

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

Dated: July 14, 2003.

**John H. Dunnigan,**

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

[FR Doc. 03–18343 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–22–S

# Notices

Federal Register

Vol. 68, No. 138

Friday, July 18, 2003

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

### Natural Resources Conservation Division; Notice of Proposed Changes to Section IV of the Oregon Field Office Technical Guide (FOTG)

**AGENCY:** Natural Resources Conservation Service (NRCS), U.S. Department of Agriculture.

**ACTION:** Notice of availability of proposed changes in the Oregon NRCS Field Office Technical Guide for review and comment.

**SUMMARY:** It is the intention of NRCS in Oregon to issue revised conservation practice standards in section IV of the FOTG. The revised standards include: 342, Critical Area Planting; 484, Mulching; 595, Pest Management; 633, Waste Utilization.

**DATES:** Comments will be received for a 30-day period commencing with the date of this publication.

**FOR FURTHER INFORMATION CONTACT:** Inquire in writing to Russell Hatz, Leader for Technology, Natural Resources Conservation Service (NRCS), 101 SW Main, Suite 1300, Portland, OR 97204; telephone number (503) 414–3235; fax number (503) 414–3103. Copies of these standards will be made available upon written request to the address shown above. You may submit electronic requests and comments to *russ.hatz@or.usda.gov*.

**SUPPLEMENTARY INFORMATION:** Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS State technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Oregon will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Oregon regarding disposition of those comments and a final determination of change will be made.

Dated: July 14, 2003.

**Bob Graham,**

*State Conservationist.*

[FR Doc. 03–18346 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–16–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[Docket No. FV03–930–4NC]**

### Notice of Request for Extension and Revision of a Currently Approved Information Collection

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension for and revision to a currently approved information collection for Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, Marketing Order No. 930.

**DATES:** Comments on this notice must be received by September 16, 2003.

*Additional Information or Comments*: Contact Valerie L. Emmer-Scott, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Tel: (202) 205–2829, Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.*

Small businesses may request information on this notice by contacting Jay Guerber, Regulatory Fairness Representative, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491; Fax: (202) 720–8938, or E-mail: *jay.guerber@usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin, Marketing Order No. 930.

*OMB Number:* 0581–0177.

*Expiration Date of Approval:* February 29, 2004.

*Type of Request:* Extension and revision of a currently approved information collection.

*Abstract:* Marketing order programs provide an opportunity for producers of fresh fruits, vegetables and specialty crops, in a specified production area, to work together to solve marketing problems that cannot be solved individually. Order regulations help ensure adequate supplies of high quality product and adequate returns to producers. Under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674) industries enter into marketing order programs. The Secretary of Agriculture is authorized to oversee the order operations and issue regulations recommended by a committee of representatives from each commodity industry.

The information collection requirements in this request are essential to carry out the intent of the AMAA, and to administer the program, which has operated since 1996.

The tart cherry marketing order regulates the handling of tart cherries in the states of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The order authorizes volume regulations that provide for a reserve pool in times of heavy cherry supplies. Other major marketing order provisions not currently in use include minimum grade and size regulations and authorization for market research and development projects, including paid advertising.

The order, and rules and regulations issued thereunder, authorize the Cherry Industry Administrative Board (Board), the agency responsible for local administration of the order, to require handlers and growers to submit certain information. Much of this information is compiled in aggregate and provided to the industry to assist in carrying out marketing decisions.

The Board has developed forms as a means for persons to file required information with the Board relating to tart cherry inventories, shipments, diversions, and other information needed to effectively carry out the

requirements of the order, and their use is necessary to fulfill the intent of the AMAA. Since this order regulates canned and frozen forms of tart cherries, reporting requirements will be in effect all year. A USDA form is used to allow growers to vote on amendments or continuance of the marketing order. In addition, tart cherry growers and handlers who are nominated by their peers to serve as representatives on the Board must file nomination forms with the Secretary. Formal rulemaking amendments to the order must be approved in grower referenda conducted by the Secretary. In addition, USDA may conduct a referendum to determine industry support for continuation of the order. Finally, handlers are asked to sign an agreement to indicate their willingness to comply with the provisions of the order if the order is amended. These forms are included in this request.

The forms covered under this information collection require the minimum information necessary to effectively carry out the requirements of the order, and their use is necessary to fulfill the intent of the AMAA as expressed in the order, and the rules and regulations issued under the order.

The information collected is used only by authorized representatives of the USDA, including AMS, Fruit and Vegetable Programs' regional and headquarter's staff, and authorized employees of the Board. Authorized Board employees and the industry are the primary users of the information, and AMS is the secondary user.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .183 hours per response.

*Respondents:* Tart cherry growers and for-profit businesses handling fresh and processed tart cherries produced in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

*Estimated Number of Respondents:* 943.

*Estimated Number of Responses per Respondent:* 4.93.

*Estimated Total Annual Burden on Respondents:* 852 hours.

*Comments*: Comments are invited on: (1) Whether the proposed collection of the 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0177 and the Tart Cherry Marketing Order No. 930, and be mailed to Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., Washington, DC 20250–0237; Telephone: (202) 205–2829; Fax: (202) 720–8938; or E-mail: *moab.docketclerk@usda.gov*. Comments should reference the docket number and the date and page number of this issue of the **Federal Register**. All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours at 14th and Independence Ave., SW., Washington, DC, room 2525–S.

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.

Dated: July 14, 2003.

**Kenneth C. Clayton,**

*Acting Administrator, Agricultural Marketing Service.*

[FR Doc. 03–18193 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–02–P

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### Announcement of the Quality Samples Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice.

**SUMMARY:** The Commodity Credit Corporation is extending the time for submission of proposals for the Fiscal Year 2003 Quality Samples Program.

**DATES:** Proposals will be accepted until 5 p.m. Eastern Daylight Time, August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

**SUPPLEMENTARY INFORMATION:**

### Introduction

On January 17, 2003, the Commodity Credit Corporation (CCC) announced in the **Federal Register** (68 FR 2487) that proposals were being accepted for participation in the Fiscal Year (FY) 2003 Quality Samples Program (QSP). Based on its review of the proposals, CCC allocated approximately $1.4 million in funding in July 2003. Because approximately $1.1 million of the FY 2003 funds remain unallocated, CCC announces that it is extending the time period for submission of proposals to participate in the FY 2003 QSP.

The QSP is designed to encourage the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities. All proposals will be reviewed against the evaluation criteria contained herein and funds will be awarded on a competitive basis. Financial assistance will be made available on a reimbursement basis. The QSP is administered by the Foreign Agricultural Service (FAS).

Under the QSP, CCC enters into agreements with those entities whose proposals have been accepted. The QSP agreement between CCC and the participant will include the maximum amount of CCC funds that may be used to reimburse specific activity costs that have been approved by CCC and paid by the QSP participant. QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the technical assistance necessary to facilitate successful use of the samples by importers. Participants that are funded under this announcement may seek reimbursement for the sample purchase price and the costs of transporting the samples domestically to the port of export and then to the foreign port of entry. Transportation costs from the foreign port, or point of entry to the final destination will not be eligible for reimbursement. CCC will not reimburse the costs incidental to purchasing and transporting samples, for example, inspection or documentation fees. Although providing technical assistance is required for all projects, CCC will not reimburse the costs of providing technical assistance. A QSP participant will be reimbursed after CCC reviews its reimbursement claim and determines that the claim is complete.

QSP agreements are subject to review and verification by the Foreign Agricultural Service's Compliance Review Staff. Upon request, a QSP participant shall provide to CCC the original documents which support the participant's reimbursement claims.

CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation. Cash advances will not be made available to any QSP participant.

This notice supersedes any prior notices concerning the QSP.

**Authority**

The QSP is authorized under section 5(f) of the CCC Charter Act, 15 U.S.C. 714c(f).

**Available Funds**

$1.1 million of cost-share assistance may be obligated under this announcement.

**General Scope of QSP Projects**

QSP projects are the activities undertaken by a QSP participant to provide an appropriate sample of a U.S. agricultural commodity to a foreign importer, or a group of foreign importers, in a given market. The purpose of the project is to provide information to an appropriate target audience regarding the attributes, characteristics, and proper use of the U.S. commodity. A QSP project addresses a single market/commodity combination. As a general matter, QSP projects should conform to the following guidelines:

- Projects should benefit the represented U.S. industry and not a specific company or brand;
- Projects should develop a new market for a U.S. product, promote a new U.S. product, or promote a new use for a U.S. product, rather than promote the substitution of one established U.S. product for another;
- Sample commodities provided under a QSP project must be in sufficient supply and available on a commercial basis;
- Each QSP project must either subject the commodity sample to further processing or substantial transformation in the importing country, or the sample must be used in technical seminars designed to demonstrate to an appropriate target audience the proper preparation or use of the sample in the creation of an end product;
- Samples provided in a QSP project shall not be directly used as part of a retail promotion or supplied directly to consumers. However, the end product, that is, the product resulting from further processing, substantial transformation, or a technical seminar, may be provided to end use consumers to demonstrate to importers consumer preference for that end product; and
- Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (*e.g.*, not more than a full commercial mill run in the destination country).

QSP projects shall target foreign importers and target audiences who:

- Have not previously purchased the U.S. commodity which will be transported under the QSP;
- Are unfamiliar with the variety, quality attribute, or end-use characteristic of the U.S. commodity which will be transported under the QSP;
- Have been unsuccessful in previous attempts to import, process, and market the U.S. commodity which will be transported under the QSP (*e.g.*, because of improper specification, blending, or formulation; or sanitary or phytosanitary (SPS) issues);
- Are interested in testing or demonstrating the benefits of the U.S. commodity which will be transported under the QSP; or
- Need technical assistance in processing or using the U.S. commodity which will be transported under the QSP.

Under this announcement, the number of projects per participant will not be limited. However, individual projects will be limited to $75,000 of QSP reimbursement. Projects comprised of technical preparation seminars, that is, projects that do not include further processing or substantial transformation, will be limited to $15,000 of QSP reimbursement because these projects require smaller samples.

**Proposal Process**

In order to be considered for participation in the QSP, interested parties should submit proposals to FAS as described in this notice. QSP proposals must contain complete information about the proposed projects. Applicants should follow the application procedures contained in this notice.

Entities interested in participating in the QSP are not required to submit proposals in any specific format; however, FAS recommends that proposals contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization;
- Name, telephone number, fax number, and e-mail address of the primary contact person;
- A description of the organization and its membership;
- A description of the organization's prior export promotion experience; and
- A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

- An assessment of the market;
- A long-term strategy in the market; and
- U.S. export value/volume and market share (historic and goals) for 1999–2004;

(c) Project information, including:

- A brief project title;
- Amount of funding requested;
- A brief description of the specific market development trade constraint or opportunity to be addressed by the project, performance measures for the years 2003–2005 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2002, the viability of long-term sales to this market, the goals of the project, and the expected benefits to the represented industry;
- A description of the activities planned to address the constraint or opportunity, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and their end-use benefit, and details of the trade/technical servicing component (including who will provide and who will fund this component);
- A sample description (*i.e.*, commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics (this justification should explain in detail why the project could not be effective with a smaller sample);
- An itemized list of all estimated costs associated with the project for which reimbursement will be sought; and
- The importer's role in the project regarding handling and processing the commodity sample;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash, goods, and services.

**Review Process**

Proposals will be evaluated by the applicable FAS commodity division. The divisions will review each proposal against the factors described below.

The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these

factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs.

FAS will use the following criteria in evaluating proposals:

- The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;
- The extent to which the proposal is targeted to a market in which the United States is generally competitive;
- The potential for expanding commercial sales in the proposed market;
- The nature of the specific market constraint or opportunity involved and how well it is addressed by the proposal;
- The extent to which the importer's contribution, in terms of handling and processing, enhances the potential outcome of the project;
- The amount of reimbursement requested and the organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties; and
- How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

Highest priority for funding under this announcement will be given to meritorious proposals which target countries which meet either of the following criteria:

- Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank [World Development Indicators 2001]); and population greater than 1 million. Proposals may address suitable regional groupings, for example, the islands of the Caribbean Basin; or
- U.S. market share of imports of the commodity identified in the proposal of 10 percent or less.

**Agreements**

Following approval of a proposal, CCC will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for transportation of the commodity sample within the time limit specified in the agreement (organizations should endeavor to ship commodities within 6 months of effective date of agreement), compliance with cargo preference requirements (shipment on United States flag vessels, as required), compliance with the Fly America Act requirements (shipment on United States air carriers, as required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 90 days of expiration of the agreement. Evaluation reports should address all performance measures which were presented in the proposal.

**Closing Date for Proposals**

To be considered for participation in the QSP, interested parties should submit, via a commercial delivery service (including FedEx, DHL, etc.), proposals to: Director, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, Stop 1042, 14th and Independence Avenue, SW., Washington, DC 20250–1042. All proposals must be received by 5 p.m. Eastern Daylight Time, August 18, 2003.

Dated: July 11, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.*

[FR Doc. 03–18268 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–10–P

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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### Announcement of the 2003/2004 Technical Assistance for Specialty Crops Program

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice.

**SUMMARY:** Commodity Credit Corporation has published elsewhere in this issue a final rule establishing the ''Technical Assistance for Specialty Crops'' program to help open, retain, and expand markets for U.S. specialty crops.

**DATES:** Proposals will be accepted between July 18, 2003 and 5 p.m. Eastern Daylight Time, August 18, 2003. Proposals will be reviewed, and funding decisions will be made, as proposals are received.

**FOR FURTHER INFORMATION CONTACT:** Marketing Operations Staff, Foreign Agricultural Service, Room 4932–S, Stop 1042, U.S. Department of Agriculture, 1400 Independence Ave., SW., Washington, DC 20250–1042, or telephone: (202) 720–4327.

**SUPPLEMENTARY INFORMATION:** To be considered for participation in the Technical Assistance for Specialty Crops (TASC) program, interested parties should submit, via a commercial delivery service (including FedEx, DHL, etc.), proposals to: Director, Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, Stop 1042, 14th and Independence Avenue, SW., Washington, DC 20250–1042. All proposals must be received by 5 p.m. Eastern Daylight Time, August 18, 2003. Although entities interested in participating in the TASC program are not required to submit proposals in any specific format, all proposals must contain complete information about the proposed projects as described in the final rule, published elsewhere in this issue, that establishes the program.

Dated: July 11, 2003.

**A. Ellen Terpstra,**

*Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.*

[FR Doc. 03–18267 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–10–P

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Notice of Request for Revision and Extension of Currently Approved Information Collection—Emergency Farm Loan Program

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intent of Farm Service Agency (FSA) to request an extension of currently approved information collections used in support of FSA's Emergency Loan Program.

**DATES:** Comments on this notice must be received on or before September 16, 2003 to be assured consideration.

**FOR FURTHER INFORMATION CONTACT:** Janet Downs, Senior Loan Officer, USDA, Farm Service Agency, Loan Making Division, 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250–0522; Telephone (202) 720–0599; e-mail: *janet_downs@wdc.usda.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* 7 CFR 764, Emergency Farm Loans.

*OMB Control Number:* 0560–0159.

*Expiration Date of Approval:* 01/31/2004.

*Type of Request:* Extension of Currently Approved Information Collection.

*Abstract:* The information collected under control number 0560–0159 is needed for FSA to effectively administer the Emergency Loan Program in accordance with the requirements of 7 CFR 764 as authorized by the Consolidated Farm and Rural Development Act (CONACT). The collected information is submitted to the Agency loan official by loan applicants and commercial lenders for use in making program eligibility and financial feasibility determinations as required by the CONACT.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average .77 hours per response.

*Respondents:* Individual farmers and commercial lenders.

*Estimated Number of Respondents:* 4,961.

*Estimated Number of Responses per Respondent:* 1.

*Estimated Total Annual Burden on Respondents:* 3,816.

Comments are sought on these requirements including: (a) If the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility, (b) the accuracy of the Agency's estimate of burden including the validity of the methodology and assumptions used, (c) ways to enhance the quality, utility and clarity of the information being collected, and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

These comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to Janet Downs, USDA, FSA, Farm Loan Programs, Loan Making Division, 1400 Independence Avenue, SW., Stop 0522, Washington, DC 20250–0522. Copies of the information collection may be obtained from Janet Downs at the above address. Comments regarding paperwork burden will be summarized and included in the request for OMB approval of the information collection. All comments will also become a matter of public record.

Signed in Washington, DC on July 10, 2003.

**James R. Little,**

*Administrator, Farm Service Agency.*

[FR Doc. 03–18194 Filed 7–17–03; 8:45 am]

**BILLING CODE 3410–05–P**

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## DEPARTMENT OF AGRICULTURE

### Food and Nutrition Service

### Agency Information Collection Activities: Proposed Collection; Comment Request; Performance Reporting System, Management Evaluation, Data Analysis, and Corrective Action

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on a proposed information collection. The proposed collection would be a reinstatement of a collection which has expired. The expired collection was previously approved under OMB No. 0584–0010.

**DATES:** Written comments must be submitted on or before September 16, 2003.

**ADDRESSES:** Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Edward Speshock, Senior Program Analyst, State Administration Branch, Food Stamp Program, Food and Nutrition Service, U. S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection form and instruction should be directed to Edward Speshock, (703) 305–2383.

**SUPPLEMENTARY INFORMATION:**

*Title:* Performance Reporting System, Management Evaluation, Data Analysis, and Corrective Action.

*OMB Number:* 0584–0010.

*Expiration Date:* Reinstatement requested.

*Type of Request:* Reinstatement, with change, to a previously approved collection for which approval has expired.

*Abstract:* The purpose of the Performance Reporting System (PRS) is to ensure that each State agency and project area is operating the Food Stamp Program in accordance with the requirements of the Food Stamp Act of 1977 (the Act) (7 U.S.C. 2011, *et seq.*), as amended, and corresponding program regulations. Under Section 11 of the Act (7 U.S.C. 2020), State agencies must maintain necessary records to ascertain that the Food Stamp Program is operating in compliance with the Act and regulations and must make these records available to the Food and Nutrition Service (FNS) for inspection and audit.

*Management Evaluation (ME) Review Schedules*—Unless the State receives approval for an alternative Management Evaluation review schedule, each State agency is required, under 7 CFR part 275, to submit one review schedule every one, two, or three years, depending on the project area make-up of the State.

*Data Analysis*—Under 7 CFR part 275, each State must establish a system for analysis and evaluation of all data available to the State. Data analysis and evaluation is an ongoing process that facilitates the development of effective and prompt corrective action.

*Corrective Action Plans*—Under 7 CFR part 275, State agencies must prepare a corrective action plan (CAP) addressing identified deficiencies. The State agencies must develop a system for monitoring and evaluating corrective action and submit CAP updates, as necessary.

*Affected Public:* State agencies.

*Estimated Number of Respondents:* 52 State agencies, Guam and the Virgin Islands.

*Number of responses per respondent:* 1.0.

*Estimated total annual responses:* 54.

*Hours per response:* 7.5.

*Number of record keepers:* 405.

*Estimated annual hours per record keepers:* 54.

*Estimated annual record keeping burden:* 27 hours.

*Total annual reporting and record keeping burdens:* 432.

Dated: July 11, 2003.

**Roberto Salazar,**

*Administrator, Food and Nutrition Service.*

[FR Doc. 03–18240 Filed 7–17–03; 8:45 am]

**BILLING CODE 3410–30–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Dixie National Forest, Utah, Duck Creek Fuels Treatment Analysis

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement.

**SUMMARY:** The USDA Forest Service will prepare an Environmental Impact Statement (EIS) to implement fuels treatments in the Duck Creek area, within the Cedar City Ranger District, Dixie National Forest, Utah. A Notice of Intent for this project was published in the **Federal Register** May 23, 2002. This Notice of Intent is a revision to change the dates of the EIS and minor corrections of acreages. The agency gives notice of the full environmental analysis and decision-making process that will occur on the proposal so that interested and affected people may become aware of how they can participate in the process and contribute to the final decision.

**DATES:** Comments concerning the scope of the analysis must be received within thirty days after publication of this Notice Of Intent in the **Federal Register.** The draft environmental impact statement is expected in September, 2003. The final environmental impact statement is expected in December, 2003.

**ADDRESSES:** Send written comments to: Duck Creek Fuels Treatment Analysis Coordinator, Cedar City Ranger District, Dixie National Forest, 1789 Wedgewood, Cedar City, Utah 84720.

**FOR FURTHER INFORMATION CONTACT:** Duck Creek Fuels Treatment Analysis Coordinator, Cedar City Ranger District, Dixie National Forest, 1789 Wedgewood, P.O. Box 627, Cedar City, Utah 84720.

**SUPPLEMENTARY INFORMATION:** The proposed treatments will implement direction in the National Fire Plan, a USDA/USDI effort to reduce impacts of wildfires on people and resources. In August, 2000 President Clinton directed the Secretaries of Agriculture and Interior to reduce the impacts of wildland fires on rural communities. The Secretaries subsequently developed the National Fire Plan. This direction was followed by congressionally-approved plans that funded ''hazardous fuel reduction'' near urban interface areas.

The National Fire Plan directs Federal agencies within USDA/USDI to engage states and local communities in reducing forest fuels, using a variety of fuel reduction treatments (mechanical, prescribed fire and intensive manual treatment). Hazardous fuel reduction is a critical investment necessary to reduce fire risk and fire suppression costs into the future and is focused on areas near communities and interface areas that the States have judged to be in harm's way of a wildfire.

The analysis area of 25,741 acres of National Forest System lands is located thirty miles east of Cedar City, Utah. The analysis area includes six tracts of private lands which are surrounded by National Forest lands. The tracts are subdivided into residential lots and contain an estimated 1,900 homes and 10 businesses. The specific subdivisions are as follows:

| Subdivision | Legal location (approximate) Salt Lake Base Meridian |
|---|---|
| 1. Meadow View Heights. | T38S R7W Sec 6. |
| 2. Mirror Lake ..... | T38S R7W Sec 5, 8. |
| 3. Movie Ranch ..... | T38S R7W Sec 7. |
| 4. Movie Ranch South. | T38S R7W Sec 7. |
| 5. Color Country ..... | T38S R7W Sec 8, 17. |
| 6. Timber Trails ..... | T38S R7W Sec 7, 17, 18. |
| 7. Ponderosa Villa .... | T38S R7W Sec 16. |
| 8. Strawberry Valley | T38S R7W Sec 20, 21. |
| 9. Swains Creek ..... | T38S R7W Sec 26, 2. |
| 10. Blackman Hill ..... | T38S R7W Sec 26, 27. |
| 11. Harris Springs ..... | T38S R7W Sec 26. |
| 12. Swains Creek Pines. | T38S R7W Sec 33, 34. |
| 13. Ponderosa Ranch | T38S R7W Sec 24; T38S R6W Sec 19. |
| 14. Zion View Mtn Estates. | T38S R8W Sec 2. |
| 15. Duck Creek Pines | T38S R7W Sec 7. |

The private lands were designated an ''urban interface community at risk from wildfires on National Forest lands'' by the Chief of the Forest Service (**Federal Register** / Vol. 66, No. 160 / Friday, August 17, 2001 / Notices). This designation meant that Federal funds from the National Fire Plan could be spent to reduce fuels on National Forest lands adjacent to the private lands.

Historic prevention and suppression of wildfire has resulted in ever-increasing accumulations of forest fuels. These buildups of forest fuels increase the risk of high intensity fires to the National Forest and to large private subdivisions within the forest boundary. The extensive development and high recreation use have also increased the threat of human-caused fires. A high intensity fire occurring within this area would cause significant damage to property and natural resources. Reducing the risk of wildfires in these areas would provide the best opportunity to protect National Forest lands and adjacent private properties. The Forest Service has determined that the fuels treatment objectives will be met without harvesting trees over nine inches in diameter.

*Purpose and Need for Action.* The purpose of this project is to modify existing, high fuel loads that influence fire behavior in National Forest lands adjacent to private lands in the Duck Creek area. There is a need to reduce minute, hour, ten-hour and hundred-hour fuels adjacent to private property and in the defensible fire space zone. There is a need to change the structure and composition of the fuels throughout the project area, especially in aspen-dominated sites. There is a need to change the characteristics of the residual trees by removing ladder fuels from the ground to eight feet high. Changing these fuels characteristics and reducing the fuel loads would help reduce the risk of property damage and allow sufficient time for firefighters to directly attack and control a wildfire before housing and other developments are threatened or destroyed. The fuel elements that need to be treated are as follows:

*Element 1—Ground Fuels Reduction.* Current fuel loads adjacent to private lands range from 20–50 tons per acre. The desired condition of the area immediately surrounding the subdivisions, Defensible Fire Space (DFS), is to have fuel loads reduced to 5–10 tons per acre, a level that would not sustain a high intensity wildfire.

The current fuel loads range from 20–50 tons per acre in the general forest area outside of the DFS. Reducing the fuel loads in the general forest area to 10–15 tons per acre would slow the spread of fire and would reduce the potential for a fire to spread into the crowns of the trees.

*Element 2—Ladder Fuels Reduction.* Lower branches and small trees currently extend from the ground upward, creating the ladder a fire would climb to reach higher crowns. Ladder fuels have increased dramatically as ponderosa pine trees with small crowns and few lower branches have been replaced by fir and spruce that have large crowns and branches extending to the ground. Fire suppression has also resulted in a dense understory of young

trees that contribute to the fire ladder. The desired condition within the DFS is to effectively prevent a ground fire from climbing into upper tree crowns.

*Element 3—Retention of Fire Tolerant Species.* Aspen is naturally regenerated by wildfire, and therefore is considered a fire-tolerant species. Aspen stands within the watershed are being encroached upon by tree species such as spruce and fir, which are fire intolerant species. Stands with a high density of aspen act as natural firebreaks or areas where fire activity is slowed. Aspen is a short-lived species that requires disturbance in order to regenerate; without disturbance, these stands will eventually be taken over by conifers, eliminating the aspen from the area. Conifer encroachment increases fire susceptibility and fire behavior within these stands. Maintaining aspen stands would help slow the spread of fires that may occur. The desired condition is to regenerate and maintain aspen stands.

*Proposed Action:* The Forest Service proposes to treat fuels in timber stands located in Kane County, Utah, Salt Lake Base Meridian, T38S R8W, T38S R7W, T39S R8W, T39S R7W and T38S R6W. The specific fuels treatments are as follows:

1. *Defensible fire space treatments.* Establish a defensible fire space (DFS) in National Forest lands from 500′–2000′ wide immediately surrounding private lands with subdivisions. The area to be treated in the DFS is approximately 2,724 acres. To reduce the risk of a wildfire reaching or spreading through tree crowns within the DFS, intensive fuels removal treatments will be conducted by cutting all conifer trees under nine inches in diameter and pruning limbs under eight feet high on conifer trees to reduce ladder fuels. Limbs, existing ground fuels and slash will be disposed of by piling/burning or chipping.

2. *Mixed conifer treatments.* Reduce fuel loads and favor the establishment of ponderosa pine on approximately 7,352 acres of mixed conifer stands in National Forest lands south and west of the private subdivisions. Mixed conifer stands have major components of ponderosa pine, white fir and Douglas-fir with minor components of subalpine fir, Engelmann spruce and Colorado blue spruce. Fuel loads will be reduced by cutting white fir, Douglas-fir, subalpine fir, Engelmann spruce and Colorado blue spruce trees under nine inches in diameter. Limbs, existing ground fuels and slash will be disposed of by piling/burning or chipping.

3. *Spruce/fir treatments.* Reduce fuel loads on approximately 947 acres of spruce/fir conifer stands in National Forest lands south and west of the private subdivisions. Spruce/fir stands have major components of Engelmann spruce and subalpine fir with minor components of ponderosa pine, Colorado blue spruce, Douglas-fir and white fir. Fuel loads will be reduced by cutting subalpine fir, white fir and Douglas-fir under nine inches in diameter. Engelmann spruce, Colorado blue spruce and ponderosa pine trees under nine inches in diameter will be retained in this area in order to maintain a spruce component into the future. Limbs, existing ground fuels and slash will be disposed of by piling/burning or chipping.

4. *Aspen treatments.* Regenerate and maintain stands dominated by aspen in approximately 2,366 acres of National Forest lands south and west of the private subdivisions by cutting Engelmann spruce, Colorado blue spruce, subalpine fir and white fir trees under nine inches in diameter and underburning fuels. Slash will be pulled away from mature (over 18″ diameter) ponderosa pine and Douglas-fir trees to provide partial protection from prescribed fire. Aspen, a short-lived species that acts to slow the spread of wildfire, requires periodic disturbance to induce new growth. Underburning will result in stimulating and regenerating the aspen. A prescribed fire plan will be developed prior to underburning. The plan will outline appropriate burning conditions and fire control methods to be implemented to insure the prescribed fire is confined to the area to be treated.

Fuels and slash piling may be done by machine, except where Forest Plan standards for soils or slope dictate otherwise. Piles will be burned. The transportation system required to treat or remove fuels is in place. No new roads would be constructed with this project. Riparian areas along perennial streams would be protected with a 300-foot no-treatment buffer along the edges. Riparian areas along ephemeral streams would be thinned, but piling and burning would occur at least 50 feet away from the channel. No treatment would occur within 100 feet of springs in order to protect water sources, soils that are wet and sensitive to compaction, and riparian habitat. The project will be implemented in accordance with direction in the Dixie National Forest Land and Resource Management Plan.

*Possible Alternatives:* Three or more alternatives will be considered in the analysis.

No action. Under this alternative, the proposed fuels treatments will not be completed. The current forest fuels conditions would not be substantially changed and natural processes would continue. This alternative will be fully evaluated and described.

Proposed Action (as described above).

Additional Alternatives—Additional alternatives may be developed in response to issues and resource conditions evaluated through the analysis.

*Responsible Official:* The responsible official for this EIS and the Record of Decision is: Robert A. Russell, Forest Supervisor, Dixie National Forest, 1789 Wedgewood, PO Box 627, Cedar City, Utah 84720–0627; FAX: (435) 865–3791.

*Nature of Decision To Be Made:* The Responsible Official will decide whether forest fuels treatment would be conducted to reduce risks from wildfires to the National Forest and to private lands held within the National Forest; and, if so, what extent and types of treatments should be done.

*Scoping Process:* Public participation was initiated through scoping in October, 2001. A scoping notice was sent to 2,796 individuals and organizations who are potentially affected parties and those currently on the Dixie National Forest mailing list that have expressed interest in natural resource projects. Two public meetings were held (October 27, November 1). Comments and issues were received in response to these public contacts.

Scoping will continue. Public participation is especially important during scoping and review of the draft EIS. Individuals, organizations, federal, state, and local agencies who are interested in or affected by the decision are invited to participate in the scoping process. This information will be used in the preparation of the draft EIS.

*Preliminary Issues.* The following issues were identified through public scoping and internal resource analyses:

1. The proposed fuels treatments would reduce travel corridors for big game (*e.g.* elk and deer) and birds and small mammals (*e.g.* turkey, grouse, red squirrels and flying squirrels) by substantially fragmenting habitat throughout the project area.

2. The proposed fuels treatments would remove understory trees and limbs, which are used by juvenile goshawks within nest areas and flammulated owls as roosting habitat.

3. The proposed fuels treatments would create openings in the forest and increase sight distance from the homes within the subdivision into the forest. This would change the visuals/aesthetics of the area by reducing or eliminating the ‘‘vegetative screening’’ that many residents value.

4. Older stands of aspen would be regenerated and replaced by younger stands of aspen, reducing and/or changing the aesthetic value of these stands. Older trees with large, white boles would be replaced by thickets of seedlings and saplings in the short term. Fall color viewing would also be impacted.

5. The proposed fuels treatments would remove young trees and seedlings from the spruce/fir stands, resulting in the eventual loss of the timber stand due to lack of regeneration.

6. The proposed fuels treatments are too costly to implement.

7. The proposed fuels treatment would reduce or eliminate understory vegetation that serves as a barrier to off-road motorized vehicles, especially by ATV's (All Terrain Vehicles).

*Comments Requested.* Comments will continue to be received and considered throughout the analysis process. Comments received in response to this notice and through scoping, including names and addresses of those who comment, will be considered part of the public record of this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

*Early Notice of Importance of Public Participation in Subsequent Environmental Review:* A draft environmental impact statement will be prepared for comment. The draft EIS is expected to be filed with the EPA (Environmental Protection Agency) and to be available for public review. At that time the EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period for the draft environmental impact statement will be forty-five days from the date the EPA's notice of availability appears in the **Federal Register**. Comments on the draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (Reviewers may wish to refer to the *Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act* at 40 CFR 1503.3 in addressing these points).

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could have been raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp.1334. 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at the time it can meaningfully consider them and respond to them in the final environmental impact statement.

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

In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertain to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal. The Responsible Official will document the decision and rationale for the decision in a Record of Decision. The final EIS is scheduled for completion in January, 2003. The decision will be subject to review under Forest Service Appeal Regulations.

Dated: July 8, 2003.

**Robert A. Russell,**

*Forest Supervisor, Dixie National Forest.*

[FR Doc. 03–18176 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–11–P

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## DEPARTMENT OF AGRICULTURE

### Natural Resources Conservation Service

### Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

**AGENCY:** Natural Resources Conservation Service (NRCS).

**ACTION:** Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

**SUMMARY:** It is the intention of NRCS in Indiana to issue three revised conservation practice standards in Section IV of the FOTG. The revised standards are: Critical Area Planting (342), Structure for Water Control (587), and Terrace (600). These practices may be used in conservation systems that treat highly erodible land and/or wetlands.

**DATES:** Comments will be received for a 30-day period commencing with this date of publication.

**ADDRESSES:** Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to *darrell.brown@in.usda.gov*.

**FOR FURTHER INFORMATION CONTACT:** Jane E. Hardisty, 317–290–3200.

**SUPPLEMENTARY INFORMATION:** Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed

changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: July 7, 2003.

**Jane E. Hardisty,**

*State Conservationist, Indianapolis, Indiana.*

[FR Doc. 03–18347 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–16–P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Broadband Pilot Grant Program

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice.

**SUMMARY:** The Rural Utilities Service (RUS) is announcing the process by which Fiscal Year 2003 funding of its pilot grant program for the provision of broadband transmission service in rural America will be made available. For Fiscal Year 2003, $10 million in grants will be made available through the further funding of the national competition announced on July 8, 2002, to provide broadband transmission service on a ''community-oriented connectivity'' basis. The community-oriented connectivity approach targets rural, economically-challenged communities and offers a means for the deployment of broadband transmission services to rural schools, libraries, education centers, health care providers, law enforcement agencies, public safety organizations as well as residents and businesses. This all-encompassing connectivity concept will give small, rural communities a chance to benefit from the advanced technologies that are necessary to foster economic growth, provide quality education and health care opportunities, and increase and enhance public safety efforts.

**DATES:** Successful grant applicants will be notified no later than September 15, 2003.

**FOR FURTHER INFORMATION CONTACT:** Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., STOP 1590, Room 4056, Washington, DC 20250–1590. Telephone number (202) 720–9554, facsimile (202) 720–0810.

**SUPPLEMENTARY INFORMATION:** On July 8, 2002, RUS published a Notice of Funds Availability (NOFA) in the **Federal Register** at 67 FR 45079 announcing its ''community-oriented connectivity'' pilot grant program for the provision of broadband transmission service in rural America. Twenty million dollars in grant authority was made available to deploy broadband infrastructure to extremely rural, lower income communities on a ''community-oriented connectivity'' basis. The ''community-oriented connectivity'' concept integrates the deployment of broadband infrastructure with the practical, everyday uses and applications of the facilities. This broadband access is intended to promote economic development and provide enhanced educational and health care opportunities. RUS provided financial assistance to eligible entities that were proposing to deploy broadband transmission service in rural communities where such service did not currently exist and who would connect the critical community facilities including the local schools, libraries, hospitals, police, fire, and rescue services and who would operate a community center that provides free and open access to residents.

In response to this NOFA, RUS received more than 300 applications totaling more than $185 million in funding requests. As part of a national competition, RUS reviewed the applications for eligibility and scored the applications according to the rurality of the project, the economic need of the project service area, and the community benefits to be derived from the proposed service. On May 16, 2003, Secretary of Agriculture, Ann Veneman, announced the 40 highest scoring grants totaling $20,184,642. This announcement fully utilized RUS' 2002 appropriation.

Due to the overwhelming response to the July 8, 2002, NOFA, RUS has eligible applications on hand totaling more than the $10 million appropriation received for Fiscal Year 2003. To eliminate the need for fully eligible applicants to resubmit applications for Fiscal Year 2003, RUS will utilize its 2003 appropriation by funding eligible projects submitted in accordance with the July 8, 2002 NOFA. Announcement of the 2003 appropriation grant awards will be made no later than September 15, 2003.

Dated: June 25, 2003.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 03–18191 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–15–P

## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

### Public Television Station Digital Transition Grant Program

**AGENCY:** Rural Utilities Service, USDA.

**ACTION:** Notice of funds availability.

**SUMMARY:** The Rural Utilities Service (RUS) announces a new grant program to finance the conversion of television services from analog to digital broadcasting for public television stations serving rural areas. For Fiscal Year 2003, $15 million in grants will be made available through a national competition to enable public television stations which serve substantial rural populations to continue serving their coverage areas.

**DATES:** Applications for grants will be accepted as of the date of this notice through September 16, 2003. All applications must be delivered to RUS or bear postmark no later than September 16, 2003. Comments regarding the information collection requirements under the Paperwork Reduction Act must be received on or before September 16, 2003, to be assured of consideration.

**ADDRESSES:** Applications shall be submitted to Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, USDA, STOP 1590, 1400 Independence Avenue, SW., Washington, DC 20250–1590.

**FOR FURTHER INFORMATION CONTACT:** Roberta D. Purcell, Assistant Administrator, Telecommunications Program, Rural Utilities Service, STOP 1590, 1400 Independence Avenue, SW., Washington, DC 20250–1590, Telephone (202) 720–9554, Facsimile (202) 720–0810.

**SUPPLEMENTARY INFORMATION:**

#### Information Collection and Recordkeeping Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), RUS invites comments on this information collection for which RUS intends to request approval from the Office of Management and Budget (OMB). These requirements are pending emergency clearance by OMB.

Comments on this notice must be received by September 16, 2003.

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 will have practical utility; (b) the accuracy of the agency's estimate of burden including

the validity of the methodology and assumption used; (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 those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to F. Lamont Heppe, Jr., Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Stop 1522, Room 4034 South Building, Washington, DC 20250–1522.

*Title:* Public Television Station Digital Transition Grant Program.

*Type of Request:* New collection.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated to average 21 hours per response.

*Respondents:* Not-for-profit institutions; State, Local or Tribal Government.

*Estimated Number of Respondents:* 50.

*Estimated Number of Responses per Respondent:* 1.12.

*Estimated Total Annual Burden on Respondents:* 1,168 hours.

Copies of this information collection can be obtained from Michele Brooks, Program Development and Regulatory Analysis, at (202) 690–1078.

All responses to this information collection and recordkeeping notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

**General Information**

As part of the nation's evolution to digital television, the Federal Communications Commission has ordered all television broadcasters to initiate the broadcast of a digital television signal by May 1, 2003, and to cease analog television broadcasts on December 31, 2006. About half of the nation's 357 public television stations did not meet the deadline to initiate digital broadcasting, and have received extensions to as late as May 1, 2004, to do so.

The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2003, authorized $51,941,000 for the Distance Learning and Telemedicine program. The Committee Recommendations specify that of the funds provided for Distance Learning and Telemedicine, $15,000,000 should be made available in grants for public broadcasting systems to meet this goal. The Committee further recognizes that these stations will have considerable financial difficulty in meeting that deadline.

Public television stations rely largely on community financial support to operate. In many rural areas the cost of the transition to digital broadcasting may exceed community resources. Since rural communities depend on public television stations for services ranging from educational course content in their schools to local news, weather, and agricultural reports, any disruption of public television broadcasting would be detrimental.

Initiating a digital broadcast requires the installation of a new antenna, transmitter or translator, and new digital program management facilities consisting of processing and storage systems. Public television stations use a combination of transmitters and translators to serve the rural public. If the public television station is to perform program origination functions, as most do, digital cameras, editing and mastering systems are required. A new studio-to-tower site communications link may be required to transport the digital broadcast signal to each transmitter and translator. The capability to broadcast some programming in a high definition television format is inherent in the digital television standard, and this can require additional facilities at the studio. These are the new components of the digital transition.

In designing the national competition for the distribution of these grant funds, priority is given to public television stations serving the areas that would be most unable to fund the digital transition without a grant. The largest sources of funding for public television stations are public membership and business contributions. In rural areas, lower population density reduces the field of membership, and rural areas have fewer businesses per capita than urban and suburban areas. Therefore, rurality is a primary predictor of the need for grant funding for a public television station's digital transition. In addition, some rural areas have per capita income levels that are lower than the national average, and public television stations covering these areas in particular are likely to have difficulty funding the digital transition. As a result, the consideration of the per capita income of a public television station's coverage area is a secondary predictor of the need for grant funding. Finally, some public television stations may have, or may meet in their communities, critical needs, and a third scoring factor for critical need will account for conditions that make these public television stations less likely to accomplish the digital transition without a grant.

**Definitions**

As used in this notice:

*Consortium* means a combination or group of public television stations.

*Digital television, or DTV,* means a new television system which will replace the current analog system, which was designed by and is referred to as the National Television Standards Committee, or NTSC, system. The standard for digital television was adopted by the Federal Communications Commission on December 24, 1996, after being developed by the Advanced Television Standards Committee, or ATSC.

*Digital television coverage area* means the geographic area that will be covered by a public television station after its digital transition. This shall be defined using the Irregular Terrain Model (Longley-Rice model) developed by and available from the National Telecommunications and Information Administration at *http://elbert.its.bldrdoc.gov/itm.html.* For translators only, an applicant may define the digital television coverage area using an alternative means, which must be explained fully in the application and is subject to acceptance by the RUS.

*Digital transition* means a conversion from analog television broadcasting to digital television broadcasting. To perform the digital transition according to Federal Communications Commission rules, a broadcaster must initiate digital television broadcasting while continuing to operate analog television broadcasting, to enable viewers time to acquire digital television reception capability, and subsequently discontinue analog television broadcasting.

*Distance learning* means a digital public television broadcast from one area, whether rural or not, to a school, library, home, or other end-user site located in a rural area, for the purpose of providing educational and cultural programming.

*High definition television, or HDTV,* means an enhanced television service which is authorized by the Federal Communications Commission as part of the digital television standard.

*Public television station* means a television broadcast station, which (1)(A) under the rules and regulations of the Federal Communications Commission in effect on November 2, 1978, is eligible to be licensed as a

noncommercial educational broadcast station and which is owned and operated by a public agency or nonprofit private foundation, corporation, or association, or (B) is owned and operated by a municipality and which transmits only noncommercial programs for education purposes, and which (2) qualifies for Federal funding under section 396(k) of the Public Broadcasting Act of 1967. Public television station facilities, for the purposes of this Notice, include associated television translators and studio-to-transmitter/translator communications links.

*Rural area* means any area of the United States that is not in an urban area.

*Rural Utilities Service, or RUS,* is an agency of the United States Department of Agriculture which will administer the Public Television Station Digital Transition Grant Program.

*Total project cost* means the estimated sum of expenditures necessary for a public television station to perform the digital transition for all of the rural population in its digital television coverage area. This would include RUS grant funds requested, and funding contributions for this purpose from other organizations, including the Federal government.

*Urban area* means any area of the United States included within the boundaries of any incorporated or unincorporated city, village, or borough having a population in excess of 20,000 inhabitants.

**Applicant Eligibility**

Eligibility for grants is limited to public television stations that serve a rural area, and consortia of public television stations, where each public television station in the consortium serves a rural area. Public television stations which serve urban areas in addition to a rural area are eligible to apply for grants under this Notice.

**Eligible Projects**

Grants shall be made to enable applicants to perform digital transitions of television broadcasting serving rural areas. Grant funds may be used to acquire, by purchase or lease, and install, facilities and software necessary to the digital transition. Grant funds may also be used for associated engineering and environmental studies necessary to this implementation. When facilities are acquired by lease, up to three years' lease costs shall be eligible for grant funding.

**Maximum Amounts of Grants**

Grants shall be limited in amount to $2 million where the applicant is an individual public television station. Where the applicant is a consortium of public television stations, the grant limit is the total of $2 million for the first station plus $1 million for each additional public television station in the consortium, up to a maximum of $5 million. Only one grant will be made to a public television station or consortium.

**Eligible Purposes of Grants**

(a) Digital transmitters and translators, including all facilities required to initiate DTV broadcasting. All broadcast facilities acquired with grant funds shall be capable of delivering DTV programming and HDTV programming, at both the interim and final channel and power authorizations.

(b) To be an eligible grant purpose, an expenditure must be made after the application deadline specified elsewhere in this Notice. Expenditures made prior to this deadline are not eligible for funding.

(c) Facilities for which other grant funding has been approved are not eligible for funding under this program.

**Ineligible Purposes**

Grant funds shall not be used to fund ongoing operations or for facilities that will not be owned by the applicant, except for leased facilities as provided above. Costs of salaries, wages, and employee benefits of public television station personnel are not eligible for funding under this program.

**Scoring Criteria for the Grant Competition**

Grants will be tested for applicant and project eligibility, and all applications found to be eligible will be scored. Each grant will be scored in three categories: the *rurality* of the applicant's digital television coverage area, the average *per capita income* of the applicant's digital television coverage area, and *critical need.*

(a) Rurality is a measure of the rural character of the applicant's digital television coverage area. Points are scored through a two-step evaluation, as follows:

(1) If the total population in the applicant's digital television coverage area is less than 100,000, the application receives 50 points;

(2) If the total population in the applicant's digital television coverage area is 100,000 or more, points are scored based on the applicant's rural ratio. The rural ratio is the ratio of the rural population covered by a public television station's digital television coverage area to the total population covered by the station's digital television coverage area. Applicants shall calculate the rural ratio by subtracting the populations of all urban areas within the digital television coverage area from the total population of the digital television coverage area, and dividing the total covered population into the covered rural population. The result is rounded to the nearest whole percentage point. The score is computed as follows:

(A) If the rural ratio is 50% or less, the application receives zero (0) points.

(B) If the rural ratio is 51% to 57%, the application receives ten (10) points.

(C) If the rural ratio is 58% to 65%, the application receives twenty (20) points.

(D) If the rural ratio is 66% to 74%, the application receives thirty-five (35) points.

(E) If the rural ratio is over 74%, the application receives fifty (50) points.

(b) Per capita income (PCI) is a measure of the relative average earnings of the population in the applicant's digital television coverage area. Applicants must use the per capita personal income by county, as determined by the Bureau of Economic Analysis, U.S. Department of Commerce, at *http://www.bea.doc.gov/bea/regional/reis/.* The applicant shall compute the weighted average PCI for its digital television coverage area by averaging the PCIs for all counties within its digital television coverage area. The ratio of the applicant's average PCI to the National Average Per Capita Income (NAPCI) is scored as follows:

(1) If the PCI/NAPCI ratio is 80% or greater, the application receives zero (0) points.

(2) If the PCI/NAPCI ratio is 70% to 79%, the application receives ten (10) points.

(3) If the PCI/NAPCI ratio is 60% to 69%, the application receives twenty (20) points.

(4) If the PCI/NAPCI ratio is less than 60%, the application receives thirty-five (35) points.

(c) Critical need is a measure of the special difficulty an applicant may experience performing the digital transition, and the dependence the applicant's rural communities have on its services. This scoring category is intended to account for factors not covered by other categories. Up to fifteen (15) points may be scored where an applicant demonstrates, to the satisfaction of the RUS, that it cannot make the digital transition without a grant from RUS, and that rural education and other community service

needs will go unmet as a result. An applicant should identify special characteristics unique to its digital television coverage area and its service relationship with its viewers, such as:

(1) Geographic or coverage characteristics of the public television station's digital television coverage area that make the digital transition unusually expensive;

(2) A severe lack of specialized human resources (such as teachers) for which digital educational television will compensate;

(3) Geographic isolation of communities which will be overcome with public television station services;

(4) Non-traditional community needs (such as adult vocational retraining) that may be met only with digital public television station broadcast capabilities;

(5) Economic conditions that place the applicant at a disadvantage in raising local funding, but which are not reflected to the per capita income levels scored above; and

(6) Historical events that have placed the public television station in severe financial stress.

**The Grant Application**

The grant application shall include the following:

(a) An application for federal assistance, Standard Form 424.

(b) An executive summary, not to exceed two pages, describing the public television station, its service area and offerings, its current digital transition status, and the proposed project.

(c) Evidence of the applicant's eligibility to apply under this Notice.

(d) A spreadsheet showing the total project cost, with a breakdown of items sufficient to enable RUS to determine item eligibility.

(e) A map or maps, showing the digital television coverage area for all of the applicant's transmitters and translators.

(f) The applicant's estimated rurality score, supported by a worksheet showing the population of its digital television coverage area, the derivation of the urban and rural components of that population, and a map showing the digital television coverage area and all urban areas within its boundaries. Supporting information shall list the sources of all population and coverage area information, and if the application includes computations made by a consultant or other organization outside the public television station, shall state the details of that collaboration.

(g) The applicant's estimated per capita income ratio, supported by a worksheet showing the averaging of the PCIs for all counties served.

(h) If applicable, a presentation not to exceed two pages demonstrating critical need.

(i) Evidence that the Federal Communications Commission has authorized the initiation of digital broadcasting at each of the applicant's transmitter and translator sites. In the event that a Federal Communications Commission construction permit has not been issued for one or more sites, the RUS may include those sites in the grant, and make advance of funds for that site conditional upon the submission of a construction permit.

(j) Compliance with other Federal statutes. The applicant must provide evidence of compliance with other Federal statutes and regulations, including, but not limited to the following:

(1) Executive Order (E.O.) 11246, Equal Employment Opportunity, as amended by E.O. 11375 and as supplemented by regulations contained in 41 CFR part 60;

(2) Architectural barriers;

(3) Flood hazard area precautions;

(4) Assistance and Real Property Acquisition Policies Act of 1970;

(5) Drug-Free Workplace Act of 1998 (41 U.S.C. 701);

(6) E.O.s 12549 and 12689, Debarment and Suspension; and

(7) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

(k) Environmental impact and historic preservation. The applicant must provide details of the digital transition's impact on the environment and historic preservation, and comply with 7 CFR part 1794, which contains RUS' policies and procedures for implementing a variety of federal statutes, regulations, and executive orders generally pertaining to the protection of the quality of the human environment. The application shall contain a separate section entitled ''Environmental Impact of the Digital Transition.'' This shall include the Environmental Questionnaire/Certification, which is available from RUS, on which the applicant describes the impact of its digital transition. *Submission of the Environmental Questionnaire/Certification does not constitute compliance with 7 CFR part 1794.*

**Grant Documents**

The terms and conditions of grants shall be set forth in grant documents prepared by RUS. The documents shall require the applicant to own all facilities financed by the grant. Among other matters, RUS may prescribe conditions to the advance of funds that address the construction of the project and the delivery of distance learning services to rural areas.

Dated: July 11, 2003.

**Hilda Gay Legg,**

*Administrator, Rural Utilities Service.*

[FR Doc. 03–18192 Filed 7–17–03; 8:45 am]

BILLING CODE 3410–15–P

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Additions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Additions to Procurement List.

**SUMMARY:** This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

**EFFECTIVE DATE:** August 17, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia, 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** On May 2, and May 9, 2003, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (68 FR 23441, and 24919) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

**Regulatory Flexibility Act Certification**

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-

O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

(End of Certification)

Accordingly, the following services are added to the Procurement List:

*Services*

*Service Type/Location:* Custodial Services, Bureau of Engraving and Printing, Landover Warehouse Facility, Landover, Maryland
*NPA:* Davis Memorial Goodwill Industries, Washington, DC
*Contract Activity:* Bureau of Engraving and Printing, Washington, DC
*Service Type/Location:* Grounds Maintenance, Douglas Recreation Center, Garrison, North Dakota
*NPA:* MVW Services, Inc., Minot, North Dakota
*Contract Activity:* U.S. Army Corps of Engineers-Omaha, Omaha, Nebraska
*Service Type/Location:* Janitorial/Custodial, U.S. Army Reserve Center, Flint, Michigan
*NPA:* Michigan Community Services, Inc., Swartz Creek, Michigan
*Contract Activity:* Headquarters, 88th Regional Support Command, Fort Snelling, Minnesota

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

**Sheryl D. Kennerly,**
*Director, Information Management.*

[FR Doc. 03–18337 Filed 7–17–03; 8:45 am]
**BILLING CODE 6353–01–P**

## COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

### Procurement List; Proposed Additions and Deletions

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Proposed additions to and deletions from Procurement List.

**SUMMARY:** The Committee is proposing to add to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a product previously furnished by such agencies.

*Comments Must Be Received on or Before:* August 17, 2003.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

**FOR FURTHER INFORMATION CONTACT:** Sheryl D. Kennerly, (703) 603–7740.

**SUPPLEMENTARY INFORMATION:** This notice is published pursuant to 41 U.S.C 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

### Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

### Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

(End of Certification)

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

*Products*

*Product/NSN:* Remanufactured Ink Jet Cartridge (50% of the Government Requirement)

7510–01–443–2122

7510–01–443–2123

*NPA:* Work Transition Services, San Bruno, California
*Contract Activity:* Office Supplies & Paper Products Acquisition Center, New York, NY

*Services*

*Service Type/Location:* Janitorial/Custodial, National Personnel Records Center, St. Louis, Missouri
*NPA:* Challenge Unlimited, Inc., Alton, Illinois
*Contract Activity:* GSA, Service Contracts (6PEF–C), Kansas City, Missouri
*Service Type/Location:* Mailroom Operation, Internal Revenue Service Mailrooms, ServiceSource, Arlington, Virginia (Prime Contractor) and at the following locations for the Nonprofit Agencies identified: Internal Revenue Service Mailroom, Alliance Tower, Houston, Texas
*NPA:* Lighthouse for the Blind of Houston, Houston, Texas; Internal Revenue Service Mailroom, Atlanta SE, Atlanta, Georgia
*NPA:* Bobby Dodd Institute, Inc., Atlanta, Georgia; Internal Revenue Service Mailroom, Baltimore, Maryland
*NPA:* Blind Industries & Services of Maryland, Baltimore, Maryland; Internal Revenue Service Mailroom, Boston, Massachusetts
*NPA:* Work, Incorporated, North Quincy, Massachusetts; Internal Revenue Service Mailroom, Buffalo, New York
*NPA:* Phoenix Frontier, Inc., Buffalo, New York; Internal Revenue Service Mailroom, Cincinnati, Ohio
*NPA:* Ohio Valley Goodwill Industries Rehabilitation Center, Inc., Cincinnati, Ohio; Internal Revenue Service Mailroom, Detroit, Michigan; Internal Revenue Service Mailroom Computing Center, Detroit, MI
*NPA:* Jewish Vocational Service and Community Workshop, Southfield, Michigan; Internal Revenue Service Mailroom, Headquarters, Washington, DC and New Carrollton, Maryland (Contractor Owned & Operated)
*NPA:* ServiceSource, Inc., Alexandria, Virginia
*NPA:* Columbia Lighthouse for the Blind, Washington, DC; Internal Revenue Service Mailroom, Denver, Colorado
*NPA:* Bayaud Industries, Inc., Denver, Colorado; Internal Revenue Service Mailroom, Greensboro, North Carolina
*NPA:* Winston-Salem Industries for the Blind, Winston-Salem, North Carolina; Internal Revenue Service Mailroom, Hartford, Connecticut
*NPA:* Easter Seals Greater Hartford Rehabilitation Center, Inc., Windsor, Connecticut; Internal Revenue Service Mailroom, Indianapolis, Indiana
*NPA:* GW Commercial Services, Inc., Indianapolis, Indiana; Internal Revenue Service Mailroom, Laguna Niguel, California

*NPA:* Landmark Services, Inc., Santa Ana, California; Internal Revenue Service Mailroom, Los Angeles, California
*NPA:* Goodwill Industries of Southern California, Los Angeles, California; Internal Revenue Service Mailroom, North Florida; Internal Revenue Service Mailroom, Modis Building, Jacksonville, Florida
*NPA:* CCAR Services, Inc., Green Cove Springs, Florida; Internal Revenue Service Mailroom, Nashville, Tennessee
*NPA:* Goodwill Government Services, Inc., Nashville, Tennessee; Internal Revenue Service Mailroom, New Orleans, Louisiana
*NPA:* The Lighthouse for the Blind in New Orleans, New Orleans, Louisiana; Internal Revenue Service Mailroom, Oakland, California; Internal Revenue Service Mailroom, San Francisco, California
*NPA:* Pacific Coast Community Services, Truckee, California; Internal Revenue Service Mailroom, Oklahoma City, Oklahoma
*NPA:* The Oklahoma League for the Blind, Oklahoma City, Oklahoma; Internal Revenue Service Mailroom, Philadelphia, Pennsylvania
*NPA:* Horizon House, Inc., Philadelphia, Pennsylvania; Internal Revenue Service Mailroom, Phoenix, Arizona
*NPA:* Goodwill Community Services, Inc., Phoenix, Arizona; Internal Revenue Service Mailroom, South Florida, Plantation, Florida
*NPA:* ServiceSource, Inc., Alexandria, Virginia; Internal Revenue Service Mailroom, Richmond, Virginia
*NPA:* Goodwill Services, Inc., Richmond, Virginia; Internal Revenue Service Mailroom, Riverside, Chicago, Illinois
*NPA:* Jewish Vocational Service and Employment Center, Chicago, Illinois; Internal Revenue Service Mailroom, Springfield, New Jersey
*NPA:* New Jersey Association for the Deaf-Blind, Inc, Somerset, New Jersey; Internal Revenue Service Mailroom, St. Louis, Missouri
*NPA:* MGI Services Corporation, St. Louis, Missouri; Internal Revenue Service Mailroom, St. Paul, Minnesota
*NPA:* Tasks Unlimited, Inc., Minneapolis, Minnesota
*Contract Activity:* U.S. Treasury, IRS Headquarters, Oxon Hill, Maryland
*Service Type/Location:* Reproduction and Courier Service; Naval Facilities Engineering Command, Chesapeake, Washington, DC
*NPA:* Sheltered Occupational Center of Northern Virginia, Inc., Arlington, Virginia
*Contract Activity:* Naval Facilities Engineering Command, Chesapeake, Washington, DC

**Deletions**

*Regulatory Flexibility Act Certification*

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.
2. If approved, the action will result in authorizing small entities to furnish the product to the Government.
3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the product proposed for deletion from the Procurement List.

(End of Certification)

The following product is proposed for deletion from the Procurement List:

*Product*

*Product/NSN:* Scraper and Squeegee
7920–00–045–2556
*NPA:* L.C. Industries For The Blind, Inc., Durham, North Carolina
*Contract Activity:* GSA, Southwest Supply Center, Fort Worth, Texas

**Sheryl D. Kennerly,**
*Director, Information Management.*
[FR Doc. 03–18336 Filed 7–17–03; 8:45 am]
BILLING CODE 6353–01–P

## DEPARTMENT OF COMMERCE

### Notice to Announce Secretary Evans, Oil and Gas Business Development Mission to Russia, September 21–25, 2003; Correction

**AGENCY:** Department of Commerce.

**SUMMARY:** The Department of Commerce published a document in the **Federal Register** of July 15, 2003, concerning notice to announce DOC Secretary Evans, Oil and Gas Business Development Mission to Russia, September 21–25, 2003. The document contained incorrect Web site addresses.

**FOR FURTHER INFORMATION CONTACT:** Molly Costa, 202–482–0692.

**Correction**

In the **Federal Register** of July 15, 2003, in FR Doc. 03–17807 (Vol. 68, No. 135), on page 41782, in the second column, correct the two references to mission Web sites to: *http://www.commerce.gov/russiamission2003.*

Dated: July 15, 2003.

**Molly Costa,**
*Industry Sector Manager, U.S. and Foreign Commercial Service.*
[FR Doc. 03–18276 Filed 7–17–03; 8:45 am]
BILLING CODE 3510–DR–M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[Docket 34–2003]**

### Foreign-Trade Zone 39—Dallas/Fort Worth, TX; Application for Subzone Maxtor Corporation (Data Storage Products) Coppell, TX

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Dallas/Fort Worth International Airport Board, grantee of FTZ 39, requesting special-purpose subzone status for the assembly and warehousing facilities of Maxtor Corporation (Maxtor), located in Coppell, Texas. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on July 2, 2003.

The Maxtor facility (18 acres, 245 employees) is located at 611 South Royal Lane, Coppell, Texas. The facility will be used for the assembly and distribution of internal and external hard disk drive kits, retail kits and accessory kits (HTS 8471.70 and 8471.80, duty-free). Components and materials sourced from abroad (representing 97% of all parts used in the assembly process) include: external and internal drives, electrical power supplies, electrical power cables, hard disk drive controller cards, data cables, printed circuit boards, cabling, plastic covers, UV resin, brackets, tape, HDD screws, software, acrylic plates and packaging (HTS 3919.10, 3926.90, 4819.40, 4821.10, 4901.99, 7318.15, 7326.90, 8471.70, 8471.80, 8473.30, 8504.40, 8524.31, 8524.91, 8544.41, 8544.51, duty rate ranges from duty-free to 8.6%).

FTZ procedures would exempt Maxtor from Customs duty payments on the foreign components used in export production. Some 6 percent of the plant's shipments are exported. On its domestic sales, Maxtor would be able to choose the duty rates during Customs entry procedures that apply to the assembled data storage kits (duty-free) for the foreign components noted above. The request indicates that the savings from FTZ procedures would help

improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW, Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW, Washington, DC 20230. The closing period for their receipt is September 16, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to October 1, 2003.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 711 Houston Street, Fort Worth, Texas 76102.

Dated: July 9, 2003.

**Dennis Puccinelli,**

*Executive Secretary.*

[FR Doc. 03–18322 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A-570–887]**

### Notice of Initiation of Antidumping Duty Investigation: Tetrahydrofurfuryl Alcohol from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Initiation of an Antidumping Duty Investigation.

**EFFECTIVE DATE:** July 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Robert Bolling at (202) 482–3434 or Laurel LaCivita at (202) 482–4243, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:**

## INITIATION OF INVESTIGATION:

### The Petition

On June 23, 2003, the Department of Commerce (''the Department'') received a petition filed in proper form by Penn Specialty Chemicals, Inc. (''petitioner''). On July 7, 2003, July 10, 2003 and July 11, 2003, the Department received amendments to the petition filed in proper form by the petitioner.

In accordance with section 732(b)(1) of the Tariff Act of 1930 (''the Act''), the petitioner alleges that imports of tetrahydrofurfuryl alcohol (''THFA'') from the People's Republic of China (''the PRC'') are, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that imports from the PRC are materially injuring, or are threatening to materially injure, an industry in the United States.

The Department finds that the petitioner filed this petition on behalf of the domestic industry because it is an interested party as defined in sections 771(9)(c) and 771(9)(D) of the Act and has demonstrated sufficient industry support with respect to the antidumping investigation that they are requesting the Department to initiate. *See infra*, ''Determination of Industry Support for the Petition.''

### Scope of the Investigation

For the purpose of this investigation, the product covered is tetrahydrofurfuryl alcohol (C5H10O2). THFA, a primary alcohol, is a clear, water white to pale yellow liquid. THFA is a member of the heterocyclic compounds known as furans and is miscible with water and soluble in many common organic solvents. THFA is currently classified in the Harmonized Tariff Schedules of the United States (''HTSUS'') under subheading 2932.13.00.00. Although the HTS subheadings are provided for convenience and for the purposes of the U.S. Bureau of Customs and Border Protection (''Customs''), the Department's written description of the merchandise under review is dispositive.

As discussed in the preamble to the Department's regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments within 20 calendar days of publication of this notice. Comments should be addressed to Import Administration's Central Records Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

### Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (''ITC''), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of

time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

Based on our analysis of the information presented by the petitioner, we have determined that there is a single domestic like product, THFA, which is defined in the ''Scope of the Investigation'' section above, and we have analyzed industry support in terms of this domestic like product.

In its initial petition and subsequent submissions, the petitioner states that it comprises 100 percent of U.S. THFA production. Based on all available information, we agree that the petitioner comprises 100 percent of the domestic THFA production.

Our review of the data provided in the petition and other information readily available to the Department indicates that the petitioner has established industry support representing 100 percent of the total production of the domestic like product, requiring no further action by the Department pursuant to section 732(c)(4)(D) of the Act. In addition, the Department received no opposition to the petition from domestic producers of the like product. Therefore, the domestic producer (or workers) who supports the petition accounts for at least 25 percent of the total production of the domestic like product, and the requirements of section 732(c)(4)(A)(i) of the Act are met. Furthermore, the domestic producer who supports the petition accounts for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for or opposition to the petition. Thus, the requirements of section 732(c)(4)(A)(ii) of the Act also are met. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

[1] *See USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (Ct. Int'l Trade 2001), *citing Algoma Steel Corp. Ltd. v. United States*, 688 F. Supp. 639, 642-44 (Ct. Int'l Trade 1988).

**Period of Investigation**

The anticipated period of investigation (''POI'') is October 1, 2002, through March 31, 2003.

**Export Price and Normal Value**

The following are descriptions of the allegations of sales at less than fair value upon which the Department based its decision to initiate this investigation. The sources of data for the deductions and adjustments relating to U.S. and foreign market prices, constructed value (''CV''), and factors of production are discussed in greater detail in the *Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate.

Regarding an investigation involving a non-market economy (''NME'') country, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of a country's NME status and the granting of separate rates to individual exporters. *See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994).

**Export Price**

The petitioner based export price (''EP'') on price quotes from Chinese exporters of THFA to unaffiliated purchasers in the United States. The petitioner calculated net U.S. price by deducting foreign inland freight, domestic inland insurance, ocean freight, and brokerage and handling. Petitioner alleged that India was the appropriate surrogate country (see discussion below) and calculated the adjustments to the EP using the surrogate values recorded in the memoranda to the file from Drew Jackson to Howard Smith, *Surrogate Values Used for the Preliminary Results of the Administrative Review of Potassium Permanganate from the People's Republic of China: January 1, 2001 through December 31, 2001* dated January 31, 2003 (''*Surrogate Value Memorandum I*''), and *Surrogate Values Used for the Preliminary Results of the Administrative Review of Potassium Permanganate from the People's Republic of China: January 1, 1999 through December 31, 1999* dated January 30, 2002 (''*Surrogate Value Memorandum II*'').

We adjusted petitioner's calculation of the surrogate values used to calculate foreign inland freight, domestic inland insurance, ocean freight, and brokerage and handling for inflation. Petitioner used the unadjusted surrogate values recorded in the Department's surrogate value memoranda for potassium permanganate, but did not account for inflation from the date of the source data to the POI. Therefore, we went back to the original source data for each adjustment and inflated the reported price to the POI using the website of the Office of the Economic Adviser to the Government of India, Ministry of Commerce and Industry, *http://www.eaindustry.nic.in*. We then converted all unit prices expressed in rupees per metric tons to dollars per pound.

The petitioner provided price quotes for the subject merchandise which we determined were sufficient for initiation purposes. In addition, petitioner provided average unit values (''AUVs'') calculated from U.S. import statistics as a second basis to estimate dumping margins. However, since these AUVs were calculated using information from a basket category HTS number, we did not use these average unit values calculated from U.S. import statistics as a basis of estimated dumping margins. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we may re-examine the information and revise the margin calculations, if appropriate. For our complete analysis of EP, *see* the *Initiation Checklist*.

**Normal Value**

The petitioner asserts that the PRC is an NME country, and notes that in all previous investigations the Department has determined that the PRC is an NME. *See e.g., Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). The PRC will be treated as an NME unless and until its NME status is revoked. *See* section 771(18)(C)(i) of the Act. Because the PRC's status as an NME remains in effect, the petitioner's estimated the dumping margin using a NME methodology.

For normal value (''NV''), the petitioner based the factors of production (''FOP''), as defined by section 773(c)(3) of Act, on the consumption rates for furfuryl alcohol (''FA'') reported in *Technical Progress in Furfuryl Alcohol Production*, by Ma Bao-Qi and Chen Fan-Geng of Xian

Petroleum College (''*Xian Report*''), Xian, and on its own experience. Petitioner contends that consumption rates for the Chinese THFA industry are not reasonably available, and that FA is an intermediate product and feedstock in the production process for THFA. Therefore, petitioner used the factor values included in the *Xian Report* for the production of FA and its own experience as the basis of factor values for the production steps required to convert FA to THFA. As a result, petitioner contends that information provided in the *Xian Report*, and petitioner's own production experience, is the only information reasonably available to petitioner concerning THFA production in China. Thus, when information from the *Xian Report* was not available, petitioner assumed that producers in the PRC use the same inputs in the same quantities as the petitioner. Based on the information provided by the petitioner, we believe that the petitioner's FOP methodology represents information reasonably available to the petitioner and is appropriate for purposes of initiating this investigation.

The petitioner asserts that India is the most appropriate surrogate country for the PRC, claiming that India is: i) a market economy, and, ii) at a level of economic development comparable to the PRC in terms of per capita GNP. Petitioner asserts that China is the only other country known to produce THFA. Therefore, none of the potential surrogate countries, including India, are significant producers of the subject merchandise. Petitioners note however, that India is a significant producer of furfural and FA which are intermediate products and feedstocks in the production process for THFA and based on the information provided by the petitioner, we believe that the petitioner's use of India as a surrogate country is appropriate for the purpose of initiating this investigation.

In accordance with section 773(c)(4) of the Act, petitioner valued FOP, where possible, on reasonably available, public surrogate data from India. Petitioner valued furfural, hydrogen and nitrogen based on Indian import values, as published in the 2000 and 2001 *Monthly Statistics of Foreign Trade of India*, and inflated based on the Indian wholesale price index (''WPI''). Petitioner was not able to obtain publicly available data for the furfural-to-FA and the FA-to-THFA catalysts, and therefore, used imports into the United States from India for HTS 3815.90.30.00 (furfural-to-FA catalyst) and HTS 3815.11.00.00 (FA-to-THFA catalyst) as reported in the World Trade Atlas. The Department is not using Indian import values into the United States because India maintains broadly available, non-industry specific export subsidies. It is the Department's policy, based on our earlier determinations and legislative history, to reject such factor input values, whether they are market economy purchases or import statistics into a surrogate country, on the basis that we have found that the existence of these subsidies provide sufficient reason to believe or suspect that export prices from those countries are distorted. Therefore, we set the surrogate values for these factors to zero. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Ball Bearings and Parts Thereof from the People's Republic of China*, 68 FR 10685 (March 6, 2003) and accompanying Issues and Decision Memorandum. *See* Attachment IV of the *Initiation Checklist*.

Petitioner valued labor using the regression-based wage rate for the PRC provided by the Department, in accordance with section 351.408(c)(3) of the Department's regulations. Petitioner valued maintenance supplies based on its own experience. However, the Department has determined that maintenance expenses should be classified as and included in overhead expenses in the calculation of normal value based on the factors of production. *See Persulfates from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 64 FR 69494 (December 13, 1999). Therefore, in order to eliminate the possibility of double counting overhead expenses which are otherwise included in our analysis, we have set the value of maintenance supplies to zero. Petitioner valued steam produced from coal, water, electricity, factory overhead, SG&A and profit using the *Surrogate Values Memorandum I*. We revised petitioner's factor value calculation for water to take into account inflation from the time period of the original source documentation to the POI. The petitioner inflated these figures to the current POI using the WPI reported on the Indian Office of Economic Advisor website, *www.eaindustry.nic.in*, for chemicals and chemical products.

**Fair Value Comparisons**

Based on the data provided by the petitioner, there is reason to believe that imports of THFA from the PRC are being, or are likely to be, sold at less than fair value. As a result of a comparison of EP to NV, petitioner's calculated estimated dumping margins, as adjusted by the Department, range from 159.26 to 200.00 percent.

**Allegations and Evidence of Material Injury and Causation**

The petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than fair value.

The petitioner contends that the industry's injured condition is evident in the declining trends in financial performance, production volume, capacity utilization rates, U.S. shipments, domestic prices, market share, reduced profitability, capital expenditures and research, and development expenditures. The allegations of injury and causation are supported by relevant evidence including affidavits of company officials, U.S. Census Bureau import statistics, lost sales, and pricing information. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See Initiation Checklist*.

**Initiation of Antidumping Investigation**

Based upon our examination of the petition on THFA, we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of THFA from the PRC are being, or are likely to be, sold in the United States at less than fair value. Unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act, we will make our preliminary determination no later than 140 days after the date of this initiation.

**Distribution of Copies of the Petition**

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the government of the PRC. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

**ITC Notification**

We have notified the ITC of our initiation as required by section 732(d) of the Act.

**Preliminary Determination by the ITC**

The ITC will preliminarily determine no later than August 7, 2003, whether there is a reasonable indication that imports of THFA from the PRC are

causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination will result in the investigation being terminated; otherwise, this investigation will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

July 14, 2003.

**Joseph A. Spetrini,**

*Acting Assistant Secretary for Grant Aldonas, Under Secretary.*

[FR Doc. 03–18321 Filed 7–17–03; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 063003B]**

## Marine Mammals; File No. 881–1709

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

**ACTION:** Issuance of permit.

**SUMMARY:** Notice is hereby given that Jo-Ann Mellish, Ph.D., University of Alaska Fairbanks and Alaska SeaLife Center, 301 Railway Avenue, P.O. Box 1329, Seward, Alaska 99664, has been issued a permit take tissue samples from harbor seals (*Phoca vitulina*) and northern fur seals (*Callorhinus ursinus*) for purposes of scientific research.

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

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907)586–7221; fax (907)586–7249.

**FOR FURTHER INFORMATION CONTACT:** Amy Sloan or Ruth Johnson, (301)713–2289.

**SUPPLEMENTARY INFORMATION:** On May 1, 2003, notice was published in the **Federal Register** (84 FR 23286) that a request for a scientific research permit to take the species identified above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit authorizes the collection and receipt of an unlimited number of tissue samples (including, but not limited to, teeth/bone, blubber, muscle, blood, skin, vibrissae, placenta, fetus, reproductive tracts, stomach and intestinal tracts, heart, liver, lungs, kidney and other vital organs) taken from carcasses of harbor seals and northern fur seals that were killed during legal subsistence hunts in Alaska. The purposes of the research are to determine contaminant loads in tissues to study whether exposure to contaminants may be a contributing factor to poor survival and reproduction of these species, and to determine steroid hormone levels in the tissues of these species to develop methods to study the reproductive rate and population structure of marine mammals. Tissues collected from subsistence hunts and from stranded animals may be exported (and re-imported) to Canada for analyses and to other countries world-wide for future opportunistic research is also authorized. The permit has been issued for a five-year period.

Dated: July 11, 2003.

**Stephen L. Leathery,**

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

[FR Doc. 03–18338 Filed 7–17–03; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

**[I.D. 070903A]**

## Marine Mammals; File No. 1049–1718

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

**ACTION:** Receipt of application for new permit.

**SUMMARY:** Notice is hereby given that Kate M. Wynne, University of Alaska Fairbanks, School of Fisheries and Ocean Sciences, 118 Trident Way, Kodiak, Alaska 99615 has applied in due form for a permit to take humpback whales (*Megaptera novaeangliae*), killer whales (*Orcinus orca*), sperm whales (*Physeter macrocephalus*), fin whales (*Balaenoptera physalis*), sei whales (*Balaenoptera borealis*), minke whales (*Balaenoptera acutorostrata*), gray whales (*Eschrichtius robustus*), harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), harbor seals (*Phoca vitulina*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), Northern fur seals (*Callorhinus ursinus*), and Steller sea lions (*Eumetopias jubatus*) for the purposes of scientific research.

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

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

Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, (907)586–7221.

**FOR FURTHER INFORMATION CONTACT:** Jill Lewandowski or Gene Nitta, (301) 713–2289.

**SUPPLEMENTARY INFORMATION:** The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant requests a five-year scientific research permit to: (1) develop long term sighting histories of individual humpback whales to assess stock structure, life history parameters, feeding behaviors, social behaviors of feeding populations, and population estimates; (2) collect and compare data on killer whale predation in southeastern Alaska, the Gulf of Alaska and Aleutian Islands; and (3) collect data to assess the distribution, abundance, and foraging ecology of fin whales in the Gulf of Alaska. All research will take place in Alaskan waters.

Specifically, the applicant is requesting takes by close approach for photo-identification, behavioral observation, passive acoustic recording, biopsy sampling and incidental harassment. In addition, the applicant is requesting authorization to collect and/or export dead parts from the following prey species during killer whale predation studies: humpback, gray, minke, sei, fin and sperm whales; harbor and Dall's porpoise; Pacific white-sided dolphins; Northern fur and harbor seals; and Steller sea lions.

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

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 14, 2003.

**Stephen L. Leathery,**

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

[FR Doc. 03–18340 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Marine Sanctuary Program Policy on Permit Applications for Artificial Reef Development

**AGENCY:** National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Interim-final policy; Notice of availability; request for comments.

**SUMMARY:** The National Marine Sanctuary Program (NMSP) has developed a policy and permitting guidelines for applications to establish artificial reefs within National Marine Sanctuaries. The policy is being used on an interim-final basis during the public comment period. The NMSP is requesting comments on the interim-final policy and permitting guidelines.

**DATES:** This notice is effective as an interim-final policy as of July 18, 2003. Comments on the interim-final policy will be accepted until September 16, 2003.

**ADDRESSES:** You can download a copy of the interim-final policy from the NMSP's Web site at *http://www.sanctuaries.nos.noaa.gov/library/library.html.* You may submit comments by sending an e-mail to *artificial.reefs@noaa.gov.* You may also request a copy of the NMSP's interim-final policy on artificial reefs and submit written comments on the policy by contacting Debra Malek, National Marine Sanctuary Program, 1305 East West Highway (N/ORM6), 11th floor, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Debra Malek at (301) 713–3125.

**SUPPLEMENTARY INFORMATION:**

### Background

The National Marine Sanctuary Program (NMSP) manages a system of thirteen National Marine Sanctuaries (NMSs or Sanctuaries) that protect special, nationally significant, areas of the marine environment under the authority of the National Marine Sanctuaries Act (NMSA; 16 U.S.C. 14312 *et seq.*). Sanctuaries protect a variety of marine areas including coral reefs, mangrove forests, and seagrass beds in the Florida Keys National Marine Sanctuary; deep-sea canyons, kelp beds, and hardbottom habitats in the Monterey Bay National Marine Sanctuary; and historic shipwrecks in the Thunder Bay National Marine Sanctuary and Underwater Preserve.

In the last few years the NMSP has experienced an increased number of permit applications to establish artificial reefs inside NMS boundaries, particularly the Florida Keys National Marine Sanctuary. Because NMSP regulations generally prohibit placing structures on the seafloor, any individual who wishes to establish an artificial reef inside a NMS must first get approval from the NMSP through the onsite sanctuary manager.

To ensure that applications to establish artificial reefs in sancturaries are reviewed consistently and in a manner that adheres to the NMSA and NMSP regulations (15 CFR part 922), the NMSP has developed permitting guidelines specific for such applications. The NMSP's intends to apply the guidelines when considering such requests. The guidelines build on lessons learned from past experience permitting artificial reef development within sanctuaries, and applies knowledge from other sources of information. It is intended to guide decision makers as they review proposals for artificial reefs in sanctuaries. It clarifies how decision making criteria contained in NMSP regulations will be applied specifically to permit applications for artificial reef development.

Because the policy and associated permitting guidelines do not place any new requirements on permit applicants or the general public, the NMSP feels it is appropriate to begin applying the policy and guidelines immediately. The NMSP is, however, interested in receiving public comments on the policy and the associated permitting guidelines.

**Richard W. Spinrad,**

*Assistant Administrator for Ocean Services and Coastal Zone Management.*

[FR Doc. 03–18345 Filed 7–17–03; 8:45 am]

BILLING CODE 3510–NK–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, August 1, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03–18452 Filed 7–16–03; 1:30 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, August 8, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03–18453 Filed 7–16–03; 1:03 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, August 15, 2003.

**PLACE:** 1152 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03–18454 Filed 7–16–03; 1:03 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commision.

**TIME AND DATE:** 11 a.m., Friday, August 22, 2003.

**PLACE:** 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03–18455 Filed 7–16–03; 1:03 pm]

BILLING CODE 6351–01–M

## COMMODITY FUTURES TRADING COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Commodity Futures Trading Commission.

**TIME AND DATE:** 11 a.m., Friday, August 29, 2003.

**PLACE:** 1155 21st St., Washington, DC, 9th Floor Conference Room.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:** Surveillance Matters.

**FOR FURTHER INFORMATION CONTACT:** Jean A. Webb, 202–418–5100.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 03–18456 Filed 7–16–03; 1:03 pm]

BILLING CODE 6351–01–M

## CONSUMER PRODUCT SAFETY COMMISSION

### Submission for OMB Review; Comment Request—Follow-Up Activities for Product-Related Injuries

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Commission announces that it has submitted to the Office of Management and Budget a request for an extension of the existing approval of collections of information conducted during follow-up activities for product-related injuries.

**DATES:** Written comments must be received on or before August 18, 2003.

**ADDRESSES:** Written comments should be captioned ''Product-Related Injuries'' and mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for CPSC, 725 17th Street, NW., Washington, DC 20503. Copies of comments also may be: mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 502, 4330 East-West Highway, Bethesda, Maryland, telephone (301) 504–0800; telefacsimilied to (301) 504–0127; or e-mailed to *cpsc-os@cpsc.gov.*

**FOR FURTHER INFORMATION OR A COPY CONTACT:** Linda Glatz, Consumer Product Safety Commission, Washington, DC 20207; 301–504–7671 or by e-mail to *lglatz@cpsc.gov.*

**SUPPLEMENTARY INFORMATION:**

### 1. Background

Section 5(a) of the Consumer Product Safety Act (15 U.S.C. 2054(a)) requires the Commission to collect information related to the cause and prevention of death, injury, and illness associated with consumer products, and to conduct continuing studies and investigations of deaths, injuries, diseases, and economic losses resulting from accidents involving consumer products. The Commission uses this information to support rulemaking proceedings, development and improvement of voluntary standards, information and education programs, and administrative and judicial proceedings to remove unsafe products from the marketplace and consumers' homes.

Persons who have been involved with, or who have witnessed, incidents associated with consumer products are an important source of information about deaths, injuries, and illnesses resulting from such incidents. From consumer complaints, newspaper accounts, death certificates, hospital emergency room reports, and other sources, the Commission selects a limited number of accidents for investigation. These investigations may involve face-to-face or telephone interviews with accident victims, witnesses, or other persons having relevant knowledge. The Commission also receives information about product-related injuries from persons who provide written information by using forms displayed on the Commission's Internet Web site or printed in the *Consumer Product Safety Review* and other Commission publications.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35)(PRA), the Commission obtained the approval of the Office of Management and Budget (OMB) for this collection of information (OMB control No. 3041–0029). The current approval expires July 31, 2003. The extension is requested for a period of three years from the date of approval.

In the **Federal Register** of May 5, 2003 (68 FR 23704), the Consumer Product Safety Commission published a notice, required by the PRA, to announce the agency's intention to seek extension of approval of this collection of information. No comments were received in response to this notice.

### 2. Additional Details About the Request for Approval of a Collection of Information

*Agency address:* Consumer Product Safety Commission, Washington, DC 20207.

*Title of information collection:* Follow-Up Activities for Product-Related Injuries.

*Type of request:* Extension of approval.

*Frequency of collection:* One time for each respondent.

*General description of respondents:* Persons who have been involved in, have witnessed, or otherwise have knowledge of incidents associated with consumer products.

*Estimated number of respondents:* 14,100 total annually; 500 for face-to-face interviews; 3,200 telephone

interviews; 5,200 hotline interviews; and 5,200 persons submitting a form.

*Estimated annual average number of hours per respondent:* 20 min. for each telephone interview; 5.0 hours for each on-site interview; 12 min. to fill out a form; 10 min. for each Hotline interview.

*Estimated total annual number of hours for all respondents:* 5,472.

**3. Comments to OMB on This Request for Extension**

Comments on this request for extension of approval of the collection of information should be submitted by August 18, 2003 to the addresses given at the beginning of this notice.

Copies of the request for extension of the information collection and supporting documentation are available from Linda Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–7671, e-mail *lglatz@cpsc.gov.*

Dated: July 11, 2003.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 03–18169 Filed 7–17–03; 8:45 am]

BILLING CODE 6355–01–P

## CONSUMER PRODUCT SAFETY COMMISSION

### Petition Requesting Labeling of Weightlifting Bench Press Benches To Reduce or Prevent Deaths Due to Asphyxia/Anoxia (Petition No. CP 03–3)

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission has received a petition (CP 03–3) requesting that the Commission require labeling of weightlifting bench press benches to reduce or prevent deaths from asphyxia/anoxia due to being trapped beneath a bench press barbell. The Commission solicits written comments concerning the petition.

**DATES:** The Office of the Secretary must receive comments on the petition by September 16, 2003.

**ADDRESSES:** Comments on the petition, preferably in five copies, should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 504–0800, or delivered to the Office of the Secretary, Room 501, 4330 East-West Highway, Bethesda, Maryland 20814. Comments may also be filed by facsimile to (301) 504–0127 or by email to *cpsc–os@cpsc.gov.* Comments should be captioned ''Petition CP 03–3, Petition for Labeling of Bench Press Benches.'' A copy of the petition is available for inspection at the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland. The petition is also available on the CPSC Web site at *http://www.cpsc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–6833, e-mail *rhammond@cpsc.gov.*

**SUPPLEMENTARY INFORMATION:** The Commission has received correspondence from V. Patteson Lombardi, Ph.D., requesting that the Commission require a warning label on both uprights of all ''manufactured, publicly available'' weightlifting bench press benches. The petitioner asserts that the labeling is necessary to reduce or eliminate deaths due to asphyxia/anoxia caused by being trapped under a bench press barbell. The petitioner provides information concerning a number of deaths he states involve such incidents.

The Commission is docketing the correspondence as a petition under provisions of the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

Interested parties may obtain a copy of the petition by writing or calling the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0800. The petition is available on the CPSC Web site at *http://www.cpsc.gov.* A copy of the petition is also available for inspection from 8:30 a.m. to 5 p.m., Monday through Friday, in the Commission's Public Reading Room, Room 419, 4330 East-West Highway, Bethesda, Maryland.

Dated: July 10, 2003.

**Todd A. Stevenson,**

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 03–18170 Filed 7–17–03; 8:45 am]

BILLING CODE 6355–01–P

## DEPARTMENT OF DEFENSE

### Department of the Army

### Final Environmental Assessment (EA) and Draft Finding of No Significant Impact (FNSI) for the Base Realignment and Closure 95 Disposal and Reuse of Excess Property, Fort Dix, NJ

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of availability.

**SUMMARY:** In accordance with Public Law 101–510 (as amended), the Defense Base Closure and Realignment Act of 1990, the Defense Base Closure and Realignment Commission recommended the disposal and reuse of excess property at Fort Dix.

The EA evaluates the environmental impacts of the disposal of surplus property made available by the realignment of Fort Dix. Approximately 35 acres of surplus property would be conveyed to the State of New Jersey. Alternatives examined in this EA include no action, unencumbered disposal of the property and encumbered disposal of the property. Encumbered disposal refers to transfer or conveyance of property having restrictions on subsequent use as a result of any Army-imposed or legal restraint. Under the no action alternative, the Army would not dispose of the excess or surplus property but would maintain it indefinitely in accordance with current leases and permits.

**DATES:** Comments must be submitted on or before August 18, 2003.

**ADDRESSES:** Copies of the Final EA and Draft FNSI may be obtained by writing to Mr. Don Conlon, U.S. Army Corps of Engineers—Mobile District, Environmental Resources Branch, 109 St. Joseph St., Mobile, Alabama 36628–0001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Conlon via phone at (334) 690–2609 or by fax at (334) 690–2605.

**SUPPLEMENTARY INFORMATION:** While disposal of surplus property at Fort Dix is the Army's primary action, the EA also analyzes the potential environmental effects of redevelopment and reuse as a secondary impact by means of evaluating intensity-based reuse scenarios. The Army's preferred alternative for disposal of surplus real property at Fort Dix is encumbered disposal, with encumbrances pertaining to use restrictions, asbestos-containing material, lead-based paint, and utility dependencies.

A Notice of Intent declaring the Army's intent to prepare an EA for the disposal and reuse of surplus Fort Dix property was published in the **Federal Register** (60 FR 49264, September 22, 1995).

The EA and Draft FNSI are available for review at the Corps of Engineers, Mobile District.

Dated: July 14, 2003.

**Raymond J. Fatz,**

*Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA(I&E).*

[FR Doc. 03–18242 Filed 7–17–03; 8:45 am]

BILLING CODE 3710–08–M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. OR03–5–000]**

### Chevron Products Company, Complainant, v. SFPP, L.P., Respondent; Errata Notice

July 11, 2003.

On July 3, 2003, the Commission issued a Notice of Complaint (68 FR 41116) in the above-captioned proceeding. This Notice is corrected as follows:

(1) In the first line of the first paragraph the correct filing date of the complaint is July 2, 2003.

(2) The correct Comment Date is July 22, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18218 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP03–331–000]**

### EnergyNorth Natural Gas, Inc.; Notice of Application

July 14, 2003.

Take notice that on July 3, 2003, EnergyNorth Natural Gas, Inc. (EnergyNorth), 1260 Elm Street, Manchester, New Hampshire 03105, a subsidiary of KeySpan Corporation, filed in Docket No. CP03–331–0000, an application pursuant to section 7(f) of the Natural Gas Act (NGA) for a service area determination, a declaration that EnergyNorth qualifies as a local distribution company (LDC) and a waiver of the regulatory requirements under the NGA and the Natural Gas Policy Act (NGPA), all as more fully set forth in the application. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659.

EnergyNorth requests a service area determination to include its service area in New Hampshire as well as that of Colonial Gas Company (Colonial), also a subsidiary of KeySpan, across the state border in Massachusetts. EnergyNorth requests the expanded service area, in order to periodically access a new source of gas supply from Colonial. EnergyNorth states that the enlarged service area would enable it to enlarge, extend and interconnect its distribution facilities with those of Colonial without losing its status as a local distribution customer. EnergyNorth proposes to construct and operate interconnecting facilities consisting of a meter and 1,285 feet of 4-inch diameter distribution pipeline to connect its facilities with those of Colonial. EnergyNorth states that it meets the four criteria for a service area determination, that it is a local distribution company (LDC) serving customers within a single state, that it makes only incidental sales for resale, that its operations are regulated by the appropriate state authority, that it does not have an extensive distribution system and that its operations do not have a significant impact on neighboring distribution companies. EnergyNorth asserts that the service area determination would ensure against disruptions to EnergyNorth's customers in the event of decreases in pressure and would enhance the reliability of EnergyNorth's system. EnergyNorth explains that the proposed service area determination would not change EnergyNorth's services or operations. EnergyNorth also requests a declaration that it qualifies as an LDC for the purposes of section 311 of the NGPA and a waiver of all reporting and accounting requirements applicable to natural gas companies under the NGA and the NGPA.

Any questions regarding this amendment should be directed to Thomas O'Neill at (617)723–5512, or Kenneth T. Maloney at (202)223-8890.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

*Comment Date:* August 4, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18309 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EC03–104–000]**

### FPL Energy Seabrook, LLC and Florida Power & Light Company; Notice of Filing

July 14, 2003.

Take notice that on July 7, 2003, FPL Energy Seabrook, LLC and Florida Power & Light Company tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to section 203 of the Federal Power Act, a request for authorization to engage in an intra-corporate transfer of jurisdictional facilities whereby FPL Energy Seabrook, LLC will transfer its undivided interest in the interconnecting transmission facilities for Seabrook Station to its affiliate Florida Power & Light Company.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

*Comment Date:* July 28, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18311 Filed 7–17–03; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC03–105–000]**

## PacifiCorp and PPM Energy, Inc.; Notice of Filing

July 14, 2003.

Take notice that on July 8, 2003, PacifiCorp (PacifiCorp) and PPM Energy, Inc. (PPM Energy) (collectively Applicants) filed with the Federal Energy Regulatory Commission (Commission) an application, pursuant to section 203 of the Federal Power Act and part 33 of the Commission's Regulations, for an order disclaiming jurisdiction or, in the alternative, for an order authorizing an intracorporate reorganization whereby NA General Partnership (NAGP) will be merged into PacifiCorp Holdings, Inc. (PHI). As a result of the reorganization, NAGP will be removed from the chain of ownership between Scottish Power and Applicants. The separate existence of NAGP shall cease and PHI shall continue to exist as the surviving entity. Applicants will remain indirect subsidiaries of Scottish Power and direct subsidiaries of PHI. Applicants filed no Section 205 rate proceeding in this application, and state that the transaction will change only Applicants' internal upstream corporate structure, and will have no impact on competition, rates or regulation. Applicants request that the Commission disclaim jurisdiction over or approve the transaction as early as practicable.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

*Comment Date:* July 29, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18312 Filed 7–17–03; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL03–209–000]**

## Pinnacle West Energy Corporation Complainant, v. Nevada Power Company, Respondent; Notice of Complaint

July 11, 2003.

Take notice that on July 10, 2003, Pinnacle West Energy Corporation (Pinnacle West) tendered for filing with the Federal Energy Regulatory Commission (Commission), a Complaint Requesting Fast Track Processing against Nevada Power Company (Nevada Power) pursuant to sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824e and 825e, and Rule 206 of the Commission's Rules of Practice and Procedure, 18 CFR 385.206.

Pinnacle West alleges that Nevada Power has refused to honor Pinnacle West's request, pursuant to Section 17.7 of Nevada Power's Open-Access Transmission Tariff (OATT), to defer the commencement date of Pinnacle West's transmission service under Nevada Power's OATT.

Any person desiring to be heard or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. The answer to the complaint, comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The

Commission strongly encourages electronic filings.

*Comment Date:* July 21, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18217 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT02–35–000, *et al.*,]**

### Tennessee Gas Pipeline Company, Northern Natural Gas Company, Standards for Business Practices of Interstate Natural Gas Pipelines; Notice of Redocketing of Filings

July 14, 2003.

Take notice that on June 16, 2003, the North American Energy Standards Board (NAESB) filed its Progress Report on Pipeline Capacity Creditworthiness Standards Development that was docketed in Docket No. RM96–1–000. All subsequent comments relating to this report, including those filed in Docket Nos. GT02–35–000 and GT02–38-000, are being docketed in Docket No. RM96–1–000. These include: North American Energy Standards Board Progress Report on Pipeline Capacity Creditworthiness Standards Development (filed May 23, 2003); the Comments of EnCana Marketing (USA) Inc. (filed June 24, 2003); Supplement to North American Energy Standards Board Progress Report on Pipeline Capacity Creditworthiness Standards Development (filed June 25, 2003); Motion to Intervene and Preliminary Comments of Midland Cogeneration Venture, LP (June 27, 2003); and Comments of the KeySpan Delivery Companies (filed July 3, 2003).

These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link, under Docket No. RM96–1–00. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18315 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP03–328–000]**

### Transcontinental Gas Pipe Line Corporation; Notice of Application

July 14, 2003.

Take notice that on June 26, 2003, Transcontinental Gas Pipe Line Corporation (Transco), filed in Docket No. CP03–328–000 an application, in abbreviated form, pursuant to section 7(b) of the Natural Gas Act, as amended, and the Rules and Regulations of the Federal Energy Regulatory Commission, for an order permitting and approving abandonment of a transportation and exchange service provided to The Brooklyn Union Gas Company (Brooklyn Union) and Dominion Transmission, Inc (DTI) under Transco's Rate Schedule X–99 and a transportation service provided to Brooklyn Union, as more fully set forth in the application which is on file with the Commission and open to public inspection.

In such application, Transco states that it entered into an interruptible transportation and exchange agreement with BrooklynUnion and DTI, on July 1, 1975, under which Transco transports gas on an interruptible basis for Brooklyn Union, now doing business as KeySpan Energy Delivery New York, on an interruptible basis and exchanges gas with DTI, successor to Consolidated Gas SupplyCorporation, under Rate Schedule X–99. Transco further states that it entered into an interruptible transportation agreement with Brooklyn Union on February 14, 1983, under which Transco transports gas, on an interruptible basis, for Brooklyn Union under Rate Schedule X–248.

In the instant application, Transco states that it seeks authorization to abandon both the transportation and exchange agreement with Brooklyn Union and DTI and the transportation agreement with Brooklyn Union, effective on the date of the Commission's order authorizing the abandonments, pursuant to BrooklynUnion's and DTI's election to terminate their service agreements.

Transco states that the Primary Term of the service agreement under Rate Schedule X–99 ended on September 24, 1976. Transco further states that by letter dated January 9, 2001, Brooklyn Union and DTI provided Transco sufficient notice to terminate the subject agreement under Rate Schedule X–99 as of the date of the Commission's order authorizing the abandonment of service. Transco indicates that the Primary Term of the service agreement under Rate Schedule X–248 ended on January 21, 1983. Transco explains that, by letter dated April 28, 2003, Brooklyn Union provided Transco sufficient notice to terminate the subject service agreement under Rate Schedule X–248 as of the date of the Commission's order authorizing the abandonment of service.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal EnergyRegulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions and protests must be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission'sWeb site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERCOnline Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

*Comment Date:* August 4, 2003.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18307 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. EG03–72–000]**

### Whiting Leasing LLC; Errata Notice

July 14, 2003.

On May 29, 2003, the Commission issued a Notice of Application for Commission Determination of Exempt Wholesale Generator Status in the above-captioned proceeding, 68 FR 33,390. The name of the applicant was incorrectly listed as Whiting Clean Energy, Inc. The correct name of the applicant is Whiting Leasing LLC. We

have incorporated this correction to this Errata Notice.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18313 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket Nos. CP03–33–000, CP03–35–000 and CP03–79–000]**

## Wyckoff Gas Storage Company, LLC; Notice of Public Meeting

July 14, 2003.

The staff of the Federal Energy Regulatory Commission will conduct a meeting with Wyckoff Gas Storage Company, LLC (Wyckoff) and any other interested persons to discuss a new proposal by Wyckoff to file an application for an exemption under section 7(c) of the Natural Gas Act to drill two confirmation wells at the location of its proposed Storage Project in Steuben County, New York.

Wyckoff's application for a certificate to construction and operate the Storage Project is pending in Docket No. CP03–33–000, *et al.* Wyckoff will seek exemption authority to drill the two confirmation wells for purposes of conducting various geologic tests to confirm the commercial feasability of developing its Storage Project in the target reservoirs. It proposes to ask the Commission to grant such authorization by the end of August 2003 so that it can commence drilling operations the first week of September 2003.

All interested parties may attend. Interested parties can meet staff and Wyckoff's representatives on July 21, 2003, at 10:00 a.m., in Room No. 62–26, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

For further information, please contact the Office of External Affairs at (202) 208–1088.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18308 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EC03–101–000, et al.]**

## Eagle Energy Partners, Inc., et al.; Electric Rate and Corporate Filings

July 10, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

[Docket No. EC03–101–000

**1. Eagle Energy Partners, Inc., Eagle Energy Partners I, L.P.**

Take notice that on July 3, 2003, Eagle Energy Partners, Inc. (Eagle Inc.) and Eagle Energy Partners I, L.P. (Eagle L.P.) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to section 203 of the Federal Power Act for authorization of the transfer of Eagle Inc.''s Rate Schedule FERC No. 1 to Eagle L.P.

*Comment Date:* July 24, 2003.

[Docket Nos. EC03–102–000 and ER03–1016–000]

**2. The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Columbus and Southern Ohio Electric Company**

Take notice that on July 1, 2003, The Cincinnati Gas & Electric Company (CG&E), The Dayton Power and Light Company (Dayton) and Columbus and Southern Ohio Electric Company (Columbus) jointly submitted certain joint transmission ownership agreements and amendments thereto, by and among CG&E, Dayton, and Columbus pursuant to sections 205 and 203 of the Federal Power Act.

*Comment Date:* July 22, 2003.

[Docket Nos. EC03–103–000 and ER03–1026–000]

**3. PG&E Dispersed Generating Company, LLC**

Take notice that on July 2, 2003, PG&E Dispersed Generating Company, LLC (PG&E Dispersed Gen) filed with the Federal Energy Regulatory Commission (Commission) an application for disposition of jurisdictional facilities under section 203 of the Federal Power Act. PG&E Dispersed Gen requests Commission approval to sell to American Municipal Power-Ohio, Inc. step-up transformers and interconnecting transmission lines associated with three natural-gas fired peaking combustion turbine generating facilities, each with a maximum nominal rated capacity of 49.5 MW, located in Ohio. PG&E Dispersed Gen states that it has also notified the Commission of its intention to terminate a related wholesale power sales contract with PG&E Energy Trading-Power, L.P., Service Agreement No. 1 under FERC Electric Tariff, Original Volume No. 1, effective date November 1, 2001 in Docket No. ER02–449, in connection with the proposed asset sale to AMP-Ohio. PG&E Dispersed Gen has requested a shortened comment period of two weeks.

*Comment Date:* July 23, 2003.

[Docket No. ER02–2014–012]

**4. Entergy Services, Inc.,**

Take notice that on July 7, 2003, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively Entergy), filed a compliance filing in response to three Commission Orders (103 FERC ¶ 61,270, 103 FERC ¶ 61.271, 104 FERC ¶ 61,011) related to Entergy's Generator Operating Limits procedures. Entergy states that the compliance filing implements revisions to Attachment Q to the Entergy Open Access Transmission Tariff that were required by these orders.

*Comment Date:* July 28, 2003.

[Docket No. ER02–2330–016]

**5. New England Power Pool and ISO New England Inc.**

Take notice that on July 7, 2003, the New England Power Pool (NEPOOL) Participants Committee and ISO New England Inc. (ISO-NE) submitted for filing information related to transmission upgrades for Southwest Connecticut to receive socialized cost treatment, and an appropriate percentage of the costs of each project to be socialized, as well as additional explanation for the use of Real-Time Load Obligation Deviations to allocate Operating Reserve Charges in compliance with the Commission's Order, 103 FERC ¶ 61,304.

The NEPOOL Participants Committee and ISO-NE state that copies of these materials were sent to all persons identified on the service lists in the captioned proceedings, the NEPOOL Participants and the six New England state governors and regulatory commissions.

*Comment Date:* July 28, 2003.

[Docket No. ER03–386–004]

**6. Southern Company Services, Inc.**

Take notice that on July 7, 2003, Southern Company Services, Inc. (SCS), on behalf of Georgia Power Company,

made a compliance filing in accordance with the June 4, 2003, Federal Energy Regulatory Commission's Order, 103 FERC ¶ 61,279.

*Comment Date:* July 28, 2003.

[Docket Nos. ER03–608–003, ER00–2019–010 and ER01–819–005]

**7. California Independent System Operator Corporation**

Take notice that on July 7, 2003, the California Independent System Operator Corporation (ISO) tendered for filing in compliance with the Commission's Order of May 30, 2003, 103 FERC ¶ 61,260, (Order) in which the Commission acted on an amendment (Amendment No. 49) to the ISO Tariff. In the Order (at P25), the Commission required that the ISO submit a report identifying the Scheduling Coordinators who are not in compliance with the metering requirement as described in the ISO Tariff, the reasons for the non-compliance, and the anticipated date of compliance.

The ISO states it has served copies of this filing on the Public Utilities Commission of the State of California, the California Energy Commission, the California Electricity Oversight Board, the Participating Transmission Owners under the ISO Tariff, all parties with effective Scheduling Coordinator Service Agreements under the ISO Tariff, and to all parties not among the foregoing on the restricted service list. The ISO also states that this filing will be posted on the ISO's Web site.

*Comment Date:* July 28, 2003.

[Docket Nos. ER03–932–001 and ER03–296–003]

**8. Flying Cloud Power Partners, LLC**

Take notice that on July 7, 2003, Flying Cloud Power Partners, LLC (Flying Cloud) and Heartland Wind LLC (Heartland Wind) amended its Notice of Change in Status for Approval of Market-Based Rate Authority, and Filing of Code of Conduct and Conforming Changes to Market-Based Rate Schedule filed with the Federal Energy Regulatory Commission on June 5, 2003. Flying Cloud and Hartland Wind state that the amendment reflects changes to the Rate Schedule to conform to Commission precedent and practice regarding affiliate transactions (*see* 101 FERC ¶ 61,331). Flying Cloud and Heartland Wind request a waiver of the 60-day notice and 120-day prefiling requirements under 18 CFR 35.3.

*Comment Date:* July 28, 2003.

[Docket No. ER03–960–001]

**9. PG Power Sales One, L.L.C.**

Take notice that on July 7, 2003, PG Power Sales One, L.L.C. (PG Power) tendered for filing an amendment to the Notice of Cancellation filed on June 16, 2003 in Docket No. ER03–960–000. PG Power states that it is proposing to amend the June 16, 2003 filing to remove the Notice of Cancellation submitted for PG Power. PG Power explains that it is proposing to void the Notice of Cancellation of its market-based tariff because it will continue to engage in the sale of electricity at wholesale and the previous Notice of Cancellation was erroneously filed.

*Comment Date:* July 28, 2003.

[Docket No. ER03–1035–000]

**10. International Falls Power Company**

Take notice that on July 7, 2003, International Falls Power Company (IFPC) filed with the Commission a Notice of Termination of IFPC's market-based rate tariff. IFPC requests waiver of the Commission's prior notice requirements so that the termination may be effective July 15, 2003.

*Comment Date:* July 28, 2003.

[Docket No. ER03–1036–000]

**11. PJM Interconnection, L.L.C.**

Take notice that on July 3, 2003, PJM Interconnection, L.L.C. (PJM), submitted for filing a revised interconnection service agreement and an interim interconnection service agreement that PJM has executed between ConocoPhillips Company and PPL Holtwood, L.L.C., respectively, and a Notice of Cancellation for an agreement that has been superseded.

PJM requests a waiver of the Commission's 60-day notice requirement to permit an effective date of June 4, 2003 for the agreements. PJM states that copies of this filing were served upon the parties to the agreements and the state regulatory commissions within the PJM region.

*Comment Date:* July 24, 2003.

[Docket No. ER03–1037–000]

**12. Entergy Services, Inc.**

Take notice that on July 3, 2003, Entergy Services, Inc., (Entergy Services) on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc., tendered for filing an Amendment to the Service Agreement for Network Integration Transmission Service and Network Operating Agreement between Entergy Services and the City of North Little Rock, Arkansas.

*Comment Date:* July 24, 2003.

[Docket No. ER03–1038–000]

**13. Florida Power & Light Company**

Take notice that on July 7, 2003, Florida Power & Light Company (FPL) tendered for filing with the Federal Energy Regulatory Commission pursuant to section 205 of the Federal Power Act an executed Interconnection and Operating Agreement between FPL and FPL Energy Seabrook, LLC (FPLE Seabrook) that sets forth the terms and conditions governing the interconnection of FPLE Seabrook's generating facility to FPL's 345 kV substation.

*Comment Date:* July 28, 2003.

[Docket No. ER03–1039–000

**14. Ampro Energy Wholesale, Inc.**

Take notice that on July 7, 2003, Ampro Energy Wholesale, Inc. (AmPro Wholesale) petitioned the Commission for acceptance of AmPro Wholesale Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

AmPro Wholesale states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. AmPro Wholesale also states that it is not in the business of generating or transmitting electric power.

*Comment Date:* July 28, 2003.

[Docket No. ER03–1040–000]

**15. Trident Energy Marketing, Inc.**

Take notice that on July 7, 2003, Trident Energy Marketing, Inc., submitted for filing a Notice of Cancellation of its market-based rate tariff and a request for relief of the EQR filing requirements.

*Comment Date:* July 28, 2003.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number

field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Secretary.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18216 Filed 7–16–03; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. EL03–11–002, et al.]**

## Wisvest-Connecticut, LLC, et al.; Electric Rate and Corporate Filings

July 11, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

[Docket No. EL03–11–002]

### 1. Wisvest-Connecticut, LLC v. ISO New England Inc.

Take notice that on July 7, 2003, the New England Power Pool (NEPOOL) Participants Committee and ISO New England Inc. (ISO-NE) submitted for filing changes to NEPOOL Market Rule and Procedure No. 11 in compliance with the Commission's order in Wisvest Connecticut, LLC v. ISO New England, Inc., 103 FERC § 61,302 (2003).

The NEPOOL Participants Committee and ISO-NE state that copies of these materials were sent to all persons identified on the service lists in the captioned proceedings, the NEPOOL Participants and the six New England state governors and regulatory commissions.

*Comment Date:* August 6, 2003.

[Docket No. ER03–949–001]

### 2. Commonwealth Edison Company

Take notice that on July 8, 2003, Commonwealth Edison Company (ComEd), tendered for filing a proposed amendment to its FERC Electric Service Tariff, Second Revised Vol. No. 5. ComEd states that the proposed changes eliminate from Schedule C the reference to use of power flow models ''updated by MAIN.'' ComEd also states that the proposed change simply identifies the power flow models as ''updated.''

ComEd states that the change is necessary because as PJM takes over determining Available Transfer Capability (ATC), a preliminary phase leading to ComEd's integration into PJM, the power flow models used to determine ATC in some instances may not be updated by MAIN.

ComEd asserts that instead, PJM increasingly will be performing the updates of the power flow models. ComEd states that the models will be the same ones used before integration into PJM, but they will be updated by PJM rather than MAIN as the integration proceeds.

ComEd states that copies of the filing were served upon the public utility's jurisdictional customers, the Illinois Commerce Commission, and interveners in this docket.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1041–000]

### 3. Southern Company Services, Inc.

Take notice that on July 8, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia PowerCompany, Gulf Power Company, Mississippi Power Company, and SavannahElectric and Power Company (collectively Southern Companies), filed a Notice of Cancellation of Service Schedule A and Service Schedule GES of the Interchange Contract dated February 25, 1982 between Gulf States Utilities Company and Southern Companies (Southern Operating Companies' First Revised Rate Schedule FERC No. 59). SCS states that the cancellations were made pursuant to a bilateral amendment to the Interchange Contract.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1042–000]

### 4. Midwest Independent Transmission System Operator, Inc.

Take notice that on July 8, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, 18 CFR 35.12 , submitted for filing an unexecuted Interconnection and Operating Agreement among American Transmission Company LLC , Edison Sault Electric Company and the Midwest ISO.

Midwest ISO states that a copy of this filing was served on American Transmission Company LLC and Edison Sault Electric Company.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1043–000]

### 5. Southern Company Services, Inc.

Take notice that on July 8, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, filed a Notice of Cancellation of the portions of the Interconnection Agreement dated May 5, 1980 between Alabama Electric Cooperative, Inc. and Alabama Power Company (Alabama Power Company's Rate Schedule FERC No. 145) that pertain to the supply of emergency service. SCS states that this cancellation was made pursuant to a bilateral amendment to the Interconnection Agreement.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1044–000]

### 6. Midwest Independent Transmission System Operator, Inc.

Take notice that on July 8, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, 18 CFR 35.12, submitted for filing an unexecuted Interconnection and Operating Agreement among American Transmission Company LLC, Wisconsin Electric Power Company d/b/a We Energies, and Midwest ISO.

Midwest ISO states that a copy of this filing was served on American Transmission Company LLC and Wisconsin Electric Power Company d/b/a We Energies.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1045–000]

### 7. Southern Company Services, Inc.

Take notice that on July 8, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed a revised Interim Agreement for Network Integration Transmission Service and Complementary Services between the Southeastern Power Administration (SEPA) and SCS, as agent for Southern Companies (Rate Schedule FERC No. 400). SCS states that the revised Interim Agreement provides that SEPA may allocate additional capacity and energy to certain of its customers and Southern Companies will schedule those additional resources to those customers.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1046–000]

### 8. California Independent System

Take notice that on July 8, 2003, the California Independent System Operator

Corporation (ISO) submitted an amendment (Amendment No. 54) to the ISO Tariff. The ISO states that the proposed Tariff changes and clarifications in Amendment No. 54 further the Real Time Imbalance Energy Market design elements in Phase 1 of the ISO's Comprehensive Market Design 2002 (MD02) initiative and complement the market design changes that were implemented on October 30, 2002 as part of MD02 Phase 1A. The ISO states that copies of Amendment No. 54 has been served upon the Public Utilities Commission of California, the California Energy Commission, the California Electricity Oversight Board, all entitles with effective ISO Scheduling Coordinator agreements, and all parties in the proceeding in Docket No. ER02–1656–000.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1048–000]

**9. Midwest Independent Transmission System Operator, Inc.**

Take notice that on July 8, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and Section 35.12 of the Commission's regulations, 18 CFR 35.12, submitted for filing an unexecuted Interconnection and Operating Agreement among American Transmission Company LLC, Wisconsin Public Service Corporation and the Midwest ISO.

Midwest ISO states that a copy of this filing was served on American Transmission Company LLC and Wisconsin Public Service Corporation.

*Comment Date:* July 29, 2003.

[Docket No. ER03–1052–000]

**10. The Green Power Connection**

Take notice that on July 8, 2003, The Green Power Connection pursuant to Federal Power Act, 18 CFR 35.15 and 131.53, submitted for filing a Notice of Cancellation of its FERC market-based electric tariff filed in Docket No. ER97–3888.

The Green Power Connection states that copies of this filing have not been served on any party because it has not engaged in any sales of electric power or entered into any power or related contracts with any purchasers.

*Comment Date:* July 29, 2003.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18314 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PF03–4–000]**

### Weaver's Cove Energy L.L.C. and Mill River Pipeline L.L.C.; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Weaver's Cove LNG Project, Request for Comments on Environmental Issues, and Notice of Joint Public Scoping Meeting

July 11, 2003.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will discuss the environmental impacts of Weaver's Cove Energy L.L.C.'s and Mill River Pipeline L.L.C.''s (collectively referred to as Weaver's Cove) proposed Weaver's Cove LNG Project in Fall River, Massachusetts. The proposed facilities would consist of liquefied natural gas (LNG) import terminal, storage, and vaporization facilities and one or more interconnecting pipeline. The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project.

The Weaver's Cove LNG Project is in the preliminary design stage. At this time no formal application has been filed with the FERC. For this project, the FERC staff is initiating its National Environmental Policy Act (NEPA) review prior to receiving the application. The purpose of the NEPA Pre-filing Process is to involve interested stakeholders early in project planning and to identify and resolve issues before an application is filed with the FERC. A docket number (PF03–4–000) has been established to place information filed by Weaver's Cove and related documents issued by the Commission, into the public record.[1] Once a formal application is filed with the FERC, a new docket number will be established.

On May 2, 2003, the FERC staff participated in an interagency meeting in Fall River, Massachusetts to discuss the project and the environmental review process with Weaver's Cove and other key Federal and state agencies. These agencies included: the U.S. Army Corps of Engineers; the U.S. Coast Guard; the Massachusetts Department of Environmental Protection, Energy Facilities Siting Board, and Executive Office of Environmental Affairs; and the Rhode Island Coastal Resources Management Council and Department of Environmental Management. With this notice, we[2] are asking these and other Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies which would like to request cooperating status should follow the instructions for filing comments described later in this notice.

This notice is being sent to residences within 0.5 mile of the proposed LNG terminal site; landowners along the various pipeline routes under consideration; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

[1] To view information in the docket, follow the instructions for using the FERRIS link at the end of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

Some affected landowners may be contacted by a project representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. If so, the company should seek to negotiate a mutually acceptable agreement. In the event that the project is certificated by the Commission, that approval conveys the right of eminent domain for securing easements for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is attached to this notice as appendix 1.[3] This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

**Summary of the Proposed Project**

Weaver's Cove proposes to construct and operate an LNG import terminal and natural gas pipeline to import LNG and deliver an average of 400 million British thermal units per day (MMBtu/d), and a peak of 800 MMBtu/d to markets in the northeastern United States. The facilities would consist of:

- A pier and unloading facilities capable of receiving LNG tankers with a capacity of up to 145,000 cubic meters;
- One LNG storage tank with an capacity of 200,000 cubic meters (4.4 billion cubic feet of gas equivalent);
- Vaporization equipment and ancillary facilities;
- Truck loading facilities to deliver LNG to other facilities in the northeastern United States; and
- Two 24-inch-diameter pipelines, between 3 and 7 miles long, to interconnect with the Algonquin Gas Transmission Company pipeline system.[4]

A map depicting the proposed terminal site and the various pipeline routes under consideration is provided in appendix 2.[5]

Weaver's Cove is requesting approval to begin construction of the LNG facilities in the Fall of 2004. The approximate duration of construction of the terminal facilities would be 3 years. The duration of pipeline construction would be approximately 4 months. Weaver's Cove proposes to place the project in service in the Fall of 2007.

**Land Requirements**

The proposed LNG terminal would be on a 68-acre site zoned for industrial use on the Taunton River in Fall River, Massachusetts. The site has been formerly used as an oil refinery and a marine import terminal for petroleum products. The riverfront areas of the site are in a Designated Port Area as defined by the Massachusetts Coastal Zone Management plan.

The project would also require maintenance and improvement dredging of approximately 7 miles of the Taunton River Federal Navigation Channel and a turning basin to enable the LNG tankers to access the proposed site. The dredging would occur in Massachusetts and Rhode Island. The total volume of dredging is anticipated to be about 2,100,000 cubic yards. The dredged material would be disposed of in uplands at the terminal site or, if unsuitable for upland disposal, by either confined aquatic disposal cell, confined disposal, or ocean disposal methods.

**The EIS Process**

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity, or an import authorization under Section 3 of the Natural Gas Act. NEPA also requires us to discover and address issues and concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues and reasonable alternatives. By this notice, we are requesting agency and public comments on the scope of the issues to be analyzed and presented in the EIS. All scoping comments received will be considered during the preparation of the EIS. To ensure your comments are considered, please carefully follow the instructions in the public participation section of this notice.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; other interested parties; local libraries and newspapers; and the Commission's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. In addition, we will consider all comments on the final EIS before we make our recommendations to the Commission.

**Public Participation**

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of your comments for the attention of Gas Branch 1; and
- Reference Docket No. PF03–4–000 on the original and both copies.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. Therefore, the Commission encourages electronic filing of comments. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

**Public Scoping Meeting**

In addition to or in lieu of sending written comments, we invite you to attend a public scoping meeting that we will conduct in conjunction with the Massachusetts Executive Office of

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Internet Web site ( *http://www.ferc.gov* ) at the ''FERRIS'' link or from the Commission's Public Reference and Files Maintenance Branch at (202) 502–8371. For instructions on connecting to FERRIS refer to the last page of this notice.

[4] Weaver's Cove has not yet identified its preferred route for the sendout pipelines. Three alternatives, all predominantly along existing rights-of-way, are currently under consideration.

[5] Requests for detailed maps of the facilities may be made to the company directly. Call or e-mail: local 508–678–5700, toll free 1–800–633–5700, or info@weaverscove.com (Web site will be available by July 31, 2003). Be as specific as you can about the location(s) of your area(s) of interest.

Environmental Affairs. The location and time for this meeting is listed below:

July 29, 2003, 6 pm, Venus de Milo Restaurant, 75 GAR Highway, Swansea, Massachusetts 02777, (508) 678–3901

The public scoping meeting is designed to provide Federal, state, and local agencies, interested groups, affected landowners, and the general public with more detailed information and another opportunity to offer comments on the proposed project. Interested groups and individuals are encouraged to attend the meeting and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of the meeting will be made so that your comments will be accurately recorded.

**Availability of Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208 FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*). Using the ''FERRIS'' link, select ''General Search'' from the FERRIS menu, enter the selected date range and ''Docket Number'' (*i.e.,* PF03–4–000), and follow the instructions. Searches may also be done using the phrase ''Weaver's Cove'' in the ''Text Search'' field. For assistance with access to FERRIS, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The FERRIS link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm*.

Finally, Weaver's Cove is in the process of establishing an Internet Web site for this project at *http://www.weaverscoveenergy.com*. The Web site will be available by July 31, 2003 and will include a description of the project, an overview map of the terminal site and pipeline routes, and a link for the public to submit comments on the project. Weaver's Cove will continue to update its Web site with information about the project, and will always accept comments.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18219 Filed 7–17–03; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. DI03–4–000]**

### Renotice of Declaration of Intention and Soliciting Comments, Motions to Intervene, and Protests

July 14, 2003.

On July 2, 2003, the Commission issued a ''Notice of Declaration of Intention and Soliciting Comments, Motions to Intervene, and Protests.'' In paragraph ''f'' at the end of the second line, it reads ''Range 2 East.'' It should read Range 3 East. The comment date is now changed from August 4, 2003 in the July 2 Notice to August 13, 2003. For these reasons, this application is being renoticed.

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI03–4–000.

c. *Date Filed:* June 19, 2003.

d. *Applicant:* Scott Watterson.

e. *Name of Project:* Watterson Hydroelectric Project.

f. *Location:* The Watterson Hydroelectric Project would be located on Arbuckle Stream, in Morgan County near Morgan, Utah, at Section 18, Township 5 North, Range 3 East, Salt Lake Base and Meridian. The project will not occupy Federal lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Kenneth E. Gardner, P.E., P.L.S., Gardner Engineering, 5875 S. Adams Ave Parkway, Suite 200, Ogden, Utah 84405, telephone (801) 476–0202, Fax: (801) 476–0066; E-mail: *ken@gardnerengineering.net*.

i. *FERC Contact:* Any questions on this notice should be addressed to Patricia Gillis (202) 502–8735, or E-mail address: *patricia.gillis@ferc.gov*.

j. *Deadline for filing comments and/or motions:* August 13, 2003.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov*.

Please include the docket number (DI03–4–000) on any comments or motions filed.

k. *Description of Project*: The proposed run-of-river Watterson Hydroelectric Project would consist of: (1) A diversion structure using a 2-foot-by-2-foot hydroscreen; (2) a 6-inch-diameter, 3,100-foot-long pipeline; (3) a Pelton-wheel turbine with a rated capacity of 12 kW, and an inverter which will store the power in batteries; and (4) appurtenant facilities. The project will not be connected to the local utility or any other power company, or transmission grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application*: Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''FERRIS'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant.

If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18310 Filed 7–17–03; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Request, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

July 14, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* P–2194–020.

c. *Date filed*: June 30, 2003.

d. *Applicant:* FPL Energy Maine Hydro, LLC.

e. *Name of Project:* Bar Mills Hydroelectric Project.

f. *Location:* On the Saco River, in the towns of Buxton and Hollis, York County, Maine. This project would not use federal lands.

g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. F. Allen Wiley, Vice President, FPL Energy Maine Hydro LLC, 160 Capitol Street, Augusta, Maine 04330, (207) 623-8413.

i. *FERC Contact:* Blake Condo, *blake.condo@ferc.gov* (202) 502–8914.

j. *Cooperating Agencies*: We are asking Federal, state, and local agencies and Indian tribes with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request the cooperating status should follow the instructions for filing comments described in item k below.

k. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian tribe, or person believes that an additional scientific study should be conducted in order to form an factual basis for complete analysis of the application on its merit, the resource agency, Indian tribe, or person must file a request for a study with the Commission no later than 60 days after the application filing and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status*: August 29, 2003.

All documents (original and eight copies) should be filled with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filing. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site ( *http://www.ferc.gov* ) under the ''e-Filing'' link. After logging into the e-Filing system, select ''Comment on Filing'' from the Filing Type Selection screen and continue with the filing process.''

m. The application is not ready for environmental analysis at this time.

n. Project Description: The Bar Mills Hydroelectric Project consists of the following existing facilities: (1) The 400-foot-long by 25-foot-high dam, with 6.75 foot-high flashboards, and a 90 to 200 foot wide by 725 foot long power canal; (2) the 5.3 mile long impoundment, which has a surface area of 263 acres at the normal full pond elevation of 148.5 feet above mean sea level; (3) a powerhouse containing two generating units with total installed generating capacity of 4.0 megawatts (MW); (4) appurtenant facilities. The dam and existing project facilities are owned by FPL Energy Maine Hydro LLC.

o. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the Web at *http://www.ferc.gov* using the ''FERRIS'' link-select ''Docket #'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676 or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

p. You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

q. With this notice, we are initiating consultation with the MAINE STATE HISTORIC PRESERVATION OFFICER (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

r. *Procedural schedule and final amendments*: The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate. The Commission staff proposes to issue one environmental assessment rather than issue a draft and final EA. Comments, terms and conditions, recommendations, prescriptions, and reply comments, if any, will be addressed in an EA issued in early 2005.

Issue Acceptance or Deficiency Letter October 2003.

Issue Scoping Document March 2004.

Notice that application is ready for environmental analysisJune 2004.

Notice of the availability of the EA December 2004.

Ready for Commission decision on the applicationFebruary 2005.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18316 Filed 7–17–03; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Regulations Governing Off-the-Record Communications; Public Notice

July 14, 2003.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision.

Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of prohibited and exempt communications recently received in the Office of the Secretary. The communications listed are grouped by docket numbers. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For Assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

*Exempt*:

| Docket No. | Date filed | Presenter or requester |
|---|---|---|
| 1. P–11659–000 ..... | 7–8–03 | Rob Klosowski. |

**Magalie R. Salas,**

*Secretary.*

[FR Doc. 03–18317 Filed 7–17–03; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7530–6]**

### EPA Science Advisory Board Staff Office; Request for Nomination of Members for the EPA Science Advisory Board (SAB), Clean Air Scientific Advisory Committee (CASAC), and the Advisory Council on Clean Air Compliance Analysis (COUNCIL)

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

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency's Science Advisory Board (SAB) Staff Office is soliciting nominations for Members to serve on the EPA Science Advisory Board (SAB), the Clean Air Scientific Advisory Committee (CASAC), and the Advisory Council on Clean Air Compliance Analysis (COUNCIL). Individuals responding to this annual request for nominations will be considered for membership vacancies on these three Congressionally mandated Federal advisory committees. This process supplements other efforts to identify qualified candidates.

**DATES:** Nominations should be submitted in time to arrive no later than August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** To submit a hard copy of the form noted below (for those unable to submit the information in electronic form), please contact Ms. Diana Pozun, U.S. EPA Science Advisory Board Staff Office (Mail Code 1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (FedEx/Courier address: U.S. EPA SAB, Suite 6450, 1200 Pennsylvania Avenue, NW., Washington DC 20004), (202) 564–4544 (tel.), (202) 501–0323 (fax), or via email at *pozun.diana@epa.gov*.

For further information concerning this nomination process, please contact Mr. Robert Flaak, Acting Deputy Director for Management, U.S. EPA Science Advisory Board Staff Office, (202) 564–4546 (tel.), or via email at: *flaak.robert@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

*Background*—The SAB (42 U.S.C. 4365), CASAC (42 U.S.C. 7409) and COUNCIL (42 U.S.C. 7612) are chartered Federal Advisory Committees that report directly to the EPA Administrator. The mission of these Federal advisory committees, as established by statute, is to provide independent scientific and technical peer review advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA actions. Additional information about these Federal Advisory Committee can be obtained on the SAB Web site (*http://www.epa.sab/gov*).

Members serve as Special Government Employees (SGEs) (40 CFR part 3, subpart F, or EPA Ethics Advisory 88–6 dated 7/6/88) and receive compensation, in addition to reimbursement at the Federal government rate for travel and per diem expenses while serving on the SAB, CASAC, and COUNCIL. SGEs are subject to certain ethical standards common to all Federal employees. In particular, prior to their appointment, SGEs are required to complete an information package, including a Confidential Financial Disclosure Report.

*Expertise Sought*—As part of the annual membership drive, the EPA SAB Staff Office is seeking nominations for nationally and internationally recognized non-Federal scientists, engineers, economists, and social scientists with demonstrated research and applied scientific experience and expertise in various disciplinary areas that address ecological and/or environmental/public health challenges, a multitude of stressors (*e.g.*, physical, biological and chemical agents and mixtures) impacting environmental media (*e.g.*, air, water, land), monitoring and characterizing sources of pollution, assessing risk to ecosystem and/or human health, prevention and risk management technologies, risk communication, environmental data quality, assessing environmental social economic values and cost-benefit analyses.

The selected experts will be appointed by the EPA Administrator to

serve on the CASAC, COUNCIL, the SAB Executive Committee, and/or the SAB's standing committees (*e.g.*, Drinking Water Committee, Ecological Processes and Effects Committee, Environmental Economics Advisory Committee, Environmental Engineering Committee, Environmental Health Committee, Integrated Human Exposure Committee, Radiation Advisory Committee, and Research Strategies Advisory Committee).

*How to Apply*—Any interested person or organization may nominate qualified persons to serve on the SAB. Individuals may self-nominate. Nominees should be qualified by scientific education, training, and experience to evaluate scientific, engineering and/or economics information on issues referred to and addressed by the SAB. Successful candidates have distinguished themselves professionally and should be available to invest the time and effort to advance the cause of the supporting the use of good science through the efforts of the SAB. Nominations should be submitted in electronic format (which is preferred over hard copy) through the *Form for Nominating Individuals to Panels of the EPA Science Advisory Board* provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *http://www.epa.gov/sab/*. To be considered, all nominations should include the information requested on that form.

The nominating form requests contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's resume; and a general biosketch of the nominee indicating education, expertise, past research, recent service on other advisory committees or with professional associations, and recent grant and/or contract support.

Anyone who has any question concerning any aspect of the nomination process may contact Mr Robert Flaak as indicated above in this FR notice. Anyone who is unable to submit nominations through the SAB Web site should contact Ms. Diana Pozun as indicated above in this FR notice. Non-electronic submissions must follow the same format and contain the same information as the electronic form.

The EPA Science Advisory Board Staff Office will acknowledge receipt of nominations. From the nominees identified by respondents to this **Federal Register** notice and through other sources, the SAB Staff Office will develop a list of recommended candidates to submit to the EPA Administrator for selection as Members.

The EPA SAB seeks the inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the issues facing the Agency. Specific criteria to be used in evaluating potential Members include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Those candidates ultimately chosen to serve as Members will be appointed as Special Government Employees. As a result, they will all be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.* This form should not be submitted as part of a nomination.

Dated: July 10, 2003.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 03–18157 Filed 7–17–03; 8:45 am]

**BILLING CODE 6560–50–P**

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6642–1]**

## Environmental Impact Statements; Notice of Availability

*Responsible Agency:* Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa./*

Weekly receipt of Environmental Impact Statements

Filed July 07, 2003 Through July 11, 2003

Pursuant to 40 CFR 1506.9.

*EIS No. 030317, Final EIS, AFS, MI,* Interior Wetlands Project, Timber Harvest, White Pine Trees Pruning, Growth System Adjustment, Wildlife Openings Creation and Maintenance and Transportation System Improvements, Hiawatha National Forest, Eastside Administrative Unit, Chippewa County, MI, Wait Period Ends: August 18, 2003, Contact: Martha Sjogren (906) 643–7900. Ext. 133. This document is available on the Internet at: (*http://www.fs.fed.us/r9/hiawatha*).

*EIS No. 030318, Draft Supplement, AFS, NM,* Agua/Caballos Timber Sale, Harvesting Timber and Managing Existing Vegetation, To Review New Information, Carson National Forest, EL Rito Ranger District, Taos County, NM, Comment Period Ends: September 2, 2003, Contact: Kurt Winchester (505) 581–4554. This document is available on the Internet at: *http://www.fs.fed.us/r3/carson/htm1_main/list_planning.htm1.*

*EIS No. 030319, Final EIS, AFS, ID,* Upper Bear Timber Sale Project, Fuel Reduction, Forest Vegetation and Roads Management, Payette National Forest, Council Ranger District, Adams County, ID, Wait Period End: August 18, 2003, Contact: Mary Farnsworth (208) 253–0100.

*EIS No. 030320, Draft EIS, AFS, UT,* North Rich Cattle Allotment, Proposes to Authorize Grazing, Implementation, Logan District, Wasatch-Cache National Forest, Cache and Rich Counties, UT, Comment Period Ends: September 2, 2003, Contact: Evelyn Sibbernsen (435) 755–3621.

*EIS No. 030321, Draft EIS, AFS, NM,* Bluewater Ecosystem Management Project, Proposes to Initiate Vegetation Treatments to Restore Ponderosa Pine and Pinon-Juniper Stands to a Desired Condition, Cibola National Forest, Mt. Taylor Ranger District, McKinley and Cibola Counties, NM, Comment Period Ends: September 2, 2003, Contact: Chuck Hagerdon (505) 287–8833.

*EIS No. 030322, Draft EIS, NRC, SC,* Generic—License Renewal of Nuclear Plants, Virgil C. Summer Nuclear Station, Supplement 15, Fairfield County, SC, Comment Period Ends: September 2, 2003, Contact: Gregory F. Suber (301) 415–1124.

*EIS No. 030323, Draft EIS, IBR, CA,* Programmatic EIS—Environmental Water Account Project, To Provide Water Management Strategy that Protects the At-Risk Native Delta-Dependent Fish Species and Improve Water Supply, CALFED Bay-Delta Program's, Endangered Species Act

Section 7 and U.S. Corps Section 10 Permits, CA, Comment Period Ends: September 9, 2003, Contact: Ms. Sammie Cervantes (916) 978–5104.

*EIS No. 030324, Final Supplement, COE, FL,* Upper St. Johns River Basin and Related Areas, Central and Southern Florida Flood Control Project, Proposed Modifications to Project Features North of the Fellsmere Grade, To Preserve and Enhance Floodplain and Aquatic Habitats, Brevard County, FL, Wait Period Ends: August 18, 2003, Contact: Esteban Jimenez (904) 232–3442.

*EIS No. 030325, Final EIS, AFS, CO,* Missionary Ridge Burned Area Timber Salvage Project, Timber Harvesting, San Juan National Forest north of Durango, LaPlata County, CO, Wait Period Ends: August 18, 2003, Contact: David Dallison (970) 385–1253. This document is available on the Internet at: *http://www.fs.fed.us/r2/sanjuan/reading_room/planning and_nepa/nepa1.htm.*

*EIS No. 030326, Final EIS, USN, NC, SC, VA,* Introduction of F/A 18 E/F (Super Hornet) Aircraft, Replacing the F–14 (TOMCAT) and F/A–18 C/D (Hornet) Aircraft, Homebasing and Operation, Possible Homebase sites include Naval Air Station (NAS) Oceana, VA; Marine Corps Air Station (MCAS) Beaufort, SC and MCAS Cherry Point, Wait Period Ends: August 18, 2003, Contact: Fred Pierson (757) 322–4935.

*EIS No. 030327, Draft EIS, FRC, CT,* Housatonic River Hydroelectric Project, Application to Relicense Existing Licenses for Housatonic Project No. 2576–022 and the Falls Village Project No. 2597–019, Housatonic River Basin, Fairfield, New Haven and Litchfield Counties, CT, Comment Period Ends: September 2, 2003, Contact: Jack Duckworth (202) 502–6392. This document is available on the Internet at: *http://www.ferc.gov.*

*EIS No. 030328, Draft EIS, NPS, MD, VA, PA, DC* Chesapeake Bay Special Resource Study (SRS), To Conserve and Restore Chesapeake Bay, New Unit of the National Park System, MD, VA, PA, and DC. Comment Period Ends: September 17, 2003, Contact: Jonathan Doherty (410) 267–5725. This document is available on the Internet at: *http://www.chesapeakestudy.org.*

*EIS No. 030329, Final EIS, AFS, ID,* Middle Little Salmon Vegetation Management Project, Timber Stands Current Condition Improvements, Payette National Forest, New Meadows Ranger District, Adam County, ID, Wait Period Ends: August 18, 2003, Contact: Sylvia Clark (208) 347–0300. This document is available on the Internet at: *http://www.fs.fed.us/r4/payette/main.htm1.*

**Amended Notices**

*EIS No. 030233, Draft EIS, FHW, PA,* Woodhaven Road Project, To Relieve Congestion on Byberry Road between the Roosevelt Boulevard and Huntingdon Pike, Philadelphia, Bucks and Montgomery Counties, PA, Comment Period Ends: August 11, 2003, Contact: James A Cheatham (717) 221–3461. Revision of FR Notice Published on 5/23/2003: CEQ Comment Period Ending 7/11/2003 has been Extended to 8/11/2003.

*EIS No. 030289, Final Supplement, COE, TX, OK,* Red River Chloride Control Project, Authorization to Reduce the Natural Occurring Levels of Chloride in the Wichita River Only Portion, North, Middle and South Forks, Wichita River and Red River, Implementation, Tulsa District, Wichita County, TX, Wait Period Ends: July 28, 2003, Contact: David L. Combs (918) 669–7660. Revision of FR Notice Published on 6/27/2003: Correction to the Title.

Dated: July 15, 2003.

**Joseph C. Montgomery,**

*Director, NEPA Compliance Division, Office of Federal Activities*

[FR Doc. 03–18289 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[ER–FRL–6642–2]**

## Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 4, 2003 (68 FR 16511).

**Draft EISs**

*ERP No. D–AFS–K65249–CA Rating EC2,* Stream Fire Restoration Project, Implementation, Plumas National Forest, Mt. Hough Ranger District, Plumas County, CA.

*Summary:* EPA expressed environmental concern that the output guidelines developed for Alternative C may be inconsistent with the overall management strategy embodied in the Sierra Nevada Forest Plan Amendment. EPA also expressed concern that the Forest Service has not identified road decommissioning opportunities as part of Alternatives B and C.

*ERP No. D–AFS–L65423–ID Rating NS,* Big Bend Ridge Vegetation Management Project and Timber Sale, Provision of Forest Products on a Sustained Yield Basis, Caribou-Targhee National Forest, Ashton/Island Park Ranger District, Fremont County, ID.

*Summary:* EPA Region 10 used a screening tool to conduct a limited review of this action. Based upon this screen, EPA does not foresee having any environmental objections to the proposed action. Therefore, EPA will not be conducting a detailed review.

*ERP No. D–FHW–G40173–TX Rating EC2,* Grand Parkway/TX–99 Improvement Project, I–10 to US 290, Funding, Right-of-Way Grant and U.S. Army COE Section 404 Permit Issuance, Harris County, TX.

*Summary:* EPA has environmental concerns with the DEIS and proposed action, specifically relating to air quality impacts and conformity issues. EPA is also concerned with jurisdictional wetland delineations and mitigation, particularly the applicants interpretation of Galveston District Corps of Engineers policy as well as recent SWANC decisions.

**Final EISs**

*ERP No. F–AFS–J65338–UT* Uinta National Forest Revised Land and Resource Management Plan, Implementation, Juab, Sanpete, Tooele, Utah and Wasatch Counties, UT.

*Summary:* No formal comment letter was sent to the preparing agency.

*ERP No. F–AFS–L39057–OR* Rimrock Ecosystem Restoration Project, Promotion of Healthy and Sustainable Watershed Conditions, Implementation, Umatilla National Forest, Heppner Ranger District, Grant, Morrow and Wheeler Counties, OR.

*Summary:* No formal comment letter was sent to the preparing agency.

*ERP No. F–DOE–L09815–00* Fish and Wildlife Implementation Plan, Policy Directions for Fish and Wildlife Mitigation and Recovery, Implementation and Funding, Pacific Northwest, AZ, CA, ID, MT, NV, NM, OR, UT, WY and British Columbia.

*Summary:* No formal comment letter was sent to the preparing agency.

*ERP No. F–NRC–E05099–FL* Generic EIS—License Renewal of Nuclear Plants for the St. Lucie Units 1 and 2, Supplement 11, NUREG–1437,

Implementation, Hutchinson Island, St. Lucie County, FL.

*Summary:* EPA has environmental concerns about some aspects of the project, but notes that the EIS indicates that the plant will continue radiological monitoring of effluents and the appropriate storage and disposition of radioactive waste during the license renewal period.

*ERP No. F–USN–K52004–CA* Advanced Amphibious Assault Vehicle (AAAV) Development, Replacement and Establishment, Implementation, Del Mar Basin Area of Marine Corps Base (MCB) Camp Pendelton, San Diego County, CA

*Summary:* No formal comment letter was sent to the preparing agency.

Dated: July 15, 2003.

**Joseph C. Montgomery,**

*Director, NEPA Compliance Division, Office of Federal Activities.*

[FR Doc. 03–18290 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7529–3]**

## Science Advisory Board Staff Office; Notification of a Public Meeting Concerning Public Involvement in EPA Science Advisory Board (SAB) Activities and Announcement of a Public Comment Period on a Proposal to Reorganize the SAB

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

**ACTION:** Notice.

**SUMMARY:** The EPA Science Advisory Board (SAB) Staff Office is inviting members of the public to attend a public meeting as part of its continued effort to be more effective in obtaining public input in the SAB activities. The SAB Staff Office is also announcing a three-week public comment period on a proposal to reorganize the SAB.

**DATES:** The public meeting will take place on August 5, 2003, 10 a.m. to 3 p.m., Eastern Daylight Time. Written comments on the proposed reorganization of the SAB may be submitted to Mr. Fred Butterfield at the address identified in the section **FOR FURTHER INFORMATION CONTACT** no later than August 18, 2003.

**ADDRESSES:** Information about the meeting location will be announced on the SAB Web site, *http://www.epa/sab* one week before the meeting and also may be obtained by contacting Ms. Delores Darden as listed in the section **FOR FURTHER INFORMATION CONTACT** below. The meeting will take place in the Washington, DC Metropolitan area.

**FOR FURTHER INFORMATION CONTACT:** For information about the public meeting and the agenda, please contact Mr. Robert Flaak, telephone/voice mail at (202) 564–4546, or via e-mail at *flaak.robert@epa.gov.* Members of the public who have questions about, want to request a paper copy of the proposed reorganization, or would like to submit comments on the reorganization proposal should contact Mr. Fred Butterfield, telephone/voice mail at (202) 564–4561, via e-mail at *butterfield.fred@epa.gov,* or at the mailing address indicated below. Members of the public who have logistical questions about the meeting described in this notice may contact Ms. Delores Darden, telephone/voice mail at 202–564–2282, via fax at: (202) 501–0582, via e-mail at *darden.delores@epa.gov,* or at the following mailing address: EPA Science Advisory Board, U.S. Environmental Protection Agency (1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (FedEx/Courier address: U.S. EPA SAB, Suite 6450, 1200 Pennsylvania Avenue, NW., Washington, DC 20004). General information concerning the SAB can be found on the EPA Web site at: *http://www.epa.gov/sab.*

**SUPPLEMENTARY INFORMATION:**

### Summary Information and Background Related to the Public Meeting

This public meeting is the second in a series of semiannual meetings that the EPA SAB Staff Office plans to hold with the public as part of its efforts to enhance effective public input as it continues to improve SAB policies and procedures. A description of the background for Staff Office meetings on public involvement in SAB activities can be found in the **Federal Register** notice published on September 5, 2002 (67 FR 56831–56832). At the August 5, 2003 meeting, the SAB Staff Office will provide a general update and take public comments on its planned efforts to improve policies and procedures at the SAB. One area of focus for discussions will be plans for developing a draft ''Guide to Effective Public Participation in SAB Meetings and Report Development.'' The Staff Office will also address questions from the public concerning the proposal for reorganizing the SAB and hear public comments on the proposal.

### Summary Information and Background Related to the Proposed Reorganization of the SAB

The SAB Staff Office is seeking public comments on a proposed organization of the SAB. The SAB Staff Office has worked extensively with the Reorganization Sub-Committee of the SAB Executive Committee and other EPA offices to develop this proposal. Background information on previous efforts to solicit public input concerning prospective SAB structural reorganization can be found in the **Federal Register** notice published on November 26, 2002 (67 FR 70729–70730). The Staff Office will consider public comments and consult with the SAB in making its final recommendations on the proposed reorganization to the EPA Administrator. The proposed SAB reorganization is available through the ''Recent Additions'' link on the EPA SAB Web site or can be obtained from Mr. Butterfield (for addresses see the **FOR FURTHER INFORMATION CONTACT** section above.) .

The proposed reorganization is intended to enhance the ability of the SAB to carry out its critical mission more effectively. The Staff Office has identified three specific questions for public comment.

(a) Does the proposed reorganization appear to more effectively support the SAB mission in improving the way science is developed and used in environmental decision-making within EPA through its advisory role and peer review function, and does it appear to be flexible enough to support the SAB's mission in meeting future environmental challenges?

(b) Does the proposed reorganization appear to meet the SAB's goal of strengthening the independence of the SAB peer-review process and enhancing the quality of its peer review reports?

(c) If the proposed reorganization is approved, are there any major considerations that the SAB Staff Office should be aware of in planning for and implementing the proposed reorganization, especially in regard to facilitating effective public involvement in SAB processes?

Written comments on the proposed reorganization will be accepted until the date specified above. Written comments should be provided either in hard copy with original signature or electronic copy (acceptable file formats: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format), and may be sent to Mr. Butterfield at the mailing or e-mailing addresses provided above.

Dated: July 11, 2003.

**Vanessa T. Vu,**

*Director, EPA Science Advisory Board Staff Office.*

[FR Doc. 03–18156 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–2003–0245; FRL–7317–8]**

## Pesticide Products; Registration Applications

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

**ACTION:** Notice.

**SUMMARY:** This notice announces receipt of applications to register pesticide products containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

**DATES:** Written comments, identified by the docket ID number OPP–2003–0245, must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mautz, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6785; e-mail address: *mautz.marilyn@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111)
- Animal production (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0245. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

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

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

*C. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-

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

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2003–0245. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2003–0245. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

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

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2003–0245.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2003–0245. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

*D. How Should I Submit CBI to the Agency?*

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

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

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the registration activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

**II. Registration Applications**

EPA received applications as follows to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

*Products Containing an Active Ingredient Not Included in Any Previously Registered Products*

1. *File symbol*: 3125–LGA. *Applicant*: Bayer CropScience, P.O. Box 12014, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709. *Product name*: Thiacloprid Technical. *Type of product:* Insecticide. *Active ingredient*: Thiacloprid ([3-[(6-chloro-3-pyridinyl)methyl]-2-thiazolidinylidene]cyanamide) at 97%. *Proposed classification/Use*: None. For the formulation of insecticides.

2. *File symbol*: 3125–LGI. *Applicant*: Bayer CropScience. *Product name*: Calypso 70 WG. *Type of product*: Insecticide. *Active ingredient*: Thiacloprid at 70%. *Proposed classification/Use*: None. For insect control on cotton and pome fruits.

3. *File symbol*: 3125–LGT. *Applicant*: Bayer CropScience. *Product name*: Calypso 4 Flowable. *Type of product*: Insecticide. *Active ingredient*: Thiacloprid at 40.4%. *Proposed classification/Use*: None. For insect control on cotton and pome fruits.

4. *File symbol*: 66330–GI. *Applicant*: Arvesta Coporation, 100 First Street, Suite 1700, San Francisco, CA 94105. *Product name*: Kanemite 15 SC. *Type of product*: Insecticide. *Active ingredient*: Acequinocyl (3-dodecyl-1,4-dihydro-1,4-dioxo-2-naphthyl-acetate) at 15.8%. *Proposed classification/Use*: None. For insect control on ornamental plants; almonds; pistachios; citrus fruits; pome fruits; and strawberries.

5. *File symbol*: 66330–GO. *Applicant*: Arvesta Corporation. *Product name*: Acequinocyl Technical. *Type of product*: Insecticide. *Active ingredient*: Acequinocyl) at 96.8%. *Proposed classification/Use*: None. For the formulation of insecticides.

**List of Subjects**

Environmental protection, Pesticides and pest.

Dated: July 9, 2003.

**Debra Edwards,**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 03–18304 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[OPP–2003–0197; FRL–7311–4]**

## Issuance of Experimental Use Permits

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

**ACTION:** Notice.

**SUMMARY:** EPA has granted experimental use permits (EUPs) to the following pesticide applicants. An EUP permits use of a pesticide for experimental or research purposes only in accordance with the limitations in the permit.

**FOR FURTHER INFORMATION CONTACT:** For additional information contact the designated contact person for the EUP listed in Unit I.C. of the **SUPPLEMENTARY INFORMATION.**

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the public in general. Although this action may be of particular interest to those persons who conduct or sponsor research on pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

*B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0197. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

*C. Contact Persons*

For additional information contact the designated contact person for the EUP listed in the table below:

| Contact person | Telephone number/e-mail address | Mailing address | EUP number |
|---|---|---|---|
| Dani Daniel | (703) 305–5409; daniel.dani@epa.gov | Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., Washington, DC 20460 | 100–EUP–110 |
| John Hebert | (703) 308–6249; hebert.john@epa.gov | Do. | 71715–EUP–2 |
| Dan Kenny | (703) 305–7546; kenny.dan@epa.gov | Do. | 352–EUP–167 |
| Susan L. Stanton | (703) 305–5218; stanton.susan@epa.gov | Do. | 70341–EUP–2<br>70341–EUP–3 |
| Joseph Tavano | (703) 305–6411; tavano.joseph@epa.gov | Do. | 100–EUP–112<br>100–EUP–113 |

### II. EUPs

EPA has issued the following EUPs:

1. *100–EUP–110.* Amendment. Syngenta Crop Protection, Inc., P.O. Box 18300, Greenboro, NC 27419–8300. In the **Federal Register** of February 15, 2002 (67 FR 7163) (FRL–6823–5), EPA issued an EUP for thiamethoxam to Syngenta Crop Protection, Inc. The original issuance allowed 120.8 pounds of the insecticide thiamethoxam to be used on 1,230 sq. ft. around 615 structures over a period of 3 years to evaluate the control of termites and other nuisance pests in the States of Alabama, Arizona, California, Florida, Georgia, Hawaii, Kentucky, Louisiana, Mississippi, Nebraska, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. This amendment will allow for additional use sites, lower the count to 128 structures on 2,000 sq. ft. using 160 pounds of the insecticide. The program is now authorized in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The EUP is effective from April 30, 2002 to October 30, 2005.

2. *100–EUP–112*. Issuance. Syngenta Crop Protection, 410 Swing Road, Greensboro, NC 27419–8300. This EUP allows the use of 74 pounds active ingredient of the insecticide Lufenuron around 125 structures to be used as an outdoor in-ground termite bait. The program is authorized in the States of Alabama, Arizona, Arkansas, California, Florida, Georgia, Hawaii, Indiana, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Missouri, Nebraska, Nevada, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, and Virginia. The EUP is effective from April 3, 2003 to April 3, 2006.

3. *100–EUP–113*. Issuance. Syngenta Crop Protection, 410 Swing Road, Greensboro, NC 27419–8300. This EUP allows the use of 1 pound active ingredient of the insecticide Lufenuron around 25 structures to be used as an above ground termite bait. The program is authorized only in the States of Arizona, California, Florida, Georgia, Hawaii, Louisiana, Ohio, South Carolina, and Texas. The EUP is effective from May 7, 2003 to May 7, 2006.

4. *352–EUP–167*. Issuance. E. I. Dupont de Nemours and Company, P.O. Box 30, Newark, DE 19714. This EUP allows the use of 450 pounds of the insecticide Dupont Avaunt, containing 135 pounds of the active ingredient indoxacarb on 300 acres of peaches to evaluate the control of the Oriental fruit moth and plum curculio. The program is authorized only in the States of Georgia, Michigan, New Jersey, Pennsylvania, South Carolina, and West Virginia. The EUP is effective from May 2, 2003 to May 2, 2005.

5. *70341–EUP–2*. Issuance. IPM Technologies, Inc., 4134 North Vancouver Avenue #105, Portland, OR 97217. This EUP allows the use of 300 pounds of the insecticide Last Call PLR, containing 18 pounds of the active ingredient permethrin and 4.8 pounds of a pheromone blend on 68 acres of apples to evaluate the control of Pandemis leafroller moth. The program is authorized only in the State of Washington. The EUP is effective from May 15, 2003 to May 14, 2004.

6. *70341–EUP–3*. Issuance. IPM Technologies, Inc., 4134 North Vancouver Avenue #105, Portland, OR 97217. This EUP allows the use of 300 pounds of the insecticide Last Call OBLR, containing 18 pounds of the active ingredient permethrin and 4.8 pounds of a pheromone blend on 68 acres of apples to evaluate the control of Oblique banded leafroller moth. The program is authorized only in the State of Washington. The EUP is effective from May 15, 2003 to May 14, 2004.

7. *71715–EUP–2*. Issuance. Tonnie L. C. Casey, Kamehameha Schools, 78–6831 Alii Drive, Suite 232, Kailua-Kona, HI 96740. This EUP allows the use of 16,000 pounds of the rodenticide Eaton's Bait Pellet Rodenticide with Fish Flavorizer, containing 80 pounds of the active ingredient diphacinone on 800 acres of forested ranchland to evaluate the control of invasive rodents and mongooses. The program is authorized only in the State of Hawaii. The EUP is effective from May 6, 2003 to May 6, 2004.

**Authority:** 7 U.S.C. 136c.

### List of Subjects

Environmental protection, Experimental use permits.

Dated: July 1, 2003.

**Debra Edwards**

*Director, Registration Division, Office of Pesticide Programs.*

[FR Doc. 03–18318 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–S

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPPT–2002–0027; FRL–7189–8]**

## National Advisory Committee for Acute Exposure Guideline Levels (AEGLs) for Hazardous Substances; Proposed AEGL Values

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

**ACTION:** Notice.

**SUMMARY:** The National Advisory Committee for Acute Exposure Guideline Levels for Hazardous Substances (NAC/AEGL Committee) is developing AEGLs on an ongoing basis to provide Federal, State, and local agencies with information on short-term exposures to hazardous chemicals. This notice provides AEGL values and executive summaries for 10 chemicals for public review and comment. Comments are welcome on both the AEGL values in this notice and the technical support documents placed in the public version of the official docket for these 10 chemicals.

**DATES:** Comments, identified by docket ID number OPPT–2002–0027, must be received on or before August 18, 2003.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

*For technical information contact*: Paul S. Tobin, Designated Federal Officer (DFO), Office of Pollution Prevention and Toxics (7406M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–8557; e-mail address: *tobin.paul@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

### I. General Information

*A. Does this Action Apply to Me?*

This action is directed to the general public to provide an opportunity for review and comment on ''Proposed'' AEGL values and their supporting scientific rationale. This action may be of particular interest to anyone who may be affected if the AEGL values are adopted by government agencies for emergency planning, prevention, or response programs, such as EPA's Risk Management Program under the Clean Air Act and Amendments Section 112r. It is possible that other Federal agencies besides EPA, as well as State and local agencies and private organizations, may adopt the AEGL values for their programs. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the DFO listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0027. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution

Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

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

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

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

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

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

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPPT–2002–0027. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2002–0027. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

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

2. *By mail*. Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2002–0027. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

*D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside

of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

*E. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the notice or collection activity.
7. Make sure to submit your comments by the deadline in this document.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

## II. Background

*A. What Action is the Agency Taking?*

EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) provided notice in the **Federal Register** of October 31, 1995 (60 FR 55376) (FRL–4987–3) of the establishment of the NAC/AEGL Committee with the stated charter objective as ''the efficient and effective development of AEGLs and the preparation of supplementary qualitative information on the hazardous substances for federal, state, and local agencies and organizations in the private sector concerned with [chemical] emergency planning, prevention, and response.'' The NAC/AEGL Committee is a discretionary Federal advisory committee formed with the intent to develop AEGLs for chemicals through the combined efforts of stakeholder members from both the public and private sectors in a cost-effective approach that avoids duplication of efforts and provides uniform values, while employing the most scientifically sound methods available. An initial priority list of 85 chemicals for AEGL development was published in the **Federal Register** of May 21, 1997 (62 FR 27734) (FRL–5718–9). This list is intended for expansion and modification as priorities of the stakeholder member organizations are further developed. While the development of AEGLs for chemicals are currently not statutorily based, at lease one rulemaking references their planned adoption. The Clean Air Act and Amendments Section 112(r) Risk Management Program states, ''EPA recognizes potential limitations associated with the Emergency Response Planning Guidelines and Level of Concern and is working with other agencies to develop AEGLs. When these values have been developed and peer-reviewed, EPA intends to adopt them, through rulemaking, as the toxic endpoint for substances under this rule (see 61 FR 31685).'' It is believed that other Federal and State agencies and private organizations will also adopt AEGLs for chemical emergency programs in the future.

*B. Characterization of the AEGLs*

The AEGLs represent threshold exposure limits for the general public and are applicable to emergency exposure periods ranging from 10 minutes to 8 hours. AEGL-2 and AEGL-3 levels, and AEGL-1 levels as appropriate, will be developed for each of five exposure periods (10 and 30 minutes, 1 hour, 4 hours, and 8 hours) and will be distinguished by varying degrees of severity of toxic effects. It is believed that the recommended exposure levels are applicable to the general population including infants and children, and other individuals who may be sensitive and susceptible. The AEGLs have been defined as follows:

AEGL-1 is the airborne concentration (expressed as parts per million (ppm) or milligram/meter cubed (mg/m3) of a substance above which it is predicted that the general population, including susceptible individuals, could experience notable discomfort, irritation, or certain asymptomatic, non-sensory effects. However, the effects are not disabling and are transient and reversible upon cessation of exposure.

AEGL-2 is the airborne concentration (expressed as ppm or mg/m3) of a substance above which it is predicted that the general population, including susceptible individuals, could experience irreversible or other serious, long-lasting adverse health effects, or an impaired ability to escape.

AEGL-3 is the airborne concentration (expressed as ppm or mg/m3) of a substance above which it is predicted that the general population, including susceptible individuals, could experience life-threatening health effects or death.

Airborne concentrations below the AEGL-1 represent exposure levels that could produce mild and progressively increasing odor, taste, and sensory irritation, or certain non-symptomatic, non-sensory effects. With increasing airborne concentrations above each AEGL level, there is a progressive increase in the likelihood of occurrence and the severity of effects described for each corresponding AEGL level. Although the AEGL values represent threshold levels for the general public, including sensitive subpopulations, it is recognized that certain individuals, subject to unique or idiosyncratic responses, could experience the effects described at concentrations below the corresponding AEGL level.

*C. Development of the AEGLs*

The NAC/AEGL Committee develops the AEGL values on a chemical-by-chemical basis. Relevant data and information are gathered from all known sources including published scientific literature, State and Federal agency publications, private industry, public data bases, and individual experts in both the public and private sectors. All key data and information are summarized for the NAC/AEGL Committee in draft form by Oak Ridge National Laboratories together with ''draft'' AEGL values prepared in conjunction with NAC/AEGL Committee members. Both the ''draft'' AEGLs and ''draft'' technical support documents are reviewed and revised as necessary by the NAC/AEGL Committee members prior to formal NAC/AEGL Committee meetings. Following deliberations on the AEGL values and the relevant data and information for each chemical, the NAC/AEGL Committee attempts to reach a consensus. Once the NAC/AEGL Committee reaches a consensus, the values are considered ''Proposed'' AEGLs. The Proposed AEGL values and the accompanying scientific rationale

for their development are the subject of this notice.

The NAC/AEGL Committee publishes proposed AEGL values and the accompanying scientific rationale for their development for 10 hazardous substances. These values represent the sixth set of exposure levels proposed and published by the NAC/AEGL Committee EPA published the first ''Proposed'' AEGLs for 12 chemicals from the initial priority list in the **Federal Register** of October 30, 1997 (62 FR 58840–58851) (FRL–5737–3); for 10 chemicals in the **Federal Register** of March 15, 2000 (65 FR 14186–14196) (FRL–6492–4); for 14 chemicals in the **Federal Register** of June 23, 2000 (65 FR 39263–39277) (FRL–659–2); for 7 chemicals in the **Federal Register** of December 13, 2000 (65 FR 77866–77874) (FRL–6752–5) for 18 chemicals in the **Federal Register** of May 2, 2001 (66 FR 21940–21964) (FRL–6776–3); and for 8 chemicals in the **Federal Register** of February 15, 2002 (67 FR 7164–7176) (FRL–6815–8) in order to provide an opportunity for public review and comment. In developing the proposed AEGL values, the Committee has followed the methodology guidance Guidelines for Developing Community Emergency Exposure Levels for Hazardous Substances, published by the National Research Council of the National Academy of Sciences (NAS) in 1993. The term Community Emergency Exposure Levels (CEELS) is synonymous with AEGLs in every way. The NAC/AEGL Committee has adopted the term Acute Exposure Guideline Levels to better connote the broad application of the values to the population defined by the NAS and addressed by the NAC/AEGL Committee. The NAC/AEGL Committee invites public comment on the proposed AEGL values and the scientific rationale used as the basis for their development.

Following public review and comment, the NAC/AEGL Committee will reconvene to consider relevant comments, data, and information that may have an impact on the NAC/AEGL Committee's position and will again seek consensus for the establishment of Interim AEGL values. Although the Interim AEGL values will be available to Federal, State, and local agencies and to organizations in the private sector as biological reference values, it is intended to have them reviewed by a subcommittee of the NAS. The NAS subcommittee will serve as a peer review of the Interim AEGLs and as the final arbiter in the resolution of issues regarding the AEGL values, and the data and basic methodology used for setting AEGLs. Following concurrence, ''Final'' AEGL values will be published under the auspices of the NAS.

*D. Use of Human Data*

The NAC/AEGL Program is working to ensure that emergency responders and risk managers in this country and abroad are armed with vital information they need to protect the public and themselves from harm in the event of chemical accidents or homeland security emergencies. Because of the serious nature of chemical emergency situations, it is essential that involved personnel have access to the most comprehensive and realistic assessments of human health hazards posed by released chemicals. Under estimation of human health hazard would not be protective, while over estimation might suggest a larger than necessary response zone. The Department of Army and Federal Emergency Management Agency Chemical Stockpile Emergency Preparedness Program (CSEPP), for example, has adopted, as outlined in CSEPP Policy Paper Number 20, AEGLs for sulfur mustard and nerve agents for use in CSEPP community emergency planning and response activities ''to prevent or minimize exposures above AEGL-2, above which some temporary but potentially escape-impairing effects could occur.'' Thus, with the application of the procedures discussed in this unit, the AEGL Program recognizes the importance of considering all available domestic and international test data, both animal and human, to determine threshold levels of harm for a range of exposure scenarios critical to those at the front line in defending public health.

The process for development of AEGL values incorporates essential scientific and ethical considerations posed by the possible use of research with human subjects. All human studies that were used as key or supporting evidence to derive AEGL values were judged acceptable for use according to ethical considerations detailed in the Standing Operating Procedures for Developing Acute Exposure Guideline Levels for Hazardous Substances, Subcommittee on Acute Exposure Guideline Levels, National Research Council, *National Academy Press*, 2001, p. 53. The SOP states ''The NAC/AEGL Committee is dependent upon existing clinical, epidemiologic, and case report studies published in the literature for data on humans. Many of these studies do not necessarily follow current guidelines on ethical standards that require effective, documented, informed consent from participating human subjects. Further, recent studies that followed such guidelines may not include that fact in the publication. Although human data may be important in deriving AEGL values that protect the general public, utmost care must be exercised to ensure first of all that such data have been developed in accordance with ethical standards. No data on humans known to be obtained through force, coercion, misrepresentation, or any other such means will be used in the development of AEGLs. The NAC/AEGL Committee will use its best judgment to determine whether the human studies were ethically conducted and whether the human subjects were likely to have provided their informed consent. Additionally, human data from epidemiologic studies and chemical accidents may be used. However, in all instances described here, only human data, documents, and records will be used from sources that are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified directly or indirectly. These restrictions on the use of human data are consistent with the 'Common Rule' published in the Code of Federal Regulations (Protection of Human Subjects, 40 CFR 26, 2000).'' Additionally, EPA has recently asked the NAC/AEGL Committee to add an explicit documentation step early in the AEGL development process that the studies proposed for consideration have been consistent with the Program's Standing Operating Procedures (SOPs).

## III. List of Chemicals

On behalf of the NAC/AEGL Committee, EPA is providing an opportunity for public comment on the AEGLs for the 10 chemicals identified in Table 1 of this unit.

*A. Proposed AEGL Chemical Table*

TABLE 1.—10 CHEMICALS FOR PROPOSED AEGLS

| CAS No. | Chemical name |
|---|---|
| 75–86–5 | Acetone cyanohydrin |
| 7664–41–7 | Ammonia |
| 7726–95–6 | Bromine |
| 79–11–8 | Chloroacetic acid |
| 7782–41–4 | Fluorine |
| 70892–10–3 | Jet Fuel 8 |
| 78–93–3 | Methyl ethyl ketone |
| 10025–87–3 | Phosphorus oxychloride |
| 7719–12–2 | Phosphorus trichloride |

TABLE 1.—10 CHEMICALS FOR PROPOSED AEGLS—Continued

| CAS No. | Chemical name |
|---|---|
| 1330–20–7 | Xylenes |

*B. Executive Summaries*

The following are executive summaries from the chemical specific technical support documents (which may be obtained as described in Unit I.B. and III.) that support the NAC/AEGL Committee's development of AEGL values for each chemical substance. This information provides the following information: A general description of each chemical, including its properties and principle uses; a summary of the rationale supporting the AEGL-1, 2, and 3 concentration levels; a summary table of the AEGL values; and a listing of key references that were used to develop the AEGL values. More extensive toxicological information and additional references for each chemical may be found in the complete technical support documents. Risk managers may be interested to review the complete technical support document for a chemical when deciding issues related to use of the AEGL values within various programs.

1. *Acetone cyanohydrin*—i. *Description*. Acetone cyanohydrin is a colorless to yellowish liquid with a characteristic bitter almond odor due to the presence of free HCN. The major use of acetone cyanohydrin is in the production of α-methacrylic acid and its esters; the latter are used for the production of plexiglass. Further uses of acetone cyanohydrin are in the production of acrylic esters, polyacrylic plastics, and synthetic resins as well as in the manufacture of insecticides, pharmaceuticals, fragances, and perfumes. Acetone cyanohydrin decomposes spontaneously to acetone and hydrogen cyanide; this process is catalyzed by heat and contact with water (especially under alkaline conditions).

Fatal cases and life-threatening poisonings in workers have been described after accidental inhalation, skin contact, and oral uptake. Initial symptoms following mild exposure to acetone cyanohydrin are predominantly cardiac palpitation, headache, weakness, dizziness, nausea, vomiting, and nose, eye, throat, and skin irritation. The systemic toxicity of acetone cyanohydrin is caused by free cyanide ions and is primarily due to complex formation with the iron moiety in the tissue enzyme ferri cytochrome c oxidase or cytochrome $a_3$. The blockage of the electron transport system of mitochondria results in inhibition of oxygen utilization and causes tissue hypoxia and cellular and tissue destruction.

Four studies exposed rats repeatedly to acetone cyanohydrin concentrations of about 10, 30, and 60 ppm for 6 hours/day, 5 days/week for a total of 4 weeks (Monsanto Co., 1986a; using groups of 10 male and 10 female rats), 10 weeks (Monsanto Co., 1982b; using groups of 15 male rats) and 14 weeks (Monsanto Co., 1986b; using groups of 15 male and 15 female rats) or for 6 hours/day for 21 days (Monsanto Co., 1982c; using groups of 15 female rats). Death was observed at 60 ppm after the first exposure in 3 animals of the Monsanto Co. (1986a) study, but not in subsequent exposures or in the other studies at a similar exposure concentration. Preceding death, respiratory distress, prostration, convulsions, and tremors were observed. In all studies, exposure to 60 and 30 ppm caused signs of irritation (red nasal discharge, clear nasal discharge, perioral wetness, encrustations) during the first and subsequent weeks of exposure. At 10 ppm, red nasal discharge was not observed in one study (Monsanto Co., 1986a); its incidence was not increased compared to control group in two studies (Monsanto Co., 1982b; 1982c) and increased compared to the control group in the fourth study (Monsanto Co., 1986b). No other effects were reported in these four studies.

The AEGL-1 was based on a repeated exposure study in rats in which a concentration of 9.2 ppm for 6 hours/day, 5 days/week for 4 weeks did not result in red nasal discharge (Monsanto Co., 1986a). An uncertainty factor of 3 was applied for interspecies variability because the lowest-observed-effect-level (LOEL) for irritation in humans exposed to cyanide at the workplace is about 6–10 ppm cyanide (El Ghawabi et al., 1975), which is a factor of about 3 below the irritation threshold of acetone cyanohydrin in rats (about 30 ppm) and because a multiple exposure study was used for the derivation of AEGL values. An uncertainty factor of 3 was applied for intraspecies variability because decomposition of acetone cyanohydrin does not involve enzyme-catalyzed steps and the binding to evolutionary conservative iron-containing proteins/enzymes, i.e., the target protein cytochrome c oxidase, is unlikely to differ substantially between individuals. A modifying factor of 2 was applied due to the lack of more adequate and supporting data for the derivation of AEGL-1 values. The exposure duration-specific values were derived by time scaling according to the dose-response regression equation $C^n \times t = k$, using the default of n = 3 for shorter exposure periods and n = 1 for longer exposure periods, due to the lack of suitable experimental data for deriving the concentration exponent. For the 10-minute AEGL-1 the 30-minute value was applied because the derivation of AEGL values was based on a long experimental exposure period and no supporting studies using short-exposure periods were available for characterizing the concentration-time-response relationship.

The AEGL-2 was based on a repeated exposure study in rats in which a concentration of 29.9 ppm for 6 hours/day, 5 days/week for 4 weeks did not result in respiratory distress (red nasal discharge as a sign of irritation was observed during the first and subsequent weeks of exposure) (Monsanto Co., 1986a). An uncertainty factor of 3 was applied for interspecies variability because repeated exposure of humans at the workplace to cyanide concentrations only about 3-fold lower than the lethality threshold of about 60 ppm acetone cyanohydrin in rats did not lead to life-threatening or irreversible health effects and because a multiple exposure study was used for the derivation of AEGL values. An uncertainty factor of 3 was applied for intraspecies variability because decomposition of acetone cyanohydrin does not involve enzyme-catalyzed steps and the binding to evolutionary conservative iron-containing proteins/enzymes, i.e., the target protein cytochrome c oxidase, is unlikely to differ substantially between individuals. The exposure duration-specific values were derived by time scaling according to the dose-response regression equation $C^n \times t = k$, using the default of n = 3 for shorter exposure periods and n = 1 for longer exposure periods, due to the lack of suitable experimental data for deriving the concentration exponent. For the 10-minute AEGL-2 the 30-minute value was applied because the derivation of AEGL values was based on a long experimental exposure period and no supporting studies using short-exposure periods were available for characterizing the concentration-time-response relationship.

For the derivation of AEGL-3 values, it was taken into account that:

a. Acetone cyanohydrin decomposes spontaneously into hydrogen cyanide and acetone,

b. The decomposition of acetone cyanohydrin is accelerated by heat and water,

c. The systemic toxic effects of acetone cyanohydrin are caused by free cyanide ions, and

d. Hydrogen cyanide has a far higher vapor pressure than acetone cyanohydrin.

From these facts it was concluded that with every exposure to acetone cyanohydrin a concomitant exposure to hydrogen cyanide will occur. It therefore seemed reasonable to apply the AEGL-3 values (on a ppm basis) derived for hydrogen cyanide to acetone cyanohydrin. This procedure is supported by a close similarity of acetone cyanohydrin and hydrogen cyanide regarding lethal effects in rats exposed for 6 hours.

The proposed AEGL values are listed in Table 2 of this unit.

TABLE 2.—SUMMARY TABLE OF PROPOSED AEGL VALUES FOR ACETONE CYANOHYDRIN[A]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 1.1 ppm (3.9 mg/m$^3$) | 1.1 ppm (3.9 mg/m$^3$) | 0.84 ppm (2.9 mg/m$^3$) | 0.53 ppm (1.9 mg/m$^3$) | 0.35 ppm (1.2 mg/m$^3$) | No red nasal discharge in rats (Monsanto Co., 1986a) |
| AEGL-2 (Disabling) | 6.8 ppm (24 mg/m$^3$) | 6.8 ppm (24 mg/m$^3$) | 5.4 ppm (19 mg/m$^3$) | 3.4 ppm (12 mg/m$^3$) | 2.2 ppm (7.7 mg/m$^3$) | No respiratory distress in rats (Monsanto Co., 1986a) |
| AEGL-3 (Lethal) | 27 ppm (95 mg/m$^3$) | 21 ppm (74 mg/m$^3$) | 15 ppm (53 mg/m$^3$) | 8.6 ppm (30 mg/m$^3$) | 6.6 ppm (23 mg/m$^3$) | Application of AEGL-3 values for hydrogen cyanide |

[a] Cutaneous absorption may occur; direct skin contact with the liquid should be avoided; fatal intoxications have been reported upon skin contact.

ii. *References*. a. El Ghawabi A.; M. Gaafar; A. El Saharta; S.H. Ahmed; K.K. Malash; and R. Fares. 1975. Chronic cyanide exposure: a clinical radioisotope and laboratory study. *British Journal of Industrial Medicine*. 32:215–219.

b. Monsanto Co. 1982b. Male fertility study of Sprague-Dawley rats exposed by inhalation route to acetone cyanohydrin. Monsanto Co. Report No. ML-82-144. Monsanto Co., St. Louis, MO, USA.

c. Monsanto Co. 1982c. Female fertility study of Sprague-Dawley rats exposed by inhalation route to acetone cyanohydrin. Monsanto Co. Report No. ML-82-125. Monsanto Co., St. Louis, MO, USA.

d. Monsanto Co. 1986a. One-month inhalation toxicity of acetone cyanohydrin in male and female Sprague-Dawley rats with cover letter dated 04-25-86. Report No. BN-81-178. Monsanto Co., St. Louis, MO, USA.

e. Monsanto Co. 1986b. Three-month inhalation toxicity of acetone cyanohydrin in male and female Sprague-Dawley rats with cover letter dated 04-25-86. Report No. ML-82-143. Monsanto Co., St. Louis, MO, USA.

2. *Ammonia*—i. *Description*. Ammonia is a colorless, corrosive, alkaline gas that has a very pungent odor. The odor detection level ranges from 5–53 ppm. Ammonia is used as a compressed gas and in aqueous solutions. It also is used as a household cleaning product, in fertilizers, and as a refrigerant. Exposures to ammonia occur as a result of accidents during highway and railway transportation, by releases at manufacturing facilities, and from farming accidents.

Ammonia is very soluble in water. Because of its exothermic properties, ammonia forms ammonium hydroxide and produces heat when it contacts moist surfaces, such as mucous membranes. The corrosive and exothermic properties of ammonia can result in immediate damage (severe irritation and burns) to eyes, skin, and mucous membranes of the oral cavity and respiratory tract. In addition, ammonia is effectively scrubbed in the nasopharyngeal region of the respiratory tract because of its high solubility in water.

The data for deriving AEGL values were obtained primarily from case studies of accident victims, experimental studies in humans, and experimental studies on lethality and irritation in animals. The case studies were of limited use for quantitative evaluation, but the experimental studies in humans and animals contained quantitative data that would be used for deriving AEGL values.

No reliable quantitative lethality data were available for humans dying as a result of exposure to ammonia. One case study reported the death of an individual exposed to a high but unknown concentrations of ammonia. Other case studies also contained no exposure estimates, but showed that high concentrations of ammonia cause severe damage to the respiratory tract, particularly in the tracheobronchial and pulmonary regions. Death, however, is most likely to occur when damage causes pulmonary edema. Non-lethal, irreversible, or long-term effects occur when damage progresses to the tracheobronchial region, manifested by reduced performance on pulmonary function tests, bronchitis, bronchiolitis, emphysema, and bronchiectasis. Nondisabling, reversible effects are manifested by irritation to the eyes, throat, and nasopharyngeal region of the respiratory tract. The odor of ammonia is detected by humans at concentrations >5 ppm; the odor is highly penetrating at 50 ppm (10 minutes). Experimental studies on human volunteers, showed that slight irritation may occur at 30 ppm (10 minutes), moderate irritation to the eyes, nose, throat, and chest occurs at 50 ppm (10 minutes to 2 hours), moderate to highly intense irritation occurs at 80 ppm (30 minutes to 2 hours), highly intense irritation occurs at 110 ppm (30 minutes to 2 hours), unbearable irritation occurs at 140 ppm (30 minutes to 2 hours), and excessive lacrimation and irritation at 500 ppm. In addition, some subjects were able to breathe 140 ppm for up to 2 hours or 500 ppm for 30 minutes without suffering long-lasting effects. Reflex glottis closure, a response to irritant vapors, occurred at 570 ppm for 21- to 30-year-old subjects, 1,000 ppm for 60-year-old subjects, and 1,790 ppm for 86- to 90-year-old subjects.

Acute lethality studies in animals showed that the $LC_{50}$ values for rats ranged from 40,300 ppm for a 10-minute exposure to 7,338 and 16,600 ppm for 60-minute exposures. For the mouse, $LC_{50}$ values were 21,430 ppm for a 30-minute exposure (almost all animals died in less than 13 minutes), 10,096 ppm for a 10-minute exposure, and 4,230 and 4,837 ppm for 60-minute

exposures. Comparative data for the same exposure duration show that mice are more sensitive than rats to the acute toxic effects of ammonia (10 minute $LC_{50}$ values for mice and rats, are 10,096 ppm and 40,300 ppm, respectively). The lowest lethal concentrations reported was 1,000 ppm for the cat. However, cats were exposed via an endotracheal tube, which probably exacerbated the effects in the tracheobronchial region by bypassing the scrubbing action of the nasopharyngeal region. Rats exposed by inhalation to lethal concentrations of ammonia, showed signs of dyspnea, irritation to the eyes and nose, and hemorrhage in the lungs. Mice exposed to lethal concentrations of ammonia showed signs of irritation to the eyes and nose, along with tremors, ataxia, convulsions, seizures, and pathologic lesions in the alveoli. Cats exposed to the lowest lethal concentration showed evidence of severe airway damage, bronchopneumonia, bronchitis, bronchiolitis, and emphysema. Toxic effects at non-lethal concentrations in mice and rats consisted of mild effects on respiratory epithelium of the nasal cavity (mice and rats), reduction in the respiratory rate (mice), and evidence of eye irritation (rat). The $RD_{50}$ (concentration causing a 50% reduction in respiratory rate) for the mouse was 300 ppm for a 30-minute exposure.

The AEGL values for the three toxicity levels (nondisabling, disabling, and lethal) were derived from both human and animal data. The odor of ammonia is detected by humans at concentrations ranging from 5 to 53 ppm and data showed that it is irritating to the upper respiratory tract of humans at 30 ppm. The AEGL-1 value of 25 ppm is based the concentration slightly below the lowest concentration showing irritation in humans. An intraspecies uncertainty factor of 1 was applied, because 25 ppm is below the concentration causing irritation; however, if irritation did occur, it would be mild or only slightly noticeable, confined to the nasal cavity and eyes (ammonia is efficiently scrubbed), and would not be expected to affect asthmatic or other sensitive individuals to a greater degree than nonasthmatic individuals. Atopic and nonatopic subjects did not respond differently to a nasal exposure to ammonia. The AEGL-1 values are based on human data; therefore, an interspecies uncertainty factor is not applicable. Because upper respiratory tract irritation at low ammonia concentrations is not expected to change or become more severe with duration of exposure, except for adaptation, the same value of 25 ppm is applied to all AEGL-1 exposure durations.

The AEGL-2 values were based on a study of nonexpert human subjects who had no previous exposure to ammonia and were not familiar with effects of ammonia. At least one of eight subjects reported nuisance or offensive irritation to the eyes and throat during exposure to 110 ppm of ammonia for 1 hour (Verberk, 1977). The effects reported were less serious than those described in the AEGL-2 definition, no residual effects were reported after termination of exposure, and pulmonary function was not affected by exposure. At the next highest concentration, some of the subjects reported the effects to be unbearable and left the chamber between 30 minutes and 1 hour. Their responses suggest that this concentration would impair escape. An intraspecies uncertainty factor of 1 was used for deriving the AEGL 2 values because the responses of the non-expert group ranged from just perceptible to offensive, but the AEGL-2 value was based on the response of the most sensitive individuals. The reported effects from this group involved primarily the upper respiratory tract and eyes and is unlikely to affect asthmatics differently from the most sensitive non-expert individuals. In addition, atopic subjects responded similarly to non-atopic subjects to a brief nasal exposure to ammonia, and exercising subjects showed only a small equivocal decrease in pulmonary function. The equation $C^n H t = k$, where n = 2, was used to extrapolate to 5-, 10-, and 30-minute exposure durations. This equation was based on mouse and rat lethality data. The same AEGL-2 values were established for 1-, 4-, and 8-hour exposures, because the responses of the subjects exposed to 110 ppm of ammonia were similar after 1- and 2-hour exposures.

The AEGL-3 values were based on $LC_{01}$ values of 3,317 and 3,374 ppm derived by probit analysis of mouse lethality data reported by Kapeghian et al. (1982) and MacEwen and Vernot (1972), respectively. An uncertainty factor of 3 was applied to account for intraspecies variability because at high concentrations of ammonia, severe irritation is elicited immediately upon contact with the eyes and mucous membranes of the respiratory tract and the severity of effects such as pulmonary edema and damage to the tracheobronchial region would be similar in asthmatics and non-asthmatics. There is no reason to apply a larger uncertainty factor to protect individuals with asthma because the severe damage to the respiratory tract would have a greater and longer-lasting consequence than that of asthma. Another reason for not applying a larger intraspecies uncertainty factor to protect children is the evidence from one study showing that a child recovered from an accidental exposure to ammonia, whereas the mother carrying the child suffered severe permanent damage to the lungs. An interspecies uncertainty factor or 1 was applied to the mouse data, because the mouse was the most sensitive species among mammals. In addition, applying a larger uncertainty factor would result in a 30-minute AEGL-3 value less than the 500 ppm that human can tolerate for 30 minutes without lethal or long-term consequences. The equation, $C^n H t = k$ (where n = 2) based on mouse lethality data, was used to extrapolate to different exposure durations

The proposed AEGL values are listed in Table 3 of this unit.

TABLE 3.—SUMMARY OF PROPOSED AEGL VALUES FOR AMMONIA [PPM (MG/M$^3$)]

| Classification | Exposure duration | | | | | | Endpoint (Reference) |
|---|---|---|---|---|---|---|---|
| | 5-minutes | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | |
| AEGL-1 (Nondisabling) | 25 (17) | 25 (17) | 25 (17) | 25 (17) | 25 (17) | 25 (17) | No-observed-adverse-effect-level (NOAEL) for irritation (MacEwen et al., 1970); Verberk, 1977 |
| AEGL-2 (Disabling) | 380 (266) | 270 (189) | 160 (112) | 110 (77) | 110 (77) | 110 (77) | Irritation: Eyes and throat; urge to cough (Verberk, 1977) |

TABLE 3.—SUMMARY OF PROPOSED AEGL VALUES FOR AMMONIA [PPM (MG/M$^3$)]—Continued

| Classification | Exposure duration | | | | | | Endpoint (Reference) |
|---|---|---|---|---|---|---|---|
| | 5-minutes | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | |
| AEGL-3 (Lethal) | 3,800 (2,657) | 2,700 (1,890) | 1,600 (1,119) | 1,100 (769) | 550 (385) | 390 (273) | Lethality (Kapeghian et al., 1982; MacEwen and Vernot, 1972) |

ii. *References*. a. Kapeghian, J.C.; Mincer, H.H.; and Hones, A.B., et al. 1982. Acute inhalation toxicity of ammonia in mice. *Bulletin of Environmental Contamination and Toxicology*. 29:371–378.

b. MacEwen, J.D.; Theodore, J; and Vernot, E.H. 1970. Human exposure to EEL concentrations of monomethylhydrazine, AMRL-TR-70-102, Paper No 23. *Proceedings of the 1st Annual Conference on Environmental Toxicology*. September 9–11, 1970. Wright-Patterson AFB, OH. pp. 355–363.

c. MacEwen, J.D. and Vernot, E.H. 1972. Toxic Hazards Research Unit Annual Technical Report: 1972. SysteMed Report No. W-72003, AMRL-TR-72-62. Sponsor: Aerospace Medical Research Laboratory, Wright-Patterson AFB, OH. AD-755-358.

d. Verberk, M.M. 1977. Effects of ammonia on volunteers. *International Archives of Occupational and Environmental Health*. 39:73–81.

3. *Bromine*—i. *Description*. The halogen bromine ($Br_2$) is a dark reddish-brown volatile liquid at room temperature. Its oxidizing potential lies between that of chlorine and iodine. Bromine is used as a water disinfectant, for bleaching fibers and silk, and in the manufacture of medicinal bromine compounds, dyestuffs, flame retardants, agricultural chemicals, inorganic bromide drilling fluids, and gasoline additives.

Bromine is a skin, eye, and respiratory tract irritant. Inhalation causes respiratory tract irritation and pulmonary edema. Although accidental human exposures have occurred, concentrations were either not reported or were judged unreliable. Aside from old and anecdotal information, the data base is limited to one study with human subjects and two lethality studies with the mouse as the test species. One of the lethality studies (Bitron and Aharonson 1978) provided data sufficient for derivation of the relationship between concentrations that result in lethality ($LC_{50}$ values) and exposure duration: $C^{2.2}$ x t = k.

The AEGL-1 was based on exposures of 20 healthy human volunteers to concentrations of 0.1 to 1.0 ppm for at least 30 minutes (Rupp and Henschler 1967). Eye irritation, but not nose or throat irritation, occurred during a 30-minute exposure to 0.1 ppm. At concentrations $0.5 ppm, there was a stinging and burning sensation of the conjunctiva. The 30-minute 0.1 ppm was chosen as the basis for the AEGL-1. The 0.1 ppm concentration was divided by an intraspecies uncertainty factor of 3 to protect susceptible individuals. An intraspecies uncertainty factor of 3 was considered sufficient because workers have been occupationally exposed to 1 ppm with no symptoms other than ''excess irritation'' (Elkins 1959). Furthermore, effects at this low concentration appear to be limited to the eyes and upper respiratory tract; there was no penetration to the lower respiratory tract. The resulting 30-minute AEGL-1 value of 0.03 ppm was time-scaled to the other AEGL exposure durations using the $C^{2.2}$ x t = k relationship derived from the mouse lethality study.

The AEGL-2 was based on the concentration of 1 ppm for 30 minutes which the volunteers in the above study (Rupp and Henschler 1967) found irritating (stinging and burning sensation of the conjunctiva; nose and throat irritation). The 30-minute 1 ppm value was divided by an intraspecies uncertainty factor of 3 to protect susceptible individuals and time scaled to the other AEGL-2 exposure durations using the concentration-exposure duration relationship from the mouse lethality study of $C^{2.2}$ x t = k. An intraspecies uncertainty factor of 3 was considered sufficient as the symptoms may be below those defining an AEGL-2. However, no reliable studies with exposures to higher concentrations were located.

Both lethality studies with the mouse described the inhalation toxicity of chlorine and bromine. However, both studies reported lower $LC_{50}$ values for chlorine than those reported in more recent well-conducted studies. Nevertheless, the study that reported the lower lethal concentrations for chlorine was used for derivation of the AEGL-3 values for bromine (Schlagbauer and Henschler 1967). The data in this study showed a clear concentration-response relationship; the exposure duration was 30 minutes. Using probit analysis, a 30-minute $LC_{50}$ value of 204 ppm and a 30-minute $LC_{01}$ of 116 ppm were calculated. The 30-minute $LC_{01}$ of 116 ppm was used as the basis for calculation of AEGL-3 values. The 116 ppm $LC_{01}$ was divided by a combined uncertainty factor of 10 (3 for interspecies differences [the mouse was the most sensitive species for lethal effects in tests with other halogens] and 3 for intraspecies differences [at high concentrations bromine is corrosive to the mucous membranes of the respiratory system; effects are not expected to differ greatly among individuals]) and scaled across time using the relationship $C^{2.2}$ x t = k, derived from the same study.

The proposed AEGL values are listed in Table 4 of this unit.

TABLE 4.—SUMMARY OF PROPOSED AEGL VALUES FOR BROMINE [PPM (MG/M$^3$)]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 0.055 (0.36) | 0.033 (0.22) | 0.024 (0.16) | 0.013 (0.09) | 0.0095 (0.06) | Rupp and Henschler 1967 |
| AEGL-2 (Disabling) | 0.55 (3.6) | 0.33 (2.1) | 0.24 (1.6) | 0.13 (0.85) | 0.095 (0.62) | Rupp and Henschler 1967 |

TABLE 4.—SUMMARY OF PROPOSED AEGL VALUES FOR BROMINE [PPM (MG/M$^3$)]—Continued

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-3 (Lethal) | 19 (124) | 12 (78) | 8.5 (55) | 4.5 (29) | 3.2 (21) | Schlagbauer and Henschler 1967 |

ii. *References*. a. Bitron, M.D. and E.F. Aharonson. 1978. Delayed mortality of mice following inhalation of acute doses of $CH_2$, $SO_2$, $Cl_2$, and $Br_2$. *American Industrial Hygiene Association Journal*. 39:129–138.

b. Elkins, H.B. 1959. Inorganic compounds: Bromine. *Chemistry of Industrial Toxicology*. John Wiley & Sons, New York. p. 89.

c. Rupp, H. and D. Henschler. 1967. Effects of low chlorine and bromine concentrations in man. *Internationales Archiv fuer Gewerbepathologie und Gewerbehygiene*. 23:79–90.

d. Schlagbauer, M. and D. Henschler. 1967. Inhalation toxicity of chlorine and bromine with single and repeated exposures. *Internationales Archiv fuer Gewerbepathologie und Gewerbehygiene*. 23:91–98.

4. *Chloroacetic acid*—i. *Description*. Monochloroacetic acid (MCAA) is a colorless crystalline material, which is highly soluble in water and soluble in organic solvents. Its vapor pressure at room temperature is moderate with reported values between 0.2 hPa (crystalline substance) and 10 hPa (solution in water). MCAA has a pungent odor.

MCAA is produced by chlorination of acetic acid or hydrolysis of trichloroethene using sulfuric acid. The world production capacity was estimated at 362,500 tons/year in 1987. MCAA or its sodium salt, sodium monochloroacetate, are used primarily in the industrial production of carboxymethylcellulose, herbicides, thioglycolic acid as well as in the production plastics, pharmaceuticals, flavors, cosmetics, and other organic chemicals.

MCAA is an acid ($pK_a$ 2.85) and therefore can cause eye and skin irritation upon contact with a diluted MCAA solution and skin corrosion and conjunctival burns upon contact with more concentrated solutions. The systemic toxicity of MCAA is caused by inhibition of enzymes of the glycolytic pathway and the tricarboxylic acid cycle. This metabolic blockage damages organs with a high energy-demand, such as heart, central nervous system (CNS), and muscles, and leads to metabolic acidosis due to the accumulation of lactic acid and citric acid in the body.

No studies are available reporting severe toxic effects in humans after inhalation exposure to MCAA. Mortality was reported in a child after oral uptake of 5–6 ml of an 80% MCAA solution (Rogers, 1995). Several lethal accidents have been reported, in which workers were dermally exposed to hot, liquid MCAA. An inadequately described study reported an irritation threshold of 1.48 ppm (Maksimov and Dubinina, 1974); no respiratory tract irritation, effects on lung function parameters or irritation of skin and mucous membranes were reported for >33 workers potentially exposed to MCAA concentrations between <0.13 ppm for 3 hours and 0.31 ppm for 7 hours (Clariant GmbH, 2000).

The only animal study reporting lethal effects after inhalation exposure was an inadequately described study in which a $LC_{50}$ of 46.8 ppm for 4 hours was reported for rats (Maksimov and Dubinina, 1974). Several studies report lethal effects after oral exposure with $LD_{50}$ values mostly between 50–200 mg/kilogram (kg) for rats, mice and guinea pigs. In a single inhalation experiment on rats, eye squint and slight lethargy were observed during exposure to an analytical concentration of 66 ppm for 1 hour (Dow Chemical Co., 1987). In an inadequately reported study, an irritation threshold in rats of 6.16 ppm and a no-observed-effect-level (NOEL) for histological changes in the respiratory tract in rats and guinea pigs of 1.5 ppm after 4 months have been reported (Maksimov and Dubinina, 1974).

No relevant studies of adequate quality were available for the derivation of the AEGL-1. Therefore, due to insufficient data, AEGL-1 values were not derived.

The AEGL-2 was based on a single inhalation study in rats (Dow Chemical Co., 1987) in which eye squint and lethargy were observed in rats exposure to 66 ppm for 1 hour. A total uncertainty factor of 10 was used. A factor of 3 was applied for interspecies variability because the effect level was considered below that of an AEGL-2 and because the available data do not point at a large interspecies variability for more severe (lethal) effects. A factor of 3 was applied for intraspecies variability because a higher factor was not considered adequate on the basis of a comparison with human data for oral exposure. The other exposure duration-specific values were derived by time scaling according to the dose-response regression equation $C^n \times t = k$, using the default of n = 3 for shorter exposure periods and n=1 for longer exposure periods, due to the lack of suitable experimental data for deriving the concentration exponent.

No relevant studies of adequate quality were available for the derivation of the AEGL-3 value. Therefore, due to insufficient data and the uncertainties of a route-to-route extrapolation, AEGL-3 values were not derived.

The proposed AEGL values are listed in Table 5 of this unit.

TABLE 5.—SUMMARY OF PROPOSED AEGL VALUES FOR MONOCHLOROACETIC ACID [A]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | Insufficient data (I.D.) | I.D. | I.D. | I.D. | I.D. | I.D. |
| AEGL-2 (Disabling) | 12 ppm (47 mg/m$^3$) | 8.3 ppm (33 mg/m$^3$) | 6.6 ppm (26 mg/m$^3$) | 1.7 ppm (6.7 mg/m$^3$) | 0.83 ppm (3.3 mg/m$^3$) | Eye squint and lethargy in rats (Dow Chemical Co., 1987) |
| AEGL-3 (Lethal) | I.D. | I.D. | I.D. | I.D. | I.D. | I.D. |

[a] Skin contact with molten MCAA or MCAA solutions should be avoided; dermal penetration is rapid and fatal intoxications have been observed when 10% or more of the body surface was involved.

ii. *References*. a. Clariant GmbH, 2000. Unpublished. Letter of Dr. Kreiling dated 23.08.2000. Dow Chemical Co., 1987. Monochloroacetic acid: an acute vapor inhalation limit study with Fischer 344 rats. Unpublished Report, Dow Chemical Company, Midland, USA.

b. Maksimov, G.G. and O.N. Dubinina, 1974. Materials of experimental substantiation of maximally permissible concentration of monochloroacetic acid in the air of production area. *Gigiena Truda i Professional nye Zabolevarija*. 9:32–35.

c. Rogers D.R. 1995. Accidental fatal monochloroacetic acid poisoning. *American Journal of Forensic Medicine and Pathology*. 16:115–116.

5. *Fluorine*—i. *Description*. Fluorine is a reactive, highly irritating and corrosive gas used in the nuclear energy industry, as an oxidizer of liquid rocket fuels, and in the manufacture of various fluorides and fluorocarbons. Fluorine is a severe irritant to the eyes, mucous membranes, lungs, and skin; the eyes and the respiratory tract are the target organ/tissues of an acute inhalation exposure. Death is due to pulmonary edema. Data on irritant effects in humans and lethal and sublethal effects in five species of mammals (dog, rat, mouse, guinea pig, and rabbit) were available for development of AEGL values.

Regression analyses of the concentration-exposure durations (for the fixed endpoint of mortality) for all of the animal species reported in the key study (Keplinger and Suissa 1968) determined that the relationship between concentration and time is $C^n$ x t = k, where n = approximately 2 (actual value of n for the most sensitive species in irritation and lethality studies, the mouse, is 1.77). This concentration exposure duration relationship was applied both the AEGL-2 and AEGL-3 levels because the irritant and corrosive action of fluorine on the respiratory tissues differs by only a matter of degree for these AEGL levels:

a. Respiratory irritation with edema resulting in mild, reversible lung congestion, and

b. Severe respiratory irritation resulting in severe lung congestion. Although the data base for fluorine is small, the data from the key study, augmented with data from several other studies, were considered adequate for derivation of the three AEGL classifications for four time periods.

The AEGL-1 was based on the observation that human volunteers could tolerate exposure to 10 ppm for 15 minutes without irritant effects (Keplinger and Suissa 1968). Although this value is below the definition of an AEGL-1 (notable discomfort), it provides the longest exposure duration for which no irritation in humans was reported. An intraspecies uncertainty factor of 3 was applied because fluorine is highly corrosive to the tissues of the respiratory tract and effects are not expected to vary greatly among individuals, including susceptible individuals. Although no data on asthmatics were found, the uncertainty factor of 3 was considered adequate to protect this sensitive subpopulation because the value was a NOAEL and because shorter-term, repeated exposures produced no substantially greater effects in healthy individuals. The value is supported by a second study in which volunteers ''tolerated'' exposure to 10 ppm for an undefined period of time. Furthermore, occupational exposure concentrations for healthy adults have ranged up to 17 ppm, albeit for short, undefined periods of time (Lyon 1962). A modifying factor of 2 was applied based on a limited data base. The resulting value of 1.7 ppm was used across all AEGL-1 exposure durations because at mildly irritating concentrations there is accommodation to irritating gases. As noted, this value is supported by limited workplace monitoring data: Workers exposed to fluorine at average yearly concentrations up to 1.2 ppm (range, 0.0–17 ppm) over a 4-year period reported fewer incidences of respiratory complaints or diseases than a similar group of nonexposed workers (Lyon 1962). The workers are assumed to encompass a small range of sensitivity; the additional intraspecies uncertainty factor of 3 was considered sufficient to protect sensitive individuals.

Mild lung congestion was selected as the threshold for irreversible, long-lasting effects as defined by the AEGL-2. The AEGL-2 was based on an animal study in which mild lung congestion was observed in mice at 67 ppm for 30 minutes and 30 ppm for 60 minutes (Keplinger and Suissa 1968). Effects were slightly less serious in three other species. Although concentrations causing irritant effects or lethality for three other species for the same time periods suggested similar species sensitivity, the mouse data, because of slightly lower values, were chosen as the basis for developing the AEGL-2 and AEGL-3. Because similar sensitivity was observed among five species in the key study, no uncertainty factor for interspecies variability was applied. Fluorine is a highly corrosive gas that reacts directly with the tissues of the respiratory tract, with no pharmacokinetic component involved in the toxicity; therefore, there is likely to be little difference among individuals in response to fluorine at concentrations that define the AEGL-2. The 30- and 60-minute values for the mouse were divided by an intraspecies uncertainty factor of 3 to protect sensitive individuals, since effects are not likely to differ greatly among individuals, and by a modifying factor of 2, based on a limited data base. The 30-minute value was used for the 10- and 30-minute AEGL-2 and the 60-minute value was used for the 60-minute AEGL-2. The 4-hour AEGL-2 value was scaled from the 60-minute value based on the $C^{1.77}$ x t = k relationship. The value of n was derived from regression analysis of the mouse lethality data in the key study. The 8-hour-AEGL-2 value was set equal to the 4-hour value because at low concentrations the hygroscopic fluorine would react with and/or be scrubbed by the nasal passages and because at low concentrations there is accommodation to irritant gases. The 10- and 3-minute AEGL-2 values are supported by studies in which human volunteers found short-term exposures to 15–25 ppm irritating to the eyes, nose, and throat (Rickey 1959; Keplinger and Suissa 1968).

The AEGL-3 values were derived from the highest exposures that resulted in no deaths in five species over four exposure durations (13 tests) for up to 45 days post exposure, but did produce severe lung congestion in the mouse (Keplinger and Suissa 1968). Severe lung congestion in the sensitive mouse was considered the threshold for lethality as defined by the AEGL-3. For the mouse, the 60-minute value was 75 ppm. Because of the similar species sensitivity in the key study, based on both irritant effects and lethality, no uncertainty factor for interspecies variability was applied. The values were divided by an uncertainty factor of 3 to protect sensitive individuals (fluorine is a highly reactive, corrosive gas whose effect on respiratory tract tissues is not expected to differ greatly among individuals) and by a modifying factor of 2, based on a limited data base. Using the 60-minute value of 75 ppm, AEGL-3 values for the other exposure times were calculated based on the $C^{1.77}$ x t = k relationship. The value of n was derived from regression analysis of the mouse lethality data in the key study. The 8-hour value was set equal to the 4-hour value because fluorine would react with or be scrubbed by the nasal passages at fairly low concentrations. The safety of setting the 8-hour value equal to the 4-hour value is supported by another study in which a 7-hour experimental exposure concentrations

resulting in an overall 60% mortality for four species (Eriksen 1945; Stokinger 1949) is higher than the extrapolated 7-hour values for the mouse and rat based on the Keplinger and Suissa study.

The proposed AEGL values are listed in Table 6 of this unit.

TABLE 6.—SUMMARY OF PROPOSED AEGL VALUES FOR FLUORINE [PPM (MG/M$^3$)]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1[a, b] (Nondisabling) | 1.7 (2.6) | 1.7 (2.6) | 1.7 (2.6) | 1.7 (2.6) | 1.7 (2.6) | No irritant effects—humans (Keplinger and Suissa 1968) |
| AEGL-2 (Disabling) | 20 (31) | 11 (17) | 5.0 (7.8) | 2.3 (3.6) | 2.3 (3.6) | Mild lung congestion—mice (Keplinger and Suissa 1968) |
| AEGL-3[c] (Lethal) | 36 (56) | 19 (29) | 13 (20) | 5.7 (8.8) | 5.7 (8.8) | Severe lung congestion—mice (Keplinger and Suissa 1968) |

[a]The characteristic, pungent odor of fluorine will be noticeable at this concentration.
[b]The same value was used across all time periods because at low concentrations there is accommodation to irritant gases.
[c]30-Minute and 1-hour values are based on separate data points.

ii. *References*. a. Eriksen, N. 1945. A Study of the Lethal Effect of the Inhalation of Gaseous Fluorine ($F_2$) at Concentrations from 100 ppm to 10,000 ppm. DOE/EV/03490-T3, United States Atomic Energy Commission. Pharmacology Report 435. University of Rochester, Rochester, NY.

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c. Lyon, J.S. 1962. Observations on personnel working with fluorine at a gaseous diffusion plant. *Journal of Occupational Medicine*. 4:199–201.

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e. Stokinger, H.E. 1949. Toxicity following inhalation of fluorine and hydrogen fluoride, Chapter 17. *Pharmacology and Toxicology of Uranium Compounds*. C. Voegtlin and H.C. Hodge, eds. McGraw-Hill Book Company, New York.

6. *Jet Fuel 8*—i. *Description*. Jet propellant (JP) fuels, used in military and civilian aircraft, are complex mixtures of aliphatic and aromatic hydrocarbons made by blending various distillate stocks of petroleum. The primary military fuel for land-based military aircraft is JP-8; JP-5 was developed by the U.S. Navy for shipboard service. The composition of these two fuels is basically that of kerosene (with additives) and they have similar chemical and physical characteristics. Worldwide, approximately 60 billion gallons of military JP-8 and the equivalent commercial Jet A and Jet A-1 are consumed on an annual basis. The military jet fuels contain additives that are not contained in commercial jet fuels. Civilian and military personnel may be exposed to jet fuels during fuel production, aircraft fueling operations, aircraft maintenance operations, and accidental spills or pipeline leaks.

Although several jet fuels are discussed in this document (JP-4, JP-5, JP-7, and JP-8), the discussion focuses on the toxicity of JP-8 with some attention to the chemically similar JP-5. These two fuels have a similar composition and appear to have similar toxicities. Monitoring data indicate that exposures to JP-4 which has a higher vapor pressure than JP-8 and JP-5 were higher than to the presently used JP-8 and JP-5. Data were located on acute sensory and systemic effects of JP-8 and JP-5 to mice and rats; subchronic studies addressed systemic effects, particularly effects on the lungs. For all fuels, tests of eye irritation were generally negative, whereas mild skin irritation occurred for some fuels. Several short-term and repeated exposure studies addressed the particular issue of the toxicity of aerosols. Exposure to aerosols of jet fuels induces more toxic effects than exposure to vapors, with the lungs and immune system identified as the target organs. Animal studies also addressed neurotoxicity, developmental/reproductive effects, and carcinogenicity. These fuels are generally not considered genotoxic or carcinogenic and, in a preliminary study, JP-8 failed to cause spermatotoxic effects in humans. A nephropathy and resulting carcinogenic effect, unique to male rats exposed to hydrocarbons, is not relevant to humans. No information relevant to time scaling was available.

The AEGL-1 is based on the sensory irritation study of Whitman et al. (2001), specifically the $RD_{50}$ (the concentration that reduces the respiratory rate by 50%) for JP-8 of 2,876 mg/m$^3$ vapor plus aerosol. The $RD_{50}$ test is a standard test for estimating sensory irritancy of airborne chemicals (ASTM E981–84). In the key study, male Swiss-Webster mice were exposed for 30 minutes to 681; 1,090; 1,837; or 3,565 mg/m$^3$. JP-8 is not a primary irritant and reductions in the respiratory rate did not occur within 10 minutes at the lower concentrations. However, reductions in the respiratory rate within the 30-minute exposure durations were concentration-dependent and allowed calculation of an $RD_{50}$. Based on the correlation between $RD_{50}$ data and sensory irritancy levels for numerous chemicals, a 0.1-fold reduction of the $RD_{50}$ results in a concentration that elicits some sensory irritation in humans but that can be tolerated for hours to days (Alarie 1981). Using this reasoning, the resulting concentration of 290 mg/m$^3$ can be tolerated over all AEGL-1 exposure durations. The 290 mg/m$^3$ value is supported by the lack of adverse health effects in animal studies with repeated exposures to 1,000 mg/m$^3$ of JP-8 vapor (continuous exposures up to 90 days) (Mattie et al. 1991; Briggs 2001; Rossi et al. 2001). Dividing the 1,000 mg/m$^3$ value by an interspecies uncertainty factor of 1 (no species differences were observed in multiple studies with rats and mice and the exposures were repeated) and an intraspecies uncertainty factor of 3 (to account for potential differences in human susceptibilities to sensory irritation) results in 330 mg/m$^3$, a value similar to that derived from the $RD_{50}$ study. The repeated nature of the support studies also supports the use of a single value for all exposure durations.

The AEGL-2 is based on several studies with rodents (rats and mice) that indicate that exposure to 1,100 mg/m$^3$ of JP-8 would not elicit adverse health effects but may be the threshold for such effects. The shorter-term studies (30

minutes to 4 hours) with exposures to 3,430–5,000 mg/m³ of JP-8 or JP-5 in the vapor/aerosol form (MacEwen and Vernot 1985; Wolfe et al. 1996; Whitman et al. 2001) with support from the studies using repeated exposures to 1,000 mg/m³ (Mattie et al. 1991; Briggs 2001; Rossi et al. 2001) were used as the basis for the AEGL-2. No uncertainty factors were applied to the 1,000 mg/m³ concentration because there were no adverse effects and the exposures were repeated for up to 90 days. The higher concentrations of JP-8, 3430 and 4,440 mg/m³, and of JP-5, 5,000 mg/m³, were divided by an interspecies factor of 1 (there were no species differences) and by an intraspecies uncertainty factor of 3 to protect potentially sensitive individuals. An intraspecies uncertainty factor of 3 is considered adequate because the thresholds for both sensory irritation and central nervous system depression to solvents do not generally differ by more than 3-fold. The resulting value is 1,100 mg/m³ (1,100–1,700 mg/m³), approximately the same concentration as in the no-adverse-effect repeated exposure studies. No information was available for time scaling. Central nervous system depression is a concentration-related effect. Therefore, the 1,100 mg/m³ value was used for the 4-hour and shorter time period. But, because the exposures to 1,000 mg/m³ were repeated for up to 90 days, the 1,100 mg/m³ value can also be used for the longest AEGL exposure duration of 8 hours. The fact that the exposures in most of these studies, especially at the higher concentrations, were to both the vapor and the more toxic aerosol supports the appropriateness of the derived value.

It should be noted that, because of its relatively low vapor pressure, JP-8 might not attain a sustained vapor concentration high enough to cause death. In a laboratory study reported by Wolfe et al. (1996), the highest vapor concentration of JP-8 that could be attained was 3,430 mg/m³. The highest vapor/aerosol concentration that could be attained was 4,440 mg/m³. The highest vapor/aerosol attainable under ambient concentrations has been estimated at 700 mg/m³. However, higher concentrations might be attained in closed spaces at high temperatures. A concentration of 500 mg/m³ is assumed to be the upper bound for a stable cloud of inhalable dust (and aerosols). Based on the likelihood that lethal concentrations of JP-8 cannot be sustained under ambient conditions, an AEGL-3 was not determined.

The proposed AEGL values are listed in Table 7 of this unit.

TABLE 7.—SUMMARY OF PROPOSED AEGL VALUES FOR JP-8 (MG/M³)[A, B]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 290 | 290 | 290 | 290 | 290 | Slight sensory irritation in humans (mouse $RD_{50}$ test) (Whitman et al. 2001) |
| AEGL-2 (Disabling) | 1,100 | 1,100 | 1,100 | 1,100 | 1,100 | No clinical signs during repeated exposures to 1,000 mg/m³— rats and mice (Mattie et al. 1991; Briggs 2001; Rossi et al. 2001); sensory irritation at >3,430 mg/m³— rats and mice (Wolfe et al. 1996; Whitman et al. 2001) |
| AEGL-3 (Lethal) | Not determined | Not determined | Not determined | Not determined | Not determined | [c]No data |

[a] The values apply to JP-8 vapor or vapor/aerosol and not to the pure aerosol.
[b] The values apply to JP-8 vapor and not to JP-8+100.
[c] A lethal concentration was not attained in the available toxicity studies; the low vapor pressure of JP-8 may preclude attainment of a lethal concentration.

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b. Briggs, G.B. 2001. Evaluation of military fuel potential to produce male reproductive toxicity. Presented at the International Conference on the Environmental Health and Safety of Jet Fuel held in San Antonio, TX, August 8–11, 2001.

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g. Wolfe, R.E.; E.R. Kinkead; M.L. Feldmann; H.F. Leahy; W.W. Jederberg; K.R. Still; and D.R. Mattie. 1996. Acute toxicity evaluation of JP-8 jet fuel containing additives. AL/OE-TR-1996-0136, NMRI-94-114, Armstrong Laboratory, Occupational and Environmental Health Directorate, Toxicology Division, Wright-Patterson AFB, OH.

7. *Methyl ethyl ketone*—i. *Description*. Methyl ethyl ketone (MEK) is a volatile solvent with a sweet/sharp acetone-like odor. MEK is widely used as a solvent in common household products such as inks, paints, cleaning fluids, varnishes, and glues. In most industrial applications it is used as a component of a mixture of organic solvents. It has also been detected in a wide variety of

natural products and may be a minor product of normal mammalian metabolism. In 1999, U.S. production capacity was 675 million pounds.

The inhalation toxicity of MEK is low. Low concentrations are only mildly irritating. At high concentrations MEK causes a narcotic effect on the central nervous system as evidenced by neurobehavioral effects in animals. MEK is not teratogenic, but at high concentrations is mildly fetotoxic to rats and mice. Data on human exposures were available from clinical studies and workplace monitoring. Animal studies with a variety of species (baboon, rat, mouse, and guinea pig) addressed irritation, neurotoxicity, developmental toxicity, chronic toxicity/carcinogenicity, and lethality. Exposure durations ranged from acute to chronic. Genotoxicity was also addressed.

Two studies with human volunteers exposed to 100, 200, or 350 ppm were evaluated for the AEGL-1; the exposure times were 5 minutes (Nelson et al. 1943) and 4 hours (Dick et al. 1992). Although a concentration of 200 ppm was judged unobjectionable in both studies, slight nose and throat irritation were noted at 100 ppm in the Nelson et al. (1943) study. Therefore, 100 ppm was selected as the threshold for sensory irritation. The safety of this value is supported by numerous clinical studies in which volunteers were routinely exposed to 200–400 ppm for up to 4 hours without reports of irritation or changes in neurobehavioral parameters. Because this is a threshold value and slight irritation should not increase in intensity with time, an intraspecies uncertainty factor of 1 was applied. Because accommodation to slight irritation occurs, the 100 ppm concentration was used across all AEGL-1 exposure durations. Furthermore, MEK is rapidly metabolized and will not accumulate in the blood or in the body which further supports using the same value for all the time intervals.

The AEGL-2 was based on the chronic study of Cavender et al. (1983) in which rats were exposed to 5,000 ppm for 5 days/week for 90 days. No lesions were reported in this study, but the concentration is close to the threshold for neurotoxicity as evidenced by somnolence in another repeated exposure study in which rats were exposed to 6,000 ppm for several weeks (Altenkirch et al. 1978). Because this was a no-effect repeated-exposure study, no interspecies uncertainty factor was applied. Because the threshold for narcosis differs by no more than 2- to 3-fold among the general population, an intraspecies uncertainty factor of 3 was applied to protect sensitive individuals. Because the threshold for narcosis is concentration dependent, the resulting 1,700 ppm concentration was applied across all AEGL-2 exposure durations.

The AEGL-3 values were based on two different studies. The 10- and 30-minute values were based on a study with mice in which a 30-minute exposure to 31,426 ppm was projected to reduce the respiratory rate by 50%; there were no deaths at the highest tested concentration of 26,416 ppm (Hansen et al. 1992). Because a 30-minute exposure of rats to 3 times this concentration (92,239 ppm) also resulted in no deaths (Klimisch 1988), the 31,426 ppm value was adjusted by an interspecies uncertainty factor of 1. Because the threshold for narcosis differs by no more than 2- to 3-fold among the general population, an intraspecies uncertainty factor of 3 was applied to protect sensitive individuals. The resulting value of 10,000 ppm was used for the 10-minute and 30-minute AEGL-3 exposure durations. The longer-term values were based on an $MLE_{01}$ of 7,500 ppm calculated by Fowles et al. (1999) from a 4-hour study with rats exposed to several concentrations for 4 hours (La Belle and Brieger 1955). In this study the 4-hour $LC_{50}$ was 11,700 ppm and the highest concentration resulting in no deaths was 7,850 ppm for 4 hours. The 7,500 ppm concentration was divided by an intraspecies uncertainty factor of 3. The resulting value of 2,500 ppm was used for both the 4-hour and 8-hour AEGL-3 values because MEK would reach equilibrium in the body prior to this time period. The 4-hour 2,500 ppm value was time scaled to the 1 hour time using the default n value of 3 for scaling to shorter time intervals.

The proposed AEGL values are listed in Table 8 of this unit.

TABLE 8.—SUMMARY OF PROPOSED AEGL VALUES FOR METHYL ETHYL KETONE [PPM (MG/M$^3$)]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 100 (293) | 100 (293) | 100 (293) | 100 (293) | 100 (293) | Threshold for sensory irritation in humans (Nelson et al. 1943) |
| AEGL-2 (Disabling) | 1,700 (4,980) | 1,700 (4,980) | 1,700 (4,980) | 1,700 (4,980) | 1,700 (4,980) | Threshold for narcosis— rats (Cavender et al. 1983) |
| AEGL-3(Lethal) | 10,000[a,b] (29,300) | 10,000 (29,300) | 4,000[c] (11,720) | 2,500 (7,325) | 2,500 (7,325) | Threshold for lethality— mouse (Hansen et al. 1992; La Belle and Brieger 1955) |

[a]Based on Hansen et al. (1992).
[b]This value is more than one-half of the lower explosive limit of 18,000 ppm.
[c]Based on La Belle and Brieger (1955).

ii. *References*.

a. Altenkirch, H.; G. Stoltenburg; and H.M. Wagner. 1978. Experimental studies on hydrocarbon neuropathies induced by methyl-ethyl-ketone (MEK). *Journal of Neurology*. 219:159–170.

b. Cavender, F.L; H.W. Casey; H. Salem; J.A. Swenberg; and E.J. Gralla. 1983. A 90-day vapor inhalation toxicity study of methyl ethyl ketone. *Fundamental and Applied Toxicology*. 3:264–270.

c. Dick, R.B.; E.F. Krieg, Jr.; J. Setzer; and B. Taylor. 1992. Neurobehavioral effects from acute exposures to methyl isobutyl ketone and methyl ethyl ketone. *Fundamental and Applied Toxicology*. 19:453–473.

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g. La Belle, C. and H. Brieger. 1955. The vapor toxicity of a composite solvent and its principal components.

*Archives of Industrial Health*. 12:623–627.

h. Nelson, K.W.; J.F. Ege, Jr.; M. Ross; L.E. Woodman; and L. Silverman. 1943. Sensory response to certain industrial solvent vapors. *Journal of Industrial Hygiene and Toxicology*. 25:282–285.

8. *Phosphorus oxychloride*—i. *Description*. Phosphorus oxychloride (CAS No. 10025–87–3), a colorless fuming liquid with a pungent odor, is stable to above 300° C but is highly reactive with water yielding phosphoric acid and hydrogen chloride. It is used in the manufacture of plasticizers, hydraulic fluids, gasoline additives, fire retarding agents, and in the manufacture of alkyl and aryl orthophosphate triesters.

Information regarding exposure of humans to phosphorus oxychloride are limited to qualitative reports that indicate notable dermal, ocular, pharyngeal and pulmonary irritation following acute and subchronic (intermittent) exposures. Most reports lacked exposure terms although one report of occupational exposures indicated that air concentrations of phosphorus oxychloride ranged from 1.6 to 11.2 ppm. The effects often persisted after cessation of exposure, especially in those individuals experiencing more severe effects. Neither odor detection data nor lethality data are available for humans.

Quantitative data in animals are limited to reports of lethality. These data include a 4-hour $LC_{50}$ for rata (44.4 ppm) and guinea pigs (52.5 ppm), and an unverified 4-hour $LC_{50}$ of 32 ppm for rats. A 5–15 minute exposure of rats and guinea pigs to 0.96 ppm phosphorus oxychloride was noted as a ''threshold response'' in a Russian report. A brief report from industry indicated immediate adverse responses (at 2 minutes) and death (18 minutes) following exposure to a very high concentration (25,462 ppm). The available studies affirm the extreme irritation properties of phosphorus oxychloride, although the exposures described also resulted in lethality. No information was available regarding reproductive/developmental toxicity, genotoxicity, or carcinogenicity.

There are no definitive data regarding the metabolism or precise mechanism of action of phosphorus oxychloride toxicity. Based upon the limited human and animal toxicity data, and the chemical properties of phosphorus oxychloride, it may be assumed that the primary effect involves damage to epithelial tissue and, for respiratory effects, subsequent pulmonary edema. The lethal potency of phosphorus oxychloride, however, does not appear to be explained simply by the activity of its degradation products (phosphoric acid and hydrogen chloride).

In the absence of odor detection data and quantitative data pertaining to effects consistent with AEGL-1 definition, AEGL-1 values were not developed.

Exposure-response data pertaining to AEGL-2 level effects were unavailable and, therefore no AEGL-2 values were developed. Because of the lack of exposure-response data for any effects, estimating AEGL-2 values by a reduction in AEGL-3 values was considered tenuous and difficult to justify.

AEGL-3 values were developed using an estimate of the lethality threshold based upon the 4-hour $LC_{50}$ of 48.4 ppm in rats that was reported by Weeks et al. (1964). Although exposure-response data were unavailable, the lethality threshold was estimated a one third of the 4-hour $LC_{50}$ (i.e., 48.4 ppm/3 = 16.1 ppm). Due to uncertainties regarding species variability in the lethal response to phosphorus oxychloride and the lack of lethality data in humans, an order-of-magnitude uncertainty adjustment was applied for interspecies variability. Contact irritation resulting in damage to epithelial tissue appears to be involved in the toxic response to phosphorus oxychloride. It is likely that this response is a function of the extreme reactivity of phosphorus oxychloride with tissues (e.g., pulmonary epithelium) and not likely to vary greatly among individuals. The uncertainty adjustment for intraspecies variability, therefore, was limited to 3. The concentration exposure time relationship for many irritant and systemically acting vapors and gases may be described by $C^n \times t = k$, where the exponent, n, ranges from 0.8 to 3.5. In the absence of an empirically derived exponent (n), and to obtain conservative and protective AEGL values, temporal scaling was performed using n = 3 when extrapolating to shorter time points and n = 1 when extrapolating to longer time points using the $C^n \times t = k$ equation.

The range of interspecies variability remains uncertain due to limited animal data and the absence of quantitative exposure-response data for humans. The absence of exposure-response data for non-lethal effects in animals or humans is a significant data deficiency.

The proposed AEGL values are listed in Table 9 of this unit.

TABLE 9.—SUMMARY OF PROPOSED AEGL VALUES FOR PHOSPHORUS OXYCHLORIDE

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | NR | NR | NR | NR | NR | Data unavailable for development |
| AEGL-2 (Disabling) | NR | NR | NR | NR | NR | Data unavailable for development |
| AEGL-3 (Lethal) | 1.1 ppm (6.9 mg/m³) | 1.1 ppm (6.9 mg/m³) | 0.85 ppm (5.3 mg/m³) | 0.54 ppm (3.4 mg/m³) | 0.27 ppm (1.7 mg/m³) | Weeks et al., (1964). Estimate of lethality threshold in rats (16.1 ppm) based upon 3-fold reduction in 4-hour $LC_{50}$ of 48.4 ppm. |

NR: Not recommended. Numeric values for AEGL-1and AEGL-2 are not recommended due to the lack of available data Absence of AEGL-1 and AEGL-2 values does not imply that exposure below the AEGL-3 is without effect.

ii. *References*. Weeks, M.H.; Mussleman, N.P.; Yevich, P.P.; Jacobson, K.H.; and Oberst, F.W. 1964. Acute vapor toxicity of phosphorus oxychloride, phosphorus trichloride and methyl phosphonic dichloride. *Industrial Hygiene Journal*. 25:470–475.

9. *Phosphorus trichloride*—i. *Description*. Phosphorus trichloride (CAS No. 007719–12–2) is a colorless, clear fuming liquid with a pungent, irritating odor. In the presence of water, the chemical decomposes rapidly in a highly exothermic reaction to phosphonic acid, hydrogen chloride, and pyrophosphonic acids.

No acute lethality data are available in humans. Qualitative data regarding human exposures indicate signs and symptoms of exposure consistent with a highly irritating chemical; ocular and dermal irritation, respiratory tract irritation, shortness of breath, and nausea.

Lethality data in animals are available for rats, cats, and guinea pigs. Cursory studies conducted nearly 100 years ago in Germany provided preliminary data on lethal and nonlethal effects in cats and guinea pigs following various treatment regimens with inhaled phosphorus trichloride. Although results of the studies indicated the respiratory tract to a be a critical target, the methods and results of these studies were not verifiable. Weeks et al. (1964) reported 4-hour $LC_{50}$ values of 104.5 ppm and 50.1 ppm for rats and guinea pigs, respectively. An unpublished study by Hazleton Laboratories (1983) identified a NOAEL of 3.4 ppm and a LOAEL (histopathologic changes in the respiratory tract) of 11 ppm following repeated exposure (6 hours/day, 5 days/week for 4 weeks) of rats. There are no data regarding reproductive/developmental toxicity, genotoxicity, or carcinogenicity of phosphorus trichloride. Definitive data regarding the mechanism of action of phosphorus trichloride are unavailable. Decomposition products (hydrogen chloride, phosphonic acid, and pyrophosphonic acids) are responsible, at least in part, for the contact irritation reported by humans, and the irritation and tissue damage observed in animal species.

The concentration-time relationship for may irritant and systemically acting vapors and gases may be described by $C^n \times t = k$, where the exponent n ranges from 0.8 to 3.5. Due to the limited toxicity data for this chemical, an empirical derivation of n was not possible. In the absence of an empirically derived exponent (n), and to obtain conservative and protective AEGL values, temporal scaling was performed using n = 3 when extrapolating to shorter time points and n = 1 when extrapolating to longer time points using the $C^n \times t = k$ equation. For 10-minute AEGL-3 values were set at equivalence to the 30-minute values due to uncertainties in extrapolating from the experimental exposure durations of 4 hours and greater.

Quantitative data consistent with AEGL-1 effects were unavailable. Occupational exposures of humans to 1.8–3.6 ppm for 2–6 hours and exposure of rats to 3.4 ppm for 6 hours/day, 5 days/week for 4 weeks were without notable effect. These data can be considered a NOAEL for AEGL-1 effects. Because they were derived from controlled experiments, the AEGL-1 values were based upon the Hazleton Laboratories (1983) report. These data as well as the AEGL-1 values are supported by the human experience data reported by Sassi (1952). The interspecies uncertainty factor was limited to 3 because of the concordance of the animal data with the human experience and because the most sensitive species tested (guinea pig) was only about 2-fold more sensitive. The intraspecies uncertainty factor was limited to 3 because primary effects of phosphorus trichloride (irritation and subsequent tissue damage) appear to be due, in part, to hydrogen chloride and phosphonic acid resulting from chemical dissociation. Additional reduction of the AEGL-1 values would be inconsistent with available human and animal data .

Information consistent with AEGL-2 effects were limited to an occupational exposure report and a multiple exposure study with rats. For occupational exposures, there was notable irritation following 2–6 hours of exposure to approximately 14–27 ppm phosphorus trichloride and more severe but reversible irritation following exposures of 1–8 weeks. Reports providing qualitative information but no exposure terms affirmed the potential for respiratory tract irritation following acute exposures to phosphorus trichloride. Data for rats showed upper respiratory tract involvement following multiple exposures over 4 weeks to 11 ppm but not to 3.4 ppm (Hazleton Laboratories, 1983). For development of AEGL-2 values, the 11 ppm exposure in rats was considered a NOAEL for AEGL-2 effects. Uncertainty factor application was the same as for the AEGL-1 tier.

AEGL-3 values were developed based upon a 3-fold reduction of the 4-hour $LC_{50}$ (Weeks et al., 1964) as an estimate of the lethality threshold (50.1 ppm/3 = 16.7 ppm). A total uncertainty factor adjustment of 10 was used to develop the AEGL-3 values. Animal data indicated some variability in the toxic response to phosphorus trichloride with guinea pigs being the more sensitive among the species tested. Therefore, uncertainty adjustment regarding interspecies variability was limited to 3. To account for intraspecies variability, a factor of 3 was applied. The uncertainty of intraspecies variability was limited to 3 because primary effects of phosphorus trichloride (irritation and subsequent tissue damage) appear to be due, in part, to hydrogen chloride and phosphonic acid resulting from chemical dissociation. The total uncertainty factor of 10 may be justified by human exposure data showing that repeated 2 to 6-hour exposures of up to 27 ppm were without life-threatening consequences. Furthermore, the results of the Hazleton Laboratories (1983) study showed no fatalities in rats following multiple 6-hour exposures to 11 ppm.

The proposed AEGL values are listed in Table 10 of this unit.

TABLE 10.—SUMMARY OF PROPOSED AEGL VALUES FOR PHOSPHORUS TRICHLORIDE

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 0.78 ppm | 0.78 ppm | 0.62 ppm | 0.39 ppm | 0.26 ppm | NOAEL of 3.4 ppm in rats exposed 6 hours/day, 5 days/week for 4 weeks (Hazleton Laboratories, 1983) |
| AEGL-2 (Disabling) | 2.5 ppm | 2.5 ppm | 2.0 ppm | 1.3 ppm | 0.83 ppm | NOAEL for AEGL-2 tier effects; based upon respiratory tract histopathology in rats exposed 6 hours/day, 5 days/week for 4 weeks (Hazleton Laboratories, 1983) |

TABLE 10.—SUMMARY OF PROPOSED AEGL VALUES FOR PHOSPHORUS TRICHLORIDE—Continued

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-3 (Lethal) | 7.0 ppm | 7.0 ppm | 5.6 ppm | 3.5 ppm | 1.8 ppm | Estimated lethality threshold based upon 3-fold reduction of guinea pig 4-hour $LC_{50}$ (50.1 ppm/3 = 16.7 ppm) (Weeks et al., 1964)[a] |

[a]Based upon animal data, lethality may be delayed.

ii. *References*. a. Hazleton Laboratories. 1983. Subacute inhalation toxicity study in rats— phosphorus trichloride. Final Report. Project No. 241–141. Hazleton Laboratories America, Inc. Unpublished.

b. Weeks, M.H.; Mussleman, N.P.; Yevich, P.P.; Jacobson, K.H.; and Oberst, F.W. 1964. Acute vapor toxicity of phosphorus oxychloride, phosphorus trichloride and methyl phosphonic dichloride. *American Industrial Hygiene Journal*. 25:470–475.

10. *Xylenes*—i. *Description*. Xylene is found in a number of consumer products, including solvents, paints, or coatings, and as a blend in gasoline. Mixed xylenes are comprised of 3 isomers: M-xylene, o-xylene, and p-xylene, with the m-isomer predominating. Ethyl benzene is also present in the technical product formulation. Absorbed xylene is rapidly metabolized and is excreted almost exclusively in the urine as methylhippuric acid isomers in humans and as methylhippuric acid isomers and toluic acid glucuronides in animals. In both humans and animals, xylene causes irritation and effects the central nervous system following acute inhalation exposure. No consistent developmental or reproductive effects were observed in the studies found in the available literature. Commercial xylene and all 3 isomers have generally tested negative for genotoxicity. Xylenes are currently not classifiable as to its carcinogenicity by the International Agency on Research for Cancer (IARC) or the EPA because of inadequate evidence.

The AEGL-1 is based upon slight eye irritation noted during a 30-minute exposure to 400 ppm mixed xylenes (Hastings et al., 1986). An interspecies uncertainty factor was not applied because the key study used human data. An intraspecies uncertainty factor of 3 was applied because the toxic effect (slight irritation) was less severe than that defined for the AEGL-1 tier (notable discomfort). The resulting value of 130 ppm is supported by several other studies, including: A 150 ppm p-xylene exposure resulting in eye irritation in a contact lens wearer (Hake et al., 1981); a 15-minute exposure to 230 ppm mixed xylenes resulting in mild eye irritation and dizziness in one individual; and a 3-hour exposure to 200 ppm m- or p-xylene (Ogata et al., 1970), a 4-hour exposure to 200 ppm m-xylene (Savolainen et al., 1981), and a 5.5 hour exposure to 200 ppm m-xylene (Laine et al., 1993) all representing no-effect levels.

The AEGL-2 is based upon poor coordination resulting when rats were exposed to 1,300 ppm mixed xylenes for 4 hours (Carpenter et al., 1975). This concentration represents the threshold for reversible equilibrium disturbances. This concentration and endpoint are consistent with the preponderance of available data for 4-hour exposures in rats: The $EC_{50}$ for decreased rotarod performance was 1982 ppm (Korsak et al., 1993); the minimum narcotic concentrations for m-, o-, and p-xylene ranged from 1,940–2,180 ppm (Molnár et al., 1986); and exposure to 1,600 ppm p-xylene resulted in hyperactivity, fine tremor, and unsteadiness (Bushnell, 1989), induced flavor aversion (Bushnell and Peele, 1988), and caused changes in the flash evoked potential suggestive of increased arousal (Dyer et al., 1988). In dogs, exposure to 1,200 ppm for 4 hours represented a threshold for eye irritation (Carpenter et al., 1975). An interspecies uncertainty factor of 1 was applied because rats receive a greater systemic dose of inhaled xylene as compared to humans. An intraspecies uncertainty factor of 3 was applied because the minimum alveolar concentration (MAC) for volatile anesthetics should not vary by more than a factor of 2–3-fold among humans. A 3-fold factor is also adequate to account for moderate physical activity during exposure, which would result in greater uptake of the chemical.

The AEGL-3 derivation is based upon prostration occurring in all 10 rats exposed for 4 hours to 2,800 ppm mixed xylenes, with recovery occurring within 1 hour of exposure (Carpenter et al., 1975). Although coordination initially remained poor, it returned to normal the following day. This concentration also represents a no-effect level for lethality. An interspecies uncertainty factor of 1 was applied because rats receive a greater systemic dose of inhaled xylene as compared to humans. An intraspecies uncertainty factor of 3 was applied because the MAC for volatile anesthetics should not vary by more than a factor of 2–3-fold among humans. A 3-fold factor is also adequate to account for moderate physical activity during exposure, which would result in greater uptake of the chemical.

The two primary effects of concern for xylene are those of irritation and central nervous system effects. Irritation is considered a threshold effect and therefore should not vary over time. The AEGL-1 value based on irritation is therefore not scaled across time, but rather the threshold value is applied to all times.

Data indicate that once steady state is reached, concentration, not duration, is the prime determinant in xylene-induced central nervous system toxicity. Pharmacokinetic modeling in both humans and rats indicate that venous blood concentrations rapidly increase during the first 15 minutes of exposure, followed by minimal increases in blood concentrations with continuing exposure (i.e., increases follow a hyperbolic curve). Likewise, available human data indicate that once the initial increase in blood xylene concentration is reached, blood concentrations level off with increasing exposure duration. Conversely, available human and animal data demonstrate that increasing exposure concentrations correlate with increases in venous blood xylene concentrations. Therefore, the AEGL 2- and -3 values are set equal across time once steady state is approached (starting at approximately 1 hour), while pharmacokinetic modeling was used to extrapolate to exposure durations of 10- and 30-minutes.

The AEGL values should be protective of human health. The AEGL-1 values are consistent with other human studies, and represent a value consistent with exposure concentrations that might result in mild eye irritation. The AEGL-2 levels are protective, especially when considering numerous human studies investigating the effects of exposure to

200 ppm xylene with 20-minute peak exposures to 400 ppm, in some cases additionally combining peak exposures with physical exercise resulting in greater uptake of the chemical, and finding only minimal central nervous system effects. The difficultly in defining an AEGL-2 level for xylene comes from its ''all-or-nothing'' continuum of toxicity: Toxicity ranges from mild irritation to narcosis, with little happening in between. The AEGL-3 levels represent the threshold for narcosis, and are protective as supported by human data demonstrating that exposure to 690 ppm for 15 minutes resulted in lightheadedness/dizziness and a 30 minute exposure to 700 ppm resulted in nausea, vomiting, dizziness, or vertigo.

The proposed AEGL values are listed in Table 11 of this unit.

TABLE 11.—SUMMARY OF PROPOSED AEGL VALUES FOR XYLENES [PPM (MG/M$^3$)]

| Classification | 10-minutes | 30-minutes | 1-hour | 4-hours | 8-hours | Endpoint (Reference) |
|---|---|---|---|---|---|---|
| AEGL-1 (Nondisabling) | 130 (560) | 130 (560) | 130 (560) | 130 (560) | 130 (560) | Eye irritation in human volunteers exposed to 400 ppm mixed xylenes for 30 minutes (Hastings et al., 1986) |
| AEGL-2 (Disabling) | 990 (4,300) | 480 (2,100) | 430 (1,900) | 430 (1,900) | 430 (1,900) | Rats exposed to 1,300 ppm mixed xylenes for 4 hours exhibited poor coordination (Carpenter et al., 1975) |
| AEGL-3 (Lethal) | 2,100 (9,100) | 1,000 (4,300) | 930 (4,000) | 930 (4,000) | 930 (4,000) | Rats exposed to 2,800 ppm for 4 hours exhibited prostration followed by a full recovery (Carpenter et al., 1975) |

ii. *References*. a. Bushnell, P.J. 1989. Behavioral effects of acute p-xylene inhalation in rats: Autoshaping, motor activity, and reversal learning. *Neurotoxicology and Teratology*. 10:569–577.

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k. Savolainen, K.; Riihimäki, V.; Laine, A.; and Kekoni, J. 1981. Short-term exposure of human subjects to m-xylene and 1,1,1-trichloroethane. *International Archives of Occupational Environmental Health*. 49:89–98.

## IV. Next Steps

The NAC/AEGL Committee plans to publish ''Proposed'' AEGL values for five-exposure periods for other chemicals on the priority list of 85 in groups of approximately 10 to 20 chemicals in future **Federal Register** notices during the calendar year 2003.

The NAC/AEGL Committee will review and consider all public comments received on this notice, with revisions to the ''Proposed'' AEGL values as appropriate. The resulting AEGL values will be established as ''Interim'' AEGLs and will be forwarded to the National Research Council, National Academy of Sciences (NRC/NAS), for review and comment. The ''Final'' AEGLs will be published under the auspices of the NRC/NAS following concurrence on the values and the scientific rationale used in their development.

## List of Subjects

Environmental protection, Hazardous chemicals, Worker protection.

Dated: July 7, 2003.

**Susan B. Hazen,**

*Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.*

[FR Doc. 03–18306 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–S

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7530–1]**

### Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act, Sand Creek Superfund Site

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

**ACTION:** Notice; request for public comment.

Notification is hereby given that a Proposed Prospective Purchaser Agreement (PPA) associated with the Sand Creek Superfund Site located in Commerce City, Colorado was executed by the United States Department of Justice on June 3, 2003. This Agreement is subject to final approval after the comment period. The Prospective Purchaser Agreement would resolve certain potential EPA claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), against NDSC, LLC., the prospective purchaser (the purchaser). The settlement would require the purchaser to provide EPA and the State of Colorado an irrevocable right of access, cash payments to EPA (90%) and the State of Colorado (10%) in the total amount of $290,000.00, and the grant of an environmental covenant, under Colorado law, that will place land use controls on the purchased properties consistent with the response actions conducted by EPA and the State of Colorado on these properties. The purchasers will use the Site property in conjunction with their landscaping business operations.

For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the proposed settlement. The Agency's response to any comments received will be available for public inspection at the Superfund Records Center at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Denver, Colorado, 80202.

*Availability:* The proposed agreement is available for public inspection at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Denver, Colorado, 80202. A copy of the proposed Agreement may be obtained from Maureen O'Reilly, Enforcement Specialist, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, ENF–T, Denver, Colorado, 80202. Comments should be sent to Maureen O'Reilly at the address above and should reference the ''Sand Creek Superfund Site Prospective Purchaser Agreement, EPA Docket No. CERCLA–08–2003–0008''.

**FOR FURTHER INFORMATION CONTACT:** Richard Sisk, Enforcement Attorney, U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 300, ENF–L, Denver, Colorado, 80202, (303) 312–6638.

Dated: June 27, 2003.

It is so agreed:

**Robert E. Roberts,**

*Regional Administrator, U.S. Environmental Protection Agency Region 8.*

[FR Doc. 03–18159 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–M

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7529–8]**

### Proposed CERCLA Section 122(h)(1) Administrative Agreement for Recovery of Response Costs for the Radiation Technology, Inc. Superfund Site, Rockaway Township, Morris County, NJ

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice; request for public comment.

**SUMMARY:** In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given by the U.S. Environmental Protection Agency (''EPA''), Region II, of a proposed administrative agreement pursuant to section 122(h) of CERCLA, 42 U.S.C. 9622(h), for recovery of response costs concerning the Radiation Technology, Inc. Superfund Site (''Site'') located in Rockaway Township, Morris County, New Jersey. The settlement requires the settling parties, Sterigenics East Corporation and Ion Beam Applications, Inc., the current lessees of a 15-acre parcel of property located on the approximately 280-acre Site, to pay $200,000 in reimbursement of EPA's response costs at the Site. The settlement includes a covenant not to sue the settling parties pursuant to sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), in exchange for settling parties' payment of monies. For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement.

EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations that indicate that the proposed settlement is inappropriate, improper or inadequate. EPA's response to any comments received will be available for public inspection at EPA Region II, 290 Broadway, New York, New York 10007–1866.

**DATES:** Comments must be submitted on or before August 18, 2003.

**ADDRESSES:** The proposed settlement is available for public inspection at EPA Region II offices at 290 Broadway, New York, New York 10007–1866.

Comments should reference the Radiation Technology, Inc. Superfund Site located in Rockaway Township, Morris County, New Jersey, Index No. CERCLA 02–2003–2006. To request a copy of the proposed settlement agreement, please contact the individual identified below.

**FOR FURTHER INFORMATION CONTACT:** Frances M. Zizila, Assistant Regional Counsel, New Jersey Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 17th Floor, 290 Broadway, New York, New York 10007–1866. Telephone: (212) 637–3135.

Dated: July 9, 2003.

**William McCabe,**

*Acting Director, Emergency & Remedial Response Division.*

[FR Doc. 03–18158 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[OPPT–2003–0035; FRL–7319–1]**

### Approval of Test Marketing Exemption for a Certain New Chemical

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

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–03–0004. The test marketing conditions are described in the TME application and in this notice.

**DATES:** Approval of this TME is effective July 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** *For general information contact*: Barbara

Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

*For technical information contact*: Virginia Lee, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–0883; e-mail address: *Lee.Virginia@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Does this Action Apply to Me?*

This action is directed in particular to the chemical manufacturer and/or importer who submitted the TME to EPA. This action may, however, be of interest to the public in general. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

### *B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT–2003–0035. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

## II. What is the Agency's Authority for Taking this Action?

Section 5(h)(1) of TSCA and 40 CFR 720.38 authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes, if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

## III. What Action is the Agency Taking?

EPA approves the above-referenced TME. EPA has determined that test marketing the new chemical substance, under the conditions set out in the TME application and in this notice, will not present any unreasonable risk of injury to health or the environment.

## IV. What Restrictions Apply to this TME?

The test market time period, production volume, number of customers, and use must not exceed specifications in the application and this notice. All other conditions and restrictions described in the application and in this notice must also be met.

*TME–03–0004*.

*Date of Receipt*: June 2, 2003.

*Notice of Receipt*: June 25, 2003 (Volume 68 FR 37820) (FRL–7315–1).

*Applicant*: PPG Industries, Inc.

*Chemical*: Urethane acrylate.

*Use*: Component of photoresist coating.

*Production Volume*: 40,104 kg/yr.

*Number of Customers*: One.

*Test Marketing Period*: 365 days, commencing on first day of commercial manufacture.

The following additional restrictions apply to this TME. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. Records of the quantity of the TME substance produced and the date of manufacture.

2. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

3. Copies of the bill of lading that accompanies each shipment of the TME substance.

## V. What was EPA's Risk Assessment for this TME?

EPA identified no significant health or environmental concerns for the test market substance. Therefore, the test market activities will not present any unreasonable risk of injury to human health or the environment.

## VI. Can EPA Change Its Decision on this TME in the Future?

Yes. The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information that comes to its attention cast significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to human health or the environment.

## List of Subjects

Environmental protection, Test marketing exemptions.

Dated: July 9, 2003.

**Linda Gerber,**

*Chief, New Chemicals Prenotice Management Branch, Office of Pollution Prevention and Toxics.*

[FR Doc. 03–18305 Filed 7–17–03; 8:45 am]

BILLING CODE 6560–50–S

# FEDERAL RESERVE SYSTEM

## Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are

considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 1, 2003.

**A. Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. Daniel A. Hamann*, Omaha, Nebraska; Esther Hamann Brabec, Omaha, Nebraska; and Julie Hamann Bunderson, Elkhorn, Nebraska, both acting in concert and each individually to acquire voting shares of Great Western Bancorporation, Inc., Omaha, Nebraska, and thereby indirectly acquire voting shares of Great Western Bank, Watertown, South Dakota, and Great Western Bank, Clive, Iowa.

*2. Harry S. Coin*, Moline, Illinois; to acquire voting shares of Ambank Holdings, Inc., Rock Island, Illinois, and thereby indirectly acquire voting shares of American Bank and Trust Company, National Association, Davenport, Iowa.

Board of Governors of the Federal Reserve System, July 14, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03–18215 Filed 7–17–03; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 4, 2003.

**A. Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

*1. Farbod S. Zohouri,* Flowery Branch, Georgia; to acquire voting shares of Texico Bancshares Corporation, Texico, Illinois, and thereby indirectly acquire Texico State Bank, Texico, Illinois.

Board of Governors of the Federal Reserve System, July 15, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03–18320 Filed 7–17–03; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 11, 2003.

**A. Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

*1. East Dubuque Bancshares, Inc.*, Dubuque, Iowa; to become a bank holding company when its subsidiary, East Dubuque Savings Bank, East Dubuque, Illinois, converts from a federal savings bank to a state chartered bank.

**B. Federal Reserve Bank of San Francisco** (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

*1. Heritage Oaks Bancorp*, Paso Robles, California; to acquire 100 percent of the voting shares of Hacienda Bank, Santa Maria, California,

Board of Governors of the Federal Reserve System, July 14, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03–18214 Filed 7–17–03; 8:45 am]

BILLING CODE 6210–01–S

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 13, 2003.

**A. Federal Reserve Bank of Kansas City** (James Hunter, Assistant Vice

President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

*1. Southwest Bancorp, Inc.,* Stillwater, Oklahoma; to acquire 100 percent of the voting shares of SNB Bank of Wichita, Wichita, Kansas (in organization), and thereby engage in operating a savings association, pursuant to section 225.28(b)(4) of Regulation Y.

Board of Governors of the Federal Reserve System, July 15, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc.03–18319 Filed 7–17–03; 8:45 am]

**BILLING CODE 6210–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–52–03]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

*Proposed Project:* Resources and Services Database on CDC National Prevention Information Network (OMB Control No. 0920–0255)—Reinstatement with change—National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC). CDC is requesting OMB approval to reinstate, with change, the data collection for the Resources and Services Database for the CDC National Prevention Information Network (formerly known as the National AIDS Clearinghouse). This request is for a three-year reinstatement of clearance.

NCHSTP has the primary responsibility within the CDC and the U.S. Public Health Service for the prevention and control of HIV infection, sexually transmitted diseases (STDs), and tuberculosis (TB), including community-based HIV prevention activities and syphilis and TB elimination programs. To support NCHSTP's mission and to link Americans to prevention, education, and care services, the CDC National Prevention Information Network (NPIN) serves as the U.S. reference, referral, and distribution service for information on HIV/AIDS, STDs, and TB. NPIN is a critical member of the network of government agencies, community organizations, businesses, health professionals, educators, and human services providers that educate the American public about the grave threat to public health posed by HIV/AIDS, STDs, and TB, and provides services for persons infected with human immunodeficiency virus (HIV).

Established in 1988, the NPIN Resources and Services Database contains entries on approximately 19,000 organizations and is the most comprehensive listing of HIV/AIDS, STD and TB resources and services available throughout the country. This database describes national, state and local organizations that provide services related to HIV/AIDS, STDs, and TB such as counseling and testing, prevention, education and support services. The NPIN reference staff rely on the Resources and Services Database to respond to nearly 63,000 requests each year for information or referral from community based organizations, state and local health departments, and health professionals working in HIV/AIDS, STD and TB prevention. The CDC National AIDS and STD Hotline staff also use the NPIN Resources and Services Database to refer approximately one million callers yearly to local programs for information, services, and treatment. The American public can also access the NPIN Resources and Services database through the NPIN Web site. More than 12 million visits by the public to the Web site are recorded annually.

To accomplish CDC's goal of continuing efforts to maintain an up-to-date, comprehensive database, NPIN plans each year to add 100 newly identified organizations and to verify those organizations currently described in the NPIN Resources and Services Database each year. NPIN staff learn about new organizations through exhibiting at health and professional meetings, searching the Internet, and perusing newsletter announcements and press releases. Once a new organization is identified as providing HIV/AIDS, STD or TB-related services, NPIN staff will mail the Resource Organization Questionnaire along with a cover letter. The purpose of the questionnaire is to gather information about the HIV/AIDS, STD or TB-related services available from the organization, what geographic area the organization serves, and the target audiences for these services. Each organization will also receive a stamped, self-addressed envelope for the return of the questionnaire. Organizations with access to the Internet, will be given the option to complete and submit an electronic version of the questionnaire by visiting the CDC NPIN Web site. If NPIN receives no response to the initial mailing of the questionnaire, a follow-up telephone call will be made to the organization requesting them to complete and return the questionnaire.

As part of the verification process for the Resources and Services Database, 40 percent of the organizations will receive a copy of their current database entry by electronic mail, including a cover letter and a list of instructions. The remaining 60 percent will receive a telephone call to review their database record. The annual burden for this data collection is 3,858 hours.

| Survey | Number of respondents | Number of responses/ respondent | Avg. burden/ response (in hours) |
|---|---|---|---|
| Questionnaire Resource Organization | 100 | 1 | 30/60 |
| Questionnaire Telephone Follow-up | 33 | 1 | 15/60 |
| Email Verification | 7,600 | 1 | 15/60 |
| Telephone verification | 11,400 | 1 | 10/60 |

Dated: July 11, 2003.

**Thomas A. Bartenfeld,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–18222 Filed 7–17–03; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30Day–54–03]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

*Proposed Project:* Importation and Transport of Etiologic Agents (42 CFR 71.54 and Part 72) (OMB Control No. 0920–0199)—Revision—Office of the Director (OD), Centers for Disease Control and Prevention (CDC). The importation of etiological agents, hosts, and vectors of human disease are regulated by 42 CFR 71.54 and requires that the importation of such materials must be accompanied by a permit issued by the CDC. To carry out this provision, CDC has developed two forms for application for permit. One form is used to apply for a permit to import or distribute after importation, etiologic agents. A second form is used to apply for a permit to import or distribute after import, live bats. The second form is a new form for this information collection.

Interstate transportation of etiologic agents are regulated by 42 CFR Part 72. This regulation establishes minimal packaging requirements for all viable micro-organisms, illustrates the appropriate shipping label, and provides reporting instructions regarding damaged packages and failure to receive a shipment.

This request is for the information collection requirements contained in 42 CFR 71.54, 72.3(e), 72.3(f), and 72.4 which relate to the importation and transportation of etiologic agents. Respondents include laboratory facilities such as those operated by government agencies, universities, research institutions, and commercial entities. The only cost to respondents is their time to complete the application for permit to import form and report problems with shipment of etiologic agents.

| CFR section | Number of respondents | Number of responses per respondent | Avg. burden per response (in hrs.) |
|---|---|---|---|
| 72.54 Application Permit for Etiologic Agents | 2,340 | 1 | 20/60 |
| 72.54 Application Permit for Live Bats | 60 | 1 | 20/60 |
| 72.3(e) Damaged Package | 50 | 1 | 6/60 |
| 72.3(f) Shipping Requirement | 200 | 10 | 12/60 |
| 72.4 Failure to Receive | 2 | 1 | 12/60 |

Dated: July 11, 2003.

**Thomas A. Bartenfeld,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–18223 Filed 7–17–03; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–03–98]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Evaluation of an intervention to increase colorectal cancer screening in primary care clinics—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and brief description of the proposed project: Colorectal cancer is the second leading cause of cancer-related deaths in the United States. Routine colorectal cancer screening is recommended for all men and women age 50 years and older. Many screening tests are widely available (*e.g.*, fecal occult blood test, flexible sigmoidoscopy, colonoscopy), and all have been shown to be effective in reducing colorectal cancer mortality. Despite their effectiveness, colorectal cancer screening by any modality remains low. Some reasons attributed to the low screening rates include limited public awareness of colorectal cancer and the benefits of screening, failure of health care providers to recommend screening to patients, and inefficient surveillance and support systems in many health care settings. The purpose of this project is to evaluate a multi-component intervention to increase colorectal cancer screening among average-risk men and women in primary care clinics.

The proposed study will consist of three tasks. In Task 1, 196 primary care

clinicians will complete a survey assessing demographics; opinions about preventive services; colorectal cancer screening training and practices; colorectal cancer screening beliefs, facilitators, and barriers; and satisfaction with colorectal cancer screening. The survey will be administered to clinicians pre- and post-intervention. In Task 2, 196 clinic support staff will complete a survey assessing demographics; work-related duties; opinions about preventive services; colorectal cancer screening training and practices; colorectal cancer screening beliefs, facilitators, and barriers; and satisfaction with colorectal cancer screening. The survey will be administered to clinic support staff pre- and post-intervention. In Task 3, clinic patients will complete a survey assessing demographics; health status; previous colorectal cancer screening and other preventive services received; colorectal cancer knowledge and opinions about colorectal cancer and colorectal cancer screening; and social support.

The survey will be administered to 4,396 patients pre-intervention (consisting of 3,276 patients surveyed only at baseline and 1,120 patients surveyed at baseline and follow-up) and 4,200 patients post-intervention (consisting of 1,120 patients surveyed at baseline and follow-up and 3,080 patients surveyed only at follow-up). There are no costs to the respondents.

| Respondents | No. of respondents | No. of responses per respondent | Average burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| Clinicians | 196 | 2 | 30/60 | 196 |
| Clinic support staff | 196 | 2 | 25/60 | 163 |
| Patients surveyed only at baseline | 3276 | 1 | 20/60 | 1,092 |
| Patients surveyed at baseline and follow-up | 1120 | 2 | 20/60 | 747 |
| Patients surveyed only at follow-up | 3080 | 1 | 20/60 | 1,027 |
| Total | | | | 3,225 |

Dated: July 14, 2003.

**Thomas A. Bartenfeld,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–18224 Filed 7–17–03; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–03–97]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Exposure to Volatile Organic Compounds in Drinking Water and Specific Birth Defects and Childhood Cancers at United States Marine Corps Base Camp Lejeune, North Carolina—New—The Agency for Toxic Substances and Disease Registry (ATSDR).

ATSDR is mandated pursuant to the 1980 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from exposure to hazardous substances in the environment. ATSDR plans activities to address these issues which include conducting health studies at sites on the Environmental Protection Agency's (EPA) National Priorities List (NPL) to determine whether and to what degree exposure to hazardous substances at these sites are harmful to human health.

The United States Marine Corps Base Camp Lejeune, North Carolina, is one of the federal facilities on EPA's National Priorities List. In 1982, periodic sampling of drinking water sources began at Camp Lejeune to comply with regulations of the national Safe Drinking Water Act. The sample results showed that the drinking water supplied to some of the base housing units was contaminated with volatile organic compounds (VOCs). The specific chemicals of concern were trichloroethylene (TCE), tetrachloroethylene (or perchloroethylene) (PCE), dichloroethylene, and methylene chloride. These chemicals are used as solvents to clean machinery and weapons and in dry cleaning operations. A 1997 ATSDR public health assessment (PHA) of the base recommended that an epidemiological study be considered to determine if mothers exposed to VOCs in drinking water during their pregnancies were at higher risk of giving birth to a child with health problems such as a birth defect or a childhood cancer. ATSDR's initial response to the PHA recommendation was to conduct a study at Camp Lejeune to evaluate whether mothers who were exposed to the contaminated drinking water during pregnancy were at higher risk of having a child which was ''small for gestational age'' (*i.e.*, an infant weighing less than the 10th percentile based on published sex-specific growth curves). This study was completed in 1998 and found an association between mothers' exposures to the contaminated drinking water during pregnancy and small for gestational age infants. The association between birth defects and drinking

water contaminated with TCE or PCE could not be reasonably evaluated in the 1998 study because of extreme under-ascertainment of cases using data from birth certificates.

In response to the PHA recommendation, ATSDR began the multi-step process of determining the appropriateness of conducting an epidemiological study of specific childhood cancers and birth defects at Camp Lejeune. Based on the scientific literature, ATSDR decided to focus on specific childhood cancers and birth defects: Childhood leukemia, childhood non-Hodgkin's lymphoma, spina bifida, anencephaly, cleft lip and cleft palate. ATSDR conducted a survey in 1999–2002 (OMB No. 0923–0023) to identify all cases of the specific birth defects and childhood cancers. About an 80 percent participation rate was achieved among the approximately 16,000 to 17,000 births that occurred among women who were pregnant while living at Camp Lejeune during the study period 1968–1985. These years were chosen because 1968 is the first year that birth certificates were computerized in North Carolina, and 1985 is the last year that VOC contamination was detected at the base. All of the participants who took part in the Camp Lejeune Survey in 1999–2002 gave permission to be contacted for future studies. Additionally, many survey participants have telephoned ATSDR to request the results of the survey and inquire about future studies.

The overall objective of the proposed case-control study is to examine whether there is an association between maternal exposures during pregnancy to TCE and PCE in drinking water at Camp Lejeune during the period of 1968–1985 and the risk of specific birth defects (spina bifida, anencephaly, cleft lip and cleft palate) and childhood cancers (childhood leukemia and Non-Hodgkin's Lymphoma) in offspring.

ATSDR is in the process of verifying that the child had the birth defect or childhood cancer reported by the parents in the survey. The parents of the children with possible birth defects or childhood cancers of concern were contacted and asked to sign a medical records release form so that ATSDR could gain access to the medical records for their children. If the child had reached 18 years of age, he or she was contacted and asked to sign a medical records release form.

Once the review of medical records is complete, the final step is to conduct an epidemiological study that includes all the cases of birth defects and childhood cancers of concern. The study will also include a control sample of children who did not have a birth defect or a childhood cancer and whose mothers lived at Camp Lejeune during their pregnancy over the period 1968–1985. The study plans to enroll 100 cases and 500 controls over the course of one year. The epidemiological study will require the computer modeling of the drinking water system at Camp Lejeune over the period 1968–1985 in order to determine as accurately as possible which mothers were exposed to the VOCs in the drinking water during their pregnancy and which mothers were not exposed during their pregnancy.

To reduce the amount of time required by the respondents, Computer Assisted Telephone Interviews (CATI) will be conducted. Following completion of all respondent interviews, the data will be tabulated and analyzed (the case group will be compared with the control group). Because only a very small number of studies have looked at the risk of birth defects and childhood cancers among children born to mothers exposed during pregnancy to VOCs in drinking water, the proposed study will aid in developing or contributing to generalizable knowledge.

Other than their time to participate, there is no cost to the respondents.

| Respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) | Total burden (in hrs.) |
|---|---|---|---|---|
| Cases | 100 | 1 | 45/60 | 75 |
| Controls | 500 | 1 | 45/60 | 375 |
| Total | | | | 450 |

Dated: July 14, 2003.

**Thomas A. Bartenfeld,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 03–18225 Filed 7–17–03; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 03158]**

## Cooperative Agreement for Plague Clinical Trials With The Uganda Virus Research Institute; Notice of Intent To Fund Single Eligibility Award

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2003 funds for a cooperative agreement program to evaluate the effectiveness and safety of Gentamicin and other antibiotics for the treatment of human plague, to evaluate newly available rapid dipstick tests for diagnosis of human plague, and to develop a long-term collaboration between the CDC and Uganda Health Authorities in the area of plague research and prevention. The Catalog of Federal Domestic Assistance number for this program is 93.283.

### B. Eligible Applicant

Assistance will be provided only to the Uganda Virus Research Institute. No other applications are solicited. UVRI is the most appropriate and qualified agency to conduct the activities specified under this cooperative agreement for the following reasons:

- CDC Uganda is located at the UVRI facility.
- UVRI is a government agency within the Uganda Ministry of Health. It is the principal agency tasked with surveillance, research, and control of infectious diseases such as plague.
- UVRI is responsible for carrying out all national surveillance and prevention programs for plague, as well as organizing community awareness programs, health education, and education of medical professionals on plague.
- UVRI has established collaborations with the District Health Authorities, individual physicians and healthcare workers in plague-endemic areas. They currently maintain a laboratory facility in the West Nile Region of Uganda, which is endemic for plague.
- UVRI is the only organization that has the existing laboratory capacity to carry out large-scale national public health interventions and to conduct plague research. They have the required

field experience and demonstrated capacity in areas directly related to all principal objectives of this proposed program: (1) Identification of cases of plague through clinic-based surveillance in areas with a high incidence of plague; (2) systematically evaluate optimal treatment regimens while ensuring patient safety; (3) evaluate the performance of newly available rapid tests for the diagnosis of plague under field conditions, and (4) confirm the diagnosis of suspected plague using state of the art laboratory techniques.

• UVRI has a history of successful collaborations with CDC on large and complicated health research projects, particularly in the areas of HIV/AIDS and vector-borne infectious diseases over the years.

### C. Funding

Approximately $150,000 is available in FY 2003 to fund this award. It is expected that the award will begin on or before August 1, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

### D. Where To Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact: Jacob Kool, MD, Ph.D., Division of Vector-Borne Infectious Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention, Rampart Road (Foothills Campus), Fort Collins, CO 80521, Telephone: 970–266–3540, E-mail: *jkool@cdc.gov*.

Dated: July 11, 2003.

**Edward Schultz,**

*Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.*

[FR Doc. 03–18241 Filed 7–17–03; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 04015]**

## Effective Strategies to Reduce Motor Vehicle Injuries Among American Indians/Alaska Natives; Notice of Availability of Funds

*Application Deadline:* October 16, 2003.

### A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under 391, 317 and 301 of the Public Health Service Act [42 U.S.C. 280b, 247b, and 241]. The Catalog of Federal Domestic Assistance number is 93.136.

### B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2004 funds for a cooperative agreement program to develop, implement, and evaluate community-based interventions with demonstrated effectiveness to reduce motor vehicle-related injuries among American Indians and Alaska Natives (also referred to as Native Americans). This program addresses the ''Healthy People 2010'' focus area of Injury and Violence Prevention.

The purpose of the program is to design/tailor, implement, and evaluate Native American community-based interventions with demonstrated effectiveness for preventing motor vehicle injuries within the following areas: (1) Strategies to reduce alcohol-impaired driving among high risk groups; (2) strategies to increase safety belt use among low-use groups; and (3) strategies to increase the use of child safety seats and booster seats among low use groups. (see Attachment 1 for additional background)

In addition, the program should gather information on the process of implementing and evaluating these strategies, including any challenges and barriers for tribes. An overriding intent of this funding is to assist tribes in designing/tailoring (as well as implementing and evaluating) these evidence-based effective strategies in programs, which take into consideration the unique culture of American Indians and Alaska Natives.

**Note:** Attachments are posted with the Program Announcement at the CDC web site, Internet address: *http://www.cdc.gov.* Click on ''Funding,'' then ''Grants and Cooperative Agreements'.

This project will fund the formation of coalitions of tribal health departments, tribal injury prevention programs, law enforcement, and tribal transportation and traffic safety agencies. These coalitions will work with other community groups, organizations, state agencies, and the Indian Health Service (IHS) to design/tailor, implement, and evaluate at least two selected interventions. Collaborations may include schools, youth organizations, safety advocates, local media, health care providers, academic researchers, IHS staff, state traffic safety agencies and social service agencies, among others.

Measurable outcomes of the program will be in alignment with one or more of the following performance goals for the National Center for Injury Prevention and Control (NCIPC): (1) Increase the capacity of injury prevention and control programs to address the prevention of injuries and violence; and (2) monitor and detect fatal and non-fatal injuries. In addition applicants should address the following research priorities in transportation safety from the NCIPC Research Agenda: (1) Evaluate strategies to implement known, effective interventions to reduce alcohol-impaired driving and test the effectiveness of new, innovative strategies; (2) develop and evaluate interventions that address the proper and consistent use of measures to protect child occupants in motor vehicles; and (3) develop and evaluate interventions to increase the use of occupant protection devices, such as seat belts, in high-risk and hard-to-reach populations.

The CDC report, ''Motor-Vehicle Occupant Injury: Strategies for increasing use of child safety seats, increasing use of safety belts, and reducing alcohol-impaired driving: a report on recommendations of the Task Force on Community Preventive Services,'' may be useful in understanding these effective strategies and in preparing applications. The report can be found on the CDC Web site at: *www.cdc.gov/mmwr/pdf/rr/5007.*

### C. Eligible Applicants

Any federally recognized American Indian/Alaska Native tribe or tribal organization is eligible to apply for these cooperative agreements. Applicants may include tribal injury prevention programs, tribal health departments, groups of tribes, and others. Tribes and tribal organizations must have a minimum population size of 2,500 people, or serve 2,500 American Indian or Alaska Native people in order to be eligible to apply.

The 2,500 minimum population size is needed in order to be able to demonstrate effectiveness of the program. A signed and dated tribal council resolution in support of the tribal motor vehicle injury prevention program is required. For the Navajo Nation, where getting a tribal resolution signed is often difficult, signed resolutions from a local governing body, such as a Chapter House, will be acceptable for the intent to participate. Those tribes that cannot get a resolution signed in time to meet the deadline should submit a draft of the resolution in the appendix. A signed resolution from the tribe will be required prior to award if selected.

American Indians/Alaska Natives have the highest motor vehicle-related death rates of all racial and ethnic groups (Web-based Injury Statistics Query and Reporting System (WISQARS, NCIPC, CDC)), with rates two-three times greater than rates for all other Americans (Indian Health Focus, Injuries 1998–99; Indian Health Service, 2002). These funds are targeted to American Indians/Alaska Natives in order to help reduce this disparity.

**Note:** Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

## D. Funding

*Availability of Funds*

Approximately $186,000 is available in FY 2004 to fund three awards. It is expected that the average award will be about $62,000. It is expected that the awards will begin on or about January 2004, and will be made for a 12-month budget period within a project period of up to four years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

*Use of Funds*

The intent of this funding is not to support existing activities. The recipient should provide evidence that there is an unmet need in their community for these interventions. This can be done by describing the target groups for the selected interventions and documenting the size of the problem. Examples of approved funding uses include police overtime pay for sobriety checkpoints and enhanced enforcement, media and awareness activities, evaluation consultants, salary for a project coordinator, etc.

*Recipient Financial Participation*

Matching funds are not required for this program.

*Funding Preferences*

Applicants will be expected to implement and evaluate at least two community-based interventions with demonstrated effectiveness during the four-year project period. Preference will be given to applicants who propose implementing one or more community-based interventions from the list below. This list contains interventions that have strong evidence of effectiveness according to ''The Guide to Community Preventive Services'' *(www.thecommunityguide.org)* (*see* Attachment 2). If applicants propose strategies that are not on the list below, then they must summarize and cite the evidence of effectiveness (*see* Attachment 2):

1. Sobriety checkpoints to reduce alcohol-impaired driving. Key components of the intervention: officer training in appropriate practices; implement or increase the frequency of sobriety checkpoints (or roving patrols if checkpoints are not feasible); develop a strategy for publicizing checkpoints through media such as news stories and/or paid media.

2. Efforts to lower blood alcohol concentrations among drivers (*e.g.*, .08 blood alcohol content (BAC) or below). Key components: Publicize the BAC limit and work with tribal (or Bureau of Indian Affairs) police to communicate the importance of the law and ensure active enforcement.

3. Efforts to enforce lower blood alcohol content (*e.g.*, .02 BAC) for young drivers. Key components: Publicize the BAC limit, importance of a low BAC for young drivers to prevent crashes, and enforcement efforts in local media; work with tribal (or Bureau of Indian Affairs) police to actively enforce the law.

4. Efforts to enforce existing safety belt and child occupant restraint laws. Key components: Work with local police to understand the importance of enforcing the use of occupant restraints, and the effectiveness of safety belts and child restraints in preventing injuries during a crash.

5. Enhanced enforcement campaigns (such as Click It or Ticket-style campaigns) to increase safety belt use or child occupant restraint use. Key components of the intervention include: implement or increase the frequency of citations for violations of the law; implement or increase safety belt or child occupant restraint checkpoints (or roving patrols if checkpoints are not feasible); develop a strategy for publicizing the enhanced enforcement efforts through earned media (*e.g.*, news stories) and/or paid media.

6. Distribution and education programs to increase child safety seat and booster seat use. Key components of the intervention include: distribution of child safety seats and/or booster seats among low use groups, and education on appropriate use.

## E. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

*1. Recipient Activities*

a. Develop a motor vehicle injury prevention program in the recipient's tribal health department to enhance opportunities for the motor vehicle injury prevention program to collaborate with other tribal public health programs. If this is not practical, then state the reason why the tribal motor vehicle program will not be located in the health department.

b. Provide a coordinator who has the authority, responsibility, and expertise to conduct and manage the tribal motor vehicle injury prevention program.

c. Establish the coalition or advisory group that will help tailor, implement, and evaluate the selected interventions. This group may consist of public and private individuals, medical staff, Emergency Management Service staff, injury prevention experts, academic researchers, organizations, State and Federal agencies. At a minimum, the coalition must include the recipient tribal health department or organization, local highway safety department representative, local law enforcement, IHS Injury Prevention Specialists (state reason if not available), and others interested in traffic safety. Applicants are encouraged to work with existing programs, such as ''Safe Communities,'' or with coalitions such as ''SAFE KIDS.''

d. At least one of the intervention choices should include working with local police departments to conduct enforcement activities regarding occupant restraint use, or alcohol-impaired driving.

e. Collect or obtain and analyze baseline data that will guide the planning process and serve as the pre-intervention measures of effectiveness (*e.g.*, number of alcohol-related crashes; number of impaired driving arrests and convictions; conduct observational

surveys to determine safety belt use, booster seat use, or child restraint use).

f. If the recipient proposes to implement enhanced enforcement campaigns to increase safety belt use or child safety seat use, the recipient must first determine baseline use rates for safety belts, child safety seats, or booster seats. At a minimum, a comparison of observed use rates determined from observational surveys in the intervention communities before and after implementation of the intervention activities will be necessary for evaluation purposes. The recipient would also need to determine baseline police citations given before and during the enhanced enforcement activities.

g. If the recipient proposes to implement sobriety checkpoints to reduce alcohol-impaired driving, the recipient must first determine rates of alcohol-impaired driving using appropriate survey methods before implementation of the intervention. Acceptable methods include direct assessment of driver BAC levels in roadside surveys; determining the number of single-vehicle nighttime fatal crashes; or determining all nighttime fatal crashes before the checkpoint campaign.

h. Analyze existing data to define the magnitude of the motor vehicle injury problem within the Native American target population, including those at greatest risk. Potential data sources include hospital discharge data, clinic and emergency department data, police reports, and State Department of Transportation reports.

i. Develop a detailed plan for the tailoring of the intervention for their community, implementation, and evaluation of the selected evidence-based interventions to reduce motor vehicle-related injuries. This would include specific process, impact, and outcome objectives and action steps to accomplish each. Obtain approval for the plan from the coalition, and present the plan to CDC for approval.

j. Implement, sustain, and rigorously evaluate the selected interventions.

k. Attend and participate in conference calls and technical assistance and planning meetings coordinated by the CDC for all tribal cooperative agreement recipients (one meeting per year in Atlanta; two days per meeting).

l. Submit required reports on time.

m. The first year of the cooperative agreement will include several activities: establishing the coalition; collecting and analyzing baseline data (*e.g.*, alcohol-related crashes, driving under the influence (DUI) arrests and convictions, conducting observational surveys of safety belt use); evaluating perceptions of stakeholders regarding barriers to implementation and perceived benefits of the intervention; and developing a detailed plan for implementing and evaluating two or more interventions.

n. Noncompetitive continuation funding will be available for the second year, contingent upon successful progress in year one, and a detailed budget for implementing and evaluating the selected interventions. Years two-four will be dedicated to implementing, sustaining, and evaluating the selected interventions. The evaluation should include information regarding any barriers that were encountered in implementing the interventions.

*2. CDC Activities*

a. Provide technical assistance, training, and guidance in the design/tailoring, implementation, and evaluation of the selected interventions. This will be done early in the first year of funding with CDC conducting an initial training and planning meeting with all grantees.

b. Review, provide feedback, and approve plans for the design/tailoring, implementation, and evaluation of the selected interventions.

c. Conduct regular conference calls and annual site visits to provide training, technical assistance, and monitoring of the tribal motor vehicle injury program.

d. Assist in developing a research protocol for annual Institutional Review Board (IRB) review by all cooperating institutions participating in the project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the project, including analyses, is completed.

e. Assist in ensuring human subjects assurances are in place as needed.

f. Assist in analysis and dissemination of results including the preparation of manuscripts, as needed.

g. Organize an annual grantee meeting to provide technical assistance, training, facilitate communication, and assist with program planning and evaluation.

**F. Content**

*Applications*

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 20 pages, double-spaced, printed on one side of standard size 8.5-inch × 11-inch paper with consecutively numbered pages, with 1.5 inch-left, 1 inch-top, bottom, and right margins, and unreduced 12-point font. The applicant should provide a detailed description of first-year activities and briefly describe future year objectives and activities for years two, three, and four.

The narrative should consist of, at minimum:

1. Applicant's Organization History, Description and Capacity
2. Applicant's Plan for Designing/Tailoring, Implementing, and Evaluating the Selected Interventions
3. Applicant's Management and Staffing
4. A Plan for Collaboration
5. Measures of Effectiveness
6. First Year Budget

**G. Submission and Deadline**

*Application Forms*

Submit the signed original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

*Submission Date, Time, and Address*

The application must be received by 4 p.m. Eastern Time October 16, 2003. Submit the application to: Technical Information Management-PA# 04015, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

*CDC Acknowledgement of Application Receipt*

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

*Deadline*

Applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package

with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

**H. Evaluation Criteria**

*Application*

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goals stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation. Examples include: conducting observational surveys before and after the intervention to determine any change in occupant restraint use and over time; changes in citations and convictions given for not using seat belts or child safety seats pre-intervention, post-intervention, and over time; changes in citations and convictions given for DUI pre-intervention, post-intervention, and over time; changes in alcohol-related crashes or single vehicle nighttime fatal crashes pre-intervention, post-intervention, and over time.

An independent review group appointed by CDC will evaluate each application individually against the following criteria:

1. Applicant's Plan for Designing/Tailoring, Implementing, and Evaluating the Selected Interventions (35 points)

The extent to which the applicant's work plan and timetable includes:

a. The identification of representatives to be named as members of the coalition, including a description of the areas of expertise covered by each; the specific roles and responsibilities of each in implementing this cooperative agreement; etc.

b. A reasonable and complete schedule/timeline for implementing all first year activities with action steps and persons responsible. A brief description of future year objectives and activities for years two through four.

c. Plans for collecting or obtaining and analyzing baseline (pre-intervention) and follow-up data for the measures of effectiveness.

d. A description of the process used in selecting the interventions to be implemented.

e. A description of the process to be used in preparing the detailed plan for implementing and evaluating the selected interventions.

f. Evidence of a partnership with an academic institution or expert evaluation consultant to provide expertise and technical assistance in the design and implementation of the evaluation plan. Evaluation is important to these cooperative agreements, so it is recommended that approximately 15 percent of project resources be devoted to evaluation activities. Letters of support or agreement should be included in the appendix.

g. Initial plans to evaluate the interventions including measures of effectiveness that will demonstrate the accomplishment of the identified objectives of the cooperative agreement. Measures should be objective/quantifiable and measure the intended outcome. Describe how the academic institution or evaluation consultant will be involved in the evaluation activities.

h. Plans to train and support staff regarding the responsibilities of this cooperative agreement and the availability of staff and facilities to carry out this cooperative agreement.

2. Applicant Organization History, Description and Capacity (25 points)

The extent to which the applicant has documented:

a. A description of the target population to be served, and proof of a minimum reservation or tribal population size of 2,500.

b. An overview of the tribe's motor vehicle injury problem.

c. An inventory of existing tribal traffic safety laws for seat belt use, child restraint use, and alcohol impaired driving.

d. Their history and current capacity to provide a leadership function in convening and facilitating the work of the coalition.

e. Evidence of prior experience in designing/tailoring, implementing, and where possible, evaluating community-based interventions. This evidence will be stronger if some type of documentation is included such as publications from journal articles or technical reports in the appendix of the application.

f. The description of positive progress in any related past or current injury prevention activities or programs. Evidence of access to the target populations.

g. Their organizational capacity to meet the objectives of the cooperative agreement.

h. The extent to which the applicant has shown tribal or organizational support for the proposed motor vehicle injury prevention program.

3. Applicant's Management and Staffing (20 points)

The extent to which the applicant has included:

a. Their management operation, structure and/or organization. An organizational chart of the applicant's organization should be included as an appendix. Additionally, the applicant should include within their management plan the specific role and mechanisms to be established to ensure effective coordination, communication and shared decision making among the involved agencies/organizations.

b. A staffing plan for the project, noting existing staff as well as additional staffing needs. The responsibilities of individual staff members including the level of effort and allocation of time for each project activity by staff position should be included. The specific staff positions within the other involved tribal or local agencies, both in-kind and funded, should be described.

c. Resumes and/or position descriptions (*i.e.* for current staff, in-kind, and proposed positions to be funded under this cooperative agreement) should be included as an appendix. This should include the use of consultants, as appropriate.

d. A continuation plan in the event that key staff leave the project, how new staff will be smoothly integrated into the project, and assurances that resources will be available when needed for this project.

4. Collaboration (20 Points)

The extent to which the applicant demonstrates:

a. Experience with working with community leaders, tribal health boards, tribal councils, local police departments, and community-level groups.

b. Evidence of effective and well-defined collaborative relationships within the performing organization and among the coalition members that will ensure implementation of the proposed activities. Model collaborations should include at least a tribal Health Department or organization, local law enforcement, IHS Injury Prevention staff, and a tribal traffic safety agency (if available). Letters of support from these collaborating organizations describing the specific commitments and

responsibilities that will be undertaken by the coalition members and community organizations should be included in the appendix.

5. Proposed Budget Justification (Reviewed, but not scored)

The extent to which the applicant's budget includes funds to participate in the CDC required meetings (at least one person, such as the Project Coordinator, must attend one meeting per year in Atlanta to last for two days). The applicant should provide a detailed budget request and complete line-item justification of all proposed operating expenses consistent with the stated activities under this program announcement. Applicants should be precise about the purpose of each budget item and should itemize calculations wherever appropriate. The use of budget guidance posted on the CDC website with this announcement is encouraged.

6. Measures of Effectiveness (Reviewed, but not scored)

The extent to which the applicant has provided appropriate measures of effectiveness.

7. Human Subjects (Reviewed, but not scored)

The extent to which the applicant adequately addresses the requirements of Title 45 CFR part 46 for the protection of human subjects. Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

## I. Other Requirements

*Technical Reporting Requirements*

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:
   a. Current Budget Period Activities Objectives.
   b. Current Budget Period Financial Progress.
   c. New Budget Period Program Proposed Activity Objectives.
   d. Detailed Line-Item Budget and Justification.
   e. Additional Requested Information.
2. Financial status report, no more than 90 days after the end of the budget period.
3. Final financial and performance reports, no more than 90 days after the end of the project period. Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Additional Requirements*

The following additional requirements are applicable to this program. For a complete description of each, see Attachment III of the program announcement, as posted on the CDC Web site.

AR–1 Human Subjects Requirements
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities

## J. Where To Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC web site, Internet address: *http://www.cdc.gov.* Click on ''Funding,'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Nancy Pillar, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: 770–488–2721, e-mail address: *nfp6@cdc.gov.*

For program technical assistance, contact: David Wallace, MSEH, Technical Adviser, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 4770 Buford Highway NE, MS K–63, Atlanta, GA 30341–3724, Telephone number: 770–488–4712, e-mail address: *dwallace2@cdc.gov.*

Dated: July 2, 2003.

**Edward Schultz,**

*Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.*

[FR Doc. 03–18239 Filed 7–17–03; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 03189]**

## Blindness and Vision Loss Prevention Program; Notice of Availability of Funds

*Application Deadline:* August 18, 2003.

### A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 301 (a) and 317(k)(2) of the Public Health Service Act, 317H of the Public Health Service Act 42 U.S.C. 247 (b)(9), and section 301(a) of the Public Health Service Act, 42 U.S.C. 241(a) and 247b(k)(2), as amended. The Catalog of Federal Domestic Assistance number is 93.988.

### B. Purpose

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for a Blindness and Vision Loss Prevention Program. This program addresses the ''Healthy People 2010'' focus area of Diabetes and Vision.

The purpose of this program is to develop, deliver, and evaluate a program of comprehensive vision screening, outreach and referral, public education, and surveillance of vision problems. This program is intended to serve persons at risk of blindness and vision loss including persons with diabetes, the elderly, racial and ethnic minorities, and children. This program is also intended to increase awareness nationwide of the need for routine eye examinations, screenings for vision loss, and the need for action to preserve and protect eyesight by developing a national model prevention program to: (a) Raise awareness of the risks of vision loss and eye disease; (b) recognize the early signs of eye disease; (c) identify appropriate and effective prevention practices; (d) implement screenings and eye examinations in target populations; (e) locate and identify where to find services for prevention, treatment, and rehabilitation; and (f) develop and maintain a national database which defines the extent of eye disease and vision loss.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Chronic Disease Prevention and Health Promotion: Increase the capacity of state diabetes control

programs to address the prevention of diabetes and its complications at the community level.

**C. Eligible Applicants**

Private, non-profit, health organizations with a national scope, that provide a comprehensive eye disease prevention program addressing diabetic retinopathy, glaucoma, cataracts, and age-related macular degeneration are eligible. The organization must provide proof of 501(c)(3) non-profit status and must have the ability to receive, manage, and account for federal funds.

**Note:** Public Law 104–65 states that an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, loan or any other form.

**D. Funding**

*Availability of Funds*

Approximately $875,000 is available in FY 2003 to fund one award. It is expected that the award will be made on or about September 15, 2003 and will be made for a 12-month budget period with a project period of up to five years. The Funding estimate may vary depending on availability of funds.

Continuation awards in subsequent years will be based upon the availability of funds and satisfactory progress as evidenced by required reports and achievement of the objectives set forth under ''Program Requirements''.

*Use of Funds*

Cooperative agreement funds may be used to expand, enhance, or complement existing activities to accomplish the objectives of this program. Funds may be used to pay for, but are not limited to, the following: staffing, consultants, contractors, grants to affiliates, materials and supplies, equipment, travel, and other associated expenses to implement and evaluate intervention activities such as screenings for vision and risk assessment for eye disease, public outreach, referrals to health professions for follow-up, public education, professional education, and the collection of representative data to define the problem and evaluate the program.

Funding under this program announcement may not be used to: (1) Support direct patient care services, individual health services, or the treatment of diabetes; (2) duplicate existing efforts the federal system has established for outpatient diabetes education reimbursement for the Medicare population through the Diabetes Education Program Recognition administered by the Centers for Medicaid and Medicare Services (CMS); or (3) supplant existing funding.

*Recipient Financial Participation*

Matching funds, that is, a specific percentage of program costs that must be contributed by the recipient in order to be eligible for this announcement, are not required. Applicants are encouraged, however, to identify financial and in-kind contributions from their own organizations and partners to support and sustain the activities of this program.

**E. Program Requirements**

The recipient funded under this program announcement will utilize, complement, and expand existing program activities and capabilities, but should not duplicate such activities. In conducting activities to achieve the purpose of this program announcement, the applicant will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities:

*1. Recipient Activities*

The organization must demonstrate a national capacity through an affiliate organizational structure that has established organizational units at the state level. The organization must have demonstrated ability to acquire, implement, and manage a national database sufficient to describe the causes of blindness and vision loss.

(a) Leadership and Management

Establish and maintain an effective national leadership structure, an overall management structure that relies upon state-level affiliates to carry out the program activities, and an organization which is based upon a strategic plan. The overall management plan of the organization should include effective accountability of funds, plans for managing federal funds, and plans for disbursement of funds to affiliates. The management plan should also include strategies to collaborate with other similar national organizations and how the efforts of these other organizations will support the overall program.

(b) Screening

Build upon and expand existing screening activities to include children, the elderly, and other target populations such as racial and ethnic minorities disparately affected by vision loss. Screenings must be comprehensive, that is, you must screen for diabetic retinopathy, glaucoma, cataracts, and age-related macular degeneration. Screenings should be community-based, involve other vision partners, and should be evaluated in terms of numbers screened, findings, and referrals. (No personally identifiable data shall be collected or maintained by the recipient of this program cooperative agreement).

The screening activity must also include appropriate training and certification of the screeners to assure the highest standards of competency are provided to the public.

(c) Outreach for Treatment and Rehabilitation

Implement and/or expand the screening activity with a comprehensive referral program to assure that persons identified with vision disorders will receive appropriate referrals to professionals for necessary follow-up, care and treatment. Such a referral program should include identification of appropriate services prior to screenings, appropriate education of the screened persons (or parents or guardians) of the results of the screening, appropriate education of the screened persons (or parents or guardians) regarding the community services available, and follow-up with referral and treatment services to determine the number of persons identified as at-risk from the screenings that are taking advantage of referral services. The referral program should also determine the outcome of the referral to determine the types of treatment utilized to serve the patient. (No personally identifiable data shall be collected or maintained by the recipient of this cooperative agreement).

(d) Public Health Assessment

Conduct an assessment of the current level of programs and services provided by the public health sector to determine program areas which are complementary, or duplicative, and where gaps in services exist. Assessments should be conducted in selected States and communities to gather representative data regarding the current capacity of public health to collaborate with national vision organizations in a comprehensive blindness and vision loss prevention program. The assessments should, at a minimum, include identification of all the public health programs with an element of screening or education, the level of resources devoted, funding sources, evaluation methods (if any), responsible organizations, gaps in services, and areas for collaboration. (No more than nine states and/or

communities may receive such an assessment).

(e) Public Education

Design, expand, and implement programs to educate the public regarding the importance of periodic eye examinations, the symptoms of vision problems, the risk factors associated with vision loss, and the availability of services locally. Education campaigns should be conducted periodically targeting high-risk populations, the elderly, and other populations deemed to need the education. The messages should be designed for the target population and should be culturally relevant.

(f) Professional Education

Conduct various education campaigns designed to reach vision professionals and primary care physicians with information regarding vision loss problems, services available, professional standards and standards of care, and where to acquire additional information. Professional education campaigns may utilize Web sites, conferences, workshops, symposia, printed material, professional journals, and other appropriate literature. Professional education should also include the latest information on vision screening and diagnostic procedures as well as progress in other areas of the Blindness and Vision Loss Prevention Program.

(g) Program Evaluation and Surveillance

Describe how existing program evaluation and surveillance activities will be expanded to determine the prevalence and numbers of persons with blindness, vision loss, and other related causes. Implement or expand data collection activities to determine the numbers of people receiving appropriate eye examinations, the types of examinations, and actions taken to prevent or treat vision loss. Program evaluation and surveillance activities should not initiate new data collection but should utilize existing data sources. Program evaluation strategies should include numbers of persons reached by the program, estimated number of persons affected by blindness and vision loss, and numbers of persons with blindness and vision loss under treatment for the disease. (No personally identifiable data may be collected with these cooperative agreement funds).

Surveillance activities should identify existing data sources and how they can be utilized for the purposes of this program. Evaluation activities should include design of new program measures and future data sources, with an emphasis evaluating program performance measures consistent with long-term program objectives.

*2. CDC Activities*

(a) Assist as needed, in the development of a national evaluation framework that includes measurement methods, surveillance instruments for future use, data standards and definitions, and a structure for evaluating the effectiveness of program services.

(b) Provide assistance as required to develop a CDC technical advisory committee to guide program services, share information in professional settings, and ensure collaboration among relevant programs within CDC.

(c) Provide the expertise, staff, and evidence-based resources of CDC programs to assist and enhance the work of the funded organization.

(d) Support the recipient's activities by providing scientific and public health consultation and assistance in the development of activities under Recipient Activities. This includes providing technical assistance, training, and support to the funded organization in the areas of program standards, evaluation, surveillance, and service delivery through public health structures.

(e) Assist with the public health assessment in state and local health agencies to identify gaps in services and to encourage and support opportunities for collaboration and coordination.

**F. Content**

*Letter of Intent (LOI)*

A letter of intent is requested (not required) from potential applicants for the purpose of planning the competitive review of applications. The narrative should be no more than one page, single-spaced, and printed on one side. The letter of intent should identify the program announcement, the applicant organization, document proof of the applicant's non-profit status, 501(c)(3) status, and the extent to which the organization meets the eligibility requirements.

*Application*

The program announcement title and number must appear in the application. Utilize the information in the Program Requirements, Other Requirements, Evaluation Criteria, and this section to develop the application content. Applications will be evaluated on the criteria listed. The content requirements as well as the evaluation criteria should be followed closely. Applications should be no more than 35 pages double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font. In addition to the application forms, the application must contain the following in this order:

1. *A Table of Contents with page numbers for each of the sections.*

2. *A description of the background and need for the program.*

Data that describes the problem of blindness and vision loss in the United States, as well as any social or economic data which further defines the problems should be included. Historical and other relevant information should be provided which demonstrates the applicant's understanding of the problem and how to address it. A description of the applicant organizational structure, including financial and programmatic capabilities, as well as an inventory of current organizational activities related to this announcement. The affiliate structure should also be described and how the organization achieves its mission through the affiliates. A description of the proposed staff, including attached resumes or job descriptions for a full-time project coordinator and other key staff, the qualifications and responsibilities of each staff member and the percent of time each are committing to the program should also be included.

3. *A detailed work plan for:*

(a) Screening; (b) Outreach for treatment and rehabilitation; (c) Public Health Assessment; (d) Public and Professional education; and (e) Program Evaluation and Surveillance. The work plans should be time-phased, and should include one-year and five-year program objectives including an implementation plan.

4. *A budget and budget justification.*

Provide a budget and budget justification including allocation to program areas, budgeted amounts by categories (personnel, fringe benefits, travel, equipment, supplies, contractual, and other direct costs), allocations to affiliates, and a description of the funding mechanisms and timelines that will be used to disperse funds. The budget should be detailed for one year but should include a proposed summary budget for subsequent years (four additional years). Financial contributions should be included where appropriate.

5. *Appendices.*

Supporting materials including letters of support, organizational background and history, data to describe blindness and vision loss, and strategic plans should be included in the appendices section of the application.

**G. Submission and Deadline**

*LOI Submission*

A letter of intent is requested by August 1, 2003. Submit the LOI to: Regina Hardy, Division of Diabetes Translation, CDC National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway, NE., Mailstop K–10, Atlanta, GA 30341.

*Application Forms*

Submit the signed original and two copies of the PHS 5161 Form. Forms are available at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.* If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, please contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Applications forms can be mailed to you.

*Submission Date, Time, and Address*

The application must be received by 4 p.m. Eastern Time, August 18, 2003. Submit the application to: Technical Information Management—PA 03189, CDC Procurement and Grants Office, 2920 Brandywine Rd., Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

*Acknowledgement of Application Receipt*

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

*Deadline*

Applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Applications sent by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline. Any application that does not meet the above criteria will not be eligible for competition, and will be returned to the applicant. The applicant will be notified of their failure to meet the submission requirements.

**H. Evaluation Criteria**

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the performance goal stated in the purpose section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness must be submitted with the application and will be an element of evaluation.

An independent objective review group appointed by CDC will evaluate each application against the following criteria:

*1. Work Plan (40 points)*

The degree to which the applicant describes a plan that is time-phased, feasible and measurable. The work plan must be specific and meet the expectations in the Program Requirements and Application Content sections of this program announcement. The degree to which the plans reflect and build upon existing capabilities and assets, and utilize the capacity of the affiliates. The extent to which the plan includes efforts to sustain the program long-term. The extent to which the application describes plans to collaborate with CDC in developing an evaluation framework and performance measures. The extent to which appropriate data sources are available to define the problems of blindness and vision loss and plans to acquire additional data sources. The extent to which the application provides clear definitive plans to make the program nationwide in scope.

*2. Program Leadership and Management (25 points)*

The extent to which the organizational structure is designed to implement the proposed work plan including leadership and decision-making processes. The extent to which the proposed staffing will have the appropriate qualifications and experience to implement the proposed work plan. The extent to which the applicant describes clearly defined roles for program staff and the roles of the affiliates.

The extent to which the application demonstrates a capacity to guide and support their affiliates.

*3. Background and Need (25 points)*

The extent to which the problem of blindness and vision loss is described and supported by institutional data. The extent to which the application identifies the strengths and weakness of the current prevention programs in the United States. The extent to which the application identifies potential collaborators and the strengths they offer to the program. The extent to which the applicant has the necessary organizational capabilities to deliver the services of the program including database development and management. The extent of the applicant's ability to train and certify screeners and screening activities. The extent to which the application demonstrates a history and evidence of delivering vision loss and blindness program services.

*4. Budget and Budget Narrative (10 points)*

The extent to which the budget appears reasonable and consistent with the proposed activities and intent of the program.

**I. Other Requirements**

*Technical Reporting Requirements*

Provide CDC with original and two copies of:

1. Interim progress report will be due April 1, 2004 containing a brief description of the program accomplishments/narrative and progress made in the first six months of the program; reasons for not achieving proposed objectives and activities; progress in allocating and dispersing the budget; and details for changes in the program for the remainder of the time for which funds are provided.

2. An annual progress report summarizing the past year's accomplishments, and a financial status report, no more than 90 days after the end of the budget period.

3. Final financial, performance, and evaluation reports, no more than 90 days after the end of the five-year project period (depending upon availability of funds).

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Additional Requirements*

The following requirements are applicable to this program. For a complete description of each, *see* Attachment I of the program announcement as posted on the CDC Web site.

AR–7 Executive Order 12372 Review
AR–8 Public Health Systems Reporting Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions

**J. Where To Obtain Additional Information**

This, and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov*. Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Rd., Atlanta, GA 30341–2700, Telephone: 770–488–2700.

For business management and budget assistance, contact: Ann Gatwood, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2895, E-mail address: *glg4@cdc.gov*.

For program technical assistance, contact: Jinan Saaddine, Division of Diabetes Translation, CDC National Center for Chronic Disease Prevention and Health Promotion, 4770 Buford Highway, NE., Mailstop K–10, Atlanta, GA 30341, E-mail: *JSaaddine@cdc.gov*, Telephone: (770) 488–1274.

Dated: July 14, 2003.

**Sandra R. Manning,**

*CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.*

[FR Doc. 03–18235 Filed 7–17–03; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**Docket No. 2003N–0311**

### Agency Information Collection Activities; Proposed Collection; Comment Request; Medical Device User Fee and Modernization Act Small Business Qualification Certification (Form FDA 3602)

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. The proposed collection of information will permit an applicant to certify that it qualifies as a ''small business'' within the meaning of the Medical Device User Fee and Modernization Act (MDUFMA), will help the applicant organize the information FDA needs to verify each certification, and will collect contact information to facilitate rapid resolution of any questions FDA may have concerning information the applicant has provided. In the **Federal Register** of March 26, 2003 (68 FR 14664), FDA published a notice announcing OMB's approval of this collection of information (OMB control number 0910–0508). Since this was an emergency approval that expires on October 31, 2003, FDA is following the normal PRA clearance procedures by issuing this notice.

**DATES:** Submit written or electronic comments on the collection of information September 16, 2003.

**ADDRESSES:** Submit electronic comments on the collection of information via the Internet at: *http://www.fda.gov/dockets/edockethome*. Submit written comments on the collection of information to the Divsion of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane., rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

**FOR FURTHER INFORMATION CONTACT:** Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA'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 respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

**MDUFMA Small Business Qualification Certification (Form FDA 3602) — (OMB Control Number 0910–0508)—Extension**

MDUFMA amends the Federal Food, Drug, and Cosmetic Act to provide for user fees for certain medical device applications. The initial fees (for fiscal year (FY) 2003) are set by statute; FDA will publish a **Federal Register** notice by August 1, 2003, announcing the fees for FY 2004. To avoid harming small businesses, MDUFMA provides for reduced or waived fees for applicants who qualify as a ''small business.'' This means there are two levels of fees, a standard fee, and a reduced or waived small business fee.

Presently, a ''small business'' is an applicant who reported no more than $30 million ''gross receipts or sales'' on its Federal income tax return for the most recent tax year; the applicant must count the ''gross receipts or sales'' of all of its affiliates, partners, or parent firms when calculating whether it meets the $30 million threshold. An applicant must pay the full standard fee unless it provides evidence demonstrating to FDA that it meets the ''small business'' criteria. The evidence required by MDUFMA is a copy of the most recent Federal income tax return of the applicant, and any affiliate, partner, or parent firm. FDA will review these materials and decide whether an applicant is a ''small business'' within the meaning of MDUFMA.

Form FDA 3602 will be available in a forthcoming guidance document, ''MDUFMA Small Business Qualification Worksheet and Certification.'' This guidance will describe the criteria FDA will use to decide whether an entity qualifies as a MDUFMA small business and will help prospective applicants understand what they need to do to meet the small business criteria for FY 2004 and subsequent fiscal years. FDA will

publish this guidance by August 1, 2003.

Respondents will be businesses or other for-profit organizations. FDA estimates the burden of this information collection as follows:

TABLE 1. — ESTIMATED ANNUAL REPORTING BURDEN[1]

| FDA Form Number | No. of Respondents | Annual Frequency per Response | Total Annual Responses | Hours per Response | Total Hours |
|---|---|---|---|---|---|
| 3602 | 3,000 | 1 | 3,000 | 1 | 3,000 |

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on conversations with industry, trade association representatives, and from internal FDA estimates. This represents FDA's estimate on the number of small businesses that will submit a premarket notification, a premarket application, a premarket report, a panel track supplement, efficacy supplement, 180-day supplement, or a real time supplement to FDA during a single fiscal year from FY 2004 through 2007.

Dated: July 11, 2003.

**Jeffrey Shuren,**

*Assistant Commissioner for Policy.*

[FR Doc. 03–18160 Filed 7–17–03; 8:45 am]

BILLING CODE 4160–01–S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

*2004 National Survey on Drug Use and Health—(OMB No. 0930–0110, Revision)*—The National Survey on Drug Use and Health (NSDUH), formerly the National Household Survey on Drug Abuse (NHSDA), is a survey of the civilian, noninstitutionalized population of the United States 12 years old and older. The data are used to determine the prevalence of use of tobacco products, alcohol, illicit substances, and illicit use of prescription drugs. The results are used by SAMHSA, ONDCP, Federal government agencies, and other organizations and researchers to establish policy, direct program activities, and better allocate resources.

As with all NSDUH/NHSDA surveys conducted since 1999, the sample size of the survey for 2004 will be sufficient to permit prevalence estimates for each of the fifty states and the District of Columbia. For the 2004 survey, additional questions in the following substantive areas are planned: adult mental health treatment (three additional questions to obtain more detail on unmet mental health treatment need, and on alternative mental health treatment received); drug treatment (four questions on age at first treatment for alcohol and/or drug use); prior substance use (expanded 2003's prior marijuana and cigarette use module to collect information on age at last use for each core substance respondent reported last using over 30 days); depression (separate modules for adolescents and adults based on adaptations of existing modules used in the National Comorbidity Survey). The following questions are planned to be deleted from the 2004 survey: speciality cigarettes (questions about clove and bidi use); amount paid for cigarettes in the past 30 days; and youth access to cigarettes. Three to four years of data have been collected on these questions, which may be included again in future surveys as the need arises. The total annual burden estimate is shown below:

| | Number of respondents | Responses per respondent | Average burden per response (hr.) | Total burden (hrs) |
|---|---|---|---|---|
| Household Screening | 182,250 | 1 | 0.083 | 15,127 |
| Interview | 67,500 | 1 | 1.0 | 67,500 |
| Screening Verification | 5,559 | 1 | 0.067 | 372 |
| Interview Verification | 10,125 | 1 | 0.067 | 678 |
| Total | 182,250 | | | 83,677 |

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Allison Herron Eydt, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: July 11, 2003.

**Anna Marsh,**

*Acting Executive Officer, SAMHSA.*

[FR Doc. 03–18238 Filed 7–17–03; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## DEPARTMENT OF TRANSPORTATION

## Maritime Administration

**[USCG–2002–14134]**

## Port Pelican LLC Deepwater Port License Application

**AGENCY:** Coast Guard, DHS, and Maritime Administration, DOT.

**ACTION:** Notice of public hearing; request for comments.

**SUMMARY:** The U.S. Coast Guard (USCG) and the U.S. Maritime Administration (MARAD) will hold a public hearing to receive information relevant to the issuance or denial of the requisite federal license for the proposed Port Pelican LLC Deepwater Port project. The proposed Port Pelican LLC Deepwater Port would be located in the Gulf of Mexico, approximately 36 miles south southwest of Fresh Water City, Louisiana, in the Outer Continental Shelf (OCS) Lease Block Vermilion 140. We encourage interested individuals and organizations to attend the public hearing and submit comments. We also seek comments from anyone unable to attend the public hearing. In conjunction with the public hearing, the USCG and MARAD will also hold an informational open house regarding the proposed Port Pelican LLC Deepwater Port project.

**DATES:** The public hearing will be held on Monday, August 18, 2003, 3 p.m. to 6 p.m., in New Orleans, Louisiana. The informational open house will be held on Monday, August 18, 2003, 1 p.m. to 3 p.m., in New Orleans, Louisiana. The public hearing may be adjourned as early as 5 p.m. if there is no significant attendance or participation during the first two hours. The public hearing will continue beyond 6 p.m. if necessary to ensure all individuals present at that time who wish to comment have an opportunity to do so.

Comments intended for inclusion in the public docket [USCG–2002–14134] must reach the Docket Management Facility on or before October 2, 2003.

**ADDRESSES:** The public hearing and informational open house will be held at the following location: New Orleans Marriott, 555 Canal Street, New Orleans, LA 70130, (504) 581–1000.

You may submit comments identified by Coast Guard docket number USCG–2002–14134 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) Web site: *http://dms.dot.gov.*

(2) Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

(3) Fax: (202) 493–2251.

(4) 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. The telephone number is (202) 366–9329.

(5) Federal eRulemaking Portal: *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** For further information concerning this notice, the Port Pelican LLC Deepwater Port license application, or the public hearing or informational open house, contact Commander Mark Prescott, U.S. Coast Guard at (202) 267–0225 or *mprescott@comdt.uscg.mil.* For questions on viewing or submitting material to the docket, call Ms. Dorothy Beard, Chief of Dockets, Department of Transportation, at (202) 366–5149.

**SUPPLEMENTARY INFORMATION:**

### Public Participation and Request for Comments

Whether or not you attend the public hearing or informational open house, we encourage you to submit written comments and related materials. All comments received will be posted, without change, to *http://dms.dot.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number (USCG–2002–14134), indicate your specific concern, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number USCG–2002–14134. You may also visit the Docket Management Facility in 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.

*Privacy Act:* Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

### Public Hearing/Informational Open House

The Coast Guard and the Maritime Administration will hold a public hearing from 3 p.m. to 6 p.m. on Monday, August 18, 2003 at the New Orleans Marriott, 555 Canal Street, New Orleans, Louisiana. An informational open house will be held prior to the public meeting from 1 p.m. to 3 p.m. at the same location. We invite the public and representatives of interested agencies to attend and provide comments on the proposed license application. If you plan to attend the public hearing or informational open house and need special assistance, such as sign language interpretation or other reasonable accommodations, contact the U.S. Coast Guard as indicated in **FOR FURTHER INFORMATION CONTACT.**

**Proposed Deepwater Port Background Information**

The proposed Port Pelican LLC Deepwater Port would deliver natural gas to the United States Gulf Coast using existing gas supply and gathering systems in the Gulf of Mexico and southern Louisiana. Gas would then be delivered to shippers using the national pipeline grid through interconnections with major interstate and intrastate pipelines.

The project would consist of two concrete gravity based structure (GBS) units fixed to the seabed, which would include integral liquefied natural gas (LNG) storage tanks, support deck mounted LNG receiving and vaporization equipment and utilities, berthing accommodations for LNG carriers, facilities for delivery of natural gas to a pipeline transportation system, and personnel accommodations.

A 42-inch diameter offshore Pelican Interconnector Pipeline (PIPL), 37 nautical miles in length, would be constructed as part of the project. The PIPL would transport gas from the terminal to a point near the Tiger Shoal Platform ''A'' where it would connect to the Henry Hub. The Henry Hub would deliver the gas to the onshore U.S. gas pipeline network.

**License Application Background Information**

The Port Pelican LLC Deepwater Port license application was submitted to the Secretary of Transportation on November 25, 2002. The license application calls for construction of the Port Pelican Deepwater Port in an area situated in the Gulf of Mexico, approximately 36 miles south southwest of Fresh Water City, Louisiana, in OCS Lease Block Vermilion 140. Additional information concerning the contents of the application can be found online at *http://dms.dot.gov* under docket number USCG–2002–14134, or in the notice of application published in the **Federal Register** at 67 FR 79234 (Dec. 27, 2002). This public hearing is being held pursuant to 33 U.S.C. 1504(g) to receive information relevant to the issuance or denial of the requisite federal license for the proposed Port Pelican LLC Deepwater Port project.

**Procedural**

Any person who wishes may appear and speak or present evidence at this public hearing. Persons planning to speak at the hearing should contact the U.S. Coast Guard as indicated in **FOR FURTHER INFORMATION CONTACT**, any time prior to the hearing, indicating the approximate amount of time required. Written statements and exhibits may be submitted in place of or in addition to oral statements and will be made a part of the hearing record. Written statements and exhibits may be delivered before or during the hearing, or they may be submitted for up to 45 days following the date of the hearing to the Docket Management Facility listed under **ADDRESSES**.

Dated: July 14, 2003.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety, Security, and Environmental Protection, U.S. Coast Guard.*

**Raymond R. Barberisi,**

*Director, Office of Ports and Domestic Shipping, U.S. Maritime Administration.*

[FR Doc. 03–18292 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4815–N–43]**

## Notice of Submission of Proposed Information Collection to OMB: Application for the Transfer of Physical Assets

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Department is requesting an extension of approval to collect the subject information from prospective purchasers of properties with HUD-insured or HUD-held mortgages. The information must be submitted to HUD prior to conveying the title to ensure the transfer of physical assets does not place the property in physical, financial, or managerial jeopardy by the transfer.

**DATES:** *Comments Due Date:* July 18, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0275) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov.*

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

*Title of Proposal:* Application for the Transfer of Physical Assets.

*OMB Approval Number:* 2502–0275.

*Form Numbers:* HUD–92266.

*Description of the Need for the Information and its Proposed Use:* Prospective purchasers of properties with HUD-insured or HUD-held mortgages must submit information to HUD prior to conveying the title to ensure the transfer of physical assets does not place the property in physical, financial, or managerial jeopardy by the transfer.

*Respondents:* Business or other for-profit, Not-for-profit institutions.

*Frequency of Submission:* On occasion.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| *Reporting Burden:* | 350 | 350 | | 92 | | 32,200 |

*Total Estimated Burden Hours:* 32,200

*Status:* Extension of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 9, 2003.

**Wayne Eddins,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 03–18180 Filed 7–17–03; 8:45 am]

**BILLING CODE 4210–72–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4815–N–44]**

## Notice of Submission of Proposed Information Collection to OMB: Management Certifications and Management Entity Profile

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The Department is requesting approval to continue collecting information from owners of multifamily housing projects with fully-insured or HUD-held mortgages and subsidized, non-insured projects. Those owners must provide data for HUD's approval of management agents/entities.

**DATES:** *Comments Due Date:* August 18, 2003.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2502–0305) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; E-mail *Lauren_Wittenberg@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

*Title of Proposal:* Management Certifications and Management Entity Profile.

*OMB Approval Number:* 2502–0305.

*Form Numbers:* HUD–9832, HUD–29839A, HUD–9839B, HUD–9839C.

*Description of the Need for the Information and its Proposed Use:* Owners of insured and assisted multifamily housing projects are required by HUD administrative guidelines to submit certain data for review and approval of a new management agent.

*Respondents:* Business or other for-profit, Not-for-profit institutions.

*Frequency of Submission:* On occasion of proposed new management agent.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden: | 3,600 | 10,800 | | 0.40 | | 4,350 |

*Total Estimated Burden Hours:* 4,350.

*Status:* Extension of a currently approved collection.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: July 11, 2003.

**Wayne Eddins,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. 03–18181 Filed 7–17–03; 8:45 am]

**BILLING CODE 4210–72–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4809–N–29]**

## Federal Property Suitable as Facilities To Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**FOR FURTHER INFORMATION CONTACT:** Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR part 581 and section 501 of the Steward B. McKinney

Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Coast Guard:* Ms. Teresa Sheinberg, U.S. Coast Guard, Room 6109, 2100 Second Street., SW., Washington, DC 20593–0001; (202) 267–6142; *Energy:* Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, ME–90, Washington, DC 20585; (202) 586–4548; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; *Interior:* Ms. Linda Tribby, Acquisition and Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 219–0728; *Navy:* Mr. Charles C. Cooks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: July 10, 2003.

**Mark R. Johnson,**

*Deputy Director, Office of Special Needs Assistance Programs.*

**Title V, Federal Surplus Property Program Federal Register Report for 7/18/03**

**Suitable/Available Properties**

*Buildings (by States)*

Indiana

Paulsen U.S. Army Reserve Ctr
800 East Crystal
N. Judson Co: Starke IN 46366—
Landholding Agency: GSA
Property Number: 54200330001
Status: Surplus
Comment: 13,114 sq. ft., presence of asbestos/lead paint, most recent use—office/training/vehicle maint. and repair
GSA Number: 1–D–IN–597

**Unsuitable Properties**

*Building (by State)*

California

Bldg. 56
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330001
Status: Excess
Reasons: Secured Area; Extensive deterioration

Structure 63
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330002
Status: Excess
Reason: Secured Area

Structure 64
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330003
Status: Excess
Reason: Secured Area

Structure 65
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330004
Status: Excess
Reasons: Secured Area

Bldg. 70
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330005
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 75
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330006
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 776
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330007
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 818
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330008
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 827

Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330009
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 931
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330010
Status: Excess
Reasons: Secured Area; Extensive deterioration

Bldg. 935
Naval Air Station
Lemoore Co: CA
Landholding Agency: Navy
Property Number: 77200330011
Status: Excess
Reasons: Secured Area; Extensive deterioration

Colorado

Bldg. 574
National Park
Old Glacier Creek
Rocky Mountain Co: Larimer CO 80517–
Landholding Agency: Interior
Property Number: 61200330001
Status: Unutilized
Reasons: Extensive deterioration

Bldg. B–777
National Park
Conservation Camp
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330002
Status: Unutilized
Reasons: Not accessible; Extensive deterioration

Bldg. B–781
National Park
Conservation Camp
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330003
Status: Unutilized
Reasons: Not accessible; Extensive deterioration

Bldg. B–852
National Park
Conservation Camp
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330004
Status: Unutilized
Reason: Not accessible

Wales Bldg. B–816
National Park
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330005
Status: Unutilized
Reason: Extensive deterioration

Wales Bldg. B–817
National Park
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330006
Status: Unutilized
Reason: Extensive deterioration

Wales Bldg. B–818
National Park
Rocky Mountain Co: Grand CO 80447–
Landholding Agency: Interior
Property Number: 61200330007
Status: Unutilized
Reason: Extensive deterioration

Maryland

Bloody Pt Bar Lighthouse
Chesapeake Bay
Kent Co: MD
Landholding Agency: GSA
Property Number: 54200330002
Status: Excess
Reason: Not accessible
GSA Number: 4–U–MD–0612

Bldg. 503A
Naval Air Station
Patuxent River Co: MD
Landholding Agency: Navy
Property Number: 77200330012
Status: Excess
Reason: Extensive deterioration

Massachusetts

Kennedy Barn/Garage
National Seashore
Eastham Co: Barnestable MA 02642–
Landholding Agency: Interior
Property Number: 61200330011
Status: Unutilized
Reason: Extensive deterioration

Nevada

31 Bldgs./Facilities
Nellis AFB
Tonopah Test Range
Tonopah Co: Nye NV 89049–
Landholding Agency: Energy
Property Number: 41200330003
Status: Unutilized
Reason: Secured Area

New Jersey

Bldg. 260
Coast Guard Training Center
Cape May Co: NJ 08204–
Landholding Agency: Coast Guard
Property Number: 88200330001
Status: Excess
Reasons: Secured Area; Extensive deterioration

Structure U02
Coast Guard Training Center
Cape May Co: NJ 08204–
Landholding Agency: Coast Guard
Property Number: 88200330002
Status: Excess
Reason: Secured Area

New York

Bldg. 208
Brookhaven National Lab
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200330001
Status: Unutilized
Reason: Extensive deterioration

Bldg. 209
Brookhaven National Lab
Upton Co: Suffolk NY 11973–
Landholding Agency: Energy
Property Number: 41200330002
Status: Unutilized
Reason: Extensive deterioration

Pennsylvania

Bldg. 106
Naval Support Activity
Mechanicsburg Co: Cumberland PA 17055–0788
Landholding Agency: Navy
Property Number: 77200330013
Status: Excess
Reason: Extensive deterioration

Bldg. 906
Naval Support Activity
Mechanicsburg Co: Cumberland PA 17055–0788
Landholding Agency: Navy
Property Number: 77200330014
Status: Excess
Reason: Extensive deterioration

Tennessee

Clinton Property
Stones River National Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61200330012
Status: Excess
Reason: Extensive deterioration

Smith Property
Stones River National Battlefield
Murfreesboro Co: Rutherford TN 37129–
Landholding Agency: Interior
Property Number: 61200330013
Status: Excess
Reason: Extensive deterioration

Virginia

Church Street Quarters (204)
Colonial National Park
Yorktown Co: York VA 23690–
Landholding Agency: Interior
Property Number: 61200330008
Status: Excess
Reason: Extensive deterioration

Church Street Quarters (205)
Colonial National Park
Yorktown Co: York VA 23690–
Landholding Agency: Interior
Property Number: 61200330009
Status: Excess
Reason: Extensive deterioration

Nelson Property
Colonial National Park
Yorktown Co: York VA 23690–
Landholding Agency: Interior
Property Number: 61200330010
Status: Excess
Reason: Extensive deterioration

**Unsuitable Properties**

*Buildings (by State)*

Virginia

Bldg. CG–2 (0S01)
USCG CAMSLANT
Chesapeake Co: VA
Landholding Agency: Coast Guard
Property Number: 88200330003
Status: Unutilized
Reason: Secured Area

Bldg. CG–6 (0S02)
USCG CAMSLANT
Chesapeake Co: VA
Landholding Agency: Coast Guard
Property Number: 88200330004
Status: Unutilized
Reason: Secured Area

Bldg. (0V02)
USCG CAMSLANT
Chesapeake Co: VA

Landholding Agency: Coast Guard
Property Number: 88200330005
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Bldg. (0V03)
USCG CAMSLANT
Chesapeake Co: VA
Landholding Agency: Coast Guard
Property Number: 88200330006
Status: Unutilized
Reasons: Secured Area; Extensive deterioration

Washington

Barn
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330014
Status: Unutilized
Reason: Extensive deterioration

Garage/Shop
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330015
Status: Unutilized
Reason: Extensive deterioration

1-Stall Garage
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330016
Status: Unutilized
Reason: Extensive deterioration

Residence
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330017
Status: Unutilized
Reason: Extensive deterioration

Storage
Heart K Ranch
Near Thorp Co: Kittitas WA 98946–
Landholding Agency: Interior
Property Number: 61200330018
Status: Unutilized
Reason: Extensive deterioration

Residence No. 50
1807 Rest Haven Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200330019
Status: Unutilized
Reason: Extensive deterioration

Cow Barn
1807 Rest Haven Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200330020
Status: Unutilized
Reason: Extensive deterioration

Chicken Coop
1807 Rest Haven Road
Yakima Co: WA 98901–
Landholding Agency: Interior
Property Number: 61200330021
Status: Unutilized
Reason: Extensive deterioration

[FR Doc. 03–17856 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–29–M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4837–D–09]**

## Delegation of Authority to the Office of Policy Development and Research for Administration of HUD's Higher Education Programs

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** Through this notice, the Secretary of HUD delegates to the Assistant Secretary for Policy Development and Research the authority to administer HUD's higher education programs. These programs are the Community Development Work Study program, the Community Outreach Partnership Center program, the Historically Black Colleges and Universities program, the Hispanic-Serving Institutions Assisting Communities program, the Alaskan Native/Native Hawaiian Institutions Assisting Communities program, and the Tribal Colleges and Universities program.

**EFFECTIVE DATE:** July 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** Christopher D. Lord, Deputy Assistant Secretary for Policy Development and Research, 451 Seventh Street, SW., Room 8108, Washington, DC 20410–6000, telephone (202) 708–3896. Persons with hearing or speech impairments may call HUD's TTY number at (202) 708–1455 or the Federal Information Relay Service's TTY number at (800) 877–8339. Other than the ''800'', the telephone and TTY numbers listed are not toll-free.

### Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for Policy Development and Research the authority to administer the following programs, including the authority to issue and waive regulations for these programs:

1. The Community Development Work Study program, section 107(c) of Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(c));
2. The Community Outreach Partnership Center program, within the Community Outreach Partnership Act of 1992 (42 U.S.C. 5307 note), and section 107 of the Housing Development Act of 1974 (42 U.S.C. 5307(b)(3));
3. The Historically Black Colleges and Universities program, under section 107(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)(3));
4. The Hispanic-Serving Institutions Assisting Communities program, under the Fiscal Year (FY) 2002 HUD Appropriations Act (Public Law 107–73, 115 Stat. 651, approved November 26, 2001);
5. The Alaskan Native/Native Hawaiian Institutions Assisting Communities program, under the FY 2002 HUD Appropriations Act (Public Law 107–73, 115 Stat. 651, approved November 26, 2001);
6. The Tribal Colleges and Universities program, under the FY 2002 HUD Appropriations Act (Public Law 107–73, 115 Stat. 651, approved November 26, 2001).

### Section B. Authority to Redelegate

Subject to the authority excepted in Section C, the authority granted in Section A may be further redelegated in accordance with a written redelegation of authority.

### Section C. Authority Excepted

The authority granted under Section A does not include the authority to sue and be sued. The redelegation authority granted under Section B does not include the authority to issue or waive regulations.

### Section D. Delegations Revoked

This delegation supersedes and revokes all prior delegations from the Secretary concerning the authority to administer the six programs listed in this delegation.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 9, 2003.

**Mel Martinez,**

*Secretary.*

[FR Doc. 03–18183 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–32–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4837–D–10]**

## Delegation of Authority for Rural Housing and Economic Development Grants Awarded to Indian Tribes and Tribal Entities

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** In this notice, the Secretary delegates to the Assistant Secretary for Public and Indian Housing the authority to administer Rural Housing and Economic Development (RHED) grants awarded to Indian tribes and tribal

entities by HUD's Office of Community Planning and Development.

**EFFECTIVE DATE:** July 9, 2003.

**FOR FURTHER INFORMATION CONTACT:** Edward Fagan, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington DC 20410–5000; telephone (202) 401–7914. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Rural Housing and Economic Development (RHED) program provides funding to Indian tribes, state housing finance agencies, state community and/or economic development agencies, local rural nonprofits, and community development corporations to support innovative housing and economic development activities in rural areas. The program is authorized in annual HUD appropriations acts and was originally authorized in the Fiscal Year (FY) 1998 HUD Appropriation Act (Pub. L. 105–65, 111 Stat. 1344, 1357, approved Oct. 27, 1997). The RHED program is administered by the Assistant Secretary for Community Planning and Development. Because the Office of Native American Programs is in the Office of Public and Indian Housing, the authority for management of RHED grants awarded to Indian tribes and tribal entities by the Office of Community Planning and Development is delegated to the Assistant Secretary for Public and Indian Housing as follows:

### Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for Public and Indian Housing the authority to administer RHED grants awarded to Indian tribes and tribal entities.

### Section B. Authority Excepted

The authority delegated under Section A does not include the authority to sue and be sued, or the authority to issue or waive regulations for the RHED program.

### Section C. Authority to Redelegate

The authority delegated under Section A may be further redelegated to employees of the Department through written redelegations of authority.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 9, 2003.

**Mel Martinez,**

*Secretary.*

[FR Doc. 03–18184 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–32–P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4837–D–14]**

## Delegation of Authority for Native Hawaiian Housing Block Grant Program

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** In this notice, the Secretary delegates to the Assistant Secretary for Public and Indian Housing the authority to administer the Native Hawaiian Housing Block Grant program.

**EFFECTIVE DATE:** July 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Sherone Ivey, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington DC 20410–5000; telephone (202) 401–7914. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Native Hawaiian Housing Block Grant (NHHBG) program was created by section 203 of Title II of the Omnibus Indian Advancement Act (Public Law 106–568, 114 Stat. 2876, approved December 27, 2000) and section 513 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106–569, 114 Stat. 2969, approved December 27, 2000), which amended the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) by adding a new Title VIII. The objective of the NHHBG program is to provide housing block grants to fund affordable housing activities for native Hawaiians.

This notice delegates the authority to administer the NHHBG program to the Assistant Secretary for Public and Indian Housing.

### Section A. Authority Delegated

The Secretary of HUD delegates to the Assistant Secretary for Public and Indian Housing the authority to administer the NHHBG program, including the authority to issue and waive regulations.

### Section B. Authority Excepted

The authority delegated in Section A does not include the authority to sue and be sued.

### Section C. Authority to Redelegate

The authority delegated in Section A may be redelegated to employees of the Department through written redelegations of authority, except for the authority to issue and waive regulations.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 7, 2003.

**Mel Martinez,**

*Secretary.*

[FR Doc. 03–18185 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–32–P

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4837–D–15]**

## Delegation of Authority for the Section 184 Indian Housing Loan Guarantee Program

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** In this notice, the Secretary delegates the authority to administer the Section 184 Indian Housing Loan Guarantee program to the Assistant Secretary for Public and Indian Housing.

**EFFECTIVE DATE:** July 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Edward Fagan, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington, DC 20410–5000; telephone (202) 401–7914. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Section 184 Indian Housing Loan Guarantee program is authorized by Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a). The purpose of this program is to provide Indian families, Indian housing authorities, and Indian tribes with access to sources of private financing.

This notice delegates the authority to administer the Section 184 Indian Housing Loan Guarantee program to the Assistant Secretary for Public and Indian Housing.

**Section A. Authority Delegated**

The Secretary of HUD delegates to the Assistant Secretary for Public and Indian Housing the authority to administer the Section 184 Indian Housing Loan Guarantee program under Section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a), including the authority to issue and waive regulations.

**Section B. Authority Excepted**

The authority delegated under Section A does not include the power to sue and be sued.

**Section C. Authority to Redelegate**

The authority delegated in Section A may be redelegated to employees of the Department through written delegations of authority, except for the authority to issue and waive regulations.

**Section D. Authority Revoked**

All prior delegations of authority concerning the Section 184 Indian Housing Loan Guarantee program are revoked, including but not limited to, the delegation of authority published on September 26, 1994 (59 FR 491234).

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 7, 2003.

**Mel Martinez,**

*Secretary.*

[FR Doc. 03–18186 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–32–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4837–D–17]**

### Delegation of Authority With Respect to the Section 184A Loan Guarantee Program for Native Hawaiian Housing

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Notice of delegation of authority.

**SUMMARY:** In this notice, the Secretary delegates the authority to administer the Section 184A Loan Guarantee Program for Native Hawaiian Housing to the Assistant Secretary for Public and Indian Housing.

**EFFECTIVE DATE:** July 7, 2003.

**FOR FURTHER INFORMATION CONTACT:** Sherone Ivey, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4126, Washington DC 20410–5000; telephone (202) 401–7914. (This is not a toll-free number.) For those needing assistance, this number may be accessed through TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

**SUPPLEMENTARY INFORMATION:** The Section 184A Loan Guarantee Program for Native Hawaiian Housing is authorized by Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b). The purpose of the program is to provide Native Hawaiian families with greater access to private mortgage resources through federal loan guarantees to lenders. This notice delegates the authority to administer the Section 184A Loan Guarantee Program for Native Hawaiian Housing to the Assistant Secretary for Public and Indian Housing.

**Section A. Authority Delegated**

The Secretary of HUD delegates to the Assistant Secretary for Public and Indian Housing the authority to administer the Section 184A Loan Guarantee Program for Native Hawaiian Housing under Section 184A of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13b), including the authority to issue and waive regulations.

**Section B. Authority Excepted**

The authority delegated under Section A does not include the power to sue and be sued.

**Section C. Authority to Redelegate**

The authority delegated in Section A may be redelegated to employees of the Department in accordance with a written redelegation of authority, except the authority to issue or waive regulations.

**Authority:** Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: July 7, 2003.

**Mel Martinez,**

*Secretary.*

[FR Doc. 03–18187 Filed 7–17–03; 8:45 am]

BILLING CODE 4210–32–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR 120 5882 CD99; 3–0195]**

### Notice of Public Meeting, Coos Bay Resource Advisory Committee Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of Bureau of Land Management (BLM) Coos Bay District Resource Advisory Committee (RAC) Meeting as identified in Section 205(f)(2) of the Secure Rural Schools and Community Self-Determination Act of 2000, Public Law 106–393 (the Act).

**SUMMARY:** The BLM Coos Bay District RAC will be meeting on August 15, 2003 from 9 a.m. until 4 p.m. at the BLM Coos Bay District Office. The Coos Bay District Office is located at 1300 Airport Lane in North Bend, Oregon. The purpose of this meeting will be for the RAC to review and recommend project proposals for funding.

**FOR FURTHER INFORMATION CONTACT:** Sue Richardson, District Manager, at (541) 756–0100 or Glenn Harkleroad, District Restoration Coordinator, at (541) 751–4361 or *glenn_harkleroad@or.blm.gov.* The mailing address for the BLM Coos Bay District Office is 1300 Airport Lane, North Bend, Oregon 97459.

**SUPPLEMENTARY INFORMATION:** Additional information about the Coos Bay RAC agenda can be found at *http://www.or.blm.gov/coosbay.* A meeting agenda will be posted at this site as the meeting date nears.

**Sue E. Richardson,**

*Coos Bay District Manager.*

[FR Doc. 03–18335 Filed 7–17–03; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[OR–957–00–1420–BJ: GP03–0199]**

### Filing of Plats of Survey: Oregon/Washington

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The plats of survey of the following described lands were officially filed in the Oregon State Office, Portland, Oregon, on March 17, 2003.

**Willamette Meridian**

**Washington**

T. 23 N., R. 13 W., accepted February 10, 2003
T. 30 N., R. 30 E., accepted February 10, 2003

The plats of survey of the following described lands were officially filed in the Oregon State Office, Portland, Oregon, May 5, 2003.

**Oregon**

T. 34 S., R. 7 W., accepted March 21, 2003
T. 15 S., R. 6 W., accepted April 18, 2003
T. 33 S., R. 11 W., accepted April 29, 2003
T. 33 S., R. 10 W., accepted April 29, 2003
T. 34 S., R. 11 W., accepted April 29, 2003
T. 37 S., R. 2 E., accepted April 29, 2003

A copy of the plats may be obtained from the Public Room at the Oregon

State Office, Bureau of Land Management, 333 SW 1st Avenue, Portland, Oregon 97204, upon required payment. A person or party who wishes to protest against a survey must file a notice that they wish to protest (at the above address) with the State Director, Bureau of Land Management, Portland, Oregon.

For further information contact: Chief, Branch of Cadastral Survey, Bureau of Land Management, (333 SW 1st Avenue) P.O. Box 2965, Portland, Oregon 97208.

Dated: June 17, 2003.

**Robert D. DeViney, Jr.,**

*Branch of Realty and Records Services.*

[FR Doc. 03–18115 Filed 7–17–03; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Environmental Statements; Availability: Biscayne National Park, Florida.

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Availability of the Record of Decision for the Final General Management Plan Amendment/ Environmental Impact Statement, Biscayne National Park, Miami, Florida.

**SUMMARY:** Pursuant to section 102 (2) (c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) announces the availability of the Record of Decision for the Final General Management Plan Amendment/ Environmental Impact Statement for Biscayne National Park. On June 11, 2003, the Director, Southeast Region, approved the Record of Decision for the Final General Management Plan Amendment and Environmental Impact Statement for Biscayne National Park. The purpose of the Record of Decision (ROD) is to document the NPS selection of the preferred alternative for the Final General Management Plan Amendment and Environmental Impact Statement. The plan is designed to create a strategy for preserving and managing the seven structures collectively known as ''Stiltsville'' that are built on pilings in the northern reaches of Biscayne Bay.

Under Alternative A, the selected alternative, a non-profit organization would be created along with an appropriate agreement with the NPS and other groups for the management and use of the Stiltsville structures. The Stiltsville organization would rehabilitate the buildings to support education and interpretation opportunities. Under this alternative, Stiltsville also may serve as a visitor and interpretive center, research facilities, an artist-in-residence dwelling, meeting space, and a satellite park office that will provide for NPS presence in the northern portion of the park.

The full ROD includes a statement of the decision made, synopses of other alternatives considered, the rationale for the decision, a description of the environmentally preferred alternative, a determination of non-impairment of park resources and values, a listing of measures to minimize environmental harm, an overview of public involvement in the decision-making process, and a statement regarding section 7 of the Endangered Species Act.

*Basis for Decision*

In reaching its decision to select the preferred alternative, the NPS considered the purposes for which Biscayne National Park was established, and other laws and policies that apply to lands and waters in the park, such as the NPS Organic Act, National Environmental Policy Act, and the NPS Management Policies. The NPS also carefully considered public comments received during the planning process.

To develop a preliminary preferred alternative, the NPS evaluated three action alternatives that were reviewed by the public as well as the required no-action alternative.

**DATES:** The Record of Decision for the Final General Management Plan Amendment and Environmental Impact Statement for Biscayne National Park was signed by the Director, Southeast Region for the NPS on June 11, 2003.

**ADDRESSES:** Copies of the Record of Decision are available from the Superintendent, Biscayne National Park, PO Box 1369, Homestead, Florida 33090–1369. Copies can also be obtained from: Division of Planning and Compliance, Southeast Regional Office, National Park Service, Attention: David Libman, 100 Alabama Street, 1924 Building, Atlanta, Georgia 30303, Telephone: 404–562–3124, ext. 685.

**FOR FURTHER INFORMATION CONTACT:** Superintendent, Biscayne National Park, 305–230–1144, ext. 3002.

**SUPPLEMENTARY INFORMATION:** A copy of the Record of Decision on the Final General Management Plan Amendment for Biscayne National Park can be obtained via the Internet by visiting the NPS Web site at *http://www.planning.den.nps.gov/* or by calling 404–562–3124, ext. 685.

Dated: June 11, 2003.

**William W. Schenk,**

*Regional Director, Southeast Region.*

[FR Doc. 03–18205 Filed 7–17–03; 8:45 am]

BILLING CODE 4310–LG–P

## DEPARTMENT OF THE INTERIOR

### National Park Service;

### Statue of Liberty NM and Ellis Island, New York and New Jersey; Notice of Availability of Draft Environmental Impact Statement; Correction

**SUMMARY:** The Department published a notice in the **Federal Register** of June 25, 2003, concerning the availability of the Draft Environmental Impact Statement (DEIS) for Ellis Island. The notice contained an incorrect date.

**FOR FURTHER INFORMATION CONTACT:** Thomas Dyer (212) 825–8950.

*Correction*

In the **Federal Register** of June 25, 2003, Volume 68, Number 122, Page 37862, the last paragraph, first sentence regarding the last date for receipt of written comments should read:

Written comments may be sent to the Superintendent until September 12, 2003.

Dated: July 2, 2003.

**Cynthia R. Garrett,**

*Acting Superintendent, Statue of Liberty NM and Ellis Island, Northeast Region, National Park Service.*

[FR Doc. 03–18204 Filed 7–17–03; 8:45 am]

BILLING CODE 4310–GE–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Announcement of Subsistence Resource Commission Meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Aniakchak National Monument Park Subsistence Resource Commission will be held at Port Heiden, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public

Law 96–487, and operation in accordance with the provisions of the Federal Advisory Committee Act.

**DATES:** The meeting will be on September 22 and 23, 2003, from 9 a.m. to 4 p.m. at the Port Heiden Community Center, Port Heiden, Alaska.

In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the September 29, 2003, Bristol Bay Regional Council meeting.

**FOR FURTHER INFORMATION CONTACT:** Mary McBurney, Subsistence Manager at (907) 257–2633.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances. The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review Commission Purpose and Status of Membership.
5. Review and Adopt Agenda.
6. Review and adopt minutes from last meeting.
7. Superintendent's Report.
8. Update SRC Chair's Workshop—October 21, 2003.
9. Update—Review Federal Subsistence Board Wildlife Proposals.
10. Update—Review Federal Subsistence Board Fisheries Proposals.
11. Develop comments for Federal Subsistence Board Proposals.
12. Review Status of Subsistence Hunting Program Recommendations.
13. Public and agency comments.
14. Set time and place of next SRC meeting.
15. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent, Aniakchak National Monument and Preserve, PO Box 4230, University Drive #311, Anchorage, AK 99508. Telephone (907) 271–3751.

**Marcia Blaszak,**

*Deputy Regional Director, Alaska.*

[FR Doc. 03–18201 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–H7–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Cape Cod National Seashore, South Wellfleet, MA; Cape Cod National Seashore Advisory Commission Two Hundred Forty-Third Meeting; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act, Public Law 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10, that a meeting of the Cape Cod National Seashore Advisory Commission will be held on September 26, 2003.

The Commission was reestablishment pursuant to Public Law 87–126 as amended by Public Law 105–280. The purpose of the Commission is to consult with the Secretary of the Interior, or his designee, with respect to matters relating to the development of Cape Cod National Seashore, and with respect to carrying out the provisions of sections 4 and 5 of the Act establishing the Seashore.

The Commission members will meet at 1 p.m. at Headquarters, Marconi Station, Wellfleet, Massachusetts for the regular business meeting to discuss the following:

1. Adoption of Agenda.
2. Approval of minutes of previous meeting (May 30, 2003).
3. Reports of Officers.
4. Reports of Subcommittees, Nickerson Fellowship Subcommittee.
5. Superintendent's Report, Salt Pond Visitor Center, Mary Chase Salt Marsh Project, Highlands Center, UMass/NPS Outer Cape Study, Zoning, Penniman House, Dune Shack Update, News from Washington.
6. Old Business, Invasive Species.
7. New Business.
8. Date and agenda for next meeting.
9. Public comment and.
10. Adjournment.

The meeting is open to the public. It is expected that 15 persons will be able to attend the meeting in addition to Commission members.

Interested persons may make oral/written presentations to the Commission during the business meeting or file written statements. Such requests should be made to the park superintendent at least seven days prior to the meeting. Further information concerning the meeting may be obtained from the Superintendent, Cape Cod National Seashore, 99 Marconi Site Road, Wellfleet, MA 02667.

Dated: June 26, 2003.

**Maria Burks,**

*Superintendent.*

[FR Doc. 03–18195 Filed 7–17–03; 8:45 am]

BILLING CODE 4310–WV–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Announcement of Denali National Park Subsistence Resource Commission Meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Denali National Park Subsistence Resource Commission will be held at Cantwell, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

**DATES:** The meeting will on August 20, 2003, 9 a.m. to 5 p.m., at the Community Hall, Cantwell, Alaska.

In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the October 7, 2003, South-central Regional Advisory Council meeting.

**FOR FURTHER INFORMATION CONTACT:** Hollis Twitchell, Subsistence and Cultural Resources Manager at (907) 683–9544 or (907) 455–0673.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances. The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review and adopt minutes from last meeting.
5. Additions and corrections to draft agenda.
6. Public and other agency comments.

7. Denali Backcountry Management Plan.
8. Cantwell Resident Zone Hunting Plan Recommendation.
9. North Access Studies.
10. Federal Subsistence Board.
    a. Review actions taken on Wildlife Proposals '' May 2003.
    b. Call for Wildlife Proposals for 2004 ''2005.
    c. Federal Fisheries Proposals—update.
    d. Customary Trade
11. Alaska Board Game actions.
12. Subsistence Community Use Profiles and Traditional Knowledge studies.
13. Closing public and agency comments.
14. Set time and place of next Denali National Park SRC meeting.
15. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, AK 99755.

**Marcia Blaszak,**

*Deputy Regional Director, Alaska.*

[FR Doc. 03–18202 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–H7–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Kaloko-Honokohau National Historical Park Advisory Commission; Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Na Hoapili O Kaloko Honokohau, Kaloko-Honokohau National Historical Park Advisory Commission will be held at 9 a.m., August 8, 2003 at Kaloko-Honokohau National Historical Park Headquarters, 73–4786 Kanalani St. Suite 14, Kailua-Kona, Hawaii.

The agenda will include Finalized Location of Canoe Halau, Preliminary Plans for Live-In Education Center, and Educational Programs of the Live-In Education Center.

The meeting is open to the public. Minutes will be recorded for documentation and transcribed for dissemination. Minutes for the meeting will be available to the public after approval of the full Advisory Commission. Transcripts will be available after 30 days of the meeting.

For copies of the minutes, contact Kaloko-Honokohau National Historical Park at (808) 329–6881.

Dated: June 11, 2003.

**Geraldine K. Bell,**

*Superintendent, Kaloko-Honokohau National Historical Park.*

[FR Doc. 03–18196 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–GH–M

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Announcement of Lake Clark National Park Subsistence Resource Commission Meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Lake Clark National Park Subsistence Resource Commission will be held at Nondalton, Alaska. The purpose of the meeting will be to continue work on National Park Service subsistence hunting program recommendations including other related subsistence management issues. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed.

The Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committee Act.

**DATES:** The meeting will on September 25, 2003, 10 a.m. to 4 p.m., at the Nondalton Community Hall, Nondalton, Alaska.

In accordance with 41 CFR 102–3.150, we may provide less than 15 days notice in the **Federal Register** to convene the Commission prior to the September 29, 2003, Bristol Bay Regional Council meeting.

**FOR FURTHER INFORMATION CONTACT:** Mary McBurney, Subsistence Manager at (907) 257–2633.

**SUPPLEMENTARY INFORMATION:** Notice of this meeting will be published in local newspapers and announced on local radio stations prior to the meeting dates. Locations and dates may need to be changed based on weather or local circumstances.

The following agenda items will be discussed:

1. Call to order (SRC Chair).
2. Roll Call and Confirmation of Quorum.
3. SRC Chair and Superintendent's Welcome and Introductions.
4. Review Commission Purpose and Status of Membership.
5. Review and Adopt Agenda.
6. Review and adopt minutes from last meeting.
7. Superintendent's Report.
8. Update SRC Chairs Workshop—October 21, 2003.
9. Update—Review Federal Subsistence Board—Wildlife Proposals.
10. Update—Review Federal Subsistence Board—on Fisheries Proposals.
11. Develop Subsistence Hunting Program Recommendations
12. Public and agency comments.
13. Set time and place of next SRC meeting.
14. Adjournment.

Draft minutes of the meeting will be available for public inspection approximately six weeks after the meeting from: Superintendent, Lake Clark National Park and Preserve, PO Box 4230, University Drive #311, Anchorage, AK 99508.

**Marcia Blaszak,**

*Deputy Regional Director, Alaska.*

[FR Doc. 03–18199 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–HT–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

### National Historic Landmarks Survey; Notice of Draft Additional Documentation for San Luis de Apalache National Historic Landmark, Leon County, FL

The National Historic Landmarks Survey solicits comments on draft additional documentation that has been prepared for San Luis de Apalache National Historic Landmark. The additional documentation presents findings from recent research and provides a more detailed history of the site than was included in the original landmark nomination form. In addition, the additional documentation proposes to change the name of the landmark. When the property was designated a landmark on October 9, 1960, the proper name was unknown. Research has since determined that the property was known as San Luis de Talimali, which the additional documentation proposes to make the official name.

The draft additional documentation for San Luis de Apalache National Historic Landmark is available on the National Historic Landmarks Survey Web site at: *http://www.cr.nps.gov/nhl/sanluis.pdf.*

Comments on the proposed draft additional documentation will be received for 45 days from the date of this notice. Please send written

comments to Carol D. Shull, Chief, National Historic Landmarks Survey, National Register, History and Education, National Park Service, 1849 C Street, NW., (2280), Washington, DC 20240, Attention: Daniel Vivian (phone: 202–354–2252; fax: 202–371–2229; e-mail: *dan_vivian@nps.gov*).

**Carol D. Shull,**

*Chief, National Historic Landmarks Survey, National Register, History and Education.*

[FR Doc. 03–18198 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–51–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 21, 2003.

Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW, 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 2, 2003.

**Carol D. Shull,**

*Keeper of the National Register of Historic Places.*

**FLORIDA**

**Indian River County**

Jungle Trail, Bet. Old Winter Bch Rd. and FL A–1–A on Orchid Island, Orchid, 03000700

**Palm Beach County**

Osborne School, (Florida's Historic Black Public Schools MPS) 1718 S. Douglas St., Lake Worth, 03000701

**Volusia County**

DeLeon Springs Colored School, (Florida's Historic Black Public Schools MPS) 330 E. Retta St., DeLeon Springs, 03000702

Orange City Colored School, (Florida's Historic Black Public Schools MPS) 200 E. Blue Springs Ave., Orange City, 03000703

**GEORGIA**

**Bleckley County**

Cochran Municipal Building and School, Jct. of Dykes St. and Second St., Cochran, 03000704

**KANSAS**

**Barton County**

Wolf Park Band Shell, Lots 12 and 13, Block 2, 200 Blk of N. Main, Ellinwood, 03000706

**Douglas County**

Vinland Presbyterian Church, 697 E. 1725 Rd., Baldwin, 03000707

**KENTUCKY**

**Allen County**

Big Spring School—Oliver Farmstead, 3293 and 3109 Big Springs Rd., Settle, 03000712

**Clinton County**

Noland, Jesse, House, RR1 KY 969, Albany, 03000711

**Fulton County**

Fulton Downtown Historic District, Park of Carr, Commercial, Lake, Main and Walnut Sts., Fulton, 03000710

**Jefferson County**

Howard—Hardy House, 429 S. Second St., Louisville, 03000709

**Ohio County**

Rosine General Store and Barn, 8205 Blue Moon of KY—US 62, Rosine, 03000708

**LOUISIANA**

**Tangipahoa Parish**

Tangipahoa School, Jct. of Jackson and Tarpley Sts., Tangipahoa, 03000705

**MISSOURI**

**Barry County**

Cassbille Ranger Station Historic District, (Mark Twain National Forest MPS) MO 248, Cassville, 03000716

**Douglas County**

Ava Ranger Station Historic District, (Mark Twain National Forest MPS) MO 5S, Ava, 03000714

**Phelps County**

Rolla Ranger Station Historic District, (Mark Twain National Forest MPS) Bridge School Road and Kingshighway, Rolla, 03000717

**Shannon County**

Winona Ranger Station Historic District, (Mark Twain National Forest MPS) Rte 1, MO 19N, Winona, 03000715

**Texas County**

Houston Ranger Station Historic District, (Mark Twain National Forest MPS) 104 MO 63S, Houston, 03000713

**NEW YORK**

**Wyoming County**

Letchworth State Park, Genesee River Gorge Bet. Portageville and Mt. Morris, Genesse Falls, 03000718

**OHIO**

**Lawrence County**

Miller—Knight House, 2 Township Rd. 1046, Miller, 03000720

**Summit County**

Main—Market Historic District, 15–47 N. Main St., 1–39 S. Main St., 39–168 E. Market St., 18–42 N. High St., 70 Broadway St., Akron, 03000719

**PENNSYLVANIA**

**Luzerne County**

St. John the Evangelist Roman Catholic Church and School Building, 419 N. Main St., Wilkes-Barre, 03000721

**Montgomery County**

Jefferson Elementary School, Beech and Warren Sts., Pottstown, 03000723

**Philadelphia County**

Class and Nachod Brewery, 1801–1823 N. 10th St., Philadelphia, 03000724

General Stores and Mold Loft Building—Harriman Yard of the Merchant Shipbuilding Corporation, 1414 Radcliffe St., Bristol Borough, 03000722

N. Sneilenburg Company Department Store Warehouse, 1825–1851 N. 10th St., Philadelphia, 03000725

**TENNESSEE**

**Davidson County**

West End High School, 3529 West End Ave., Nashville, 03000726

**TEXAS**

**Hunt County**

Mayo Hall, Monroe and Stonewall Sts., Commerce, 03000727

A request for REMOVAL has been made for the following resource:

**KENTUCKY**

**Hart County**

Battle of Munfordville, (Boundary Increase) (Munfordville MRA), Mostly W of U.S. 31W near Munfordville, Munfordville vicinity, 01001254

[FR Doc. 03–18206 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–51–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

## National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 28, 2003. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW, 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW, 8th floor, Washington

DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 2, 2003.

**Carol D. Shull,**

*Keeper of the National Register of Historic Places.*

**DISTRICT OF COLUMBIA**

**District of Columbia**

Chevy Chase Arcade, 5520 Connecticut Ave., Washington, 03000730

Square 1500, 4820, 4860, 4872, 4874, Massachusetts Ave., and 4301 49th St. NW, Washington, 03000731

**FLORIDA**

**Indian River County**

Old Town Sebastian Historic District East, Main and Washington Sts., Riverside Dr., FEC Railroad, Sebastian, 03000728

**Pinellas County**

Kenwood Historic District, Roughly bounded by 9th Ave. N, 19th St. N, 1st Ave. N, 31st St. N, 5th Ave N, and 34th St. N, St. Petersburg, 03000729

**MINNESOTA**

**Cook County**

Cascade River Wayside, (Federal Relief Construction in Minnesota MPS) 2481 MN 61, Cascade River State Park, 03000733

**Fillmore County**

Preston Overlook, (Federal Relief Construction in Minnesota MPS) On MN 52, Preston, 03000732

**NEW MEXICO**

**Dona Ana County**

Phillips Chapel CME Church, 638 N. Tornillo St., Las Cruces, 03000735

**Otero County**

Alamogordo Woman's Club, (New Mexico Federation of Women's Club Buildings in New Mexico MPS) SE corner of 12th St. and Indiana Ave., Alamogordo, 03000734

**UTAH**

**Cache County**

Elite Hall, 98 W. Main St., Hyrum, 03000736

**VERMONT**

**Orange County**

Brock Hill Schoolhouse, (Educational Resources of Vermont MPS) North Rd., Newbury, 03000738

**Windham County**

Park Farm, (Agricultural Resources of Vermont MPS) 26 Woodchuck Hill Rd., Grafton, 03000737

**VIRGINIA**

**Alexandria Independent City**

Orange and Alexandria Railroad Hooff's Run Bridge, Jamieson Ave. at Hooff's Run, Alexandria (Independent City), 03000740

**Fairfax County**

Washington's, George, Gristmill, 5512 Mount Vernon Memorial Hwy., Lorton, 03000739

Suffolk Independent City East Suffolk Complex, 231 S. 7th St., Suffolk (Independent City), 03000743

[FR Doc. 03–18207 Filed 7–17–03; 8:45 am]

BILLING CODE 4312–51–P

## DEPARTMENT OF THE INTERIOR

## National Park Service

## Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from six sites in Kern County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Rancheria of California.

In 1922, human remains representing at least 26 individuals were removed from burials at site CA-Ker-37, a mound site located on the shoreline of former Goose Lake, Kern County, CA, by A. Steinberger of McFarland, CA. The human remains were donated to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. No associated funerary objects are present.

In 1924, human remains representing at least 16 individuals were removed from burials at site CA-Ker-37, Kern County, CA, by E.W. Gifford, and donated to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. The 117 associated funerary objects are 6 textile bag fragments and 111 olivella and clam shell beads.

Characteristics of the associated funerary objects and nonfunerary objects removed from site CA-Ker-37 indicate that the burials date to the Protohistoric period, the 200-year period prior to European contact in the mid-1700s, and to the Historic period.

In 1932, human remains representing at least five individuals, were removed from burials at site CA-Ker-39, a mound site located on the shoreline of former Buena Vista Lake, Kern County, CA, by Mr. and Mrs. W.D. Strong and W.R. Wedel, and were donated to the Phoebe A. Hearst Museum of Anthropology by W.R. Wedel in the same year. Two of the individuals are represented by hair. No known individuals were identified. The six associated funerary objects are one textile fragment and five shell beads.

Characteristics of the associated funerary objects and nonfunerary objects removed from site CA-Ker-39 indicate that the burials date to the Protohistoric period, the 200-year period prior to European contact in the mid-1700s.

In 1933, human remains representing one individual were removed from a burial at site CA-Ker-40, a mound site located on the shoreline of former Buena Vista Lake, Kern County, CA, by W.D. Strong, and were donated to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individual was identified. The human remains consist of hair adhering to the single associated funerary object, a fragment of brown cloth.

In 1948, human remains representing one individual were removed from a burial at site CA-Ker-40, Kern County, CA, by H.S. Riddell and F.A. Riddell, and were donated to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. The two associated funerary objects are stones.

Characteristics of the nonfunerary objects removed from site CA-Ker-40 indicate that the burials date to the Protohistoric period, the 200-year period prior to European contact in the mid-1700s.

In 1924, human remains representing at least four individuals were removed

from burials at site CA-Ker-50, a burial site in Elk Hills, near the shoreline of former Buena Vista Lake, Kern County, CA, by W.D. Strong, who donated these human remains to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. The 51 associated funerary objects are fragments of the matting in which the human remains were wrapped at the time of burial, 1 lot of pinkish powder, 2 abalone ornaments, 33 shell beads, 4 bone tubes, 7 projectile points, and 3 projectile point fragments.

Characteristics of the associated funerary objects and nonfunerary objects removed from site CA-Ker-50 indicate that this burial site was in use during the Protohistoric period, the 200-year period immediately prior to European contact in the mid-1700s.

In 1899, human remains representing at least nine individuals were removed from burials at site CA-Ker-53, a habitation and burial site near Buttonwillow, Kern County, CA, by P.M. Jones, who donated the human remains to the Museum of Paleontology, University of California, Berkeley in the same year. Some time prior to 1902, the Museum of Paleontology transferred the human remains to the Phoebe A. Hearst Museum of Anthropology. No known individuals were identified. No associated funerary objects are present.

Characteristics of other objects removed from site CA-Ker-53 indicate that this settlement was inhabited during the Protohistoric period, the 200-year period immediately prior to European contact in the mid-1700s.

In 1949, human remains representing at least 15 individuals were removed from burials at site CA-Ker-74, located on high ground a few miles southeast of the former shoreline of Tulare Lake, Kern County, CA, by members of the California Archaeological Survey, and were donated to the Phoebe A. Hearst Museum of Anthropology in the same year. No known individuals were identified. The 49 associated funerary objects are 35 shell beads, 12 glass beads, and 2 abalone pendants.

Characteristics of the associated funerary objects of Euroamerican origin indicate that the settlement was inhabited between approximately 1810 and 1860.

The burial contexts identify the human remains removed from sites in Kern County, CA, as being Native American. Linguistic evidence indicates that this region of California was inhabited by Native American Yokuts speakers. Archeological research suggests that these burial and habitation sites date to a relatively late time period. Consultation with present-day Yokuts groups documents an oral history of continued habitation of an area encompassing Kern County, CA, that includes the Protohistoric and Historic periods. Historical sources corroborate oral history. Modern descendants of Yokuts speakers are the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Rancheria of California.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of at least 77 individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 226 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Rancheria of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642-6096, before August 18, 2003. Repatriation of the human remains and associated funerary objects to the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Rancheria of California may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; and Tuolumne Band of Me-Wuk Rancheria of California that this notice has been published.

Dated: June 12, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–18208 Filed 7–17–01; 8:45 am]

BILLING CODE 4310–70–S

## DEPARTMENT OF THE INTERIOR

### National Park Service

### Notice of Inventory Completion: San Diego State University, San Diego, CA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of San Diego State University, San Diego, CA. The human remains were removed from two sites in San Diego County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by San Diego State University professional staff in consultation with representatives of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation,

California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California; and Kumeyaay Cultural Repatriation Committee, authorized NAGPRA representative for the above tribes.

In 1965, human remains representing a minimum of one individual were removed from an area located near the Carlton Hills Estates (SDSU-0102, 1965-3) in Santee, CA, during salvage surface collections. No known individual was identified. No associated funerary objects are present.

Between 1977 and 1978, human remains representing a minimum of one individual were removed from the Woodward site (SDSU-0015, CA-SDI-5216) in Rancho Santa Fe, CA, during excavations conducted by RECON, an environmental cultural resource management firm in San Diego. No known individual was identified. No associated funerary objects are present. The individuals have been identified as Native American based on consultation evidence and their geographic origin within the historically documented territory of the Kumeyaay Indians. The Kumeyaay Indians are represented by the present-day Indian tribes that are members of the Kumeyaay Cultural Repatriation Committee.

Officials of San Diego State University have determined that, pursuant to 25 U.S.C. 3001 (9-10), the human remains described above represent the physical remains of a minimum of two individuals of Native American ancestry. Officials of San Diego State University also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California. The Kumeyaay Cultural Repatriation Committee is the authorized NAGPRA representative for the above tribes.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Lynn Gamble, Ph.D., Director, Collections Management Program, San Diego State University, 5500 Campanile Drive, San Diego, CA 92182-4443, telephone (619) 594-2305, before August 18, 2003. Repatriation of the human remains to the Kumeyaay Cultural Repatriation Committee on behalf of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California may proceed after that date if no additional claimants come forward.

San Diego State University is responsible for notifying the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Capitan Grande Band of Diegueno Mission Indians of California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California; and Kumeyaay Cultural Repatriation Committee that this notice has been published.

Dated: June 19, 2003.

**John Robbins,**

*Assistant Director, Cultural Resources.*

[FR Doc. 03–18209 Filed 7–17–03; 8:45 am]

**BILLING CODE 4310–70–S**

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## DEPARTMENT OF THE INTERIOR

## Bureau of Reclamation

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Battle Creek Salmon and Steelhead Restoration Project, Tehama and Shasta Counties, CA

**AGENCIES:** Bureau of Reclamation, Interior. Federal Energy Regulatory Commission, Energy.

**ACTION:** Notice of Availability of the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) and notice of public workshop and notice of public hearing.

**SUMMARY:** The Bureau of Reclamation (Reclamation), the lead Federal agency; the Federal Energy Regulatory Commission (FERC), a cooperating Federal agency; and the State Water Resources Control Board (SWRCB), the lead State agency, have made available for public review and comment the Draft EIS/EIR for the Battle Creek Salmon and Steelhead Restoration Project (Restoration Project). The proposed CALFED-supported Restoration Project would restore approximately 42 miles of habitat in Battle Creek and an additional 6 miles of habitat in its tributaries, while minimizing the loss of clean and

renewable energy produced by the Battle Creek Hydroelectric Project (Hydroelectric Project), owned and operated by Pacific Gas and Electric Company (PG&E).

**DATES:** Submit written comments on the Draft EIS/EIR on or before September 16, 2003 to both Ms. Mary Marshall and Mr. Jim Canaday at the addresses below.

A public workshop will be held on Wednesday, July 23, 2003, from 6 p.m. to 8 p.m. at the address below to discuss the purpose and content of the Draft EIS/EIR.

As part of the National Environmental Policy Act (NEPA), a public hearing will be held on Tuesday, August 12, 2003, from 6 p.m. to 8 p.m. at the address below. The purpose of the NEPA public hearing is to provide the public an opportunity to orally comment on the Draft EIS/EIR. Written comments will also be accepted at the public hearing. Note that this public hearing is separate from and not associated with any SWRCB hearings.

**ADDRESSES:** The public workshop and public hearing will be held at the Manton Joint Union Elementary School, 31345 Forward Road, Manton, California.

Written comments on the Draft EIS/EIR should be addressed to both, Ms. Mary Marshall, Bureau of Reclamation, 2800 Cottage Way, Sacramento, CA 95825 and Mr. Jim Canaday, State Water Resources Control Board, 1001 I Street, Sacramento, CA 95814.

Copies of the Draft EIS/EIR may be requested from Ms. Sammie Cervantes at 2800 Cottage Way, Sacramento, CA 95825, or by calling (916) 978–5104, TDD (916) 978–5608, or *scervantes@mp.usbr.gov. See* **SUPPLEMENTARY INFORMATION** section for locations where copies of the Draft EIS/EIR are available for public review.

**FOR FURTHER INFORMATION CONTACT:** Ms. Mary Marshall, Reclamation, at (916) 978–5248, TDD (916) 978–5608, e-mail: *mmarshall@mp.usbr.gov* or Mr. Jim Canaday, SWRCB, at (916) 341–5308, e-mail: *jcanaday@waterrights.swrcb.ca.gov.*

**SUPPLEMENTARY INFORMATION:** Habitat restoration would enable safe passage for naturally produced salmonids and would facilitate their growth and recovery within the Sacramento River and its tributaries. These salmonids include the Central Valley spring-run chinook salmon, State and Federally listed as threatened; the Sacramento River winter-run chinook salmon, State and Federally listed as endangered; and the Central Valley steelhead, Federally listed as threatened.

The Restoration Project would be accomplished through the modification of Hydroelectric Project facilities and operations, including instream flow releases. The Federal Power Act establishes with FERC the exclusive authority to license nonfederal water-power projects on navigable waterways and Federal lands. PG&E is required to file an application with FERC for an amendment to PG&E's existing license to operate the hydropower facilities on Battle Creek that would be affected by implementation of the proposed Restoration Project. PG&E will make available for public review and comment its Draft License Amendment Application at the same time as the Draft EIR/EIS. FERC intends to adopt the EIS to fulfill its NEPA requirements as part of its review of PG&E's amendment application. FERC will ensure that proposed changes in the Hydroelectric Project comply with NEPA prior to issuing the license amendment.

FERC licensing actions in California, including new licenses, license amendments that potentially effect water quality or designated beneficial uses, and project relicensing, require Federal Clean Water Act Section 401 water quality certification from the SWRCB. SWRCB involvement in Clean Water Act Section 401 certification is subject to compliance with the California Environmental Quality Act.

The Draft EIS/EIR discusses the project purpose and need, project description, project background, and related projects. The Draft EIS/EIR addresses the impacts of project construction and operation on fisheries, botanical, wetland and wildlife resources, hydrology, power generation and economics, water quality, groundwater, land use, socioeconomics, geology and soils, aesthetics and visual resources, transportation, noise, air quality, public health and safety, public services and utilities, recreation, cultural resources, environmental justice, and Indian trust assets.

Copies of the Draft EIS/EIR are available for public review at the following locations:

- Tehama County Library, 645 Madison, Red Bluff, CA, 96080, (530) 527–0604.
- Bureau of Reclamation, Red Bluff Field Office, 22500 Altube Avenue, Red Bluff CA, 96080, (530) 529–3890.
- Shasta County Library, 1855 Shasta Street, Redding, CA, 96001, (530) 225–5769.
- Susanville Library, Lassen County, 1618 Main Street, Susanville CA 96130, (530) 251–8127.
- Bureau of Reclamation, Denver Office Library, Building 67, Room 167, Denver Federal Center, 6th and Kipling, Denver, CO 80225, (303) 445–2072.
- Bureau of Reclamation, Office of Public Affairs, 2800 Cottage Way, Sacramento, CA 95825–1898, (916) 978–5100.
- Natural Resources Library, U.S. Department of the Interior, 1849 C Street NW., Main Interior Building, Washington, DC 20240–0001.

Comments, including names and home addresses of respondents, will be made available for public review. Individual respondents may request that their home address be withheld from public disclosure, which will be honored to the extent allowable by law. There may be circumstances in which respondents' identity may also be withheld from public disclosure, as allowable by law. If you wish to have your name and/or address withheld, you must state this prominently at the beginning of your comment. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public disclosure in their entirety.

Dated: May 14, 2003.

**John F. Davis,**

*Deputy Regional Director, Mid-Pacific Region, Bureau of Reclamation.*

Dated: May 7, 2003.

**Joseph D. Morgan,**

*Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission.*

[FR Doc. 03–18291 Filed 7–17–03; 8:45 am]

**BILLING CODE 4310–MN–P**

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 731–TA–1039–1041 (Preliminary)]**

## Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea

### Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines[2], pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act), that there is a reasonable indication that an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Marcia E. Miller dissenting.

industry in the United States is materially injured by reason of imports from France, Japan, and Korea of certain wax and wax/resin thermal transfer ribbons, provided for in heading 3702 and subheadings 3921.90.40 and 9612.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value (LTFV).

**Commencement of Final Phase Investigations**

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling, which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules, upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under section 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in those investigations under section 735(a) of the Act. Parties that filed entries of appearance in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

**Background**

On May 30, 2003, a petition was filed with the Commission and Commerce by IIMAK International Imaging Materials, Inc., Amherst, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain wax and wax/resin thermal transfer ribbons from France, Japan, and Korea. Accordingly, effective May 30, 2003, the Commission instituted antidumping duty investigations Nos. 731–TA–1039–1041 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of June 10, 2003 (68 FR 34642). The conference was held in Washington, DC, on June 20, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on July 14, 2003. The views of the Commission are contained in USITC Publication 3613 (July 2003), entitled *Certain Wax and Wax/Resin Thermal Transfer Ribbons From France, Japan, and Korea: Investigations Nos. 731–TA–1039–1041 (Preliminary).*

Issued: July 14, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03–18237 Filed 7–17–03; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–03–023]**

### Sunshine Act Meeting

**AGENCY:** United States International Trade Commission.

**TIME AND DATE:** July 23, 2003 at 2 p.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 701–TA–431 (Final) (DRAMs and DRAM Modules from Korea)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before August 4, 2003.).
5. Inv. No. 731–TA–1012 (Final) (Certain Frozen Fish Fillets from Vietnam)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before August 6, 2003.).
6. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 15, 2003.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 03–18427 Filed 7–16–03; 11:00 am]

BILLING CODE 7020–02–P

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Evidence.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Evidence will hold a one-day meeting. The meeting will be open to public observation but not participation.

**DATES:** November 13, 2003.
*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Thurgood Marshall Federal Judiciary Building, Judicial Conference Center, One Columbus Circle, NE., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18273 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Committee on Rules of Practice and Procedure

**AGENCY:** Judicial Conference of the United States, Committee on Rules of Practice and Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Committee on Rules of Practice and Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

**DATES:** January 15–16, 2004.
*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Hermosa Inn, 5532 North Palo Cristi Road, Scottsdale, AZ.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18274 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

**DATES:** March 25–26, 2004.

*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Ritz Carlton, 4750 Amelia Island Parkway, Amelia Island, FL.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18275 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Bankruptcy Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

**DATES:** September 18–19, 2003.

*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Dolce Skamania Lodge, 1131 Skamania Lodge Way, Stevenson, WA.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18270 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

**AGENCY:** Judicial Conference of the United States.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

**DATES:** October 2–3, 2003.

*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Hyatt Regency Sacramento at Capitol Park, 1209 L Street, Sacramento, CA.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabieji, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18271 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## JUDICIAL CONFERENCE OF THE UNITED STATES

### Meeting of the Judicial Conference Advisory Committee

**AGENCY:** Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

**ACTION:** Notice of open meeting.

**SUMMARY:** The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

**DATES:** October 15–16, 2003.

*Time:* 8:30 a.m. to 5 p.m.

**ADDRESSES:** Salishan Lodge, 7760 N. Highway 101, Gleneden Beach, OR.

**FOR FURTHER INFORMATION CONTACT:** John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: July 14, 2003.

**John K. Rabiej,**

*Chief, Rules Committee Support Office.*

[FR Doc. 03–18272 Filed 7–17–03; 8:45 am]

BILLING CODE 2210–55–M

## DEPARTMENT OF LABOR

### Office of the Secretary

### Combating HIV/AIDS in Ugandan Workplaces Through Community/Faith-Based Organizations

**AGENCY:** Bureau of International Labor Affairs, Department of Labor.

**ACTION:** Notice of availability of funds and solicitation for cooperative agreement application (SGA 03–11).

**SUMMARY:** This notice contains all of the necessary information and forms needed to apply for grant funding. The U.S. Department of Labor (USDOL), Bureau of International Labor Affairs (ILAB), announces the availability of funds to be granted by cooperative agreement (hereafter referred to as ''grant'') to one or more qualifying organizations. USDOL will award up to U.S. $1 million through one or more grants to an organization or to an eligible ''intermediary'' organization or organizations to develop and implement a project to stem the spread of HIV/AIDS infection in Uganda, focusing on workers in the workplace and surrounding communities. Eligible ''intermediaries'' are defined as those non-profit, community, and/or faith-based organizations with established working relationships to grassroots faith-based and community organizations in Uganda working in the field of HIV/AIDS. The intermediary is expected to sub-contract a substantial portion of its award to eligible local grassroots organizations in Uganda, in support of mitigating HIV/AIDS through prevention education. It is expected that the intermediary organization will serve as a mentor of the sub-contracted local organizations to strengthen their capacity to address HIV/AIDS among workers in Uganda. Through their collaboration, the intermediaries will achieve the following objectives: (a) Increase knowledge of HIV/AIDS prevention methods among Ugandan men and women as a first step to changing sexual behavior; (b) strengthen capacity among local organizations to identify HIV/AIDS issues, develop effective strategies to mitigate the impact of HIV/AIDS, and provide education and supportive services to implement such strategies; and (c) improve the capacity of sub-contracted

local community and faith-based organizations to sustain their activities through the provision of training in the areas of business development, administration, and finance.

**DATES:** The closing date for receipt of applications is Friday, August 22, 2003. Applications must be received by 4:45 p.m. (Eastern Time) at the address below.

**ADDRESSES:** Application forms will not be mailed. They are published as part of this **Federal Register** notice and in the **Federal Register**, which may be obtained from your nearest U.S. Government office or public library or online at *http://www.archives.gov/federal_register/index.html.* Applications must be delivered to: U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW., Room N–5416, Attention: Lisa Harvey, Reference: SGA 03–11, Washington, DC 20210.

Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing and delivery requirements set forth in this notice will be granted.

**FOR FURTHER INFORMATION CONTACT:** Lisa Harvey, e-mail address: *harvey.lisa@dol.gov,* tel: (202) 693–4570 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** USDOL/ILAB carries out a worldwide International Cooperation Program that helps ensure that the greatest possible number of workers benefit from a more open world economy. The three major initiatives of the International Cooperation Program are:

*Improving Economic Opportunity and Income Security for Workers (EOIS)*—Under the EOIS initiative, USDOL works to strengthen developing countries'' abilities to build and institutionalize social safety net policies and programs needed to improve working conditions and foster economic growth. Projects under this initiative aim to increase employment among targeted groups, improve workplace safety and health, and increase access to social insurance.

*Protecting the Basic Rights of Workers (PBRW)*—Under the PBRW initiative, USDOL works to implement the fundamental principles embodied in the International Labor Organization's (ILO) Declaration on Fundamental Principles and Rights at Work, specifically working towards strengthening the right to freedom of association and collective bargaining, eliminating forced or compulsory labor, and eliminating employment discrimination.

*International HIV/AIDS Workplace-based Education Program (IHWEP)*—Under the IHWEP initiative, USDOL works to reduce the rate of HIV/AIDS infection through workplace-based prevention and education programs and to improve the workplace environment for workers living with HIV/AIDS. The IHWEP program also works to build the capacity of the tripartite partners to address the long-term impact of HIV/AIDS on labor markets and economic development.

USDOL/ILAB manages its projects in partnership with stakeholders representing the government, employers, workers, and other organizations.

## I. Authority

ILAB is authorized to award and administer this program by the Consolidated Appropriations Resolution, 2003, Pub. L. 108–7, 117 Stat. 11 (2003).

Legal rules that apply to faith-based organizations that receive government funds: The government is prohibited from directly funding religious activity*. These grants may not be used for religious instruction, worship, prayer, proselytizing or other inherently religious practices. Neutral, non-religious criteria that neither favor nor disfavor religion must be employed in the selection of grant recipients.

*The term ''direct'' funding is used to describe Federal funds that are provided directly by a governmental entity or an intermediate organization, as opposed to funds that an organization receives as the result of the genuine and independent private choice of a beneficiary. In other contexts, the term ''direct'' funding may be used to refer to those funds that an organization receives directly from the Federal government (also known as ''discretionary'' funding), as opposed to funding that it receives from a State or local government (also known as ''indirect'' or ''block grant'' funding). In this SGA, the term ''direct'' has the former meaning.

## II. Application Process

### *A. Eligible Applicants*

For the purposes of this announcement, ''intermediaries'' are defined as those non-profit, community, and/or faith-based organizations with existing connections to Ugandan-based, grassroots, faith-based, and/or community organizations working in the field of HIV/AIDS prevention and mitigation. These intermediary organizations must possess strong financial and grant management skills and the ability to mentor and strengthen the capacity of Ugandan non-governmental organizations (NGOs) to effectively respond to HIV/AIDS in Uganda. The intermediary is expected to issue sub-contracts to non-profit grassroots organizations which:

- Have social services as a major part of their mission;
- Have a total annual operating budget of $150,000 or less; and
- Possess or have the capacity to adopt sufficient administrative and financial controls to ensure proper management of the sub-contracted funds.

The U.S. Department of Labor will determine whether Ugandan NGOs have met the criteria and are eligible to be sub-contracted under this grant.

The Ministry of Labor will serve as the primary government contact for the project in Uganda. However, the Grantee may also elect to work with other government agencies that are addressing HIV/AIDS. Partnerships of more than one organization are also eligible to apply for these funds, although in such a case a lead organization must be identified. The capabilities of applicants, partners, and co-applicants to perform necessary aspects of this solicitation will be determined according to the criteria identified in Section XI. All applicants are requested to complete the Survey on Ensuring Equal Opportunity for Applicants (OMB No. 1225–0083) (see Appendix A).

Please note that to be eligible, grant applicants classified under the Internal Revenue Code as a 501(c)(4) entity (*see* 26 U.S.C. 501(c)(4)), may not engage in lobbying activities. According to the Lobbying Disclosure Act of 1995, as amended by 2 U.S.C. 1611, an organization, as described in section 501(c)(4) of the Internal Revenue Code of 1986, that engages in lobbying activities shall not be eligible for the receipt of federal funds constituting an award, grant, or loan.

### *B. Submission of Applications*

One (1) blue ink-signed original, complete application in English plus two (2) copies of the application must be submitted to the U.S. Department of Labor, Procurement Services Center, 200 Constitution Avenue, NW, Room N–5416, Washington, DC 20210, no later than 4:45 p.m. Eastern Time on the established due date. To aid with review of applications, Applicants may submit three (3) additional paper copies of the application (five total). Applicants who do not provide additional copies will not be penalized.

The application must consist of two (2) separate parts. Part I of the application must contain the Standard Form (SF) 424, ''Application for Federal Assistance'' and sections A–F of the Budget Information Form SF 424A (*see* Appendix A). These forms are also available at *http://www.whitehouse.gov/omb/grants.* Part II must contain a technical proposal that demonstrates capabilities in accordance with the statement of work (Section III) and the selection criteria (Section XI). The application should include the name, address, telephone 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 the above-mentioned separate sections not to exceed 25 single-sided (8½″ × 11″ or A4), double-spaced, 12-point font, typed pages for which a response is submitted. 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. Applicants are required to propose that a project address ALL of the project objectives identified in the Statement of Work in Section III. Any applications that do not conform to these standards may be deemed non-responsive to this solicitation and may not be evaluated. The application must include a table of contents and an abstract summarizing the application in not more than two (2) pages. Standard forms, attachments, resumes, exhibits, letters of support, and the abstract are not counted towards the page limit. If an applicant exceeds the stated page limit, the review panel has the discretion to deduct 10 points, in accordance with the rating process specified in the ''Rating Criteria and Selection'' section of this SGA.

The individual signing the SF 424 on behalf of the applicant must be authorized to bind the applicant.

*C. 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. Applications sent by e-mail, telegram, or facsimile (FAX) will not be accepted. Applications sent by other delivery services, such as Federal Express, UPS, etc., will be accepted; the applicant, however, bears the responsibility for timely submission. Applications that do not meet the conditions set forth in this notice will not be honored. No exceptions to the mailing, delivery, and hand-delivery conditions set forth in this notice will be granted.

Any application received at the Office of Procurement Services after 4:45 pm Eastern Time on Friday, August 22, 2003 will not be considered unless it is received before the award is made and:

- It was sent by registered or certified mail no later than the fifth calendar day before the closing date; or
- It was sent by U.S. Postal Service Express Mail/Next Day Service from the post office to the addressee no later than 5:00 pm at the place of mailing two (2) working days (excluding weekends and Federal holidays), prior to the closing date; or
- 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.

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.

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 from the post office to the addressee is the date entered by the Post Office receiving clerk on the ''Express Mail/ Next Day Service—Post Office to Addressee'' label and the postmark on the envelope or wrapper 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 Service Center on the application wrapper or other documentary evidence or receipt maintained by that office.

All applicants are advised that U.S. mail delivery in the Washington, DC area has been slow and erratic due to concerns involving anthrax contamination. Applicants must take this into consideration when preparing to meet the application deadline. It is recommended that you confirm receipt of your application with your delivery service.

*D. Funding Levels*

Up to U.S. $1 million is available for this project, and USDOL reserves the right to award more than one grant. USDOL may award one or more grants to one or more organizations or to a partnership of more than one organization. The award of any sub-contract will be subject to USDOL approval (*see* Section IV).

*E. Program Duration*

The duration of the project funded by this SGA is up to four (4) years. The start date of program activities will be negotiated upon award of the grant, which will take place no later than September 30, 2003.

**III. Statement of Work**

USDOL is seeking qualified organizations that will implement, in partnership with USDOL, a project to assist in stemming the spread of HIV/AIDS/STI/TB infections among workers in Uganda through partnerships between U.S. organizations and local, community and/or faith-based organizations in Uganda that will develop and implement effective prevention strategies. Specific project objectives are identified in Section III.C. USDOL encourages applicants to be creative in proposing innovative and cost-effective interventions that will produce a demonstrable and sustainable impact.

Proposals should demonstrate organizations' capabilities to implement projects in accordance with the Statement of Work and the rating criteria (Section XI). Funds will be provided by grant to qualifying organizations. The grant will be actively managed by USDOL/ILAB to assure achievement of the stated project objectives. The award of any sub-contract will be subject to USDOL policies and approval (*see* Section IV).

**Note:** Selection of an organization as a Grantee does not constitute approval of the grant application as submitted. Before the actual grant is awarded, USDOL may enter into negotiations about such items as program components, 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. Award is also contingent upon signature of a letter of agreement between USDOL and relevant ministries in target countries.

*A. Background and Problem Statement*

1. International HIV/AIDS Pandemic

According to the International Labor Organization (ILO), over 42 million people around the world are infected with HIV. At least 26 million are workers aged 15 to 49, who are in the prime of their working lives. Typically, half of people living with HIV/AIDS (PLWHA) become infected before they turn 25 years old, acquiring AIDS and dying by the time they turn 35, leaving behind a generation of children to be raised by grandparents or by older siblings, many of whom are barely adults themselves. Although HIV/AIDS was initially viewed strictly as a health crisis, it is now acknowledged to have a severe impact on the economic and social development of affected countries. Health authorities, therefore, have recognized that a multi-sectoral approach is necessary to fully address the HIV/AIDS crisis.

Recent studies by the ILO regarding the impact of HIV/AIDS on the workforce warn of the catastrophic consequences of HIV/AIDS/STI for workers and employers worldwide. These studies project a severe decline in the size and quality of the workforce in a number of countries over the next 20 years. According to the ILO, the most affected countries in sub-Saharan Africa with prevalence rates of up to 33 percent of the adult population could lose 29–35 percent of their total workforce by the year 2020. In the case of countries with HIV/AIDS prevalence rates higher than 10 percent of the adult population, the labor force in the year 2020 will be an estimated 10–22 percent smaller than if HIV/AIDS did not exist. HIV/AIDS targets the most productive age group, hampering economic development and the workplace environment as well as workers and their families.

2. Stigma and Discrimination

Compounding the negative impact of the spread of HIV/AIDS is the fact the disease is accompanied by significant stigma and discrimination, and these factors often inhibit prevention efforts. In many cases, the discrimination and social stigmatization which greet individuals' real or perceived HIV status creates a climate of fear and denial, discouraging people from choosing responsible behavior changes, from being tested to learn one's HIV status to seeking appropriate treatment. One fundamental precept of an effective prevention program, therefore, is the inclusion of an anti-stigma/discrimination component. Given the nature and importance of addressing these issues, faith-based efforts that seek the involvement of the broad community may be uniquely positioned to address issues of stigma and discrimination.

3. Impact on Workers and Families

In sub-Saharan Africa, where the epidemic is most advanced, skilled personnel have been lost and youth have not been able to replace their skills and experience, in part because of a lack of access to work and educational opportunities. Many women are expected to care for sick relatives and are therefore unable to maintain their jobs or work in the family's agricultural fields. Many children, particularly girls, are expected to stay home and take care of sick relatives, or to supplement the family income, rather than attend school. Some children and/or youth have been orphaned and have resorted to child labor to sustain themselves and their siblings. The pressure on affected families exacerbates already-existing problems such as poverty levels and child labor.

4. Engagement of Faith-Based And Community Organizations

On January 29, 2001, President George W. Bush issued Executive Order 13198, creating the Office for Faith-Based and Community Initiatives (FBCI) in the White House and corresponding centers for FBCI in the Departments of Labor (DOL), Health and Human Services (HHS), Housing and Urban Development (HUD), Education (ED), and Justice (DOJ). President Bush has charged these centers to identify statutory, regulatory, and bureaucratic barriers that stand in the way of effective faith-based and community initiatives, and to ensure—consistent with the law—that these organizations have an equal opportunity to compete for Federal funding and other support.

As USAID Assistant Administrator for Global Health E. Anne Peterson has stated, ''USAID's HIV/AIDS programs now focus on promoting abstinence and delaying the onset of sexual activity, and when appropriate, the use of condoms.'' As a result, the Administration is promoting internationally a balanced ''ABC'' approach toward HIV/AIDS prevention (''Abstinence, Be Faithful/Behavior Change, and, if necessary, use a Condom''). This approach is based largely upon success in Uganda with this method, which has included the participation of many faith-based organizations. Applicants should indicate how they will build upon this experience.

Faith-based and/or community-based organizations often present strong credentials to partner in our efforts to combat the spread of HIV/AIDS infections. Faith-based and community-based organizations often are trusted institutions in developing countries around the world. These organizations are often home to a large number of volunteers who bring not only the power of personal relationships to the provision of social service but also a sustained allegiance to the well-being and self-sufficiency of the participants they serve. Through this Grant, USDOL will strive to leverage these programs, resources and committed staff to effectively address HIV/AIDS in Uganda.

*B. Objectives*

The Grantee(s) will implement, in partnership with USDOL, a project designed to meet the following objectives:

- To promote the ''ABC'' method and other effective methods of HIV/AIDS prevention among workers in the workplace and in surrounding communities, in partnership with qualifying Ugandan community and/or faith-based organizations;
- To strengthen the capacity of qualifying Ugandan community and/or faith-based organizations to assess HIV/AIDS issues and to develop and implement effective strategies to combat HIV/AIDS; and
- To strengthen the financial and administrative systems of qualifying Ugandan community and/or faith-based organizations to diversify their funding sources, and to enhance their capacity to manage their resources efficiently, in order to sustain the vital services they provide to Ugandan communities.

*C. Type of Work to Be Performed/Activities*

The selected Grantee(s) will be responsible for developing a strategy for successfully achieving the stated objectives of the project, addressing the problems identified in the Background and Problem Statement, developing and implementing the major tasks to be accomplished as part of that strategy, tracking and reporting on progress in achieving the stated objectives, and providing any necessary related services.

*D. Expected Outcomes/Project Outputs*

By the end of the grant period, the project will have:

• Increased the number of Ugandan men and women educated and trained in the ''ABC'' method and other effective methods of HIV/AIDS prevention.

• Strengthened the capacity of one or more Ugandan community, grassroots, and/or faith-based organizations to combat HIV/AIDS.

• Created a sustainable partnership between U.S-based and Ugandan community, grassroots, and/or faith-based organizations working in the areas of HIV/AIDS prevention and mitigation.

The selected Grantee(s) will be responsible for identifying and producing outputs/results/deliverables that will support achievement of these expected outcomes.

*E. Deliverables*

Following the award of the grant, the Grantee(s) shall collaborate with USDOL/ILAB to:

• Develop a Project Document (including a project budget) that will set the technical parameters and provide guidance to the project. It should include all information and be prepared according to the standardized format outlined by USDOL. While the Applicant's original proposal will serve as the basis of the Project Document, in every case USDOL has found it advantageous to visit the field and reach consensus on the project strategy with host country counterparts in order to further inform the project design. USDOL must receive a draft of the Project Document 45 days after returning from travel to the relevant area(s). The Project Document must be finalized no later than 30 days after receipt of USDOL comments on the draft.

• Establish a Workplan identifying major project activities, deadlines for their completion, and person(s) responsible for completing these activities (within 60 days after the Project Document is finalized).

• Set project indicators, including indicators that support ILAB's Government Performance and Results Act (GPRA) goal, ''Improve living standards and conditions of work for workers in developing and transition countries.'' (within 90 days of finalizing the Project Document).

• Create a Performance Monitoring Plan (PMP) to establish the data needed to measure achievement of project indicators and the methods for collection and reporting. It should include all information and be prepared according to the standardized format outlined by USDOL (within 90 days of finalizing the Project Document).

• Develop spotlight stories that highlight activities and illuminate best practices being undertaken by sub-contractors (on an annual basis).

• Present innovative models addressing the project objectives (at the halfway point and conclusion of the project).

The Grantee(s) must submit copies of all required documents to USDOL by the specified due dates. Other documents that may be produced are to be submitted by mutually agreed-upon deadlines. The Project Document, Workplan, project indicators, PMP, and data collection system are subject to final approval by the Grant Officer's Technical Representative (GOTR) responsible for monitoring the grant.

*F. Special Program Requirements*

1. USDOL Responsibilities

Following the award of the grant(s), USDOL shall:

• Provide the Grantee(s) with programmatic support to help ensure effective implementation of the project, including training and consultation in USDOL/ILAB management, monitoring, and evaluation systems and standard operating procedures.

• Provide advice and consultation to Grantee(s) on specific program criteria.

• If, based upon the responses to this solicitation and subsequent to the award, USDOL determines that it is necessary, travel to the field with the Grantee(s) and other technical experts for a project design mission before finalizing the project design and the Project Document. USDOL will procure the services of technical experts if it determines that such expertise is necessary for the project design mission.

• Fund at least two project evaluations—a mid-term evaluation at approximately the midpoint of the grant period and a final evaluation approximately two months prior to the end of the grant period. USDOL/ILAB—in consultation with the Grantee(s)—will be responsible for drafting and finalizing all evaluation Terms of Reference (TOR), procuring the services of an independent evaluator (who will write the evaluation report), and providing at least one representative from USDOL/ILAB to participate on the evaluation team, when appropriate. USDOL/ILAB may choose to perform additional evaluations as appropriate.

• Have the right, at all reasonable times, to review all documents pertaining to the project, participate on field missions (including monitoring and evaluation missions), and to discuss administrative and technical issues pertaining to the project with the Grantee.

2. Grantee Responsibilities

Following the award of the grant(s), the Grantee(s) shall:

• Establish the institutional and management systems and means necessary to provide and monitor the delivery of services and to distribute wages and material effectively.

• If USDOL determines that it is necessary, travel to the field with USDOL and other technical experts for a project design mission before finalizing the project design and the Project Document. The Grantee(s) shall bear the financial costs for having its representative(s) participate on the project design mission.

• Assist in project evaluations, including reviewing and providing comments on the evaluation Terms of Reference (TORs) drafted by USDOL and evaluation reports written by the lead evaluator. If invited to participate on an evaluation mission by USDOL, the Grantee(s) shall bear the financial costs for having a representative of the Grantee(s) participate on an evaluation team (*e.g.*, travel, *per diem*).

• Submit trip reports to USDOL within fourteen (14) calendar days of project-related travel. If the Grantee travels with a USDOL staff member, the Grantee will submit a draft trip report to the staff member within fourteen (14) calendar days of project-related travel for comments. The format for the trip report will be provided by USDOL.

• Inform USDOL/ILAB at least one (1) month prior to scheduling any major public events or ceremonies regarding the project.

• Submit to USDOL all media-related and educational materials developed by it or its sub-contractors under this Grant(s), including relevant press releases, for use in this project before they are reproduced, published, or used. The Grantee(s) must consult with USDOL to ensure that materials are compatible with USDOL materials relating to its International Cooperation Program. USDOL considers brochures, pamphlets, videotapes, slide-tape shows, curricula, and any other training materials used in the project to be educational materials. USDOL will review materials for technical accuracy. USDOL will also review training curricula and purchased training materials for accuracy before they are used. The Grantee(s) must obtain prior approval from the Grant Officer for all materials developed or purchased under this grant. All materials produced by Grantee(s) must be provided to USDOL in digital format for possible publication.

## IV. Key Personnel and Sub-Contractors

USDOL considers the following job position(s) to be ''key personnel'' in this project:

- Project Director.
- Ugandan-based Project Coordinator.

The Grant Officer must approve candidates for all key personnel positions. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all key personnel positions. The Grantee(s) shall submit résumés, *curricula vitae,* and other relevant information to the GOTR and receive approval from the Grant Officer before extending an offer of employment and before the nominated individual conducts any activities.

Key personnel may only be changed with the approval of the Grant Officer. The Grantee(s) shall not substitute or replace key personnel unless new personnel are at least equal in qualifications to those personnel who are replaced. If a need to find new key personnel arises, the Grantee(s) shall notify the GOTR as soon as the need becomes known. If the Grant Officer is unable to approve the personnel change, he/she reserves the right to terminate the grant.

Organizations may apply for funding in partnership with other organizations, but in such a case, a lead organization must be identified. Use of sub-contractors is subject to Federal laws and regulations, including OMB circulars requiring free and open competition for procurement transactions.

The Grant Officer must approve all sub-contractors. USDOL's Grant Officer's Technical Representative (GOTR) shall review candidates' qualifications and provide recommendations to the Grant Officer regarding the selection of candidates for all sub-contractors. The lead organization shall submit a list of previous projects implemented by the proposed sub-contractor, along with a description of qualifications, resumes, *curricula vitae,* and other relevant information to the GOTR and receive approval from the Grant Officer before extending a sub-contract. The lead organization shall not substitute or replace sub-contractors unless new sub-contractors are at least equal in qualifications to those that are replaced. Sub-contractors may only be changed with the approval of the Grant Officer. If a need to find new sub-contractors arises, the lead organization shall notify the GOTR as soon as the need becomes known.

**Note:** Except as specifically provided, USDOL/ILAB acceptance of a proposal and an award of federal funds to sponsor any program(s) does not provide a waiver of any grant requirement and/or procedures. For example, if an application identifies a specific sub-contractor to provide the services, the USDOL/ILAB award does not provide the justification or basis to sole-source the procurement, *i.e.*, to avoid competition.

## V. Reporting Requirements

All reports (*see* Appendix B) are due no later than 30 days after the end of a fiscal quarter and shall be submitted in English. USDOL/ILAB and the Grantee(s) should work together to resolve any issues within 30 days of receipt of a report.

### *A. Financial Reports*

The Grantee(s) shall submit financial reports on a quarterly basis. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the grant was signed.

The Grantee(s) shall use Standard Form (SF) 269A, *Financial Status Report,* to report the status of the funds, at the project level, during the grant period. A final SF269A shall be submitted no later than 90 days following completion of the grant period.

If the Grantee(s) uses the U.S. Department of Health and Human Services Payment Management System (HHS PMS), they must also send USDOL copies of the PSC 272 that it submits to HHS, on the same schedule. Otherwise, the Grantee(s) shall submit Standard Form (SF) 272, *Federal Cash Transactions Report,* on the same schedule as the SF269A.

Financial reports are due within 30 days of the end of the reporting period (*i.e.*, by April 30, July 30, October 30, and January 30).

### *B. Technical Reporting Requirements*

After signing the agreement, the Grantee(s) shall submit progress reports to USDOL/ILAB at the end of each fiscal quarter. The first reporting period shall end on the last day of the fiscal quarter (December 31, March 31, June 30, or September 30) during which the Grant was signed. Between reporting dates, the Grantee(s) shall also immediately inform USDOL/ILAB of significant developments and/or problems affecting the organization's ability to accomplish work.

The Grantee(s) shall submit two types of progress reports according to the standardized format used by USDOL/ILAB:

1. Status Reports

Status Reports compare actual and planned activities during the reporting period, which consists of one quarter (January–March and July–September). Its purpose is to provide an update on the Workplan, problems/solutions, major achievements, or modifications. The Status Report should be brief and include an attached project Workplan indicating the status of Workplan activities: ''completed,'' ''on schedule,'' ''delayed,'' ''cancelled.'' The body of report should provide a summary explanation of any deviation from the Workplan and recommended actions.

Two Status Reports are due per year within 30 days of the end of the reporting period (*i.e.*, by April 30 and October 30).

2. Technical Progress Reports

Technical Progress Reports provide information on how the project is progressing in achieving its stated objectives. Technical Progress Reports will be based on the project's stated objectives, indicators, and Performance Monitoring Plan (PMP) and will provide both quantitative and qualitative information and a narrative assessment of performance for the preceding six-month period (January–June and July–December). Data measuring achievement of the project's indicators will be attached to the narrative, which will provide a composite overview of progress, trends, problems, new proposals, lessons learned, and expenditures. The body of the Technical Progress Report should be 2–3 pages in length, stressing major points related to strategy.

Two Technical Progress Reports are due per year within 30 days of the end of the reporting period (*i.e.*, by July 30 and January 30).

### *C. Instructions for Submitting Reports*

All reports shall cite the assigned grant number. The Grantee(s) shall submit one hard copy of all financial reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW, Room N–5416, Washington, DC 20210

Celeste Helm, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW, Room S–5303, Washington, DC 20210

Gene Contee, Accountant, Financial Management Services Center, U.S. Department of Labor, 200 Constitution

Ave., NW, Room S–5526, Washington, DC 20210

The Grantee(s) shall submit one hard copy of all technical reports to each of the following persons:

Lawrence Kuss, Grant Officer, Procurement Services Center, U.S. Department of Labor, 200 Constitution Ave., NW, Room N–5416, Washington, DC 20210.

Celeste Helm, Grant Officer's Technical Representative, Office of Foreign Relations, U.S. Department of Labor, 200 Constitution Ave., NW, Room S–5303, Washington, DC 20210

## VI. Travel Procedures

The Grantee(s) shall submit a quarterly travel plan to the GOTR. The plan shall include the following information for all individuals traveling for the Grantee(s) to support activities covered by this grant:

- Name of the person(s) who will be traveling
- Destination(s)
- Dates of travel
- Purpose of travel—what they will be doing and why

The Grantee(s) should submit the quarterly travel plan no later than four weeks prior to the start of each subsequent fiscal quarter (*e.g.*, By May 31, the GOTR should have travel plans for all Grantee travel occurring July 1 through September 30). For a trip beginning later than four weeks from the time the plan is submitted, dates should reflect a ''best guess'' (rather than simply listing ''To Be Determined''). The dates should, however, be finalized no later than 4 weeks prior to departure.

All travelers should submit finalized travel details to the GOTR no later than 4 weeks prior to the desired departure date. If any major holiday occurs during those 4 weeks, travelers should submit finalized details earlier.

Individuals are not permitted to travel until USDOL/ILAB has received country clearance from the State Department (via e-mail or cable) or has received written authorization (including by e-mail) from the GOTR. This also applies to expatriates living abroad who go on personal or home leave: although they do not need clearance to enter the U.S., they do need clearance to re-enter the country in which they are stationed.

While travelers may cancel trips at any time, USDOL/ILAB will not permit any amendments to a clearance cable (*e.g.*, for changes in dates of travel, or changes in the identified traveler) less than four weeks prior to the desired date of departure, except in dire emergencies, as determined by the GOTR.

## VII. Acknowledgment of USDOL Funding

### *A. Acknowledgement on Printed Materials*

In all circumstances, the following shall be displayed on printed materials: ''Preparation of this item was funded by the United States Department of Labor under Grant No. [insert the appropriate Grant number].''

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 funds 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 the USDOL Logo*

In consultation with ILAB, the Grantee(s) will acknowledge USDOL's role in one of the following ways:

- 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 written permission to use the logo on the item.
- All documents should 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.''

## VIII. Administrative Requirements

### *A. General*

Grantees, which may include faith-based organizations, will be subject to applicable Federal laws (including provisions of appropriations law) and the applicable Office of Management and Budget (OMB) Circulars. Determinations of allowable costs will be made in accordance with the applicable Federal cost principles, *e.g.*, Non-Profit Organizations—OMB Circular A–122. The grant(s) awarded under this SGA will be subject to the following administrative standards and provisions, if applicable:

- 29 CFR Part 36—Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.
- 29 CFR Part 93—New Restrictions on Lobbying.
- 29 CFR Part 95—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and with Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments and International Organizations.
- 29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.
- 29 CFR Part 98—Federal Standards for Government wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants).
- 29 CRF Part 99—Federal Standards for Audits of States, Local Governments, and Non-Profit Organizations.

### *B. Sub-Contracts*

Sub-contracts must be awarded in accordance with 29 CFR 95.40–48.

### *C. Encumbrance of Grant Funds*

Grant funds may not be encumbered/obligated by the Grantee(s) before or after the period of performance. Encumbrances/obligations outstanding as of the end of the grant period may be liquidated (paid out) after the end of the grant period. Such encumbrances/obligations may involve only commitments for which a need existed during the grant period and which are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the Grantee's purchasing procedures and incurred within the grant period. All encumbrances/ obligations incurred during the grant period must be liquidated within 90 days after the end of the grant period, if practicable.

### *D. Site Visits*

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If USDOL makes any site visit on the premises of the Grantee or a sub-contractor(s) under this grant, the Grantee must provide and must require its sub-contractors to provide all

reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed so as not to unduly delay the work.

## IX. Grant Closeout Procedures

*A. Definitions*

1. Grant Closeout

The closeout of a grant is the process by which a Federal grantor agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the grantor.

2. Date of Completion

The date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends, whichever comes first.

3. Disallowed Costs

Disallowed costs are those charges to a grant that the grantor agency or its representative determines to not be allowed in accordance with the applicable Federal Cost Principles or other conditions contained in the grant.

*B. Close-out Procedures*

Grants shall be closed out in accordance with the following procedures:

- Upon request, the Grantor shall make prompt payments to a Grantee for allowable reimbursable costs under the grant being closed out.
- The Grantee shall immediately refund to the Grantor any balance of unobligated (unencumbered) cash advanced to the Grantee that is not authorized for retention by the Grantee for use on other grants.
- Within 90 days after completion of the grant, the Grantee shall submit all financial, performance and other reports required by the Grant Officer to close out the grant. The Grant Officer may authorize extensions when requested by the grantee.
- The Grant Officer shall make a settlement for any upward or downward adjustments to the Federal share of costs after these reports are received.
- In the case of grants that include matching/in-kind contributions, the Grantee is legally required to provide the total amount of matching/in-kind contributions indicated on the face sheet of the agreement, as amended. Failure to provide this level of matching/in-kind contribution shall result in the disallowance of all or part of otherwise allowable Federal share costs, equal to the total matching/in-kind share committed to, less the share actually provided.
- The Grantee shall account for any property acquired with grant funds, or received from the Government in accordance with the provisions of 29 CFR part 95.
- In the event that a final audit has not been performed prior to the closeout of the grant, the Grantor shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

## X. Measuring the Performance of the Grantee

The performance of the Grantee will be assessed based on the timely completion of one or more deliverables that will be due to USDOL at the end of each quarter of the Grant. These deliverables should reflect the outcomes of the project that are expected to help achieve the project's objective(s). Applicants are requested to include in their proposal a project implementation plan and approach to monitor the performance of the project throughout the period of the grant. The implementation plan is to consist of a quarterly schedule of activities and list of deliverables that would be completed by the contractor each quarter. The defined list and schedule of deliverables is viewed by USDOL as a key component of the technical proposal.

## XI. Review and Selection of Applications for Award

USDOL will screen all applications to determine whether all required elements are present and clearly identifiable. A Technical Panel will objectively rate each complete application against the criteria described in this announcement. The panel recommendations to the Grant Officer are advisory in nature. The Grant Officer may elect to select one or more Grantees on the basis of the initial proposal submission, or the Grant Officer may establish a competitive or technically acceptable range for the purpose of selecting qualified applicants. If deemed appropriate, following the Grant Officer's call for the preparation and receipt of final revisions of proposals, the evaluation process described above will be repeated to consider such revisions. The Grant Officer will make a final selection determination based on what is most advantageous to the Government, considering factors such as panel findings, geographic presence of the applicants, and the best value to the government, cost, and other factors. The Grant Officer's determination for award under this SGA is final.

*A.The Review Process*

The criteria below will serve as the basis upon which submitted applications will be evaluated. Technical aspects of the application will constitute 100 points of the total evaluation. Up to five (5) additional points will be given for leveraging non-Federal resources.

In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit a project budget that clearly details the costs for performing all of the requirements presented in this solicitation, including producing all deliverables, reporting on implementation and progress, and monitoring progress. Applicants are reminded to budget for compliance with the administrative requirements set forth (copies of all regulations referenced in this SGA are available at no cost, on-line, at *http://www.dol.gov*). This includes the costs of performing activities such as travel to Washington, DC to meet with USDOL/ILAB, financial audit, project closeout, document preparation (*e.g.*, progress reports, project document), and ensuring compliance with procurement and property standards. The Project Budget should identify administrative costs separately from programmatic costs. In addition to the costs identified previously, administrative costs include indirect costs from the costs pool and the cost of activities, materials (*e.g.*, project car), and personnel (*e.g.*, administrative assistants, office drivers) that support the management and administration of the project but do not provide direct services to project beneficiaries.

The technical panel will review grant applicants against the criteria listed below on the basis of 100 points.

*B. Technical Approach—45 points*

- The extent to which the application sets forth a clear and supportable course of action to increase knowledge among Ugandan workers of effective HIV/AIDS prevention practices through: (a) Strategically focused HIV/AIDS prevention education applying the ''ABC'' and other methods to high-risk groups, (b) partnering with qualified Ugandan community and/or faith-based organizations working in the area of HIV/AIDS prevention to increase their resource base and reach, and (c) mentoring and strengthening the capacity of qualified Ugandan community and/or faith-based organizations to develop and implement

sustainable and effective HIV/AIDS prevention strategies. The Applicant will be evaluated on the clear identification and description of the specific strategy(s) the Applicant proposes to use, its effectiveness, and attainability of project objectives by the end of the grant period. (10 points)

• Demonstrated familiarity with the major issues related to the components being addressed (*e.g.*, general project context, key problems and/or needs in the relevant country/area, the specific problem(s) and/or need(s) that will be addressed by this project(s), and relevant constraints). The Applicant will be evaluated on the thorough and accurate assessment of the implementing environment and the problems that exist and clear identification of the specific problem(s) the Applicant proposes to address. (5 points)

• A monitoring and evaluation plan for measuring project performance that includes challenging but realistic targets and measurable, verifiable project indicators that measure achievement of project objectives and performance in project implementation. (5 points)

• A description of the applicant's approach to expending funds in the most cost-effective method possible in order to achieve the project objectives. The applicant should refer to its submitted budget in explaining how the budgeted funds will be utilized cost-effectively. In order to assist USDOL in assessing the efficient and effective allocation of project funding, the Applicant shall submit, at minimum, supporting budget information indicating how the Applicant arrived at estimating the costs of the following items/activities: salaries and benefits for all key personnel, 2–3 key activities proposed by the Applicant under its project design, and closing the project and meeting all USDOL close-out requirements, as stated in this SGA. The Applicant will be evaluated based on the clear identification of all project costs and efficient and effective allocation of funding. The project budget should clearly demonstrate that the total amount and distribution of funds is sufficient to cover the cost of all major project activities identified by the Applicant in its proposal, management of the project, monitoring and evaluation, and project close-out and that the distribution of funds maximizes the provision of goods and/or services to project beneficiaries. This section will be evaluated in accordance with applicable Federal laws and regulations. The budget must comply with Federal cost principles (which can be found in the applicable OMB Circulars) and with ILAB budget requirements contained in the application instructions in Section III of this solicitation. (10 points)

• Use of existing expertise from the recipient country in order to reduce costs and further develop local capacity. (5 points)

• Inclusion of a sustainability strategy that ensures that project improvements will continue after the project ends. (5 points)

• Submission of a schedule of quarterly deliverables that will serve to determine the level of performance of the contractor. The identification of deliverables that are presented in the proposal should be objective, verifiable, and demonstrate progress in achieving project objectives. (5 points)

*C. Institutional Qualifications/Past Performance—25 points*

• Prior experience working in the area of HIV/AIDS prevention education and/or workplace-based programs in developing countries, especially in Uganda. The application shall include information as an attachment (which will not count towards the page limit) regarding previous grants, contracts, or grants, including (a) the organization for which the work was done, (b) a contact person in that organization with his/her current phone number, (c) the dollar value of the grant, contract, or Grant for the project(s), (d) the time frame and professional effort, either directly by key personnel, by consultants, or under contractual arrangements involved in the project(s), (e) a brief summary of the work performed; and (f) a brief summary of accomplishments. (10 points)

• Clear organizational structure and management plan, illustrating experience with carrying out participatory development activities with organizations (*i.e.*, government ministries, employer organizations, worker organizations, community organizations) and maintaining positive and effective relationships with partners. (10 points)

• Demonstration of strong financial management and internal control systems. (5 points)

*D. Experience of Personnel—30 points*

• Key personnel with prior experience directly related to the proposed work, including technical and language qualifications, professional competence, relevant academic background, and demonstrated experience. Applicants shall submit a résumé for each key personnel proposed, which includes the individual's current employment status and previous work experience, including position title, duties performed, dates in position, employing organizations, and educational background. Duties must be clearly defined in terms of role performed (*i.e.*, manager, team leader, consultant). Résumés shall be included as attachments, which do not count against the page limitation. (20 points)

• Clear management plan demonstrating the staffing requirements and other resources needed to implement the approach. (10 points)

*E. Leveraging of Grant Funding—5 points*

USDOL will award up to five (5) additional rating points to applications that include non-Federal resources that significantly expand the size and scope of project-related activities. These programs will not be financed by the project, but can complement and enhance project objectives. To be eligible for the additional points, the applicant must list the resource(s), the nature, and possible activities anticipated and any partnerships, linkages, or coordination of activities, cooperative funding, etc.

*F.Suggested Outline for Technical Proposal*

This outline is provided as a guideline. Organizations may elect a format of their choosing, subject to the requirements of this announcement.

1. Executive Summary

2. Program Description

Goal and Objectives, Background, Technical Approach and Implementation Timetable (Proposed Intervention), Experience of Personnel, Identification of Deliverables and Quarterly Schedule of their submission to determine contractor performance, Staffing Pattern and Project Management Organizational Chart, Leveraging of non-Federal Resources.

3. Attachments

Summaries of other relevant organizational experiences, Resumes of key personnel and signed letters of commitment to the project.

Successful proposals submitted in response to this SGA will be incorporated into the text of the grant with the selected applicant(s).

Signed at Washington, DC, this 14th day of July, 2003.

**Lawrence J. Kuss,**

*Grant Officer.*

BILLING CODE 4510–28–P

# APPENDIX A

## Standard Government Forms

# APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

| | | |
|---|---|---|
| **2. DATE SUBMITTED** | Applicant Identifier | |
| **3. DATE RECEIVED BY STATE** | State Application Identifier | |
| **4. DATE RECEIVED BY FEDERAL AGENCY** | Federal Identifier | |

**1. TYPE OF SUBMISSION:**

Application
- ☐ **Construction**
- ☐ **Non-Construction**

Preapplication
- ☐ **Construction**
- ☐ **Non-Construction**

**5. APPLICANT INFORMATION**

Legal Name:

Organizational Unit:

Address *(give city, county, State, and zip code):*

Name and telephone number of person to be contacted on matters involving this application *(give area code)*

**6. EMPLOYER IDENTIFICATION NUMBER** *(EIN):*

☐☐ — ☐☐☐☐☐☐☐

**7. TYPE OF APPLICANT:** *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

**8. TYPE OF APPLICATION:**

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify):*

_____

**9. NAME OF FEDERAL AGENCY:**

**10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:**

☐☐ — ☐☐☐

TITLE:

**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**

**12. AREAS AFFECTED BY PROJECT** *(Cities, Counties, States, etc.):*

**13. PROPOSED PROJECT**

| Start Date | Ending Date |
|---|---|
| | |

**14. CONGRESSIONAL DISTRICTS OF:**

a. Applicant

b. Project

**15. ESTIMATED FUNDING:**

| | |
|---|---|
| a. Federal | $ .00 |
| b. Applicant | $ .00 |
| c. State | $ .00 |
| d. Local | $ .00 |
| e. Other | $ .00 |
| f. Program Income | $ .00 |
| g. TOTAL | $ 0.00 |

**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

**18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.**

| | | |
|---|---|---|
| a. Type Name of Authorized Representative | b. Title | c. Telephone Number |
| d. Signature of Authorized Representative | | e. Date Signed |

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Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

## INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable). |
| 3. | State use only (if applicable). |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>-- "New" means a new assistance award.<br>-- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>-- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

## BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

**SECTION A - BUDGET SUMMARY**

| Grant Program Function or Activity (a) | Catalog of Federal Domestic Assistance Number (b) | Estimated Unobligated Funds | | New or Revised Budget | | |
|---|---|---|---|---|---|---|
| | | Federal (c) | Non-Federal (d) | Federal (e) | Non-Federal (f) | Total (g) |
| 1. | | $ | $ | $ | $ | $ 0.00 |
| 2. | | | | | | 0.00 |
| 3. | | | | | | 0.00 |
| 4. | | | | | | 0.00 |
| 5. Totals | | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

**SECTION B - BUDGET CATEGORIES**

| 6. Object Class Categories | GRANT PROGRAM, FUNCTION OR ACTIVITY | | | | Total |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) |
| a. Personnel | $ | $ | $ | $ | $ 0.00 |
| b. Fringe Benefits | | | | | 0.00 |
| c. Travel | | | | | 0.00 |
| d. Equipment | | | | | 0.00 |
| e. Supplies | | | | | 0.00 |
| f. Contractual | | | | | 0.00 |
| g. Construction | | | | | 0.00 |
| h. Other | | | | | 0.00 |
| i. Total Direct Charges *(sum of 6a-6h)* | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| j. Indirect Charges | | | | | 0.00 |
| k. TOTALS *(sum of 6i and 6j)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| | | | | | |
| 7. Program Income | $ | $ | $ | $ | $ 0.00 |

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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| SECTION C - NON-FEDERAL RESOURCES | | | | |
|---|---|---|---|---|
| (a) Grant Program | (b) Applicant | (c) State | (d) Other Sources | (e) TOTALS |
| 8. | $ | $ | $ | $ 0.00 |
| 9. | | | | 0.00 |
| 10. | | | | 0.00 |
| 11. | | | | 0.00 |
| 12. TOTAL *(sum of lines 8-11)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION D - FORECASTED CASH NEEDS | | | | | |
|---|---|---|---|---|---|
| | Total for 1st Year | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| 13. Federal | $ 0.00 | $ | $ | $ | $ |
| 14. Non-Federal | 0.00 | | | | |
| 15. TOTAL *(sum of lines 13 and 14)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT | | | | |
|---|---|---|---|---|
| (a) Grant Program | FUTURE FUNDING PERIODS (Years) | | | |
| | (b) First | (c) Second | (d) Third | (e) Fourth |
| 16. | $ | $ | $ | $ |
| 17. | | | | |
| 18. | | | | |
| 19. | | | | |
| 20. TOTAL *(sum of lines 16-19)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION F - OTHER BUDGET INFORMATION | |
|---|---|
| 21. Direct Charges: | 22. Indirect Charges: |
| 23. Remarks: | |

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**Standard Form 424A (Rev. 7-97) Page 2**

## INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**General Instructions**

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

**Section A. Budget Summary Lines 1-4 Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

**Lines 1-4, Columns (c) through (g)**

*For new applications*, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

*For continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

*For supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** - Show the totals for all columns used.

**Section B Budget Categories**

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Line 6a-i** - Show the totals of Lines 6a to 6h in each column.

**Line 6j** - Show the amount of indirect cost.

**Line 6k** - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

**Line 7** - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

## INSTRUCTIONS FOR THE SF-424A (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

**Section C. Non-Federal Resources**

**Lines 8-11** Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

**Column (a)** - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

**Column (b)** - Enter the contribution to be made by the applicant.

**Column (c)** - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

**Column (d)** - Enter the amount of cash and in-kind contributions to be made from all other sources.

**Column (e)** - Enter totals of Columns (b), (c), and (d).

**Line 12** - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

**Section D. Forecasted Cash Needs**

**Line 13** - Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** - Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** - Enter the totals of amounts on Lines 13 and 14.

**Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16-19** - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

**Line 20** - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

**Section F. Other Budget Information**

**Line 21** - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

**Line 23** - Provide any other explanations or comments deemed necessary.

# Survey on Ensuring Equal Opportunity for Applicants

*Federal Agency Use Only*

OMB No. 1225-0083 Exp. 02/28/2006

**NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.**

**Purpose:** This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local )?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

## Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c)(3) status is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

**Paperwork Burden Statement**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

# APPENDIX B

## Progress Report Forms

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

## STATUS REPORT FORMAT

| | | |
|---|---|---|
| **PROJECT #:** | **COUNTRY/PROJECT NAME:** | |
| **FUNDING:** | **PROJECT DURATION:** | **EVALUATION DATES:**<br>Mid-term:<br>Final: |
| **DATE SUBMITTED:** | **REPORTING PERIOD:** | **CONTACT:** |
| **PROJECT OBJECTIVES:**<br><br>Development Objective:<br><br>Immediate Objective(s):<br><br>Sub Immediate Objective(s): | | |

### I. WOKRPLAN STATUS

*(Attach Workplan indicating status of components – "completed," "on schedule," "delayed," "Cancelled" as an annex.)*

[Summarize any Workplan variance and recommended actions]

### II. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

| Problems | Proposed Solutions | Actions Taken/Required |
|---|---|---|

### III. NEW PROPOSALS (activities, staffing, funding, etc.)

U.S. Department of Labor
Bureau of International Labor Affairs/Office of Foreign Relations

**TECHNICAL PROGRESS REPORT FORMAT**

| **PROJECT #:** | **COUNTRY/PROJECT NAME:** | |
|---|---|---|
| **FUNDING:** | **PROJECT DURATION**: | **EVALUATION DATES:**<br>Mid-term:<br>Final: |
| **DATE SUBMITTED:** | **REPORTING PERIOD:** | **CONTACT:** |
| **PROJECT OBJECTIVES:**<br><br>Development Objective:<br><br>Immediate Objective(s):<br><br>Sub Immediate Objective(s): | | |

## I. OVERALL PROGRESS

[*Attach Data Tracking Table and any reporting against the Performance Monitoring Plan (PMP) as an annex.*]

## II. MAJOR TRENDS

## III. PROBLEMS, PROPOSED SOLUTIONS, ACTIONS TAKEN OR REQUIRED

| Problems | Proposed Solutions | Actions Taken/Required |
|---|---|---|

## IV. NEW PROPOSALS (activities, staffing, funding, etc.)

## V. LESSONS LEARNED

## VI. EXPENDITURES VS. BUDGET

| Budget Line Item | Total Budget Amt. | For the Reporting Period | | | Cumulative (over the life of the project) | |
|---|---|---|---|---|---|---|
| | | Planned Expenditures | Actual Expenditures | Balance | Total Expenditures | Balance |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |
| | $ | $ | $ | $ | $ | $ |

[FR Doc. 03–18255 Filed 7–17–03; 8:45 am]
BILLING CODE 4510–28–C

## DEPARTMENT OF LABOR

### Office of the Secretary

### Bureau of International Labor Affairs; Request for Information Concerning Labor Rights in Australia and Its Laws Governing Exploitative Child Labor

**AGENCIES:** Office of the Secretary, Labor; Office of the United States Trade Representative, and Department of State.

**ACTION:** Request for public comments.

**SUMMARY:** This notice is a request for public comments to assist the Secretary of Labor, the United States Trade Representative, and the Secretary of State in preparing reports regarding labor rights in Australia and describing the extent to which Australia has in effect laws governing exploitative child labor. The Trade Act of 2002 requires reports on these issues and others when the President intends to use trade promotion authority procedures in connection with legislation approving and implementing a trade agreement. On November 13, 2002, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative (USTR), Ambassador Robert B. Zoellick, notified the Congress of the President's intent to enter into trade negotiations with Australia. The interagency Trade Policy Staff Committee (TPSC) invited the public to provide written comments and/or oral testimony at a public hearing conducted on January 15, 2003, to assist USTR in formulating positions and proposals with respect to all aspects of the negotiations (67 FR 76431) (Dec 12, 2002). The first round of the U.S.–Australia FTA negotiations took place March 17–21 in Canberra, Australia, and a second round took place in Honolulu, Hawaii, May 19–23. A third round is scheduled for July, with negotiations expected to be completed by the end of 2003. An agreement resulting from these negotiations will be subject to trade promotion authority procedures. The President assigned the functions of preparing reports regarding labor rights and the existence of laws governing exploitative child labor to the Secretary of Labor, in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor further assigned these functions to the Secretary of State and the United States Trade Representative.

**DATES:** Public comments should be received no later than 5 p.m. September 2, 2003.

**ADDRESSES:** Persons submitting comments are strongly advised to make such submissions by electronic mail to the following address: *FRFTAAustralia@dol.gov.* Submissions by facsimile may be sent to: Betsy White at the Office of International Economic Affairs, Bureau of International Labor Affairs, (202) 693–4851.

**FOR FURTHER INFORMATION CONTACT:** For procedural questions regarding the submissions, please contact Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, at (202) 693–4919, facsimile (202) 693–4851. These are not toll-free numbers. Substantive questions concerning the labor rights report and/or the report on Australia's laws governing exploitative child labor should be addressed to Jorge Perez-Lopez, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–4883.

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Trade Act of 2002 (Pub. L. 107–210) (the Trade Act) sets forth special procedures (Trade Promotion Authority) for approval and implementation of Agreements subject to meeting conditions and requirements in the Act. Division B of the Trade Act, entitled the Bipartisan Trade Promotion Authority Act of 2002. The Trade Act includes negotiating objectives and a listing of priorities for the President to promote in order to ''address and maintain United States competitiveness in the global economy'' in pursuing future trade agreements 19 U.S.C. 3802(a)–(c). The President delegated several of the functions in section 3802(c) to the Secretary of Labor. (E.O. 13277). These include the functions set forth in section 2102(c)(8), which requires that the President ''in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating'' and the function in section 2102(c)(9), which requires that the President ''with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.'' The notification letters to the Congress regarding the President's intent to enter into trade negotiations with Australia can be found on the USTR Web site at *http://www.ustr.gov/releases/2002/11/2002–11–13-australia-hastert.PDF* and *http://www.ustr.gov/releases/2002/11/2002–11–13-australia-byrd.PDF.*

### II. Information Sought

Interested parties are invited to submit written information as specified below to be taken into account in drafting the required reports. Materials submitted should be confined to the specific topics of the reports. In particular, agencies are seeking written submissions on the following topics:

1. Australia's labor laws, including laws governing exploitative child labor, and Australia's implementation and enforcement of such laws and regulations;
2. The situation in Australia with respect to core labor standards;
3. Steps taken by Australia to comply with International Labor Organization Convention 182 on the worst forms of child labor; and
4. The nature and extent, if any, of exploitative child labor in Australia.

Section 2113(6) of the Trade Act defines ''core labor standards'' as:

(A) The right of association;

(B) The right to organize and bargain collectively;

(C) A prohibition on the use of any form of forced or compulsory labor;

(D) A minimum age for the employment of children; and

(E) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

### III. Requirements for Submissions

This document is a request for facts or opinions submitted in response to a general solicitation of comments from the public. To ensure prompt and full consideration of submissions, we strongly recommend that interested persons submit comments by electronic mail to the following e-mail address: *FRFTAAustralia@dol.gov.* Persons making submissions by e-mail should use the following subject line: ''Australia: Labor Rights and Child Labor Reports.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) format. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover

letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Written comments will be placed in a file open to public inspection at the Department of Labor, Room S–5317, 200 Constitution Avenue, NW., Washington DC and in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW., Washington, DC 20508. An appointment to review the file at the Department of Labor may be made by contacting Betsy White at (202) 693–4919. An appointment to review the file at USTR may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 noon and 1–4 p.m. Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Signed at Washington, DC, this 9th of July, 2003.

**Arnold Levine,**

*Associate Deputy Under Secretary for International Affairs.*

[FR Doc. 03–18254 Filed 7–17–03; 8:45 am]

**BILLING CODE 4510–28–P**

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## DEPARTMENT OF LABOR

### Employment Standards Administration; Wage and Hour Division

### Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amend, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time to be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume cause procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register,** or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

### Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

*Volume I*

None

*Volume II*

None

*Volume III*

None

*Volume IV*

None

*Volume V*

None

*Volume VI*

None

*Volume VII*

None

### General Wage Determination Publication

General Wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents; U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 10th day of July, 2003.

**Carl Poleskey,**

*Chief, Branch of Construction Wage Determinations.*

[FR Doc. 03–17974 Filed 7–17–03; 8:45 am]

BILLING CODE 4510–27–M

## MISSISSIPPI RIVER COMMISSION

### Sunshine Act Meetings

**AGENCY HOLDING THE MEETINGS:** Mississippi River Commission.

**TIME AND DATE:** 9 a.m., August 11, 2003.

**PLACE:** On board MISSISSIPPI V at Lambert's Landing, St. Paul, MN.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Paul District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

**TIME AND DATE:** 1:30 p.m., August 14, 2003.

**PLACE:** On board MISSISSIPPI V at City Front, Hannibal, MO.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Rock Island District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

**TIME AND DATE:** 9 a.m., August 15, 2003.

**PLACE:** On board MISSISSIPPI V at Riverfront, St. Louis, MO.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Louis District and; (3) Presentations by local organizations and members of the public giving views or comment on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

**TIME AND DATE:** 9 a.m., August 18, 2003.

**PLACE:** On board MISSISSIPPI V at River Park, Tiptonville, TN.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

**TIME AND DATE:** 9 a.m., August 19, 2003.

**PLACE:** On board MISSISSIPPI V at Tom Sawyer Park, West Memphis, AR.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

**TIME AND DATE:** 9 a.m., August 20, 2003.

**PLACE:** On board MISSISSIPPI V at Tennis Court Boat Ramp, Mayersville, MS.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

**TIME AND DATE:** 9 a.m., August 22, 2003.

**PLACE:** On board MISSISSIPPI V at Port Commission Dock, Morgan City, LA.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:** (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the New Orleans District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or of the Commission and the Corps of Engineers.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Stephen Gambrell, telephone 601–634–5766.

**Timothy S. Gambrell,**

*Acting Secretary, Mississippi River Commission.*

[FR Doc. 03–18440 Filed 7–16–03; 11:56 am]

BILLING CODE 3710–GX–M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 30–36239–ML; ASLBP No. 03–814–01–ML]**

### CFC Logistics, Inc.; Designation of Presiding Officer

Pursuant to delegation by the Commission, see 37 FR 28710 (Dec. 29, 1972), and the Commission's regulations, see 10 CFR 2.1201, 2.1207, notice is hereby given that (1) a single member of the Atomic Safety and Licensing Board Panel is designated as Presiding Officer to rule on petitions for leave to intervene and/or requests for hearing; and (2) upon making the requisite findings in accordance with 10 CFR 2.1205(h), the Presiding Officer will conduct an adjudicatory hearing in the following proceeding: CFC Logistics, Inc., Quakertown, Pennsylvania (Materials License).

The hearing will be conducted pursuant to 10 CFR Part 2, Subpart L, of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns a June 23, 2003

hearing request submitted by twenty-two residents of Milford Township, Pennsylvania, regarding a February 19, 2003 materials license application by CFC Logistics, Inc., to use cobalt-60 in the irradiation of a wide range of materials, including food, cosmetic, and pharmaceutical products, at a facility located in Quakertown, Pennsylvania.

The Presiding Officer in this proceeding is Administrative Judge Michael C. Farrar. Pursuant to the provisions of 10 CFR 2.722, 2.1209, Administrative Judge Charles N. Kelber has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents, and other materials shall be filed with Judges Farrar and Kelber in accordance with 10 CFR 2.1203. Their addresses are:

Administrative Judge Michael C. Farrar, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001;

Dr. Charles N. Kelber, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Issued at Rockville, Maryland, this 14th day of July 2003.

**G. Paul Bollwerk, III,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 03–18263 Filed 7–17–03; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on July 29, 2003, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Tuesday, July 29, 2003—8 a.m.–9 a.m.**

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415–6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: July 11, 2003.

**Sher Bahadur,**

*Associate Director for Technical, Support, ACRS/ACNW.*

[FR Doc. 03–18261 Filed 7–17–03; 8:45 am]

BILLING CODE 7590–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval of revised collection of information.

**SUMMARY:** The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend approval, under the Paperwork Reduction Act, of the collection of information under its regulation on Payment of Premiums (29 CFR part 4007) (OMB control number 1212–0009; expires January 31, 2005). The collection of information also includes a certification of compliance with requirements to provide certain notices to participants under the PBGC's regulation on Disclosure to Participants (29 CFR part 4011). The PBGC is revising the collection of information to provide for electronic filing of premium information and payments. The PBGC intends to create an electronic facility, ''My Plan Administration Account'' (''MyPAA''), on its Web site at www.pbgc.gov, through which plan administrators and other plan professionals will be able to prepare and submit premium filings. This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by September 16, 2003.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at that address during normal business hours. Comments also may be submitted electronically through the PBGC's Web site at *www.pbgc.gov/paperwork,* or by fax to 202–326–4112. The PBGC will make all comments available on its Web site at www.pbgc.gov.

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The premium payment and participant notice regulations and the premium forms and instructions for 2003 and prior years can be accessed on the PBGC's Web site at *www.pbgc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Deborah C. Murphy, Staff Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 (''ERISA'') requires the Pension Benefit Guaranty Corporation (''PBGC'') to collect premiums from pension plans covered under Title IV pension insurance programs. Pursuant to ERISA section 4007, the PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Section 4007.3 of the premium payment regulation requires plans, in connection with the payment of premiums, to file forms prescribed by the PBGC, and § 4007.10 requires plans to retain and make available to the PBGC records supporting or validating the computation of premiums paid.

The PBGC has prescribed a series of premium forms: Form 1–ES, Form 1–EZ, and Form 1 and (for single-employer plans only) Schedule A to Form 1. Form 1–ES is issued, with instructions, in the PBGC's Estimated Premium Payment

Package. Form 1–EZ, Form 1, and Schedule A are issued, with instructions, in the PBGC's Annual Premium Payment Package.

Premium forms are needed to report the computation, determine the amount, and record the payment of PBGC premiums. The submission of forms and retention and submission of records are needed to enable the PBGC to perform premium audits. The plan administrator of each pension plan covered by Title IV of ERISA is required to file one or more premium forms each year. The PBGC uses the information on the premium forms to identify the plans paying premiums; to verify whether plans are paying the correct amounts; and to help the PBGC determine the magnitude of its exposure in the event of plan termination. That information and the retained records are used for audit purposes.

In addition, section 4011 of ERISA and the PBGC's regulation on Disclosure to Participants (29 CFR part 4011) require plan administrators of certain underfunded single-employer pension plans to provide an annual notice to plan participants and beneficiaries of the plans' funding status and the limits on the Pension Benefit Guaranty Corporation's guarantee of plan benefits. In general, the participant notice requirement applies (subject to certain exemptions) to plans that must pay a variable-rate premium. In order to monitor compliance with part 4011, single-employer plan administrators must indicate on their premium filings whether the participant notice requirements have been complied with.

The collection of information under the regulation on Payment of Premiums, including Form 1–ES, Form 1–EZ, Form 1, and Schedule A to Form 1, and related instructions has been approved by OMB under control number 1212–0009. The collection of information also includes the certification of compliance with the participant notice requirements (but not the participant notices themselves).

The PBGC is revising the collection of information to provide for electronic filing of premium information and payments. As part of the PBGC's ongoing implementation of the Government Paperwork Elimination Act (GPEA), the PBGC is creating an application, ''My Plan Administration Account'' (''MyPAA'') on its Web site at *www.pbgc.gov,* through which plan administrators and other plan professionals will be able to prepare and submit premium filings. Initially, MyPAA will be available for a limited number of plans. As the PBGC gains experience, it intends to make MyPAA available for all plans.

The PBGC intends to request that OMB extend its approval of this collection of information, as revised, for three years from the date of approval. 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 PBGC estimates that it will receive responses annually from about 31,162 plan administrators and that the total annual burden of the collection of information will be about 2,140 hours and $8,135,400. (These estimates include paper and electronic filings.)

The PBGC is soliciting public comments to—

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued in Washington, DC, this 15th day of July, 2003.

**Stuart A. Sirkin,**

*Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.*

[FR Doc. 03–18330 Filed 7–17–03; 8:45 am]

BILLING CODE 7708–01–P

## PENSION BENEFIT GUARANTY CORPORATION

### Proposed Submission of Information Collection for OMB Review; Comment Request; Locating and Paying Participants

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of intention to request extension of OMB approval.

**SUMMARY:** The Pension Benefit Guaranty Corporation (''PBGC'') intends to request that the Office of Management and Budget (''OMB'') extend its approval (with modifications) of a collection of information under the Paperwork Reduction Act. The purpose of the information collection is to enable the PBGC to pay benefits to participants and beneficiaries in plans covered by the PBGC insurance program. The PBGC intends to create an electronic facility, My Pension Benefit Account (''My PBA''), on its Web site at *www.pbgc.gov,* through which plan participants will be able to conduct electronic transactions with the PBGC. This notice informs the public of the PBGC's intent and solicits public comment on the collection of information.

**DATES:** Comments should be submitted by September 16, 2003.

**ADDRESSES:** Comments may be mailed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, or delivered to Suite 340 at that address during normal business hours. Comments also may be submitted electronically through the PBGC's Web site at *www.pbgc.gov/paperwork,* or by fax to 202–326–4112. The PBGC will make all comments available on its Web site at *www.pbgc.gov.*

Copies of the collection of information may be obtained without charge by writing to the PBGC's Communications and Public Affairs Department at Suite 240 at the above address or by visiting that office or calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.)

**FOR FURTHER INFORMATION CONTACT:** Catherine B. Klion, Attorney, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005–4026, 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

**SUPPLEMENTARY INFORMATION:** The PBGC intends to request that OMB extend its approval (with modifications) of a collection of information needed to pay participants and beneficiaries who may be entitled to pension benefits under a defined benefit plan that has terminated. The collection consists of information participants and beneficiaries are asked to provide in connection with an application for benefits. In addition, in some instances, as part of a search for participants and beneficiaries who may be entitled to benefits, the PBGC requests individuals to provide identifying information that the individual would provide as part of an initial contact with the PBGC. All

requested information is needed to enable the PBGC to determine benefit entitlements and to make appropriate payments. The collection also includes pages on the PBGC's Web site at *www.pbgc.gov,* that, for certain large plans, provide respondents with specific information about their pension plan and enable them to obtain a rough estimate of their benefit, either by using an online benefit estimate calculator or by completing an online form and submitting it to the PBGC to compute an estimate.

As part of the PBGC's ongoing implementation of the Government Paperwork Elimination Act (GPEA), the PBGC is creating an application, My PBA, on its Web site at *www.pbgc.gov,* through which plan participants will be able to conduct electronic transactions with the PBGC. My PBA will feature a variety of transactions, including applying for pension benefits, designating a beneficiary, granting a power of attorney, electing monthly payments, electing to withhold income tax from periodic payments, changing contact information, and applying for electronic direct deposit. Initially, My PBA will be available for a limited number of trusteed plans. As the PBGC gains experience, it intends to make My PBA available for all trusteed plans.

The existing collection of information under the regulation was approved under control number 1212–0055 (expires April 30, 2006). The PBGC intends to request that OMB extend its approval (with modifications) for three years from the date of approval. 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 PBGC estimates that 134,950 benefit application or information forms will be filed annually by individuals entitled to benefits from the PBGC and that the associated burden is 76,200 hours (an average of about one-half hour per response) and $49,931.50 (an average of $.37 per response). The PBGC further estimates that 5,500 individuals annually will provide the PBGC with identifying information as part of an initial contact and that the associated burden is 1,500 hours (an average of about one-quarter hour per response) and $1,100 (an average of $.20 per response). Thus, the total estimated annual burden associated with this collection of information is 77,700 hours and $51,041.50. (These estimates include paper and electronic filings.)

The PBGC is soliciting public comments to—

- 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;
- Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Issued at Washington, DC, this 15th day of July, 2003.

**Stuart A. Sirkin,**

*Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation.*

[FR Doc. 03–18331 Filed 7–17–03; 8:45 am]

BILLING CODE 7708–01–P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services Washington, DC 20549.

Extension:

Rule 11a–3 [17 CFR 270.11a–3]—SEC File No. 270–321, OMB Control No. 3235–0358.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 [44 U.S.C. 3501–3520], the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 11a–3 under the Investment Company Act of 1940 [17 CFR 270.11a–3] is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

There are approximately 3,075 funds registered with the Commission as of December 31, 2002. The staff estimates that one-quarter of these funds imposes a non-nominal administrative fee on exchange transactions, and that the recordkeeping requirement of the rule requires approximately one hour annually of clerical time (at an estimated $16 per hour) per fund, for a total of 768.75 hours for all funds (at a total annual cost of $12,300). The staff estimates that one-quarter of the 3,075 funds terminates an exchange offer or makes a material change to its terms once each year, and that the notice requirement of the rule requires approximately one hour of professional time (at an estimated $60 per hour) and two hours of clerical time (at an estimated $16 per hour) per fund, for a total of approximately 2306.25 hours for all funds (at a total annual cost of $70,725). The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

The rule provides that if a fund imposes an administrative fee in connection with exchanges that is reasonably intended to cover the costs incurred in processing the exchanges, the fund must maintain and preserve records of any determination of the costs incurred in connection with exchanges for a period of not less than

six years, the first two years in an easily accessible place. Keeping these records is necessary for any fund that wishes to obtain the benefit of relying on the rule. Although these records are subject to inspection by the Commission, they are not made public.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 7, 2003.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–18188 Filed 7–17–03; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Rel. No. IC–26098; File No. 812–12921]**

## Integrity Life Insurance Company, et al.; Notice of Application

July 14, 2003.

**AGENCY:** Securities and Exchange Commission (''SEC'' or ''Commission'').

**ACTION:** Notice of application for an order pursuant to section 6(c) of the Investment Company Act of 1940 (the ''Act'') granting exemptions from the provisions of sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c–1 thereunder.

*Applicants:* Integrity Life Insurance Company (''Integrity''), National Integrity Life Insurance Company (''National Integrity,'' together with ''Integrity'', the ''Companies''), Separate Account I of Integrity Life Insurance Company, Separate Account I of National Integrity Life Insurance Company (together with Separate Account I of Integrity Life Insurance Company, the ''Account''), and Touchstone Securities, Inc. (''Touchstone'').

*Summary of Application:* Applicants seek an order of exemption pursuant to section 6(c) of the Act to the extent necessary to permit the recapture, under specified circumstances, of credits applied to contributions made under certain flexible premium variable annuity contracts that the Companies will issue through the Accounts (the ''Contracts''), as well as other contracts that the Companies may issue in the future through their existing or future separate accounts (''Other Accounts'') that are substantially similar to the Contracts in all material respects (''Future Contracts''). Applicants also request that the order being sought extend to any other National Association of Securities Dealers, Inc. (''NASD'') member broker-dealer controlling or controlled by, or under common control or affiliated with, Touchstone, whether existing or created in the future, that serves as distributor or principal underwriter for the Contracts or Future (''Affiliated Broker-Dealers'').

*Filing Date:* The application was filed on January 21, 2003 and amended and restated on July 11, 2003.

*Hearing or Notification of Hearing:* An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received SEC by 5:30 p.m. on August 13, 2003, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants c/o G. Stephen Wastek, Esq., Assistant General Counsel, Integrity Life Insurance Company, 515 West Market Street, Louisville, Kentucky 40202.

**FOR FURTHER INFORMATION CONTACT:** Alison White, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch, 450 5th Street, NW., Washington, DC 20549–0102 ((202) 942–8090).

### Applicants' Representations

1. Integrity is a stock life insurance company organized under the laws of Ohio. It is authorized to sell life insurance and annuities in 47 states and the District of Columbia. Integrity is a subsidiary of Western and Southern Life Insurance Company (''Western and Southern''), a mutual life insurance company organized under the laws of Ohio.

2. National Integrity is a stock life insurance company organized under the laws of New York. It is authorized to sell life insurance and annuities in 4 states and the District of Columbia. National Integrity is a direct subsidiary of Integrity and an indirect subsidiary of Western and Southern.

3. Separate Account I of Integrity Life Insurance Company was established in 1986 as a separate account under Ohio law for the purpose of funding variable annuity contracts issued by Integrity. It is a segregated asset account of Integrity and is registered with the Commission as a unit investment trust under the Act.

4. Separate Account I of National Integrity Life Insurance Company was established in 1986 as a separate account under New York law for the purpose of funding variable annuity contracts issued by National Integrity. It is a segregated asset account of National Integrity and is registered with the Commission as a unit investment trust under the Act.

5. The Accounts will fund the variable benefits available under the Contracts. Each Company's offering of the Contracts is registered under the Securities Act of 1933. That portion of the assets of the Accounts that is equal to the reserves and other Contract liabilities with respect to the Accounts is not chargeable with liabilities arising out of any other business of the Companies. Any income, gains or losses, realized or unrealized, from assets allocated to the Accounts are, in accordance with the Contracts, credited to or charged against the Accounts, without regard to other income, gains or losses of the Companies.

6. Touchstone is the principal underwriter of the Contracts. Touchstone is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the NASD. The Contracts are sold by registered representatives of broker-dealers that have entered into distribution agreements with Touchstone. Touchstone is a wholly owned subsidiary of Western and Southern.

7. The minimum initial contribution is $20,000. An owner may make

additional contributions of at least $100 at any time. The Companies may limit total contributions to $1,000,000 if the owner is under age 76 and to $250,000 if the owner is age 76 or older.

8. The Companies will credit an extra amount to the Contracts equal to a maximum of 8% of a contribution made within the first twelve months of issuance (the ''Credit''). Currently the Credit is 5%. The minimum Credit that may be offered is 4%. The Companies will allocate the Credit pro rata among the investment options in the same proportion as the corresponding contribution. The Companies will fund the Credit from their general account assets.

9. The Credit is not part of the amount an owner will receive if he or she exercises the free look provision. Credits applied within twelve months of the date of receipt of due proof of death will be recaptured and are not included in the amount payable as a death benefit. Similarly, all or part of a Credit applied within twelve months of a withdrawal made pursuant to a withdrawal charge waiver (due to, for example, unemployment, terminal illness, nursing home care, or disability) will be recaptured in the same proportion as the withdrawal bears to the value of the Contract (for example, if 50% of account value is withdrawn, 50% of the Credit will be recaptured). In addition, Integrity will recapture all or part of a Credit if the owner annuitizes within the first five years of the date of issuance. Regardless of whether or not the Credit is vested, all gains or losses attributable to such Credit are part of the owner's account value and are immediately vested.

10. The free look period is the 10-day period (or longer if required by state law) during which an owner may return a Contract after it has been delivered and receive a full refund of the account value, less any Credit applied. Unless the law requires that the full amount of the contribution be refunded, less any withdrawals, the owners bears the investment risk from the time of purchase until he or she returns the Contract and the refund amount may be more or less than the contributions the owner made. The Credit will not be part of the amount an owner will be paid if the free look provision is exercised.

11. The Contracts provide for a standard death benefit and an optional death benefit. Integrity's Contract also provides for an enhanced earnings benefit rider. Any Credit applied within twelve months of the date of receipt of due proof of death will be recaptured and will not be included in the death benefit paid under the Contracts. The Credit will be recaptured whether or not the owner's spouse elects to continue the Contract. However, recapture of the Credit will never cause the amount of the death benefit to decrease below the amount of the owner's total contributions minus the amount of any withdrawals.

12. An owner may make withdrawals from the Contracts at any time before annuitization. Withdrawals in excess of the 10% annual free withdrawal amount are subject to a withdrawal charge during the first nine years after a contribution is made. Under certain circumstances, the withdrawal charge may be waived. Under the Contract issued by Integrity, the withdrawal charge may be waived for withdrawals made due to unemployment, terminal illness, or nursing home care. Under the Contract issued by National Integrity, the withdrawal charge may be waived for withdrawals made due to disability, terminal illness, or nursing home care.

13. In those cases, where the withdrawal charge is waived, any Credit applied within twelve months of such a withdrawal will be recaptured in the same proportion as the amount of the withdrawal in excess of the 10% annual free withdrawal bears to the account value. For example, if 50% of account value is withdrawn, 10% of which falls within the annual free withdrawal amount, only 40% of the Credit will be recaptured; however, if the entire annual free withdrawal amount has previously been withdrawn, 50% of the Credit will be recaptured. There will be no recapture if a withdrawal charge is imposed or in connection with amounts withdrawn that fall within the 10% annual free withdrawal.

14. In the case of the Contract issued by Integrity, if an owner annuitizes during the first five years after issuance, the Credit will be recaptured according to the following schedule:

| Contract Year | Percentage of Credit Recaptured |
|---|---|
| 1 | 100 |
| 2 | 90 |
| 3 | 80 |
| 4 | 70 |
| 5 | 60 |

Annuitization does not trigger recapture of the Credit under National Integrity's Contract.

15. Owners of the Contracts may allocate their contributions among sixty-three investment options, sixty variable investment options and three fixed investment options. Each subaccount of the Accounts is a variable investment option that will invest in shares of a corresponding portfolio of Fidelity's Variable Insurance Product Funds, Franklin Templeton Variable Insurance Products Trust, Janus Aspen Series, J.P. Morgan Series Trust II, MFS Variable Insurance Trust, Putnam Variable Trust Funds, Scudder Variable Insurance Trust, Touchstone Variable Series Trust, or Van Kampen Life Portfolios.

16. The Companies, at a later date, may decide to create additional subaccounts to invest in any additional funding options as may now or in the future be available. The Companies, from time to time, also may combine or eliminate subaccounts or transfer assets to and from subaccounts.

17. The Contracts provide for a death benefit, various death benefit options, annuity benefits, and annuity payout options, as well as transfer privileges, dollar cost averaging, asset allocation and rebalancing, and other features. The Contracts assess the following charges: (a) A withdrawal charge as a percentage of contributions withdrawn declining from 9% in contribution year 1 to 0% in contribution year 10; (b) an annual maintenance fee of $40 for Contracts with account value of $75,000 or less; (c) an annual administrative fee of .15%; (d) a mortality and expense risk charge of 1.52% in the first nine years after issuance and 1.00% thereafter; (e) a transfer charge of $20 after the first twelve transfers during a Contract year; (f) any applicable death benefit option charge; and (g) any applicable state premium tax. In addition, assets invested in the subaccounts are charged with the annual operating expenses of the underlying portfolios.

18. Applicants seek exemption pursuant to section 6(c) from sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder to the extent deemed necessary to permit the Companies to recapture part or all of a Credit in the following instances: (a) When an owner exercises the Contracts' free look provision; (b) when a death benefit is payable and the date of receipt of due proof of death is within twelve months of a Credit being applied; (c) when a withdrawal is made within twelve months of a Credit being applied under circumstances when the withdrawal charge is waived; or (d) in the case of Integrity only, when the Contract is annuitized during the first five years after issuance.

**Applicants' Legal Analysis**

1. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions from the provisions of the Act and the rules promulgated

thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission pursuant to section 6(c) of the Act grant the exemptions requested below with respect to the Contracts and any Future Contracts issued by the Companies, funded by the Accounts or Other Accounts, and underwritten or distributed by Touchstone or Affiliated Broker-Dealers. Applicants undertake that Future Contracts will be substantially similar to the Contracts in all material respects. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

2. Applicants represent that is not administratively feasible to track a Credit in the Accounts after the Credit is applied. Accordingly, the asset-based charges applicable to the Accounts will be assessed against the entire amount held in the Accounts, including the Credit, during the recapture periods. As a result, during such periods, the aggregate asset-based charges assessed against an owner's account value will be higher than those that would be charged if the owner's account value did not include the Credit. The account value includes all assets in the Accounts and the fixed accounts, including any Credit.

3. Subsection (i) of section 27 of the Act provides that section 27 does not apply to any registered separate account funding variable insurance contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his or her proportionate share of the issuer's current net assets, or the cash equivalent thereof.

4. Applicants submit that the recapture of the Credit in the circumstances set forth in this application would not deprive an owner of his or her proportionate share of the issuer's current net assets. An owner's interest in the Credit allocated to his or her account value is not fully vested until the sixth Contract year for Contracts issued by Integrity and the third Contract year for Contracts issued by National Integrity. Until the right to recapture has expired and any applicable Credit is vested, the Companies retain the right and interest in the Credit, although not in the earnings attributable to that amount. Thus, when the Companies recapture any Credit, they are merely retrieving their own assets, and the owner has not been deprived of a proportionate share of the applicable Accounts' assets because his or her interest in the Credit has not vested.

5. In addition, Applicants state that permitting an owner to retain a Credit under a Contract upon the exercise of the free look provision would not only be unfair, but would also encourage individuals to purchase a Contract with no intention of keeping it and to return it for a quick profit. Furthermore, the recapture of any Credit applied to contributions made within the first twelve months after issuance is designed to provide the Companies with a measure of protection against anti-selection. The anti-selection risk is that an owner can collect a Credit shortly before death, a free withdrawal, or annuitization, thereby leaving the Companies little time to recover the cost of the Credit. As noted earlier, the amount recaptured equals the Credits provided by the Companies from their general account assets, and any gain would remain part of the owner's account value.

6. Applicants represent that the Credit will be attractive to and in the interest of investors because it will permit owners to put up to 108% of their contributions to work for them in the selected investment options. In addition, the owner will retain any earnings attributable to the Credit, as well as the principal amount of the Credit once vested.

7. Applicants further submit that the recapture of any Credit only applies in relation to the risk of anti-selection against the Companies. Anti-selection can generally be described as a risk that owners obtain an undue advantage. This undue advantage is based on elements of fairness to the Companies and the actuarial and other factors taken into account in designing the Contracts and Future Contracts. The Companies provide the Credit from their general account assets on a guaranteed basis. Thus, they undertake a financial obligation that contemplates the retention of the Contracts and Future Contracts by their owners over an extended period, consistent with the long-term nature of retirement planning. The Companies generally expect to recover their costs, including the amount of the Credit, over an anticipated duration while a Contract or Future Contract is in force. The right to recapture Credits applied to contributions made within the first twelve months after issuance protects the Companies against the risk that an owner will purchase a Contract or Future Contract or make larger or additional contributions with the knowledge that the contingency that triggers payment of a benefit is likely or about to occur. With respect to refunds paid upon the return of the Contracts or Future Contracts within the free look period, the amount payable by the Companies must be reduced by the amount of the Credit. Otherwise, investors could purchase a Contract or Future Contract for the sole purpose of exercising the free look provision and making a quick profit.

8. Applicants submit that the provisions for recapture of Credits under the Contracts and Future Contracts do not violate sections 2(a)(32) and 27(i)(2)(A) of the Act. Sections 26(e) and 27(i) were added to the Act to implement the purposes of the National Securities Markets Improvement Act of 1996 and Congressional intent. The application of a Credit to contributions made under the Contracts should not raise any questions as to the Companies' compliance with the provisions of section 27(i). However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from section 2(a)(32) and 27(i)(2)(A), to the extent deemed necessary, to permit the recapture of any Credit under the circumstances described in this application without the loss of relief from section 27 provided by section 27(i).

9. Rule 22c–1 under the Act prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming, or repurchasing any such security except at a price based on the current net asset value of such security next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

10. The Companies' recapture of a Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than one based on the current

accumulation unit value of the Accounts. Applicants contend, however, that the recapture of the Credit does not violate Rule 22c–1. To effect a recapture of a Credit, the Companies will redeem interests in a Contract at a price determined on the basis of the current accumulation unit value of the subaccounts to which the owner's account value is allocated. The amount recaptured will equal the amount of the Credit paid out of the Companies' general account assets. Although the owner will be entitled to retain any investment gain attributable to the Credit, the amount of that gain will be determined on the basis of the current accumulation unit values of the applicable subaccounts. Thus, no dilution will occur upon the recapture of the Credit. Applicants also submit that the second harm that Rule 22c–1 was designed to address, namely speculative trading practices calculated to take advantage of backward pricing, will not occur as a result of the recapture of the Credit. Because neither of the harms that Rule 22c–1 was meant to address is found in the recapture of the Credit, Rule 22c–1 should not apply. However, to avoid any uncertainty as to full compliance with the Act, Applicants request an exemption from the provisions of Rule 22c–1 to the extent deemed necessary to permit them to recapture the Credit under the Contracts and Future Contracts.

**Conclusion**

Applicants submit that their request for an order that applies to the Accounts and any Other Accounts established by the Companies, in connection with the issuance of the Contracts and Future Contracts, is appropriate in the public interest. Applicants state that such an order would promote competitiveness in the variable annuity market by eliminating the need to file redundant exemptive applications, thereby reducing administrative expenses and maximizing the efficient use of Applicants' resources. Applicants state that investors would not receive any benefit or additional protection by requiring Applicants to repeatedly seek exemptive relief that would present no issue under the Act that has not already been addressed in this application. Applicants submit that having Applicants file additional applications would impair Applicants' ability to take advantage of business opportunities as they arise. Further, Applicants state that if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection thereby.

Applicants submit, based on the grounds summarized above, that their exemptive requests meet the standards set out in section 6(c), namely, that the exemptions requested are necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, and that, therefore, the Commission should grant the requested order.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–18189 Filed 7–17–03; 8:45 am]

BILLING CODE 8010–01–P

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## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 21, 2003: Closed Meetings will be held on Tuesday, July 22, 2003 at 2 p.m. and Thursday, July 24, 2003 at 3 p.m., and an Open Meeting will be held on Thursday, July 24, 2003 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, July 22, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;

Institution and settlement of injunctive actions;

Formal order of investigation; and

Opinions.

The subject matter of the Open Meeting scheduled for Thursday, July 24, 2003 will be:

1. The Commission will hear oral argument on an appeal by Robert M. Fuller, a former Chairman of the Board of Directors and Executive Vice-President for Investor Relations of Vista 2000, Inc. (''Vista''), from an administrative law judge's initial decision.

The law judge found that Fuller caused Vista to violate Section 17(a) of the Securities Act of 1933, sections 10(b) and 13(a) of the Securities Exchange Act of 1934, and Exchange Act Rules 10b–5, 13a–1, and 12b–20. The law judge ordered Fuller to cease and desist from committing or causing any violations or future violations of these provisions.

The Commission will consider the following issues:

a. Whether Fuller caused Vista to commit the alleged violations; and

b. If so, whether the imposition of a cease-and-desist order is appropriate and in the public interest.

The subject matter of the Closed Meeting scheduled for Thursday, July 24, 2003 will be: Post-argument discussion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: July 15, 2003.

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. 03–18395 Filed 7–15–03; 4:48 pm]

BILLING CODE 8010–01–P

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–48172; File No. SR–Amex–2003–34]**

### Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the American Stock Exchange LLC, Relating to Indications, Openings and Re-Openings

July 14, 2003.

On April 23, 2003, 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 codify and revise the Exchange's policies regarding tape indications and re-openings in stocks that are subject to a trading halt (other than ''circuit

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

breaker'' or ''equipment changeover'' halts). Notice of the proposed rule change was published for comment in the **Federal Register** on May 12, 2003.[3] No comments were received on the proposed rule change.

In 1997, the Commission approved the Exchange's policies regarding indications, openings and re-openings.[4] To make them more accessible to members and member organizations, the Exchange has proposed to codify these policies as new Rule 119. The Exchange would also update its rules on re-opening trading in a stock after a post-opening trading halt to conform them to those of the New York Stock Exchange (''NYSE''). The Exchange's current policy on re-openings requires a minimum of 10 minutes to elapse between the first price indication and the re-opening, and a minimum of five minutes to elapse after the last indication, provided in all cases that the minimum 10 minutes has elapsed since the first indication. The Exchange proposes to shorten these minimum time periods to five minutes after the first indication, and three minutes after the last indication, provided that a minimum of five minutes has elapsed since the first price indication.

The Commission 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 exchange.[5] Specifically, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors and the public interest. The Commission notes that Amex's codification of the previously approved policies will result in greater transparency of Exchange procedures. Further, the Commission notes that Amex's proposal to shorten the minimum time periods that must elapse between indications and re-openings would conform Amex's procedures to those in effect at the NYSE,[7] which the Commission believes strike a reasonable balance between preserving the price discovery process and providing timely opportunities for investors to participate in the market.

*It is therefore ordered*, pursuant to section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–Amex–2003–34) be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–18259 Filed 7–17–03; 8:45 am]

BILLING CODE 8010–01–P

[3] *See* Release No. 34–47796 (May 5, 2003), 68 FR 25400.

[4] *See* Release No. 34–38549 (April 28, 1997), 62 FR 24519 (1997).

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78(c)(f).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* NYSE Rule 123D(1); Release No. 34–47104 (December 30, 2002), 68 FR 597 (January 6, 2003).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–48169; File No. SR–MSRB–2003–04]**

## Self-Regulatory Organizations; Order Granting Approval of a Proposed Rule Change by the Municipal Securities Rulemaking Board To Require Dealers To Establish Anti-Money Laundering Compliance Programs

Date: July 11, 2003.

On May 22, 2003, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities & Exchange Commission (''Commission'' or ''SEC''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''the Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change (File No. SR–MSRB–2003–04) (the ''proposed rule change''). The MSRB's rule change establishes Rule G–41, on anti-money laundering compliance.

The Commission published the proposed rule change for notice and comment in the **Federal Register** on June 9, 2003.[3] The Commission received one comment letter on the proposed rule change.[4] This order approves the proposed rule change.

### I. Description of the Proposed Rule Change

The MSRB filed a proposed rule change, Rule G–41, on anti-money laundering compliance in response to the passage of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (''USA PATRIOT Act'').[5] Section 352, of the USA PATRIOT Act, requires financial institutions, including broker/dealers, to establish and implement anti-money laundering compliance programs designed to ensure ongoing compliance with the requirements of the Bank Secrecy Act (''BSA''),[6] and the regulations promulgated thereunder, by April 24, 2002. The MSRB proposed Rule G–41 to ensure that all brokers, dealers and municipal securities dealers (''dealers'')[7] that effect transactions in municipal securities, and in particular those that only effect transactions in municipal securities (''sole municipal dealers''), are aware of, and in compliance with, anti-money laundering program requirements. The proposed rule change requires that all dealers establish and implement anti-money laundering programs that are in compliance with the rules and regulations of either its registered securities association (*i.e.*, NASD) or its appropriate banking regulator governing the establishment and maintenance of anti-money laundering programs.[8]

### II. Summary of Comments

The Commission received one comment letter relating to the proposed rule change.[9] The comment letter expresses its general support for the proposed rule, but requests at least a five-month delay for mandatory compliance with the rule's ''Customer Identification Program'' (''CIP'').[10] According to the comment letter, T. Rowe believes that timely compliance with the CIP is ''extremely burdensome'' for broker and dealers involved with the distribution of college savings plans ''to efficiently implement all of the operational and informational technology related changes the rule demands.''[11] T. Rowe requested the delay to ''minimize the disruption of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Release No. 34–47969 (June 3, 2003), 68 FR 34450.

[4] Letter from Henry H. Hopkins, Chief legal Counsel, Regina M. Pizzonia, Associate Counsel, T. Rowe Price Associates, Inc. (''T. Rowe''), to Jonathan G. Katz, Secretary, Commission, dated June 27, 2003.

[5] Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56, 115 Stat. 272 (2001).

[6] 31 U.S.C. 5311, *et seq.*

[7] The term ''dealer'' is used herein as shorthand for ''broker,'' ''dealer'' or ''municipal securities dealer,'' as those terms are defined in the Act. The use of the term does not imply that the entity is necessarily taking a principal position in a municipal security.

[8] *See* Release No 34–47969; *see also* Release No. 34–46739 (Oct. 29, 2002) 67 FR 67432 (Nov. 5, 2002); 31 CFR 103.120(b).

[9] *See* T. Rowe letter.

[10] *Id* at 1.

[11] *Id* at 2.

services to our account holders'' and that it believed that college savings plan, ''pose a low threat as a money laundering vehicle''.[12] For these and other reasons expressed in the letter, T. Rowe believes that a five-month compliance delay, specifically in relation to brokers and dealers who distribute the college saving plan, would not threaten the government's anti-terrorism goals.[13]

### III. Discussion and Commission Findings

Section 19(b) of the Act [14] requires the Commission to approve the proposed rule change filed by the MSRB if the Commission finds that the proposed rule change consistent with the requirements of the Act and the rules and regulations thereunder. After careful review of the proposed rule change and the related comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, which govern the MSRB.[15] The language of section 15B(b)(2)(C) of the Act requires that the MSRB's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to foster cooperation and coordination with persons engaged in the regulating, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and in general, to protect investors and the public interest.[16] The commission believes that the MSRB's proposed rule change meets this statutory threshold.

Since the passage of the USA PATRIOT Act, the Commission has worked with self-regulatory organizations to coordinate rules requiring programs designed to help identify and prevent money laundering abuses that jeopardize the integrity of the U.S. capital markets. Title III of the USA PATRIOT Act, also known as the International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001 (''AML Act''). Imposes certain obligations on financial institutions and the dealer community. Section 352 of the AML Act requires financial institutions to establish certain minimum anti-money laundering standards. Furthermore, section 352 requires dealers to develop and implement a written anti-money laundering compliance program by April 24, 2002.[17] The Commission notes that the provisions of the USA PATRIOT Act are mandates of federal law. As a result, MSRB members should have already established anti-money laundering compliance programs.

The Commission believes that Rule G–41 will facilitate compliance with the federal government's anti-terrorism goals. The purpose of Rule G–41 is to ensure that all brokers, dealers and municipal securities dealers who effect transactions in municipal securities, especially sole municipal securities dealers, are aware of their obligations under section 352 and know where to look for guidance concerning appropriate anti-money laundering programs. Moreover, the Commission notes that Rule G–41 will provide clarification to dealers and examiners of the rules and regulations with which dealers who effect transactions in municipal securities must comply concerning anti-money laundering compliance programs.

### IV. Conclusion

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,[18] that the proposed rule change (File No. SR–MSRB–2003–04) be and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 03–18190 Filed 7–17–03; 8:45 am]

**BILLING CODE 8010–01–P**

[12] *Id* at 3.

[13] *Id* at 2.

[14] 15 U.S.C. 78s(b).

[15] Additionally, in approving this rule the Commission notes that it has considered the proposed rule's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 780–4(b)(2)(C).

[17] *See* 31 U.S.C. 5318(h) (amended by section 352 of the AML Act).

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3526]**

### State of Indiana

As a result of the President's major disaster declaration on July 11, 2003, and subsequent amendment also on July 11, I find that Adams, Allen, Benton, Blackford, Boone, Carroll, Cass, Clinton, Delaware, Fountain, Grant, Hamilton, Hancock, Henry, Howard, Huntington, Jasper, Jay, Kosciusko, Madison, Marion, Miami, Montgomery, Noble, Pulaski, Randolph, Tippecanoe, Tipton, Wabash, Warren, Wayne, Wells, White, and Whitley Counties in the State of Indiana constitute a disaster area due to damages caused by severe storms, tornadoes, and flooding occurring on July 4, 2003 and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on September 9, 2003 and for economic injury until the close of business on April 12, 2004 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: DeKalb, Elkhart, Fayette, Fulton, Hendricks, Johnson, LaGrange, Lake, LaPorte, Marshall, Morgan, Newton, Parke, Porter, Putnam, Rush, Shelby, Starke, Steuben, Union, and Vermillion in the State of Indiana; Iroquois and Vermilion Counties in the State of Illinois; Darke, Defiance, Mercer, Paulding, Preble, and Van Wert Counties in the State of Ohio.

The interest rates are:

| | Percent |
|---|---|
| For Physical Damage: | |
| Homeowners with credit available elsewhere | 5.625 |
| Homeowners without credit available elsewhere | 2.812 |
| Businesses with credit available elsewhere | 5.906 |
| Businesses and non-profit organizations without credit available elsewhere | 2.953 |
| Others (including non-profit organizations) with credit available elsewhere | 5.500 |
| For Economic Injury: | |
| Businesses and small agricultural cooperatives without credit available elsewhere | 2.953 |

The number assigned to this disaster for physical damage is 352611. For economic injury, the numbers are 9W2900 for Indiana; 9W3000 for Illinois; and 9W3100 for Ohio.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03–18328 Filed 7–17–03; 8:45 am]

**BILLING CODE 8025–01–P**

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3520]**

### Commonwealth of Kentucky; Amendment #1

In accordance with the notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective June 27, 2003, the above numbered declaration is hereby amended to establish the incident period for this disaster as beginning on June 14, 2003 and continuing through June 27, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is September 2, 2003, and for economic injury the deadline is April 2, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03–18326 Filed 7–17–03; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3512]**

### State of West Virginia; Amendment #3

In accordance with the notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective July 10, 2003, the above numbered declaration is hereby amended to include Nicholas County in the State of West Virginia as a disaster area due to damages caused by severe storms, flooding, and landslides that occurred June 11, 2003 and continuing.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the previously designated location: Braxton, Greenbrier, and Webster Counties in the State of West Virginia.

All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is August 20, 2003, and for economic injury the deadline is March 22, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 14, 2003.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 03–18329 Filed 7–17–03; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice: 4402]**

### 30-Day Notice of Proposed Information Collection: Form DS–3052, Nonimmigrant V Visa Application; OMB Control #1405–0128

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

*Type of Request:* Extension of Currently Approved Collection.

*Originating Office:* Bureau of Consular Affairs, Department of State (CA/VO).

*Title of Information Collection:* Nonimmigrant V Visa Application.

*Frequency:* Once per respondent.

*Form Number:* DS–3052.

*Respondents:* Nonimmigrant visa applicants applying for a V visa.

*Estimated Number of Respondents:* 100,000 per year.

*Average Hours Per Response:* 1 hour.

*Total Estimated Burden:* 100,000 hours per year.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed information collection 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, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

**FOR FURTHER INFORMATION CONTACT:** Copies of the proposed information collection and supporting documents may be obtained from Brendan Mullarkey of the Office of Visa Services, U.S. Department of State, 2401 E St. NW., RM L–703, Washington, DC 20520, who may be reached on 202–663–1163. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: June 30, 2003.

**Janice L. Jacobs,**

*Deputy Assistant Secretary of State for Visa Services, Bureau of Consular Affairs, Department of State.*

[FR Doc. 03–18278 Filed 7–17–03; 8:45 am]

BILLING CODE 4710–05–P

## DEPARTMENT OF STATE

**[Public Notice 4403]**

### FY 2004 Refugee Admissions Program Notice of Meeting

There will be a meeting on the President's FY 2004 Refugee Admissions Program on Wednesday, July 30, 2003, from approximately 2 p.m. to 5 p.m. The meeting will be held at the Refugee Processing Center, 1401 Wilson Boulevard, Suite 700, Arlington, Virginia. The meeting's purpose is to hear the views of attendees on the appropriate size and scope of the FY 2004 Refugee Admissions Program.

Seating is limited. Persons wishing to attend this meeting must notify the Bureau of Population, Refugees, and Admissions at (202) 663–1056 by 5 p.m. (EDT) Wednesday, July 23, 2003, to arrange for admission. Persons wishing to present oral comments at the open portion of the meeting, or to submit written comments for the Committee's consideration, must provide them in writing by 5 p.m. (EDT), July 23, 2003. All comments may be faxed to (703) 907–7284.

Information about the Refugee Admissions Program may be found at *http://www.state.gov/g/prm/.*

Dated: July 10, 2003.

**Arthur E. Dewey,**

*Assistant Secretary, Bureau of Population, Refugees, and Migration, Department of State.*

[FR Doc. 03–18277 Filed 7–17–03; 8:45 am]

BILLING CODE 4710–33–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### High Density Airports; Notice of Reagan National Airport Lottery Allocation Procedure

**AGENCY:** Federal Aviation Administration

**ACTION:** Notice of clarification.

**SUMMARY:** This action clarifies the FAA notice of a lottery for the allocation of a limited number of air carrier and commuter slots, published in the **Federal Register** on July 9, 2003, by providing the applicable definition of a ''limited incumbent'' carrier for purposes of the upcoming slot lottery at Washington Reagan National Airport on July 31, 2003.

**DATES:** Effective immediately.

**FOR FURTHER INFORMATION CONTACT:** Lorelei Peter, Operations and Air Traffic Law Branch, Regulations Division, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone number 202–267–3134.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 9, 2003, the FAA published in the **Federal Register** a notice of lottery and allocation procedures for slots at Washington Reagan National Airport (DCA) (68 FR 41037). In this notice the FAA stated that Title 49 of the United States Code (U.S.C.) 41714(h)(5)(A) amends the regulatory definition of a limited incumbent carrier to a carrier that holds or operates fewer than 20 lots and includes slot exemptions in the term ''slots.''

The FAA has further reviewed this matter and clarifies that the definitions set forth in 49 U.S.C. 41714(h) apply to sections 41714–41718 and 41734(h) only. Therefore, the regulatory definitions of a ''new entrant'' carrier and a ''limited incumbent'' carrier, as set forth respectively in 14 CFR 93.213(a)(1) and 93.213(a)(5) are applicable for purposes of the lottery at DCA.

Issued in July 15th, 2003 in Washington, DC.

**Andrew S. Steinberg,**

*Chief Counsel.*

[FR Doc. 03–18401 Filed 7–16–03; 11:02 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15662]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel BEAU GESTE.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15662 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15662. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel BEAU GESTE is:

*Intended Use:* ''Passengers for hire.''

*Geographic Region:* ''All five Great Lakes.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18286 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15665]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel CINNAMON TEAL.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15665 at *http://www.dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of

MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15665. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://www.dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel CINNAMON TEAL is:

*Intended Use:* ''Seasonal sailing charters.''

*Geographic Region:* ''Maine to Florida.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18283 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15667]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel GOLDEN DAYS.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15667 at *http://www.dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15667. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://www.dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel GOLDEN DAYS is:

*Intended Use:* ''Coastwise Term Charters (Pleasure Cruises).''

*Georgraphic Region:* ''U.S. East Coast, Florida to Maine''.

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18282 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15668]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel HORIZON.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15668 at *http://www.dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15668. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://www.dmses.dot.gov/submit/.* All

comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel HORIZON is:

*Intended Use:* ''Recreational yacht charters of 12 passengers or less''.

*Geographic Region:* ''Newport, RI to Miami, FL''.

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18281 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15673]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel JACQUELINE.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15673 at *http://dms.dot.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15673. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel JACQUELINE is:

*Intended Use:* ''sailing charters, typically one to seven days.''

*Geographic Region:* ''East Coast of the United States and the Gulf of Mexico.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18288 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15669]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel JOHN A.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15669 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in section 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15669. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel JOHN A. is:

*Intended Use:* ''Sailing Charters''.

*Geographic Region:* ''Miami to Key West.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18280 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15664]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel LADY SHARON GALE.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15664 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15664. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel LADY SHARON GALE is:

*Intended Use:* ''Chartering boat for pleasure and fishing''.

*Geographic Region:* ''Maine to the Florida Keys.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18284 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15674]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel MAGNOLIA.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15674 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15674. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830, Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone (202) 366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel MAGNOLIA is:

*Intended Use:* ''Recreational Charter.''

*Geographic Region:* ''The U.S. Gulf Coast and the East Coast, including Texas, Louisiana, Florida, Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and Maine. Also, the Great Lakes Region. My base of operations is New York, New York.''

Dated: July 14,2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18287 Filed 7–17–03; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15663]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel OUR JEWEL.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15663 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15663. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel OUR JEWEL is:

*Intended Use:* ''Charters/Passengers for hire.''

*Geographic Region:* ''United States East Coast including Florida.''

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18285 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2003 15670]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel THE FURRY FIVE.

**SUMMARY:** As authorized by Pub. L. 105–383 and Pub. L. 107–295, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2003–15670 at *http://dms.dot.gov*. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before August 18, 2003.

**ADDRESSES:** Comments should refer to docket number MARAD–2003–15670. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/*. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov*.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR–830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel THE FURRY FIVE is:

*Intended Use:* Recreation/fishing/pleasure charter.

*Geographic Region:* Florida.

Dated: July 14, 2003.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 03–18279 Filed 7–17–03; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34352]**

### RailAmerica, Inc., et al.—Continuance in Control Exemption—San Luis & Rio Grande Railroad Company

RailAmerica, Inc. (RailAmerica), Palm Beach Rail Holding, Inc. (Palm Beach), and RailAmerica Transportation Corp. (RTC) (collectively, applicants) have filed a verified notice of exemption to continue in control of San Luis & Rio Grande Railroad Company (SLRG), upon SLRG becoming a Class III rail carrier.

The transaction was expected to be consummated on or after June 30, 2003.

This transaction is related to the concurrently filed verified notice of exemption in STB Finance Docket No. 34350, *San Luis & Rio Grande Railroad Company—Acquisition and Operation Exemption—Union Pacific Railroad Company,* wherein SLRG seek to acquire and operate 149.38 miles of rail line currently owned by Union Pacific Railroad Company.

RailAmerica currently controls one Class II railroad and 33 Class III railroads. RailAmerica directly controls Palm Beach, which in turn directly

controls RTC. RTC directly controls SLRG.

Applicants state that: (1) The railroads do not connect with each other or any railroad in their corporate family; (2) the continuance in control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a Class I carrier.

Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves at least one Class II and one or more Class III rail carriers, the exemption is subject to the labor protection requirements of 49 U.S.C. 11326(b).

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34352, 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 Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: July 11, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03–18334 Filed 7–17–03; 8:45 am]

**BILLING CODE 4915–00–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34350]**

### San Luis & Rio Grande Railroad Company—Acquisition and Operation Exemption—Union Pacific Railroad Company

San Luis & Rio Grande Railroad Company (SLRG), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate two lines of the Union Pacific Railroad Company (UP), as follows: (1) The Alamosa Subdivision from milepost 299.30 near Derrick, CO, to milepost 180.0 near Walsenburg, CO; [1] and (2) the Antonito Subdivision from the point where the two subdivisions connect at milepost 251.7 in Alamosa, CO, to milepost 281.78 in Antonito, CO, a total distance of 149.38 miles. In addition, UP will grant SLRG approximately 5 miles of incidental trackage rights in the vicinity of Walsenburg from milepost 180.0 to milepost 175.0.

SLRG certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.[2]

The transaction was scheduled to be consummated on or after June 30, 2003.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34350, 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 Louis E. Gitomer, Esq., Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: July 11, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03–18333 Filed 7–17–03; 8:45 am]

**BILLING CODE 4915–00–P**

[1] SLRG states that the beginning portion of the Alamosa Subdivision, from milepost 299.30 to milepost 270.0 at or near Monte Vista, is currently inactive.

[2] This proceeding is related to STB Finance Docket No. 34352, *RailAmerica, Inc., et al.—Continuance in Control Exemption—San Luis & Rio Grande Railroad Company,* wherein RailAmerica, Inc., Palm Beach Rail Holding, Inc., and RailAmerica Transportation Corp. have concurrently filed a notice of exemption to continue in control of SLRG, upon SLRG becoming a Class III rail carrier.

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–490X]**

### Greenville County Economic Development Corporation—Discontinuance of Service Exemption—in Greenville County, SC

The Greenville County Economic Development Corporation (GCEDC) has filed a verified notice of exemption under 49 CFR part 1152, Subpart F-*Exempt Abandonments and Discontinuances of Service* to discontinue service over 11.8 miles of railroad, known as the Greenville and Northern Railroad Line, extending from milepost 0.0, in Greenville, to milepost 11.8, at the northern limits of Traveler's Rest, in Greenville County, SC (line).[1] The line traverses United States Postal Service Zip Codes 29601, 29609, 29611, 29613, 29617, and 29690.

GCEDC has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[2]

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on August

[1] South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division was authorized to abandon the portion of the line between milepost 0.0 and milepost 2.0, in *South Carolina Central Railroad Company, Inc., d/b/a Carolina Piedmont Division—Abandonment Exemption—in Greenville County, SC,* STB Docket No. AB–312 (Sub-No. 2X) (STB served Apr. 1, 1998); however, it appears that the abandonment was never consummated.

[2] As discussed below, GCEDC has complied with or is exempt from these requirements.

17, 2003,[3] unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA for continued rail service under 49 CFR 1152.27(c)(2),[4] must be filed by July 28, 2003.[5] Petitions to reopen must be filed by August 7, 2003, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to GCEDC's representative: Phyllis Henderson, President, Greenville County Economic Development Corporation, 301 University Ridge, Suite 2400, Greenville, SC 29601.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: July 14, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 03–18332 Filed 7–17–03; 8:45 am]

**BILLING CODE 4915–00–P**

[3] Under 49 CFR 1152.50(d)(3), the earliest the exemption could become effective is 50 days after the verified notice of exemption was filed. In this case, notice was filed on June 30, 2003, and GCEDC proposed consummating the discontinuance of service on or about July 14, 2003. In a letter filed on July 8, 2003, Counsel for GCEDC acknowledged that the discontinuance of service could not be consummated until 50 days after the filing of the verified notice, or on August 17, 2003.

[4] Each OFA must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

[5] Because this is a discontinuance of service proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate. Additionally, this proceeding is exempt from environmental and historic reporting requirements. GCEDC only intends to discontinue service over the line and to facilitate possible future operations in the event it is successful in securing funds to repair the line. Because GCEDC's discontinuance of service will merely result in the cessation of service over the line, this proceeding is exempt from the reporting requirements listed above and no environmental documentation will be prepared. *See* 49 CFR 1105.6(c)(2) and 1105.8(a) and (b).

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

July 11, 2003.

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 August 18, 2003 to be assured of consideration.

**Departmental Offices/Community Development Financial Institutions (CDFI) Fund**

*OMB Number:* 1559–0016.

*Form Number:* CDFI 0020.

*Type of Review:* Reinstatement.

*Title:* New Markets Tax Credit (NMTC) Program Allocation Application.

*Description:* The purpose of the NMTC is to provide an incentive to investors in the form of a tax credit, which is expected to stimulate investment in private capital that will facilitate economic and community development in low-income communities.

*Respondents:* Business or other for-profit, Not-for-profit institutions, State, Local or Tribal Government.

*Estimated Number of Respondents:* 350.

*Estimated Burden Hours Per Respondent:* 100 hours.

*Frequency of Response:* Annually.

*Estimated Total Reporting/ Recordkeeping Burden:* 31,500 hours.

*Clearance Officer:* Lois K. Holland, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220, (202) 622–1563.

*OMB Reviewer:* Joseph F. Lackey, Jr., Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, (202) 395–7316.

**Lois K. Holland,**

*Treasury PRA Clearance Officer.*

[FR Doc. 03–18245 Filed 7–17–03; 8:45 am]

**BILLING CODE 4811–16–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

July 8, 2003.

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 August 18, 2003 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0314.

*Form Number:* IRS Forms 6466 and 6467.

*Type of Review:* Extension.

*Title: Form 6466:* Transmittal of Forms W–4 Reported Magnetically/ Electronically; and

*Form 6467:* Transmittal of Forms W–4 Reported Magnetically/ Electronically (Continuation).

*Description:* Under regulation section 31.3402(f)(2)–1(g), employers are required to submit certain withholding certificates (Form W–4) to the IRS. Transmittal Form 6466 and the continuation sheet, Form 6467, are submitted by an employer, or authorized agent of the employer, who will be reporting submissions of Form W–4 on magnetic/electronic media.

*Respondents:* Business of other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

*Estimated Number of Respondents:* 100.

*Estimated Burden Hours Per Respondent:*

Form 6466—18 min.
Form 6467—20 min.

*Frequency of Response:* Quarterly.

*Estimated Total Reporting Burden:* 133 hours.

*OMB Number:* 1545-0410.

*Notice Number:* Notice 1027.

*Type of Review:* Extension.

*Title:* How to Prepare Media Label for Form W–4.

*Description:* 26 U.S.C. 3402 requires all employers making payment of wages to deduct (withhold) tax upon such payments. Employers are further required under regulation section 31.3402(f)–1(g) to submit certain withholding certificates (Form W–4) to IRS. Notice 1027 is sent to employers who prefer to file this information on magnetic tape.

*Respondents:* Business of other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

*Estimated Number of Respondents:* 400.

*Estimated Burden Hours Per Respondent:* 5 minutes.

*Frequency of Response:* Quarterly.

*Estimated Total Reporting Burden:* 33 hours.

*OMB Number:* 1545–0998.

*Form Number:* IRS Form 8615.

*Type of Review:* Extension.

*Title:* Tax for Children Under Age 14 Who Have Investment Income of More Than $1,500.

*Description:* Under section 1(g), children under age 14 who have unearned income may be taxed on part of that income at their parent's tax rate. Form 8615 is used to see if any of the child's unearned income is taxed at the parent's rate and, if so, to figure the child's tax on his or her unearned income and earned income, if any.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 331,128.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—26 min.
Learning about the law or the form—11 min.
Preparing the form—42 min.
Copying, assembling, and sending the form to the IRS—20 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 552,984 hours.

*OMB Number:* 1545–1190.

*Form Number:* IRS Form 8824.

*Type of Review:* Revision.

*Title:* Like-Kind Exchanges.

*Description:* Form 8824 is used by individuals, partnerships, and other entities to report the exchange of business or investment property, and the deferral of gains from such transactions under section 1031. It is also used to report the deferral of gain under section 1043 by members of the executive branch of the Federal government.

*Respondents:* Individuals or households, Business or other for-profit.

*Estimated Number of Respondents/Recordkeepers:* 200,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping— 1 hr., 38 min.
Learning about the law or the form—27 min.
Preparing the form—59 min.
Copying, assembling, and sending the form to the IRS—33 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 505,862 hours.

*OMB Number:* 1545–1432.

*Form Number:* None.

*Type of Review:* Revision.

*Title:* The Voluntary Customer Surveys to Implement E.O. 12862 Coordinated by the Corporate Planning and Performance Division on Behalf of All IRS Operations Functions.

*Description:* This is a generic clearance for an undefined number of customer satisfaction and opinion surveys and focus group interviews to be conducted over the next three years. Surveys and focus groups conducted under the generic clearance are used by the Internal Revenue Service to determine levels of customer satisfaction as well as determining issues that contribute to customer burden. This information will be used to make quality improvements to products and services.

*Respondents:* Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, Federal Government, State, Local or Tribal Government.

*Estimated Number of Respondents:* 372,359.

*Estimated Burden Hours Per Respondent:* Various.

*Frequency of Response:* Other (Varies).

*Estimated Total Reporting Burden:* 50,000 hours.

*OMB Number:* 1545–1543.

*Revenue Procedure Number:* Revenue Procedure 97–29.

*Type of Review:* Extension.

*Title:* Model Amendments and Prototype Program for SIMPLE IRAs.

*Description:* The revenue procedure provides guidance to drafters of prototype SIMPLE IRAs on obtaining opinion letters, and provides permissive amendments to sponsors of nonSIMPLE IRAs.

*Respondents:* Business or other for-profit, Not-for-profit institutions.

*Estimated Number of Respondents:* 3,205.

*Estimated Burden Hours Per Respondent:* 8 hours, 4 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 25,870 hours.

*OMB Number:* 1545–1774.

*Regulation Project Numbers:* REG–152524–02, REG–123305–02, and REG–102740–02 NPRM and Temporary.

*Type of Review:* Extension.

*Title:*

*REG–152524–02 NPRM and Temporary:* Guidance under section 1502; Amendment of Waiver of Loss Carryovers from Separate Return Limitation Years;

*REG–123305–02 (formerly REG–102305–02) NPRM and Temporary;*

*REG–102740–02 NPRM and Temporary:* Loss Limitation Rules.

*Description:* The information is necessary to allow the taxpayer to make certain elections to determine the amount of allowable loss under § 1.337(d)–2T, § 1.1502–20 as currently in effect or under § 1.1502–20 as modified; to allow the taxpayer to waive loss carryovers up to the amount of the § 1.1502–20(g) election; and to ensure that loss is not disallowed under § 1.337(d)–2T and basis is not reduced under § 1.337(d)–2T to the extent the taxpayer establishes that the loss or basis is not attributable to the recognition of built in gain on the disposition of an asset. With respect to § 1.1502–20T, the information also is necessary to allow the common parent of the selling group to reapportion a separate, subgroup or consolidated section 382 limitation when the acquiring group amends its § 1.1502–32(b)(4) election. Furthermore, regarding § 1.1502–32(b)(4), the information also is necessary to allow the taxpayer that acquired a subsidiary of a consolidated group to amend its election under § 1.1502–32(b)(4), so that the acquiring group can use the acquired subsidiary's losses to offset its income.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 15,200.

*Estimated Burden Hours Per Respondent:* 2 hours.

*Frequency of Response:* Other (once per transaction).

*Estimated Total Reporting Burden:* 30,400 hours.

*Clearance Officer:* Glenn Kirkland, (202) 622–3428, Internal Revenue Service, Room 6411–03, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Treasury PRA Clearance Officer.*

[FR Doc. 03–18246 Filed 7–17–03; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

July 11, 2003.

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 August 18, 2003 to be assured of consideration.

**Alcohol and Tobacco Tax and Trade Bureau (TTB)**

*OMB Number:* 1513–0004.
*Form Number:* TTB F 5030.6.
*Type of Review:* Extension.
*Title:* Authorization to Furnish Financial Information and Certificate of Compliance.
*Description:* The *Right to Financial Privacy Act of 1978* limits access to records held by financial institutions and provides for certain procedures to gain access to the information. TTB F 5030.6 serves as both a customer authorization for TTB to receive information and as the required certification to the financial institution.
*Respondents:* Business of other for-profit.
*Estimated Number of Respondents:* 2,000.
*Estimated Burden Hours Per Respondent:* 15 minutes.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 500 hours.

*OMB Number:* 1513–0009.
*Form Number:* TTB F 5120.25 and TTB 5120.36.
*Type of Review:* Extension.
*Title:* Application to Establish and Operate Wine Premises (F 5120.25); and Wine Bond (5120.36).
*Description:* TTB F 5120.25 is the form used to establish the qualifications of an applicant applying to establish and operate wine premises. The applicant certifies the intention to produce and/or store a specified amount of wine and take certain precautions to protect it from unauthorized use. TTB F 5120.36, Wine Bond, is the form used by the proprietor and a surety company as a contract to ensure the payment of wine excise tax.
*Respondents:* Business or other for-profit.
*Estimated Number of Respondents:* 1,720
*Estimated Burden Hours Per Respondent:* 30 minutes.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 810 hours.

*OMB Number:* 1513–0010.
*Form Number:* TTB F 5120.9.
*Type of Review:* Extension.
*Title:* Bonded Wineries—Formula and Process for Wine, Letterhead, Application and Notices Relating to Formula Wine.
*Description:* TTB F 5120.9 is used to determine the classification of wine for labeling and consumer protection. The form describes the person filing, type of product to be made and restrictions to the labeling and manufacture. The form is also used to audit a product.
*Respondents:* Business or other for-profit.
*Estimated Number of Respondents:* 600.
*Estimated Burden Hours Per Respondent:* 2 hours.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 1,200 hours.

*OMB Number:* 1513–0014.
*Form Number:* TTB F 5000.8.
*Type of Review:* Extension.
*Title:* Power of Attorney.
*Description:* TTB F 5000.8 delegates the authority to a specific individual to sign documents on behalf of an applicant or principal. 26 U.S.C. 6061 authorizes that individuals signing returns, statements or other documents required to be filed by industry member under the provisions of the Internal Revenue Code (IRC) or the Federal Alcohol Administration (FAA) Act, are to have that authority on file with TTB.
*Respondents:* Business or other for-profit.
*Estimated Number of Respondents:* 5,000.
*Estimated Burden Hours Per Respondent:* 30 minutes.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 3,000 hours.

*OMB Number:* 1513–0016.
*Form Number:* TTB F 1582 (5120.24).
*Type of Review:* Extension.
*Title:* Drawback on Wines Exported.
*Description:* When proprietors export wines that have been produced, packaged, manufactured, or bottled in the U.S., they file a claim for drawback or refund for the taxes that have already been paid on the wine. This form notifies TTB that the wine was in fact exported and helps to protect the revenue and prevent fraudulent claims.
*Respondents:* Individuals or households, Business of other for-profit.
*Estimated Number of Respondents:* 900.
*Estimated Burden Hours Per Respondent:* 1 hour, 7 minutes.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 2,025 hours.

*OMB Number:* 1513–0028.
*Form Numbers:* TTB F 5150.22 and TTB F 5150.25.
*Type of Review:* Extension.
*Title:* Application for an Alcohol User Permit (5150.22); and, Industrial Alcohol Bond (5150.25).
*Description:* TTB F 5150.22 is used to determine the eligibility of the applicant to engage in certain operations and the extent of the operations for the production and distribution of specially denatured spirits (alcohol/rum). This form identifies the location of the premises and establishes whether the premises will be in conformity with the Federal laws and regulations. TTFB F 5150.25 provides notification that sufficient bond coverage has been obtained prior to the issuance of a permit.
*Respondents:* Business or other for-profit.
*Estimated Number of Respondents:* 738.
*Estimated Burden Hours Per Respondent:* 2 hours.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 1,476 hours.

*OMB Number:* 1513–0047.
*Form Number:* TTB F 5110.40.
*Recordkeeping Requirement ID Number:* TTB REC 5110/01.
*Type of Review:* Extension.
*Title:* Distilled Spirits Records and Monthly Report of Production Operations.
*Description:* The information collected is used to account for proprietor's tax liability, adequacy of bond coverage and protection of the revenue. The information also provides data to analyze trends in the industry, ad plan efficient allocation of field resources, audit plant operations, and compilation of statistics for government economic analysis.
*Respondents:* Business or other for-profit.
*Estimated Number of Respondents:* 150.
*Estimated Burden Hours Per Respondent:* 2 hours.
*Frequency of Response:* On occasion.
*Estimated Total Reporting Burden:* 3,600 hours.

*OMB Number:* 1513–0048.
*Form Number:* TTB F 5110.41.
*Type of Review:* Extension.
*Title:* Miscellaneous Requests and Notices for Distilled Spirits Plants.
*Description:* The information provided by the applicants assists in determining eligibility and providing for registration. These eligibility requirements are for persons who wish to establish distilled spirits plant operations. However, both statutes and regulations allow variances from regulations, and this information gives data to permit a variance.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 328.

*Estimated Burden Hours Per Respondent:* 2 hours.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 1,620 hours.

*OMB Number:* 1513–0057.

*Recordkeeping Requirement ID Number:* TTB REC 5120/2.

*Type of Review:* Extension.

*Title:* Letterhead Applications and Notices Relating to Wine.

*Description:* Letterhead applications and notices relating to wine are required to ensure that the intended activity will not jeopardize the revenue or defraud consumers.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 1,650.

*Estimated Burden Hours Per Respondent:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 825 hours.

*OMB Number:* 1513–0060.

*Recordkeeping Requirement ID Number:* TTB REC 5150/4.

*Type of Review:* Extension.

*Title:* Letterhead Applications and Notices Relating to Tax-Free Alcohol.

*Description:* Tax-free alcohol is used for non-beverage purposes in scientific research and medicinal uses by educational organizations, hospitals, laboratories, etc. Permits/Applications control authorized uses and flow. TTB REC 5150/4 is designed to protect revenue and public safety.

*Respondents:* Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

*Estimated Number of Respondents:* 4,444.

*Estimated Burden Hours Per Respondent:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 2,222 hours.

*OMB Number:* 1513–0063.

*Recordkeeping Requirement ID Number:* TTB REC 5150/8.

*Type of Review:* Extension.

*Title:* Stills: Notices, Registration, and Records.

*Description:* The information is used to account for and regulate the distillation of distilled spirits to protect the revenue and to provide for identification of distillers.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 10.

*Estimated Burden Hours Per Respondent:* 2 hours.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 21 hours.

*OMB Number:* 1513–0066.

*Recordkeeping Requirement ID Number:* TTB REC 5170/3.

*Type of Review:* Extension.

*Title:* Stills: Retail Liquor Dealers Records of Receipts of Alcoholic Beverages and Commercial Invoices.

*Description:* Audit trail records show amounts purchased and from whom; complete financial audit trail established at distilled spirits plant. Tax revenue will be protected. The collection of information is contained in 27 CFR 194.234.

*Respondents:* Business or other for-profit, State, Local or Tribal Government.

*Estimated Number of Recordkeepers:* 455,000.

*Estimated Burden Hours Per Recordkeeper:* 1 hour.

*Estimated Total Recordkeeping Burden:* 1 hour.

*OMB Number:* 1513–0067.

*Recordkeeping Requirement ID Number:* TTB REC 5170/6.

*Type of Review:* Extension.

*Title:* Wholesale Dealers Applications, Letterheads, and Notice Relating to Operations (Variations in Format or Preparation of Records.

*Description:* To ascertain that revenue is not placed in jeopardy. Tax revenue will be protected. (Affects wholesale liquor dealers.)

*Respondents:* Business or other for-profit.

*Estimated Number of Recordkeepers:* 1,029.

*Estimated Burden Hours Per Recordkeeper:* 30 minutes.

*Frequency of Response:* On occasion.

*Estimated Total Recordkeeping Burden:* 515 hours.

*OMB Number:* 1513–0074.

*Recordkeeping Requirement ID Number:* TTB REC 5620/2.

*Type of Review:* Extension.

*Title:* Airlines Withdrawing Stock from Customs Custody.

*Description:* Airlines may withdraw tax exempt distilled spirits, wine, and beer from Customs custody for foreign flights. Required record shows amount of spirits and wine withdrawn and flight identification; also has Customs certification; enables TTB to verify that tax is not due; allows spirits and wines to be traced and maintains accountability. Tax revenue will be protected. The collection of information is contained in 27 CFR 253.280 and 252.281.

*Respondents:* Business or other for-profit.

*Estimated Number of Recordkeepers:* 25.

*Estimated Burden Hours Per Recordkeeper:* 100 hours.

*Frequency of Response:* On occasion.

*Estimated Total Recordkeeping Burden:* 2,500 hours.

*OMB Number:* 1513–0088.

*Recordkeeping Requirement ID Number:* TB REC 5000/24.

*Type of Review:* Extension.

*Title:* Alcohol, Tobacco Tax ad Trade Tax Returns, Claims and Related Documents.

*Description:* TTB is responsible for the collection of the excise taxes on firearms, ammunition, distilled spirits, wine, beer, cigars, cigarettes, chewing tobacco, snuff, cigarette papers, tubes and pipe tobacco. Alcohol, tobacco and ammunition excise taxes, plus alcohol, tobacco and firearms special occupational taxes are required to be collected on the basis of a return.

*Respondents:* Business or other for-profit, Individuals or households, Not-for-profit institutions.

*Estimated Number of Recordkeepers:* 503,921.

*Estimated Burden Hours Per Recordkeeper:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Recordkeeping Burden:* 503.921 hours.

*OMB Number:* 1513–0089.

*Recordkeeping Requirement ID Number:* TTB REC 5530/3.

*Type of Review:* Extension.

*Title:* Liquors and Articles from Puerto Rico or the Virgin Islands.

*Description:* Information collection requirements for persons bringing non-beverage products into the United States from Puerto Rico and the Virgin Islands and is necessary for the verification of claims for drawback of distilled spirits excise taxes paid on such products.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 20.

*Estimated Burden Hours Per Respondent:* 6 hours.

*Frequency of Response:* Quarterly.

*Estimated Total Reporting Burden:* 120 hours.

*OMB Number:* 1513–0097.

*Form Number:* None.

*Type of Review:* Extension.

*Title:* Notices Relating to Payment of Firearms and Ammunition Excise Tax.

*Description:* Excise taxes are collected on the sale or use of firearms and ammunition by firearms or ammunition manufacturers, importers or producers. Taxpayers who elect to pay excise taxes

by electronic fund transfer must furnish a written notice upon election and discontinuance. Tax revenue will be protected.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 10.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 1 hour.

*OMB Number:* 1512–0100.

*Form Number:* None.

*Type of Review:* Extension.

*Title:* Applications, Notices, and Relative to Importation and Exportation of Distilled Spirits, Wine and Beer, including Puerto Rico and Virgin Islands

*Description:* Beverage alcohol, industrial alcohol, beer wine are taxed when imported. The taxes on these commodities coming from the Virgin Islands and Puerto Rico are largely returned to these insular possessions. Exports are mainly tax-free. These sections ensure that proper taxes are collected and returns according to law.

*Respondents:* Business or other for-profit.

*Estimated Number of Recordkeepers:* 20.

*Estimated Burden Hours Per Recordkeeper:* 9 hours.

*Frequency of Response:* On occasion.

*Estimated Total Recordkeeping Burden:* 180 hours.

*OMB Number:* 1513–0104.

*Recordkeeping Requirement ID Number:* TTB REC 5120/11.

*Type of Review:* Extension.

*Title:* Information Collected in Support of Small Producer's Wine Tax Credit.

*Description:* TTB collects this information to ensure proper tax credit. The information is used by taxpayers in preparing their returns and by TTB to verify tax computation. Recordkeepers are wine producers who want to transfer their credit to warehouse operators and the transferees who take such credit.

*Respondents:* Business or other for-profit.

*Estimated Number of Recordkeepers:* 280.

*Estimated Burden Hours Per Recordkeeper:* 1 hour.

*Estimated Total Recordkeeping Burden:* hours.

*OMB Number:* 1513–0105.

*Form Number:* TTB F 5000.28T.

*Type of Review:* Extension.

*Title:* 2000 Floor Stocks Tax Return (Cigarettes) and Recordkeeping Requirements.

*Description:* All persons who hold for sale any cigarettes on January 1, 2000, must take an inventory. A floor stocks tax has been imposed on cigarettes. The recordkeeping and the tax return for this tax are prescribed by TTB.

*Respondents:* Business or other for-profit.

*Estimated Number of Recordkeepers:* 100.

*Estimated Burden Hours Per Recordkeeper:* 1 hour.

*Frequency of Response:* Other (one-time).

*Estimated Total Recordkeeping Burden:* 1 hour.

*Clearance Officer:* Jacqueline White (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.

*OMB Reviewer:* Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Treasury PRA Clearance Officer.*

[FR Doc. 03–18247 Filed 7–17–03; 8:45 am]

**BILLING CODE 4810–31–P**

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## DEPARTMENT OF THE TREASURY

### Community Development Financial Institutions Fund

### Notice of Allocation Availability (NOAA) Inviting Applications for the New Markets Tax Credit Program

**AGENCY:** Community Development Financial Institutions Fund, Department of the Treasury.

**ACTION:** Notice of allocation availability (NOAA) inviting applications for the New Markets Tax Credit Program.

**SUMMARY:** Title I, subtitle C, section 121 of the Community Renewal Tax Relief Act of 2000 (the Act), as enacted by section 1(a)(7) of the Consolidated Appropriations Act, 2001 (Pub. L. 106–554, December 21, 2000), amended the Internal Revenue Code (IRC) by adding IRC section 45D, New Markets Tax Credit. section 45D requires the Secretary of the Treasury (Secretary) to establish a program that will provide an incentive to investors in the form of a tax credit over seven years, which is expected to stimulate the provision of private investment capital that, in turn, will facilitate economic and community development in low-income communities. Section 121(f) of the Act, among other things, requires the Secretary to issue guidance on how entities may apply to receive allocations of New Markets Tax Credits (NMTCs), the competitive procedure through which such allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. The Secretary delegated such authority to the Under Secretary (Domestic Finance), who in turn delegated such authority to the Director of the Community Development Financial Institutions Fund (the Fund).

In March 2003, in the inaugural round of the NMTC Program, the Fund issued Notices of Allocation to qualified community development entities (CDEs) authorizing such entities to issue to their investors up to $2.5 billion in equity as to which NMTCs may be claimed. In this second round of the NMTC Program, the Fund may allocate to CDEs the authority to issue to their investors up to the aggregate amount of $3.5 billion in equity as to which NMTCs may be claimed (the authority will include the aggregated amounts of $1.5 billion for calendar year 2003 and $2.0 billion for calendar year 2004, as permitted under IRC sections 45D(f)(1) and 45D(f)(3)). The Fund reserves the right to allocate said authority to any, all or none of the entities that submit an application in response to this NOAA, and in amounts determined by the Fund.

This NOAA provides guidance for the application for and allocation of NMTCs for the second round of the NMTC Program and should be read in conjunction with: (i) Guidance published by the Fund on how an entity may apply to become certified as a CDE (66 FR 65806, December 20, 2001); (ii) the temporary regulations issued by the Internal Revenue Service (26 CFR 1.45D–1T, published on December 26, 2001) and related guidance, including Notice 2002–64, 2002–41 I.R.B. 690, Rev. Rul. 2003–20, 2003–7 I.R.B. 465, Notice 2003–9, 2003–5 I.R.B. 369; and (iii) the application and related materials for this second NMTC Program allocation round. All such materials may be found on the Fund's Web site at *http://www.cdfifund.gov*. The Fund strongly encourages applicants to review these documents. Capitalized terms used but not defined in this NOAA shall have the respective meanings assigned to them in the allocation application, the Act or the IRS temporary regulations.

Through this NOAA, the Fund encourages all entities proposing to make Qualified Low-Income Community Investments to apply for an allocation of NMTCs.

**Applications and Dates**

*Electronic Applications:* Simultaneous with the publication of this NOAA, the Fund has made the NMTC Program allocation application available on its Web site at *http://www.cdfifund.gov*. The application is currently available in a read-only format. However, applicants are expected to submit completed applications electronically to the Fund using a web-based application. Submission of an electronic application will facilitate the processing and review of applications and the selection of Allocatees; further, it will assist the Fund in the implementation of electronic reporting requirements for Allocatees. Please note that the Office of Management and Budget is currently reviewing the application form for final approval in accordance with the requirements of the Paperwork Reduction Act. The Fund anticipates that the final and approved form of the Web-based application will be available on the Fund's Web site commencing no later than August 22, 2003.

Applicants will need access to Internet Explorer 5.5 or higher or Netscape Navigator 6.0 or higher, Windows 98 or higher (or other system compatible with the above Explorer and Netscape software) and optimally at least a 56Kbps Internet connection in order to meet the electronic application submission requirements. Electronic applications must be submitted solely by using the format made available at the Fund's Web site for the NMTC Program. The Fund's electronic application system will only permit the submission of applications in which all required questions and tables are fully completed.

The deadline for receipt of electronic applications is 5 p.m. ET on September 30, 2003. Electronic applications cannot be transmitted or received after 5 p.m. ET on September 30, 2003. Each applicant that submits an electronic application by the deadline must submit an original signature page and all attachments not later than 5 p.m. ET on October 7, 2003. If the original signature page is not received by this date and time, the application will be rejected and returned to the sender. If the required attachments are not received by this date and time, they will not be considered and will be returned to the sender. The signature page and attachments must be sent by mail to the address listed below. Please see the application instructions, provided in the electronic application, for further details. Additional deadlines (if any) relating to the submission of general supporting documentation will be further detailed in the electronic application.

*Paper Applications:* If an applicant is unable to submit an electronic application, it must submit to the Fund a request for a paper application using the NMTC Paper Application Submission Form, and the request must be received by the Fund by September 15, 2003. The NMTC Paper Application Submission Form may be obtained from the Fund's Web site at *http://www.cdfifund.gov* or the form may be requested by e-mail at *cdfihelp@cdfi.treas.gov* or by calling the Fund's NMTC Program help desk at (202) 622–7373. The completed NMTC Paper Application Submission Form should be directed to the Fund's Chief Financial Officer and must be sent by facsimile to (202) 622–8911.

The deadline for receipt of a paper application, including the requisite original signature page and all attachments, at the designated location is 5 p.m. ET on September 30, 2003. Paper applications received after that date and time will not be accepted for consideration and will be returned to the sender. Applications sent by facsimile or by e-mail will not be accepted.

**ADDRESSES:** Paper applications and the signature page and attachments for electronic applications must be sent to: CDFI Fund Grants Management & Compliance Manager, NMTC Program, Bureau of Public Debt—Franchising, 200 Third Street, PCB, Room 10, Parkersburg, WV 26101–5312. The telephone number to be used in conjunction with overnight mailings to this address is (304) 480–5450. Paper applications and the signature page or attachments for electronic applications will not be accepted at the Fund's offices in Washington, DC. Paper applications and signature pages or attachments for electronic applications received in the Fund's offices will be rejected and returned to the sender. Except for the signature page and attachments, electronic applications must be submitted solely by using the Fund's Web site and must be sent in accordance with the submission instructions provided in the electronic application form.

**FOR FURTHER INFORMATION CONTACT:** The Fund will provide programmatic and information technology support related to the allocation application between the hours of 9 a.m. and 5 p.m. ET through September 26, 2003. The Fund will not respond to phone calls or e-mails concerning the application that are received after 5 p.m. ET on September 26, 2003, until after the allocation application deadline of September 30, 2003. Programmatic support can be obtained by calling (202) 622–7373 or through e-mail by sending questions or requests for programmatic assistance to *cdfihelp@cdfi.treas.gov*. Information technology support can be obtained by calling (202) 622–2455 or through e-mail by sending questions or requests for information technology assistance to *ithelpdesk@cdfi.treas.gov*.

Applications and other information regarding the Fund and its programs may be obtained from the Fund's Web site at *http://www.cdfifund.gov*. The Fund will post on its Web site responses to questions of general applicability regarding the NMTC Program. If you have any general questions about the NMTC Program, contact Matthew Josephs, the Fund's Acting NMTC Program Manager. The Acting NMTC Program Manager may be reached by e-mail at *cdfihelp@cdfi.treas.gov*, by telephone at (202) 622–7373, by facsimile at (202) 622–8911, or by mail at CDFI Fund, 601 13th Street, NW, Suite 200 South, Washington, DC 20005. For questions regarding the tax aspects of the NMTC Program, contact Branch Five, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS, by telephone at (202) 622–3040, by facsimile at (202) 622–4753, or by mail at 1111 Constitution Avenue, NW, Attn: CC:PSI:5, Washington, DC 20224. These are not toll free numbers.

**SUPPLEMENTARY INFORMATION:**

## I. Background

By providing an incentive in the form of a tax credit over seven years, NMTCs are intended to stimulate the provision of $15 billion of private investment capital in CDEs that, in turn, will make investments in low-income urban and rural communities, thus facilitating economic and community development. The goal is to address limitations of financial markets by facilitating the flow of equity capital into areas not being adequately served by conventional lenders and investors. This goal can be achieved, for example, by deploying investments in products or services that: (a) Provide services to creditworthy borrowers or investees not served by conventional sources of capital; (b) provide a catalyst for large-scale, self-generating flows of investments (for example, the increased provision of critical public services); or (c) serve borrowers or investees who may present greater risks than would be assumed by conventional providers of capital in

order to generate benefits distributed broadly throughout the community.

Through the NMTC Program, an entity may apply to the Fund to be certified as a CDE. Nonprofit entities and for-profit entities may be certified as CDEs by the Fund. Both for-profit and non-profit entities may apply to the Fund for an allocation of NMTCs, but only CDEs that are for-profit entities are eligible to issue Qualified Equity Investments with respect to which investors will be entitled to claim NMTCs. A taxpayer that makes a Qualified Equity Investment in a CDE that has received a NMTC Allocation from the Fund may claim a five percent tax credit on the investment amount as of the date on which the investment is initially made and on each of the next two anniversary dates and a six percent tax credit for each of the next four anniversary dates.

In this NOAA, the Fund addresses specifically how an entity may apply to receive an allocation of NMTCs, the competitive procedure through which NMTC Allocations will be made, and the actions that will be taken to ensure that proper allocations are made to appropriate entities. Applicants should consult the temporary regulations and related guidance issued by the IRS for the NMTC Program to obtain guidance on tax issues related to the NMTC Program.

**II. Eligibility**

IRC section 45D specifies certain eligibility requirements that each applicant must meet to be eligible to apply for an allocation of NMTCs. The following sets forth additional detail and certain additional dates that relate to the submission of applications under this NOAA:

(1) CDE Certification: For purposes of this NOAA, the Fund will not consider an application for an allocation of NMTCs unless: (a) The applicant is certified as a CDE at the time the Fund receives its NMTC Program allocation application; or (b) the Fund receives from the applicant an application for certification as a CDE no later than 5 p.m. ET on August 29, 2003. The Fund will not provide allocations of NMTCs to applicants that are not certified as CDEs. Applicants for certification may obtain a CDE certification application through the Fund's Web site at *http://www.cdfifund.gov.* Applications for CDE certification must be submitted as instructed in the application form.

If an applicant that has already been certified as a CDE wishes to change its designated CDE service area, it must submit its request for such a change; said request must be received by the Fund by no later than 5 p.m. ET on September 30, 2003. The CDE service area change request must be sent from the applicant's authorized representative and include the applicable CDE control number, the revised service area designation, and an updated accountability chart that reflects representation from low-income communities in the revised service area. The service area change request must be sent by e-mail to *cdfihelp@cdfi.treas.gov* or by facsimile to (202) 622–8911.

(2) Entities that Have Received NMTC Allocations in the Prior NMTC Program Allocation Round: Applicants are hereby notified that success in a prior round of the NMTC Program or any of the Fund's other programs is not a predictor of success under this NOAA. A prior Allocatee of the NMTC Program is not eligible to receive a NMTC Allocation pursuant to this NOAA unless the Allocatee can demonstrate via the Fund's allocation tracking system that, as of February 17, 2004, it has issued and the Allocatee has received cash from its investors for 50 percent of its Qualified Equity Investments relating to its prior NMTC Allocation. Further, an entity is not eligible to receive a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), has not, as of February 17, 2004, issued and received cash from its investors for 50 percent of its Qualified Equity Investments relating to a prior NMTC Allocation. For purposes of this section of the NOAA, the Fund will only count as ''issued'' those Qualified Equity Investments that have been recorded in the Fund's allocation tracking system by February 17, 2004. Allocatees and their Subsidiary transferees, if any, are advised to access the Fund's allocation tracking system to record each Qualified Equity Investment that they issue to an investor in exchange for cash.

(3) Entities that Have Received Awards from the Fund in Prior Award Rounds of Other Fund Programs: Prior awardees of any component of the Fund's Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, or any other Fund program are eligible to apply under this NOAA, except as follows:

(a) The Fund will not consider an application submitted by an applicant that is a prior Fund awardee under any Fund program or component of the CDFI Program if the applicant has a balance of undisbursed funds under said prior award(s), as of the application deadline of this NOAA. Further, an entity is not eligible to apply for a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), is a prior Fund awardee under any Fund program or component of the CDFI Program, and has a balance of undisbursed funds under said prior award(s), as of the application deadline of this NOAA. For the purposes of this section, undisbursed funds are defined as: (i) In the case of prior BEA Program awards, any balance of award funds greater than $5,000 that remains undisbursed more than three (3) years after the BEA Program awardee executes an award agreement with the Fund, and (ii) in the case of prior CDFI Program or other Fund program awards, any balance of award funds greater than $5,000 that remains undisbursed more than one (1) year after the CDFI Program or other Fund program awardee executes an assistance agreement with the Fund; and

(b) The Fund will not consider an application submitted by an applicant that is a prior Fund awardee under any Fund program or component of the CDFI Program if the applicant has failed to meet its reporting requirements, set forth in a previously executed assistance or award agreement(s), or has been debarred from applying under any Fund program, as of the application deadline of this NOAA. Further, an entity is not eligible to apply for a NMTC Allocation pursuant to this NOAA if another entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), is a prior Fund awardee under any Fund program or component of the CDFI Program, and has failed to meet its reporting requirements, set forth in a previously executed assistance or award agreement(s), or has been debarred from applying under any Fund program, as of the application deadline of this NOAA.

Accordingly, applicants that are prior awardees under any other Fund program are advised to:

(i) Submit all required reports by the deadlines specified in the assistance or award agreements governing said prior awards and to comply with all requirements found therein;

(ii) Contact the appropriate Program Operations representative of the Fund to ensure that all necessary actions are underway for the disbursement of any outstanding balances of said prior awards; and

(iii) Confirm that any entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant, and is a prior Fund awardee, has submitted all required reports to the Fund and is taking all necessary actions for the disbursement of any outstanding balances of any prior Fund awards.

(4) Entities that Propose to Transfer NMTCs to Subsidiaries: Both for-profit and non-profit CDEs may apply to the Fund for allocations of NMTCs, but only a for-profit CDE is permitted to provide NMTCs to its investors. A non-profit applicant wishing to apply for a NMTC Allocation must demonstrate, prior to entering into an Allocation Agreement with the Fund, that: (1) It controls one or more Subsidiaries that are for-profit entities; and (2) it intends to transfer the full amount of any NMTC Allocation it receives to said Subsidiary. The Subsidiary transferee must: (i) Submit a CDE certification application to the Fund within 30 days after the non-profit applicant receives a Notice of Allocation from the Fund; and (ii) must be certified as a CDE prior to entering into an Allocation Agreement with the Fund. The NMTC Allocation transfer must be pre-approved by the Fund, in its sole discretion, and will be a condition of the Allocation Agreement. A for-profit applicant that receives a NMTC Allocation may transfer such NMTC Allocation to its for-profit Subsidiary or Subsidiaries, provided that said Subsidiary transferees have been certified as CDEs and such transfer is pre-approved by the Fund, in its sole discretion, which transfer will be a condition of the Allocation Agreement.

An applicant wishing to transfer all or a portion of its NMTC Allocation to a Subsidiary is not required to create the Subsidiary prior to submitting a NMTC allocation application to the Fund. Rather, the Fund will require each applicant to indicate, in its NMTC allocation application, whether it intends to transfer all or a portion of its NMTC Allocation to a Subsidiary and its timeline for doing so. As stated above, in no circumstance will the Fund authorize such a transfer until the Fund has certified the Subsidiary transferee as a CDE.

(5) Entities that Propose to Submit Applications Together With Affiliates: If an applicant and its Affiliates wish to submit allocation applications, they must do so collectively, in one application; an applicant and its Affiliates may not submit separate allocation applications.

(6) Entities Created as a Series of Funds: An applicant whose business structure consists of an entity with a series of funds may apply for CDE certification and an allocation of NMTCs as a single entity, or as multiple entities. If such an applicant represents that it is properly classified for Federal tax purposes as a single partnership or corporation, it may apply for CDE certification as a single entity. If an applicant represents that it is properly classified for Federal tax purposes as multiple partnerships or corporations, then it may submit a single application on behalf of the entire series of funds, and each fund must be separately certified as a CDE. Applicants should note, however, that receipt of CDE certification as a single entity or as multiple entities is not a determination that an applicant and its related funds are properly classified as a single entity or as multiple entities for Federal tax purposes. Regardless of whether the series of funds applies as a single partnership or corporation or as multiple partnerships or corporations, an applicant may not transfer any NMTC Allocations it receives to one or more of its funds unless the transfer is pre-approved by the Fund, in its sole discretion, which will be a condition of the Allocation Agreement.

(7) Entities that are BEA Program Awardees: An insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a NMTC Allocation in addition to a BEA Program award for the same investment in a CDE. Likewise, an insured depository institution investor (and its Affiliates and Subsidiaries) may not receive a BEA Program award in addition to a NMTC Allocation for the same investment in a CDE.

## III. Application Packet

An applicant under this NOAA must submit all of the materials described in the application, which is available at the Fund's Web site at *http://www.cdfifund.gov.* An application must include a valid and current Employer Identification Number (EIN) issued by the Internal Revenue Service and assigned to the applicant and, if applicable, its Controlling Entity; electronic applications without a valid EIN are incomplete and cannot be transmitted to the Fund; paper applications submitted without a valid EIN will be rejected as incomplete and returned to the sender. For more information on obtaining an EIN, please contact the Internal Revenue Service at (800) 829–4933 or *http://www.irs.gov.* An applicant may not submit more than one application. In addition, an applicant and its Affiliates must collectively submit only one allocation application; an applicant and its Affiliates may not submit separate allocation applications.

## IV. Evaluation

*Eligibility and Completeness Review:* All applications for NMTC Allocations will be reviewed for eligibility and completeness. The Fund may consult with the IRS on the eligibility requirements under section 45D. Once the application has been determined to be eligible and complete, the Fund will conduct the substantive review of each application in accordance with the criteria and procedures described generally in this NOAA and the allocation application.

*Application Evaluation:* In the first part of the substantive review, each Fund reviewer will evaluate the following application elements based on a 100-point, plus 10-priority point, scale (for a total of 110 points):

(1) Business Strategy (25-point maximum plus up to 5 points for each of the two statutory priority items). In assessing an applicant's business strategy, reviewers will consider, among other things: the applicant's products, services and investment criteria; the prior performance of the applicant or its Controlling Entity, particularly as it relates to making similar kinds of investments as those it proposes to make with the proceeds of Qualified Equity Investments; the applicant's prior performance in providing capital or technical assistance to disadvantaged businesses or communities; the projected level of the applicant's pipeline of potential investments; and the extent to which the applicant intends to make Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to the entity hold a majority equity interest.

Under the business strategy criterion, an applicant will generally score well to the extent that it will deploy debt or investment capital in products or services which: (a) Are designed to meet the needs of underserved markets; (b) are flexible or non-traditional in form; and (c) focus on customers or partners that typically lack access to conventional sources of capital. An applicant will also score well to the extent that it: (i) Has a track record of successfully providing products and services similar to those it intends to use with the proceeds of Qualified Equity Investments; (ii) has identified, or has a process for identifying, potential transactions; (iii) demonstrates a likelihood of issuing Qualified Equity Investments and making the related Qualified Low-Income Community Investments in a time period that is

significantly shorter than the time period permitted by the Act; and (iv) in the case of an applicant proposing to purchase loans from CDEs, the applicant will require the CDE selling such loans to re-invest the proceeds of the loan sale to provide additional products and services to low-income communities.

In addition, as provided by IRC section 45D(f)(2), the Fund will ascribe additional points to entities that meet either or both of the statutory priorities. First, the Fund will give up to five (5) additional points to any applicant that has a record of having successfully provided capital or technical assistance to disadvantaged businesses or communities. Second, the Fund will give five (5) additional points to any applicant that intends to satisfy the requirement of IRC section 45D(b)(1)(B) by making Qualified Low-Income Community Investments in one or more businesses in which persons unrelated to an applicant (within the meaning of IRC section 267(b) or IRC section 707(b)(1)) hold the majority equity interest. Applicants may earn points for either or both statutory priorities. Thus, applicants that meet the requirements of both priority categories can receive up to a total of ten (10) additional points. A record of having successfully provided capital or technical assistance to disadvantaged businesses or communities may be demonstrated either by the past actions of an applicant itself or by its Controlling Entity (*e.g.*, where a new CDE is established by a nonprofit corporation with a history of providing assistance to disadvantaged communities). An applicant that receives additional points for intending to make investments in unrelated businesses and is awarded a NMTC Allocation must meet the requirements of IRC section 45D(b)(1)(B) by investing substantially all of the proceeds from the aggregate amount of its Qualified Equity Investments in unrelated businesses.

(2) Capitalization Strategy (25-point maximum). In assessing an applicant's capitalization strategy, reviewers will consider, among other things: The extent to which the applicant has secured investments, commitments to invest, or indications of interest in investments from investors, commensurate with its requested amount of tax credit allocations; the applicant's strategy for identifying additional investors, if necessary, including the applicant's (or its Controlling Entity's) prior performance with raising equity from investors, particularly for-profit investors; the extent to which the applicant identifies how existing investors will leverage their investments in Low-Income Communities or how new investors will be brought into such investments; the extent to which the applicant intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC section 45D(b)(1)(B), including the extent to which the applicant has identified the financial resources outside of the NMTC investments necessary to support its operations or finance its activities; and the applicant's timeline for utilizing an NMTC Allocation.

An applicant will generally score well under this section to the extent that: (a) It has secured investor commitments, or has a reasonable strategy for obtaining such commitments; (b) its request for allocations is commensurate with both the level of Qualified Equity Investments it is likely to raise and its expected investment strategy to deploy funds raised with NMTCs; (c) it is likely to leverage other sources of funding in addition to NMTC investor dollars; (d) it intends to invest the proceeds from the aggregate amount of its Qualified Equity Investments at a level that exceeds the requirements of IRC section 45D(b)(1)(B). In the case of an applicant proposing to raise investor funds from organizations that also will identify or originate transactions for the applicant or from affiliated entities, said applicant will score well to the extent that it will offer products with more favorable rates or terms than those currently offered by the investor and/or will target its activities to areas of greater economic distress than those currently targeted by the investor.

(3) Management Capacity (25-point maximum). In assessing an applicant's management capacity, reviewers will consider, among other things, the qualifications of the applicant's principals, its board members, its management team, and other essential staff or contractors, with specific focus on: Experience in deploying capital or technical assistance, including activities similar to those described in the applicant's business strategy; experience in raising capital; asset management and risk management experience; experience with fulfilling compliance requirements of other governmental programs, including other tax programs; and the applicant's (or its Controlling Entity's) financial health. Reviewers will also consider the extent to which an applicant has protocols in place to ensure ongoing compliance with NMTC Program requirements, and the level of involvement of community representatives and other stakeholders in the design, implementation or monitoring of an applicant's business plan and strategy.

An applicant will generally score well under this section to the extent that its management team or other essential personnel have experience in: (a) Deploying capital or technical assistance in Low-Income Communities, particularly those likely to be served by the applicant with the proceeds of Qualified Equity Investments; (b) raising capital, particularly from for-profit investors; (c) asset and risk management; and (d) fulfilling government compliance requirements, particularly tax program compliance. An applicant will also score well to the extent it has policies and systems in place to ensure ongoing compliance with NMTC Program requirements, and to the extent that Low-Income Community stakeholders play an active role in designing or implementing its business plan.

(4) Community Impact (25-point maximum). In assessing the impact on communities expected to result from the applicant's proposed investments, reviewers will consider, among other things, the degree to which the applicant is likely to achieve significant and measurable community development and economic impacts in its Low-Income Communities, and whether the applicant is working in particularly economically distressed markets and/or in concert with Federal, state or local government or community economic development initiatives (*e.g.*, Empowerment Zones, Enterprise Communities, and Renewal Communities).

An applicant will generally score well under this section to the extent that: (a) It articulates how its strategy is likely to produce significant and measurable community development and economic impacts that would not be achieved without NMTCs; and (b) it is working in particularly economically distressed or otherwise underserved communities and/or in concert with other Federal, state or local government or community economic development initiatives.

*Determination of Highly Qualified Applicants:* Fund reviewers will evaluate and score each application in the first part of the review process. An applicant must exceed a minimum overall aggregate base score threshold (the sum of the total scores provided by the reviewers, minus priority points) *and* exceed a minimum aggregate section score threshold (minus priority points) in each of the four application sections (Business Strategy, Capitalization Strategy, Management Capacity, and Community Impact) in order to advance from the first part of

the substantive review process. If, in the case of a particular application, a reviewer's total base score or section score(s) (in one or more of the four application sections), varies significantly from the median of the reviewers' total base scores or section scores for such application, the Fund may, in its sole discretion, obtain the comments and recommendations of an additional reviewer to determine whether the anomalous score should be replaced with the score of the additional reviewer.

The Fund will consider the applicant's total score (inclusive of priority points) from each reviewer and will award allocations to the most highly qualified applicants; provided, however, that: (1) The Fund has not decided at this time on a maximum allocation amount per applicant and the Fund, in its sole discretion, reserves the right to set such a maximum award amount if the Fund deems it appropriate; and (2) the Fund, in its sole discretion, reserves the right to reject an application that receives scores that are not at or above the minimum scoring range required for a total base score or for any one or more of the four application evaluation criteria outlined above and detailed more fully in the application materials.

As a part of the substantive review process, the Fund may permit reviewer(s) to make telephone calls to applicants for the sole purpose of obtaining, clarifying or confirming application information. In no event shall such contact be construed to permit an applicant to change any element of its application. Reviewers will not contact applicants without the prior approval of the Fund. At this point in the process, an applicant may be required to submit additional information about its application in order to assist the Fund with its final evaluation process. Such requests must be responded to within the time parameters set by the Fund. The selecting official(s) will make a final allocation determination based on an applicant's file, including without limitation, eligibility under section 45D, the reviewers' scores and the amount of allocation authority available.

In the case of an applicant that has previously received financial or technical assistance from the Fund under the CDFI Program, the Fund will consider the applicant's level of success in meeting the terms, conditions and other requirements contained in its prior or existing assistance agreement(s) with the Fund. In the case of an applicant that has previously received an NMTC Allocation from the Fund under the NMTC Program, the Fund will consider the applicant's level of success in meeting the terms, conditions and other requirements contained in its prior or existing Allocation Agreement(s) with the Fund and its demonstrated need for additional allocations. The Fund reserves the right to reject any NMTC allocation application in the case of a prior Fund awardee, if such applicant has failed to comply with the terms, conditions, and other requirements of the prior or existing assistance or award agreement(s) with the Fund. The Fund reserves the right to reject any NMTC allocation application in the case of a prior Fund Allocatee, if such applicant has failed to comply with the terms, conditions, and other requirements of its prior or existing Allocation Agreement(s) with the Fund. Further, if an entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund) is a prior Fund awardee or Allocatee, the Fund will consider such entity's level of success in meeting the terms, conditions and other requirements of its prior assistance agreement, award agreement, and/or Allocation Agreement requirements with the Fund. The Fund reserves the right to reject any NMTC allocation application in the case of any applicant, if an entity that Controls the applicant, is Controlled by the applicant or shares common management officials with the applicant (as determined by the Fund), has failed to meet the terms, conditions and other requirements of any prior or existing assistance agreement, award agreement or Allocation Agreement with the Fund.

The Fund's allocation award decisions are final, with no right to appeal such decisions.

In the case of applicants or their Affiliates that are regulated by the Federal government, the Fund's selecting official(s) reserve(s) the right to consult with and take into consideration the views of the appropriate Federal banking and other regulatory agencies. In the case of applicants or their Affiliates that are also Small Business Investment Companies, Specialized Small Business Investment Companies or New Markets Venture Capital Companies, the Fund reserves the right to consult with and take into consideration the views of the Small Business Administration.

The Fund reserves the right to conduct additional due diligence, as determined reasonable and appropriate by the Fund, in its sole discretion, related to the applicant and its officers, directors, owners, partners and key employees.

The Fund further reserves the right to change these evaluation procedures, if the Fund deems it appropriate; if said procedural changes materially affect the Fund's award decisions, the Fund will provide information regarding the procedural changes through the Fund's Web site.

## V. Notice of Allocation

The Fund will signify its selection of an applicant as an Allocatee by delivering a signed Notice of Allocation to the applicant. The Notice of Allocation will contain the general terms and conditions underlying the Fund's provision of an NMTC Allocation including, but not limited to, the requirement that an Allocatee and the Fund enter into an Allocation Agreement. The applicant must execute the Notice of Allocation and return it to the Fund. By executing a Notice of Allocation, the Allocatee agrees that, if prior to entering into an Allocation Agreement with the Fund, information comes to the attention of the Fund that either adversely affects the Allocatee's eligibility for an award, or adversely affects the Fund's evaluation of the Allocatee's application, or indicates fraud or mismanagement on the part of the Allocatee, the Fund may, in its discretion and without advance notice to the Allocatee, terminate the Notice of Allocation or take such other actions as it deems appropriate. Moreover, by executing a Notice of Allocation, an Allocatee agrees that, if prior to entering into an Allocation Agreement with the Fund, the Fund determines that the Allocatee is not in compliance with the terms of any prior assistance agreement, award agreement, and/or Allocation Agreement entered into with the Fund, the Fund may, in its discretion and without advance notice to the Allocatee, either terminate the Notice of Allocation or take such other actions as it deems appropriate. The Fund will rescind its award if the Allocatee fails to return the Notice of Allocation, signed by the authorized representative of the Allocatee, along with any other requested documentation, within the deadline set by the Fund.

## VI. Allocation Agreement

Each applicant that is selected to receive a NMTC Allocation (including the applicant's Subsidiary transferees) must enter into an Allocation Agreement with the Fund. The Allocation Agreement will set forth certain required terms and conditions of the NMTC Allocation which may include, but not be limited to, the

following: (i) The amount of the awarded NMTC Allocation; (ii) the approved uses of the awarded NMTC Allocation (*e.g.*, loans to or equity investments in Qualified Active Low-Income Businesses or loans to or equity investments in other CDEs); (iii) the approved service area(s) in which the proceeds of Qualified Equity Investments may be used; (iv) the time period by which the applicant may obtain Qualified Equity Investments from investors; and (v) reporting requirements for all applicants receiving NMTC Allocations. If an applicant has represented in its NMTC allocation application that it intends to invest substantially all of the proceeds from its investors in businesses in which persons unrelated to the applicant hold a majority equity interest, the Allocation Agreement will contain a covenant whereby said applicant agrees that it will invest substantially all of said proceeds in businesses in which persons unrelated to the applicant hold a majority equity interest.

In addition to entering into an Allocation Agreement, each applicant selected to receive a NMTC Allocation must furnish to the Fund an opinion from its legal counsel, the content of which will be further specified in the Allocation Agreement, to include, among other matters, an opinion that an applicant (and its Subsidiary transferees, if any): (i) Is duly formed and in good standing in the jurisdiction in which it was formed and/or operates; (ii) has the authority to enter into the Allocation Agreement and undertake the activities that are specified therein; (iii) has no pending or threatened litigation that would materially affect its ability to enter into and carry out the activities specified in the Allocation Agreement; and (iv) is not in default of its articles of incorporation, bylaws or other organizational documents, or any agreements with the Federal government.

**VII. Monitoring**

The Fund will collect information, on at least an annual basis, from all applicants that are awarded NMTC Allocations and/or are recipients of Qualified Low-Income Community Investments, including such audited financial statements and opinions of counsel as the Fund deems necessary or desirable, in its sole discretion. The Fund will use such information to monitor each Allocatee's compliance with the provisions of its Allocation Agreement and to assess the impact of the NMTC Program in Low-Income Communities. The Fund may also provide such information to the IRS in a manner consistent with IRC section 6103 so that the IRS may determine, among other things, whether the Allocatee has used substantially all of the proceeds of each Qualified Equity Investment raised through its NMTC Allocation to make Qualified Low-Income Community Investments. The Allocation Agreement shall further describe the Allocatee's reporting requirements.

The Fund reserves the right, in accordance with applicable Federal law and if authorized, to charge allocation reservation and/or compliance monitoring fees to all entities receiving NMTC Allocations. Prior to imposing any such fee, the Fund will publish additional information concerning the nature and amount of the fee.

**VIII. Information Session**

In connection with this NOAA, the Fund will broadcast a video teleconference information session on August 6, 2003, from 1 pm to 5 pm ET. Registration is required, as the video teleconference information session will be broadcast to secured federal facilities. The video teleconference information session will be produced in Washington, DC, and will be downlinked via satellite to local Department of Housing and Urban Development offices in certain cities. For further information on the video teleconference information session, locations, or to register, please visit the Fund's Web site at *http://www.cdfifund.gov* or call the Fund at (202) 622–8401.

**Authority:** 26 U.S.C. 45D; 31 U.S.C. 321; 26 CFR 1.45D–1T.

Dated: July 14, 2003.

**Tony T. Brown,**

*Director, Community Development Financial Institutions Fund.*

[FR Doc. 03–18213 Filed 7–17–03; 8:45 am]

BILLING CODE 4810–70–P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### Surety Companies Acceptable on Federal Bonds: Termination—Commercial Casualty Insurance Company of North Carolina

**AGENCY:** Financial Management Service, Fiscal Service, Department of the Treasury.

**ACTION:** Notice.

**SUMMARY:** This Supplement No. 23 to the Treasury Department Circular 570; 2002 Revision, published July 1, 2002 at 67 FR 44294.

**FOR FURTHER INFORMATION CONTACT:** Surety Bond Branch at (202) 874–6696.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the Certificate of Authority issued by the Treasury to the above named Company, under the United States Code, Title 31, Sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective June 30, 2003.

The Company was last listed as an acceptable surety on Federal bonds at 67 FR 44303, July 1, 2002.

With respect to any bonds, including continuous bonds, currently in force with above listed Company, bond-approving officers should secure new bonds with acceptable sureties in those instances where a significant amount of liability remains outstanding. In addition, in no event, should bonds that are continuous in nature be renewed.

The Circular may be viewed and downloaded through the Internet at *http://www.fms.treas.gov/c570.* A hard copy may be purchased from the Government Printing office (GPO), Subscription Service, Washington, DC, (202) 512–1800. When ordering the Circular from GPO, use the following stock number: 769–004–04067–1.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Financial Accounting and Services Division, Surety Bond Branch, 3700 East-West Highway, Room 6F07, Hyattsville, MD 20782.

Dated: June 30, 2003.

**Judith R. Tillman,**

*Assistant Commissioner, Financial Operations.*

[FR Doc. 03–18179 Filed 7–17–03; 8:45 am]

BILLING CODE 4810–35–M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Form W–4S

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning Form W–4S, Request for Federal Income Tax Withholding From Sick Pay.

**DATES:** Written comments should be received on or before September 16, 2003 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet, at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Federal Income Tax withholding From Sick Pay.

*OMB Number:* 1545–0717.

*Form Number:* W–4S.

*Abstract:* Section 3402(o) of the Internal Revenue Code allows income tax withholding on sick pay payments made by third parties upon request of the payee. The information is used by payers to determine how much to withhold from each sick pay payment.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households.

*Estimated Number of Respondents:* 500,000.

*Estimated Time Per Respondent:* 1 hr., 32 min.

*Estimated Total Annual Burden Hours:* 765,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2003.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. 03–18323 Filed 7–17–03; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Proposed Collection; Comment Request for Forms 1099–PATR

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1099–PATR, Taxable Distributions Received From Cooperatives.

**DATES:** Written comments should be received on or before September 16, 2003 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins at (202) 622–6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or through then Internet, at *Allan.M.Hopkins@irs.gov.*

**SUPPLEMENTARY INFORMATION:**

*Title:* Taxable Distributions Received From Cooperatives

*OMB Number:* 1545–0118.

*Form Number:* 1099–PATR.

*Abstract:* Form 1099–PATR is used to report patronage dividends paid by cooperatives in accordance with Internal Revenue Code section 6044. The information is used by IRS to verify reporting compliance on the part of the recipient.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for profit organizations.

*Estimated Number of Responses:* 1,961,131.

*Estimated Time Per Response:* 15 min.

*Estimated Total Annual Burden Hours:* 509,895.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 2003.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. 03–18324 Filed 7–17–03; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### Capital Asset Realignment for Enhanced Services (CARES) Commission; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 (Federal Advisory Committee Act) that the Capital Asset Realignment for Enhanced Services (CARES) Commission will meet on August 6–7, 2003, at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202. The meeting will begin at 8:30 a.m. each day and end at 5 p.m. on August 6 and at 12:30 p.m. on August 7. The meeting is open to the public.

The purpose of the Commission is to conduct an external assessment of VA's capital asset needs. The Commission will consider recommendations prepared by VA's Under Secretary for Health, and veterans service organizations, individual veterans, Congress, medical school affiliates, VA employees, local government entities, community groups and others. Following its assessment, the Commission will make specific recommendations to the Secretary of Veterans Affairs regarding the realignment and allocation of capital assets necessary to meet the demands for veterans health care services over the next 20 years.

The August meeting is the fifth public meeting of the Commission. On the morning of August 6, the Commission will decide whether the CARES projection Model is a reasonable model for the purpose for which it was used. During the rest of the meeting, the Commission will be briefed on the Draft National Plan.

No time will be allocated at these meetings for receiving oral presentations from the public. However, interested persons may attend and/or file statements with the Commission. Written statements may be filed either before the meeting or within 10 days after the meeting and addressed to: Department of Veterans Affairs, CARES Commission (OOCARES), 810 Vermont Avenue, NW., Washington, DC 20420. Any member of the public wishing addition information should contact Mr. Richard E. Larson, Executive Director, CARES Commission, at (202) 501–2000.

Dated: July 10, 2003.

By Direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 03–18234 Filed 7–17–03; 8:45 am]

BILLING CODE 8320–01–M

## DEPARTMENT OF VETERANS AFFAIRS

### Privacy Act of 1974, as Amended; Computer Matching Program Between the Department of Veterans Affairs and the Internal Revenue Service, Department of the Treasury

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of Computer Matching Program.

Notice is hereby given that the Department of Veterans Affairs (VA) and the Internal Revenue Service (IRS) propose to conduct a computer matching program. The purpose of the program is to locate taxpayers who owe delinquent debts to the Federal Government as a result of their participation in benefit programs administered by VA. Once located, VA will pursue collection of debts through voluntary payments. If such payments are not forthcoming, VA may seek involuntary collection under the provisions of the Debt Collection Act of 1982, as amended.

The legal authority for undertaking this matching program is contained in the Internal Revenue Code at 26 U.S.C. 6103(m)(2)(A). VA and IRS have concluded an agreement to conduct the matching program pursuant to provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(o)). IRS will act as the source (*i.e.*, matching) agency. VA will provide a tape extract to IRS that contains the Name Control (the first four characters of the surname) and social security number (SSN) of each record subject. IRS will compare the tape extract against its database of taxpayers who have filed Federal individual income tax returns, establishing ''hits'' (*i.e.*, individuals common to both tapes) on the basis of matched SSNs and Name Controls. For each hit, IRS will disclose to VA the following information: Name Control, SSN, and latest street address, post office box or other address furnished by the taxpayer.

*Records to be Matched:* The systems of records maintained by the respective agencies from which records will be disclosed for the purpose of this computer match are as follows:

CADE IRS: Individual Master File (IMF), Treasury/IRS 24.030, containing millions of records of taxpayers who have filed Federal individual income tax returns. A full description of the system of records was last published at 66 FR 63784 (December 10, 2001).

VA: Accounts Receivable Records-VA (88VA244) containing records of approximately 200,000 debtors. Disclosure will be made under routine use No. 18 of that system, a full description of which was last published at 63 FR 16864 on April 6, 1998.

The matching program is expected to begin on or about August 18, 2003, and continue in effect for 18 months. The agreement governing the matching program and, thus, the matching program, may be extended an additional 12 months with the respective approval of the Data Integrity Boards of both the Department of Veterans Affairs and the Department of the Treasury. Such extension must occur within three months prior to expiration of the 18-month period set forth above and under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

**ADDRESSES:** Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to conduct the matching program to the Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Room 1064, Washington, DC 20420. All relevant material received before August 18, 2003, will be considered. All written comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** Mark Gottsacker, Debt Management Center (389/00A), Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111, (612) 970–5703.

**SUPPLEMENTARY INFORMATION:** This information is required by the Privacy Act of 1974, as amended (5 U.S.C. 552a(e)(12)). A copy of this notice has been provided to both Houses of Congress and to the Office of Management and Budget.

Approved: July 2, 2003.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

[FR Doc. 03–18232 Filed 7–17–03; 8:45 am]

BILLING CODE 8320–01–P

# Corrections

Federal Register

Vol. 68, No. 138

Friday, July 18, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### Education Facilities Replacement Construction Priority List as of FY 2003

*Correction*

In notice document 03–17343 beginning on page 40996 in the issue of Wednesday, July 9, 2003, make the following correction:

On page 40997, in the third column, under the heading **Education Facilities Replacement Construction Priority List as of FY 2003**, add the following entry in numerical order:

''4. Isleta Elementary School''.

[FR Doc. C3–17343 Filed 7–17–03; 8:45 am]

BILLING CODE 1505–01–D

## NATIONAL SCIENCE FOUNDATION

### Sunshine Act Meetings

*Correction*

In notice document 03–17695 appearing on page 41404 in the issue of Friday, July 11, 2003, make the following correction:

On page 41404, second column, under the paragraph titled **AGENCY HOLDING MEETING:**, insert ''**DATE AND TIME:** July 16, 2003: 3 p.m.–4 p.m., Open Session.''

[FR Doc. C3–17695 Filed 7–17–03; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF THE TREASURY

### 48 CFR Chapter 10

### RIN 1505–AA89

### Department of the Treasury Acquisition Regulation

*Correction*

In rule document 03–16918 beginning on page 39854 in the issue of Thursday, July 3, 2003 make the following corrections:

**PART 1005 [Corrected]**

1. On page 39856, in the second column, in the table of contents, ''1005.202 Definitions.'' should read ''1005.202 Exceptions.''.

**§1005.202 [Corrected]**

2. On the same page, in the same column, under **Subpart 1005.2—Synopses of Proposed Contract Actions**, the section heading should read as set forth above.

[FR Doc. C3–16918 Filed 7–17–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
July 18, 2003

# Part II

# Department of Labor

# Department of Housing and Urban Development

## Ending Chronic Homelessness Through Employment and Housing; Notice

## DEPARTMENT OF LABOR

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[SGA 03–15]**

## Ending Chronic Homelessness Through Employment and Housing

A WorkFORCE (Working for Freedom, Opportunity and Real Choice through Community Employment) action cooperative agreement sponsored by the Office of Disability Employment Policy, the Employment and Training Administration, and the Veterans Employment and Training Service of the U.S. Department of Labor (DOL), in combination with a permanent housing grant sponsored by the Office of Special Needs, U.S. Department of Housing and Urban Development (HUD).

**AGENCIES:** Office of Disability Employment Policy, U.S. Department of Labor; and Office of Special Needs, U.S. Department of Housing and Urban Development.

**ACTION:** Notice of availability of funds; solicitation for both cooperative agreement and grant applications. (SGA 03–15)

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This notice contains all of the necessary information and forms needed to apply for both the DOL Cooperative Agreement funding and the HUD permanent housing grants, in combination. (SGA 03–15)

**SUMMARY:** The U.S. Department of Labor (DOL), Office of Disability Employment Policy (ODEP), in cooperation with the Employment and Training Administration (ETA) and the Veterans Employment and Training Service (VETS), announces the availability of $2.5 million to award up to 4 Cooperative Agreements: Ending Chronic Homelessness through Employment and Housing Cooperative Agreements, ranging from approximately $500,000 to $625,000, per award, designed to increase and improve employment opportunities for persons who are chronically homeless. In partnership with this DOL award, HUD announces the availability of $10 million for permanent housing grants from recaptured McKinney Act monies. These funds will be used to supplement each DOL Cooperative Agreement effort with a HUD grant award, ranging from approximately $2–3 million per award, to support permanent housing for individuals who are ''chronically homeless'' served through the DOL Cooperative Agreement. This inter-agency effort supports the President's goal of ending chronic homelessness in ten years by creating innovative approaches to providing housing and economic self-sufficiency for this population.

A person 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 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.

Applicants for this program must, through a partnership evidenced with an executed Memorandum of Agreement (MOA), apply for both the DOL Cooperative Agreement and the HUD permanent housing grant award. Funding will be awarded, as this funding effort is meant to be a collaborative project combining a customized employment initiative with permanent housing services. The goal of these awards is to enable persons who are ''chronically homeless'' to achieve employment, permanent housing, and self-sufficiency. These agreements will begin or expand the delivery and implementation of ''customized employment'' strategies for people who are ''chronically homeless'' so that they may live, work, and fully participate in their communities. (See part VII, Section 1 for Glossary of Applicable Terms.)

The purpose of the DOL Cooperative Agreements and the HUD grants is to bring together the respective expertise and capabilities of both the local workforce development system (One-Stop Career Centers and their partners) and the local permanent housing service organizations, to develop and document the increased employment outcomes anticipated when these organizations combine their efforts to respond to the employment and housing needs of persons who are chronically homeless. The DOL Cooperative Agreements will be funded for a one-year period and may be renewed for a period up to four additional years, at varying funding levels (see Section IV) depending upon the availability of funds and the efficacy of the project activities. The HUD grants (McKinney-Vento Act funds) will provide funding for three (3) or five (5) years, determined by the application filed. The Supportive Housing Program (SHP) carries a term of three (3) years, and the Shelter Plus Care Program (S+C) is a five-year (5) term. The HUD permanent housing grants may only be used to provide new permanent housing resources for those persons who are chronically homeless and have expressed interest in pursuing employment outcomes.

The DOL Cooperative Agreement anticipates substantial involvement between ODEP and the awardees during the performance of the project to share expertise in the implementation of a customized employment model. Involvement will include collaboration or participation by ODEP in the management of the project throughout the period of the award. The ODEP will be involved in decisions involving strategic planning (including the plan to provide customized employment strategies), allocation of resources, release of public information materials, and analysis and implementation of evaluation findings.

The applications will be evaluated by DOL and HUD using the criteria set forth in Part VII, in conjunction with considerations by the Grant Officer delineated in Part IX of this Solicitation for Cooperative Agreement Application. DOL Cooperative Agreements will be matched by the HUD grants offered in this Solicitation, pursuant to the criteria set forth in Part VII as well as the requirements outlined in the HUD Application package.

**ELIGIBILITY:** Eligible applicants for the DOL Cooperative Agreements are Local Workforce Investment Boards (Local Boards) or, if appropriate, the WIA Cooperative Agreement recipient or fiscal agent for the local area on behalf of the local board under the Workforce Investment Act, that meet the following requirements: 1. Submit documentation that their locality includes at least 150 persons who are currently chronically homeless, as defined herein; and, 2. Demonstrate that they have partnership(s) with: (i) The applicant for the HUD grant, and (ii) other public and private entities, especially homeless serving organizations, consistent with the proposed activities of the Cooperative Agreement.

Eligible applicants for the HUD grant within this initiative are described in the HUD Eligible Applicants and Activities Chart. See Part VII, Section III, Part A.

**DATES:** Applications will be accepted commencing July 18, 2003. The closing date for receipt of the joint applications

by DOL under this announcement is August 20, 2003. Applications must be received by 4:45 p.m. (ET) at the address below. No exceptions to the mailing and hand-delivery conditions set forth in this notice will be granted. Applications that do not meet the conditions set forth in this notice will be considered non-responsive.

**ADDRESSES:** Joint applications shall be mailed to: U.S. Department of Labor, Procurement Services Center, Attention: Cassandra Willis, Reference SGA 03–15, Room N–5416, 200 Constitution Avenue, NW, Washington, DC 20210. Telefascimile (FAX) applications will not be accepted. Applicants are advised that mail in the Washington area may be delayed due to mail decontamination procedures and may wish to take this information into consideration when preparing to meet the application deadline.

**FOR FURTHER INFORMATION CONTACT:** For information on the DOL Cooperative Agreement and related items contact Cassandra Willis, U.S. Department of Labor, Procurement Services Center, telephone (202) 693–4570 (this is not a toll-free number), prior to the closing deadline. For technical questions relating to the HUD grant contact: John Garrity, U.S. Department of Housing and Urban Development, telephone (202) 708–4300. Persons who are deaf or hard of hearing may contact either Cassandra Willis or John Garrity, via the Federal Relay Service, (800) 877–8339. Please note that registrations for the Solicitation Information Conference Call discussed below must be made by contacting ODEP as indicated in the following section, not Ms. Willis or Mr. Garrity. Applications, announcements, or forms will not be mailed. The **Federal Register** may be obtained from your nearest government office or library. This announcement and the award notifications will also be published on the Internet on the ODEP's online Home Page at: *http://www.dol.gov/odep.* Information will also be posted on the HUD Web site at *http://www.hud.gov/offices/adm/grants/fundsavail.cfm* and on *www.fedgrants.gov.*

*Solicitation Information Conference Call:* A Solicitation Information Conference Call will be held at 2:00 p.m. (ET), Monday, July 28, 2003. The purpose of this conference call is to provide interested parties an overview of this Cooperative Agreement program and an opportunity to ask questions concerning this solicitation. A transcript of the conference will be made available on the ODEP Web site, *www.dol.gov/odep* shortly following the conference. Individuals who wish to participate in this conference call must register by contacting ODEP at (202) 693–7880, no later than 4:45 p.m. (ET) on Friday, July 25, 2003. Please ask to register for the Ending Chronic Homelessness SGA Conference Call. Registrations should be made as soon as possible. At the time of registration, call-in information will be provided.

**SUPPLEMENTARY INFORMATION:**

## Part I. Delivery of Applications

*Late Applications.* Any application received after the exact date and time specified for receipt at the office designated in this notice will be considered non-responsive, unless it is received before awards are made and it: (a) Is determined that its late receipt was caused by DOL error after timely delivery to the Department of Labor; (b) was sent by U.S. Postal Service registered or certified mail not later than the fifth calendar day before the date specified for receipt of applications (*e.g.*, an application submitted in response to a solicitation requiring receipt of applications by the 20th of the month must have been post marked by the 15th of that month); or (c) was sent by the U.S. Postal Service Express Mail Next Day Service to addressee not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of applications. The term ''working days'' excludes weekends and Federal holidays. ''Post marked'' means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable, without further action, as having been supplied or affixed on the date of mailing by an employee of the U.S. Postal Service.

*Withdrawal of Applications.* Applications may be withdrawn by written notice or telegram (including mailgram) received at any time before an award is made. Applications may be withdrawn in person by the applicant or by an authorized representative thereof, if the representative's identity is made known and the representative signs a receipt of the proposal.

*Hand-Delivered Proposals.* It is preferred that applications be mailed at least five days prior to the closing date. To be considered for funding, hand-delivered applications must be received by 4:45 p.m. (ET) on August 18, 2003, at the specified address. Failure to adhere to the above instructions will be basis for a determination of non-responsiveness. Overnight express mail from carriers other than the U.S. Postal Service will be considered hand-delivered applications and must be received by the above specified date and time.

## Part II. Authorities

*DOL Cooperative Agreements:* Consolidated Appropriations Resolution, 2003, Pub. L. 108–7, 117 Stat. 11 (2003); Consolidated Appropriations Act, 2001, Pub. L. 106–554, 114 Stat. 2763 (2000); 29 U.S.C. 557b.

*HUD Grants:* McKinney-Vento Homeless Assistance Act, 42 U.S.C. 1130.

The Supportive Housing Program is authorized by Title IV, Subtitle C, of the Stewart B. McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), 42 U.S.C. 11381. Funds made available under this section of the SGA (Solicitation for Grant Applications) for the Supportive Housing Program are subject to the program regulations at 24 CFR part 583. The funds are also subject to the requirements of this SGA.

The Shelter Plus Care program is authorized by Title IV, Subtitle F, of the McKinney-Vento Act, 42 U.S.C. 11403. Funds made available under this section of the SGA for the Shelter Plus Care program are subject to the program regulations at 24 CFR part 582. The funds are also subject to the requirements of this SGA.

## Part III. Background

### *The Olmstead Decision*

In Olmstead v. L.C. ex rel. Zimring, 527 U.S. 58 (1999) (the ''Olmstead decision''), the Supreme Court construed Title II of the Americans with Disabilities Act (ADA) to require states to place qualified individuals with mental disabilities in community settings, rather than in institutions whenever treatment professionals determine that such placement is appropriate, the affected persons do not oppose such placement, and the state can reasonably accommodate the placement, taking into account the resources available to the state and the needs of others with disabilities. The Department of Justice regulations implementing Title II of the ADA require public entities to administer their services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities. See 28 CFR 35.130(d).

In Olmstead, the Supreme Court stated that institutional placements of people with disabilities who can live in, and benefit from, community settings perpetuates the unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life. The Supreme Court stated that ''recognition that unjustified institutional isolation of persons with

disabilities is a form of discrimination reflects two evident judgments. First, institutional placement of persons who can handle, and benefit from, community settings perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life. Second, confinement in an institution severely diminishes the everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment.'' Olmstead, 527 U.S. at 600–01 (emphasis added)(citations omitted). This decision affects not only all persons in institutions and segregated settings, but also people with disabilities who are at-risk of institutionalization, including people with disabilities on waiting lists to receive community-based services and supports.

On June 18, 2001, President George W. Bush issued Executive Order 13217-Community-Based Alternatives for Individuals with Disabilities (the Olmstead Executive Order), in which he extended application of the Supreme Court's Olmstead decision to all Americans with disabilities, and called upon selected federal agencies, including the U.S. Department of Labor, to help support governors in their implementation of the Olmstead decision.

In March 2002, the U.S. Secretary of Health and Human Services, Tommy G. Thompson, submitted a report to President Bush, titled Delivering on the Promise, on behalf of the Departments of Labor (DOL), Justice (DOJ), Education (ED), Health and Human Services (HHS), Housing and Urban Development (HUD), Transportation (DOT), Veterans Affairs (VA), the Social Security Administration (SSA), and the Office of Personnel Management (OPM). This report detailed actions being planned by the aforementioned agencies to eliminate barriers and promote community integration. See *http://www.hhs.gov/newfreedom/final*. In this report, the DOL and other federal agencies noted that successful planning and implementation efforts regarding the Olmstead decision must include competitive employment and employment-related supports.

*ODEP Actions to Date*

For the past two years (federal Fiscal Years 2001 and 2002) ODEP has funded two types of employment demonstration grants (''Customized Employment'' and ''WorkFORCE Action'') for persons with significant disabilities. The distinguishing characteristic of these grants has been the application of a philosophy of ''customizing employment'' services, with enhanced coordination of these customized services with multiple community and state partners, especially One-Stop Career Centers. Documenting and supporting these demonstration grants with technical assistance on ''customized employment'' strategies has been the responsibility of ODEP's National Center for Workforce Development for Adults with Disabilities (with access online at www.onestops.info and by telephone through the toll-free number 1–888–886–9898).

As a result of these and other customized employment efforts, improved employment outcomes for persons with disabilities are being realized. These promising results offer the possibility of increased employment outcomes for all organizations serving the employment needs of persons who are chronically homeless. In view of this potential, DOL is soliciting Cooperative Agreement applications from eligible organizations to demonstrate the expanded potential of ''customized employment'' strategies for persons who are chronically homeless.

It is worth noting that the term ''customized employment'' as a philosophy espoused in this SGA, along with its associated strategies (see definition for ''customized employment'' in Section VII), is not without precedent for groups serving the employment needs of persons who are chronically homeless. The principle of ''individualizing'' or ''customizing'' employment services, based upon the person's individual needs, interest, and abilities is central to individual development planning approaches, which have long been recognized as necessary and advantageous when responding to the employment needs of persons who are chronically homeless. An added advantage of the ''customized employment'' approach, as defined in this SGA, is to increase the number and variety of employment strategies and options made available through the workforce development system in cooperation with organizations serving homeless people. In addition, these service strategies are also customized for the employer. This SGA attempts to bring the workforce development system and organizations serving persons who are chronically homeless into a closer alignment with effective disability-related employment methods and expertise.

Many strategies exist for creating and expanding competitive employment opportunities for persons who are chronically homeless. Many effective strategies have emerged through decades of research and demonstration projects, and through other public and private activities promoting increased choice and self-determination for people with disabilities. These include multiple ''customized'' employment approaches such as supported employment and supported entrepreneurship; individualized job development; job carving and restructuring; use of personal agents (including individuals with disabilities and family members); development of micro-boards, micro-enterprises, cooperatives, and small businesses; and the use of personal budgets and other forms of individualized funding that provide choice and control to the person and promote self-determination.

ETA has supported demonstration efforts under the Job Training for the Homeless Demonstration Program, authorized under Section 731 of the Stewart B. McKinney Homeless Assistance Act of 1987. The effort focused on a wide spectrum of housing options and supportive services that are needed by homeless individuals to be successful in completing training and securing and retaining employment. Evaluations of these efforts revealed successful strategies on how those services can be provided directly by employment and training agencies or arranged through linkages with public or private service providers. Most importantly, that effort revealed that neither housing nor employment services alone would help the homeless become self-sufficient; the two in combination are essential for their full reintegration back into the community.

ETA also administers Work Incentive Grants designed to provide seed monies to support the development of the One-Stop Career Center infrastructure with an objective of achieving model, seamless and comprehensive services for people with disabilities. These grants incorporate multi-program and cross-agency coordination at the state and local level and provide for increasing staff capacity to ensure access to multiple services and supports needed for successful entry or reentry into the workforce.

VETS has supported various homeless veterans grant programs and initiatives. The Homeless Veterans' Reintegration Program (HVRP) was the first nationwide Federal program that focused on placing homeless veterans into jobs. Historically, VETS has held annual grant competitions for urban and non-urban grants. These grants have provided valuable information on approaches that work in the different environments. The HVRP program is

designed to be flexible in addressing the universal as well as local or regional problems barring homeless veterans from the workforce. VETS, in a joint effort with ODEP and ETA, will continue to seek applicants that have established links with federal, state and local resources for assisting homeless veterans, and applicants that provide personalized or customized services in their approach for employment and retention of persons who are homeless or at-risk of homelessness.

HUD has homeless assistance programs designed to provide permanent housing, including the Supportive Housing Program (SHP) and the Shelter Plus Care Program. These programs can be used to help persons who are chronically homeless transition from homelessness to living as independently as possible.

This SGA provides an opportunity for both HUD and DOL to combine their respective resources and expertise in a combined approach to provide employment and housing services to people who are chronically homeless so that they can live independently as self-sufficient members of their community.

This Ending Chronic Homelessness through Employment and Housing SGA supports the President's New Freedom Initiative. The New Freedom Initiative is designed to increase the number of people with disabilities who enter, re-enter, and/or remain in the workforce. By emphasizing the need to increase the capacity of federally-supported employment and training programs to serve persons who are chronically homeless, this SGA will further the New Freedom Initiative's goals of increased integration of Americans with disabilities into the workforce.

Recently, the Federal Government's Interagency Council on Homelessness (*http://www.ich.gov*) has begun an expanded effort to end chronic homelessness. This SGA supports this initiative by increasing the involvement of the workforce development system in partnership with key disability and homeless serving organizations to meet the customized employment needs of persons who are chronically homeless.

In addition, the DOL Cooperative Agreements will support implementation of coordinated workforce development envisioned under the WIA. The WIA established comprehensive reform of existing federal job training programs, consolidating multiple programs into a unified system and bringing multiple federal programs together as required partners in the One-Stop delivery system established under the WIA. The One-Stop Centers, which comprise the heart of this system, are in a position to expand employment opportunities for persons who are disabled and chronically homeless, by helping to ensure that the workforce system is accessible both physically and programmatically. To accomplish this, however, additional state and local organizations must be involved, including community-based providers of customized employment services. Additional partners necessary to the success of this endeavor for persons who are chronically homeless may include, but are not limited to, the organizations listed in Part VII, Section 2.

In response to these considerations, and in view of the potential resources described above, both DOL and HUD offer these Ending Chronic Homelessness through Employment and Housing—WorkFORCE (Working for Freedom, Opportunity and Real Choice through Community Employment) Action Cooperative Agreements to develop and/or expand the capacity of the workforce development system to provide individually determined ''customized employment'' strategies, in partnership with housing organizations serving people who are chronically homeless.

The ODEP and its partners strongly recognize the need for technical assistance to provide support, training, dissemination, information on effective practices, etc. to the grantees under the Ending Chronic Homelessness through Employment and Housing initiative. This demonstration Cooperative Agreement and grant initiative needs technical assistance and cross-expertise to bring together the workforce development system with the homeless serving community to provide employment and permanent housing for persons who are chronically homeless. Accordingly, a National technical assistance effort on Ending Chronic Homelessness through Employment and Housing is planned, to: 1. Provide awardees with ongoing support and technical assistance; 2. Compile and disseminate to other interested parties what is learned through these Cooperative Agreements to other interested parties; and, 3. Inform the policy development process of the Administration regarding the advantages of combining the provisioning of employment and permanent housing services for persons who are chronically homeless.

## Part IV. Funding Availability and Period of Performance

The DOL anticipates awarding up to 4 Cooperative Agreements, ranging from approximately $500,000 to $625,000 per year, totaling $2.5 million, to develop demonstration programs to increase and improve employment opportunities for people who are chronically homeless. In conjunction with the DOL Cooperative Agreements, HUD grants, totaling $10 million, will be issued to the top-scoring applications (as described in Part VII and the HUD grant application section) to support new permanent housing units for chronically homeless persons. The goal of these DOL Cooperative Agreements is to enable people who are chronically homeless to achieve employment, permanent housing, and self-sufficiency. These demonstration programs will begin or expand the delivery and implementation of ''customized employment'' strategies for people who are chronically homeless so that they may live, work, and fully participate in their communities.

Each DOL Cooperative Agreement award will be for one year, with four additional option years possible, depending upon the availability of funds and the efficacy of Cooperative Agreement activities, established by independent reviews conducted by the ODEP or its designees. It is envisioned that if DOL funding continues for the full five years, its funding for years four and five will be at successively lower rates, with funding during year four at 80 percent of the third year funds, and funding during year five at 60 percent of the third year funds. This decreased funding strategy is designed to encourage program sustainability in the community, beyond the federally funded Cooperative Agreement period. Awardees are expected to use this Cooperative Agreement to leverage and develop other public and private resources to ensure long-term sustainability. This funding strategy applies only to DOL funds. The DOL funds (the customized employment funds) may be used in a flexible manner so long as the requirements delineated in this Cooperative Agreement are met.

Approximately four (4) grant awards will be made by HUD for terms of three (3) or five (5) years, depending on the program being used (see Program descriptions below). At the end of these terms, eligible projects seeking renewal can apply through their local Continuum of Care to replace the loss of non-renewable funding from HUD through this process and, if selected, can be funded for additional years.

The HUD grants (the housing funds) must only be used to secure new permanent housing units for those persons who are chronically homeless served through the DOL Cooperative Agreement and who indicate a

willingness to accept the employment supports designed under the customized employment portion of this award. While their participation in the customized employment portion of this award is not a mandatory outcome for all, it should be an established intention for all who receive permanent housing supports under these funds. Proposals will be judged on plans to establish this interest and participation, including expected employment results.

Each permanent supportive housing project must be classified under one of the program components described below. Eligible activities under this SGA for the HUD permanent housing grants are limited to rental assistance, acquisition, minor rehabilitation (e.g. reconfiguring a doorway for handicap accessibility), leasing, operating costs, and administrative costs. Minor rehabilitation costs may not exceed $3,000 per unit. The employment-related resources being made available by DOL and resources from other sources can be used to provide supportive services. Applicants may also request up to 5% of each Supportive Housing Program project award for administrative costs, such as accounting for the use of the grant funds, preparing HUD reports, obtaining audits, and other costs associated with administering the grant. New construction and major rehabilitation are not eligible for funding. (See the HUD Eligible Applicants Chart for further details on eligible activities.)

HUD applicants must match housing funds provided for acquisition and minor rehabilitation with an equal amount of funds from other sources. For operating costs, housing funds can pay for no more than 75% of the total operating budget and applicants must provide the remaining 25% of the operating costs. For S+C, applicants must match rental assistance provided through this initiative on a dollar for dollar basis with supportive services.

Applicants for HUD assistance can choose to request funds for either the Supportive Housing Program or the Shelter Plus Care Program. The Supportive Housing Program has two eligible components from which to choose for this competition: Permanent Housing for Persons with Disabilities and Safe Havens. These two Supportive Housing Program components, Permanent Housing for Persons with Disabilities and Safe Havens, as well as the Shelter Plus Care Program are described below:

**Supportive Housing Program**

1. Permanent Housing for Persons with Disabilities. Permanent Housing projects provide long-term housing and supportive services (provided with other non-SHP funds) that are designed to enable chronically homeless persons with disabilities to live as independently as possible. Permanent housing can be provided at one site or in scattered sites. Further, Permanent Housing may be tenant-based, meaning that the tenant can choose the housing. This approach focuses on identification and engagement through assertive outreach to individuals, immediate placement in permanent housing, and availability of appropriate supportive services.

2. Safe Havens (that have the characteristics of a Permanent Housing Project, *i.e.*, have a lease agreement with the client). Safe Havens are projects targeted to hard-to-reach homeless persons who have severe mental illness and are on the streets. The goal of a Safe Haven is to serve as a small, highly supportive environment where an individual can feel at ease, out of danger, and subject to limited service demands. Tenants can move directly into housing with few explicit services required. It is hoped that after a period of stabilization in a Safe Haven, residents will be more willing to participate in services and referrals and will eventually be ready to move to more traditional forms of housing. Safe Havens may serve as an entry point to the service system and provide access to basic services such as good food, clothing, bathing facilities, telephones, storage space, and a mailing address. The specific criteria that must be exhibited by a Safe Haven are:

- A lease agreement with the client,
- No limit on length of stay,
- Provision of 24-hour residence,
- Provision of private or semiprivate accommodations,
- Overnight occupancy limited to 25 persons.

**Shelter Plus Care Program**

The Shelter Plus Care Program (either tenant-, sponsor-, or project-based without rehabilitation) gives applicants flexibility in devising appropriate housing and supportive services for homeless persons with disabilities through rental assistance. Assisted units may be of any type, from group homes to apartments. Participants in S+C units receive supportive services and rental assistance provided through the S+C program must be matched in the aggregate on a dollar for dollar basis by the recipient with supportive services.

**Part V. Eligible Applicants and Required Partnerships**

*DOL Eligible Applicants:* For the DOL Cooperative Agreement awards, eligible applicants are Local Workforce Investment Boards (Local Boards), or, if appropriate, the WIA grant recipient or fiscal agent for the local area on behalf of the Local Board under the Workforce Investment Act. Eligible applicants must be able to document that their locality has at least 150 persons who are chronically homeless. In order to be determined eligible, the Local Board must enter into partnerships with organizations serving people who are chronically homeless, consistent with the proposed activities of this Cooperative Agreement. To be determined eligible, applicants may not utilize certificates authorized under Section 14(c) of the Fair Labor Standards Act in their implementation of project activities and must utilize only individually determined customized employment strategies in securing employment for the target population.

*HUD Eligible Applicants:* Eligible applicants for the HUD grant within this initiative are described in the HUD Eligible Applicants and Activities Chart. See Part VII, Section III, Part A. Applicants must be a part of their local Continuum of Care and must certify to this relationship. Eligible applicants must be able to document that their locality has at least 150 persons who are chronically homeless. In order to be determined eligible, the HUD eligible applicant must enter into a partnership with their Local Workforce Investment Board, as described above, who is making an application for the DOL Cooperative Agreement being offered within this Solicitation.

*DOL and HUD Required Partnerships:* The purpose of the Ending Chronically Homelessness through Employment and Housing Cooperative Agreements is to demonstrate the employment potential of persons who are chronically homeless through techniques designed to accomplish community employment in non-stereotypical integrated settings, utilizing ''customized employment'' strategies. These efforts must include the involvement of many key partners, especially those providing housing services to persons who are chronically homeless as well as those providing or capable of providing customized employment services to persons with disabilities. Applicants must demonstrate that subcontractors will provide the necessary supportive services to address the needs of the chronically homeless including

coordinating and integrating the project with other mainstream health and social services for which homeless populations may be eligible.

In order to ensure a coordination of effort between these two awards, proposals shall demonstrate that a strong partnership commitment has been made between the two respective eligible applicants (for the DOL Cooperative Agreement award and for the HUD permanent housing grant). While these two awards (DOL Cooperative Agreement and HUD grant), are from separate funding sources, their potential can only be realized through this coordination of effort. Failure to clearly document, through a Memorandum of Agreement, this coordination of effort will yield a proposal ''non-responsive'' and disqualified from any further consideration.

In addition, the DOL Cooperative Agreement applicant must submit a letter signed by their state's governor, or his or her designee, for overall implementation of the Olmstead decision, that the proposed Cooperative Agreement activities will be regarded as a demonstration program playing a role in the state's employment implementation effort(s) under the Olmstead decision. Moreover, this letter should describe how the lessons learned under this Cooperative Agreement will be utilized to benefit other communities throughout the state, and thereby provide expanded customized community employment options for other homeless people with disabilities who are covered under the Olmstead decision and Executive Order.

**Part VI. Format Requirements for Cooperative Agreement and Grant Application**

*General Requirements:* All applications will be submitted to DOL. There are separate application requirements for the DOL Cooperative Agreement and the HUD grant, however, the Executive Summary—Project Synopsis and Part VII, Section 2 (Collaboration Requirements) will provide an opportunity to explain the applicants' collaborative program design. Applicants must submit one (1) paper copy with an original signature, and two (2) additional paper copies of the signed proposal. To aid with the review of applications, DOL also encourages applicants to submit an electronic copy of their proposal on disc or CD using Microsoft Word. Applicants who do not provide an electronic copy *will not* be penalized. The Application must be double-spaced with standard one-inch margins (top, bottom, and sides) on 8 ½ × 11 papers, and be presented on single-sided, and numbered pages. A font size of at least twelve (12) pitch is required throughout. Applications that fail to meet these requirements will be considered non-responsive.

*DOL Cooperative Agreement Requirements:*

The three required sections of the application are:

Section I—Project Financial Plan
Section II—Executive Summary—Project Synopsis
Section III—Project Narrative (including Attachments, not to exceed fifty (50) pages)

Mandatory requirements for each section are provided as follows in this application package. Applications that fail to meet the stated mandatory requirements of each section will be considered non-responsive.

**Mandatory Application Requirements**

• Section I. Project Financial Plan (Budget)—[The Project Financial Plan will not count against the application page limits.] Section I of the application must include the following three required parts:

(1) Completed''SF 424—Application for Federal Assistance.''

(See Appendix A of this SGA for required form)

(2) Completed SF 424 A—Budget Information Form by line item for all costs required to implement the project design effectively.

(See Appendix A of this SGA for required forms)

(3) DOL Budget Narrative and Justification that provides sufficient information to support the reasonableness of the costs included in the budget in relation to the service strategy and planned outcomes, including continuous improvement activities.

The DOL Cooperative Agreement application must include one SF–424 (**Note:** the HUD Grant Application must include its own HUD–424) with the original signatures of the legal entity applying for Cooperative Agreement funding and two additional copies. Applicants shall indicate on the SF–424 the organization's IRS Status, if applicable. Under the Lobbying Disclosure Act of 1995, Section 18 (29 U.S.C. 1611), an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, Cooperative Agreement, or loan. See 2 U.S.C. 1611; 26 U.S.C. 501(c)(4). For item 10 of the SF–424, the Catalog of Federal Domestic Assistance (CFDA) number for the program is 17.720.

The DOL Budget Narrative and Justification must describe all costs associated with implementing the project that are to be covered with Cooperative Agreement funds. Awardees must support the travel and associated costs of sending at least one representative to the annual ODEP Policy Conference for its grantees, to be held in Washington, DC at a time and place to be determined. Awardees must comply with the ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' (also known as the ''Common Rule or OMB Circular A–102'') codified at 29 CFR part 97, or ''Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations'' (also known as the ''Common Rule'' or OMB Circular A–110), codified at 29 CFR part 95 and must comply with the applicable OMB cost principles circulars, as identified in 29 CFR 95.27 and 29 CFR 97.22(b).

In addition, the DOL budget must include on a separate page a detailed cost analysis of each line item. Justification for administrative costs must be provided. Approval of a budget by DOL is not the same as the approval of actual costs. The individual signing the SF 424 on behalf of the applicant must represent and be able to legally bind the responsible financial and administrative entity for a Cooperative Agreement should that application result in an award. The applicant must also include the Assurances and Certifications Signature Page (Appendix A).

• Section II. Executive Summary—Project Synopsis [The Executive Summary is limited to no more than two single-spaced, single-sided pages on 8½ x 11 papers with standard margins throughout]. Each application shall include a project synopsis that identifies the following:

(1) The applicant;

(2) The amount of funds requested separately for the DOL portion (employment program) and the HUD portion (permanent housing program);

(3) The planned period of performance for both employment and housing portions;

(4) The list of partners, as appropriate;

(5) An overview of how the applicant will identify the population to be served (including the estimated number and types of persons who are chronically homeless), the conditions such individuals are currently experiencing, and methods that will be used to

promote community customized employment and permanent housing, including ''customized employment '' strategies listed in this SGA; and

(6) An overview of the plan for sustainability once federal funding ceases.

• Section III. Project Narrative—The DOL Cooperative Agreement Project Narrative plus attachments are limited to no more than fifty (50), 8½ × 11 pages, double-spaced with standard one-inch margins (top, bottom, and sides), and must be presented on single-sided, numbered pages. [**Note:** The Financial Plan, the Executive Summary, and the Appendices, including required letters of cooperation, Memorandum of Understanding, *etc.*, are not included in the fifty page limit]. The requirements for the project narrative are described below under Part VII—Statement of Work.

The ''Collaboration'' application proposal (partnering DOL and HUD eligible applications), as defined in Part VII, Section 2, should be clearly labeled as such and included in the joint application package (combined DOL Cooperative Agreement and HUD grant applications) submitted to Cassandra Willis, at the location and due date indicated in this Solicitation. The ''Collaboration'' proposal is subject to the conditions outlined for the DOL Cooperative Agreement proposal (formatting, numbers of copies, *etc.*), and may not exceed fifteen (15) pages. The required Memorandum of Agreement and possible letters of support do not count against the fifteen-page limitation for this section. In addition, no separate budget is necessary for this section. Both the DOL Cooperative Agreement and HUD grant budgets may be sources for any needed budget allocations for this part, if consistent with their respective terms and conditions.

All text in the application narrative, including titles, headings, footnotes, quotations, and captions, as well as all text in charts, tables, figures, and graphs must be double-spaced (no more than three lines per vertical inch); and, if using a proportional computer font, must be in at least a 12-point font, and must have an average character density no greater than 18 characters per inch (if using a non-proportional font or a typewriter, must not be more than 12 characters per inch). Applications that fail to meet these requirements will be considered non-responsive.

The HUD grant application requirements, including all necessary forms and directions, are outlined in detail, in Part VII, Section 4, ''HUD Grant Requirements.''

**Part VII. Government Requirements/ Terms/Statement of Work [Project Narrative]**

*Glossary of Applicable Terms*

For purposes of this solicitation, the terms applicable to both the DOL Cooperative Agreements and the HUD permanent housing grant awards are as follows:

• *Customized Employment:* individualizing the employment relationship between employees and employers in ways that meet the needs of both. It is based on an individualized determination of strengths, needs, and interests of the person with a disability and simultaneously employing strategies designed to meet the specific needs of the employer. It may include approaches such as supported employment; supported entrepreneurship; individualized job development; job carving and restructuring; use of personal agents (including individuals with disabilities and family members); development of micro-boards, micro-enterprises, cooperatives and small businesses; and use of personal budgets and other forms of individualized funding that provide choice and control to the person and promote self-determination. These and other job development or restructuring strategies result in job responsibilities being customized and individually negotiated to fit the needs of individuals with disabilities. Customized employment assumes the provision of reasonable accommodations and supports necessary for the individual to perform the functions of a job that is individually negotiated and developed.

• *Eligible Target Population:* a person 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 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. (In order to receive housing assistance through the HUD grants, program participants must meet the McKinney-Vento Act definition of disability for SHP and persons with disabilities for S+C.)

• *Homeless Persons:* include only persons sleeping in a place not meant for human habitation (*e.g.*, on the streets) or in an emergency homeless shelter.

**Rating Criteria**

*Section I. Collaboration Requirements (30 Points)*

The purpose of the Collaborative Effort criteria is to determine the level of cooperation between the employment services providers and the permanent housing providers applying for these funds. The partners in this Cooperative Agreement should explain how their services will be seamlessly coordinated for the population to be served. The application must describe the outreach plan in place to bring the target population into the project and, in turn, how the applicants will ensure that they receive housing, employment services, and other necessary support (*e.g.*, transportation, mental health, substance abuse, health, *etc.*) services. Applicants should include the following in their narrative:

A. Statement of Need/Significance of the Project (10 Points)

The purpose of the Statement of Need criteria is to establish the overall status and issues of persons who are chronically homeless in the area to be served; the need for the type of project proposed by the applicant in the area to be served; to identify strengths and deficiencies in community services that will be addressed by the applicant's proposal; to identify the overall scope of the proposal's objectives and design; to present the applicant's need for the federal resources; to demonstrate significance of the proposed project; and to demonstrate the current and proposed partnerships and collaborative efforts to develop or identify effective new strategies, practices, and/or innovations. The narrative in this section should:

(a) Describe the characteristics of the target population to be serviced by this initiative.

(b) Give a preliminary estimate of the number of persons experiencing chronic homelessness in the target community and describe the method by which this estimate was derived.

(c) Describe the employment, permanent housing, service, and treatment needs of the target population.

B. Collaborative Effort (10 Points)

The purpose of the Collaborative Effort criteria is to determine the level

of cooperation between the employment services providers and the permanent housing providers applying for these funds. The partners in this Cooperative Agreement should explain how their services will be seamlessly coordinated for the population to be served. The narrative in this section should:

(a) List the entities participating in this initiative that will provide the employment services and permanent housing.

(b) Describe how the employment services will be linked to permanent housing so that the target population will be sustained in that housing.

(c) Identify how the DOL and HUD funds are proportionate to each other and how the proposed project is cost-effective.

(d) Describe the other resources that will be leveraged during this initiative, either cash or in-kind contributions, including the value of each contribution. These leveraging funds should address the match requirements for the HUD funds and any additional supportive services needed by the population to be served.

(e) Describe the outreach plan in place to bring the target population into the project.

Sample agencies that could be involved as partners in the design and implementation include:

- Disabled Veterans' Outreach Program Specialist and Local Veterans' Employment Representatives located at local employment service offices;
- Programs serving persons who are chronically homeless, including the Continuum of Care agency or service provider in the designated jurisdiction;
- Employment and training agencies;
- Department of Veterans Affairs Homeless Programs;
- Chambers of Commerce;
- State agencies for substance abuse, vocational rehabilitation, education, Medicaid, mental retardation, mental health, public health, and Temporary Assistance for Needy Families (TANF);
- Faith-based and community organizations;
- State Developmental Disability Councils and University Centers for Excellence in Developmental Disabilities;
- Small Business Development Centers;
- Independent Living programs;
- Post-secondary institutions, benefits counseling, and assistance programs;
- Lending and financial institutions, whose expertise, services, and/or funds could contribute to employment services and supports needed to secure competitive, customized community employment outcomes for the target group;
- Community rehabilitation providers; family members, consumers, employers, and any other key agencies or constituencies needed to offer a comprehensive service delivery model.

C. Memorandum of Agreement (10 Points)

Each application package must contain a Memorandum of Agreement, signed by the DOL Cooperative Agreement and HUD grant applicants participating in this initiative. The Memorandum of Agreement must include the following:

(a) Parties—Identify by position and title lead person binding each organization to this MOA.

(b) Term of Agreement—Indicate time frame for this agreement and the agreed to mechanisms and assurances for continuing cooperation if option years are funded under the terms of the DOL Cooperative Agreement.

(c) Purpose—Describe the agreed upon intent of this cooperative effort.

(d) Guiding Principles—Describe the common values and shared goals that bring together the parties in this MOA.

(e) Responsibilities—Clearly define each party's duties in a way which demonstrates how these two efforts will complement and support each other.

(f) Implementation and Evaluation—Outline the key tasks necessary for accomplishing the activities outlined in this MOA, including agreements to cooperate with mutual and combined evaluation efforts.

While the primary partners of this Agreement must include the eligible applicants submitting the linked proposals for both the DOL customized employment Cooperative Agreement and the HUD permanent housing grant award, other key partners may be identified and included.

The MOA will be evaluated on how clearly it reflects a binding agreement to cooperate in attaining the joint goals of the DOL Cooperative Agreement and the HUD grant and on the efficacy of the mechanisms described to accomplish that cooperative effort.

*Letters of Commitment.* Applicants may include letters of support if they provide specific commitments. Letters of commitment for related support services may also be included. Such letters can increase an applicant's score for the DOL Section by showing that the commitments in the text of the proposal are substantiated. Form letters will not be considered. See also Part V for additional requirements relating to cooperation.

*Section II. DOL Cooperative Agreement Requirements (35 Points)*

The purpose of the Ending Chronic Homelessness through Employment and Housing Cooperative Agreements is to demonstrate the employment potential of persons who are chronically homeless, utilizing ''customized employment'' strategies to accomplish employment in non-stereotypical integrated settings. These Cooperative Agreement funds may not be used to support sub-minimum wage employment. These efforts must include the involvement of many key partners, including those organizations serving people who are chronically homeless.

ODEP will be directly involved in the awardee's strategic planning (including the plan to provide customized employment strategies), allocation of resources, release of public information materials, and analysis and implementation of evaluation findings.

Within these various activities, ODEP will provide the following: 1. Expertise related to the implementation of customized employment strategies; 2. Information on disability-specific practices and resources, as well as information and analysis to inform the Administration's policy development; and 3. Technical assistance on the interrelationship among disability employment efforts, the workforce development system, and organizations serving the homeless community (Continuum of Care).

In addition, this program is subject to the provisions of the Jobs for Veterans Act, Pub. L. 107–288, which provides priority of service to veterans and certain of their spouses in all Department of Labor-funded job training programs. Please note that, to obtain priority of service, a veteran must meet that program's eligibility requirements. Comprehensive policy guidance on implementation of the Jobs for Veterans Act is being developed and will be issued in the near future.

The Project Narrative, or Section III of the Cooperative Agreement application, should provide complete information on how the applicant will address the following DOL priorities for Fiscal Year 2003:

(1) Increase the availability of skill training, employment opportunities, and career advancement for persons who are chronically homeless; and

(2) Develop comprehensive One-Stop Centers, which are welcoming and valued providers of choice by customers who are chronically homeless seeking workforce assistance by ensuring availability of staff trained on homeless issues.

In addition, proposals will be rated based upon the quality of the applicant's response in addressing the four criteria (A–D) described below in terms of a comprehensive strategic approach that addresses the various considerations noted in this SGA. The criteria below MUST be addressed and the applicant's capabilities or potential with regard to each item described.

The ODEP, however, does not expect the applicant to fully incorporate, unless otherwise noted, every individual sub-part listed in each lettered (A–D) criteria below as part of their strategy and proposal design. The ODEP recognizes that the needs and requirements of each state and community may be different, and therefore, some of the options identified may be more relevant than others in a particular state. The narrative in this section should include narrative descriptions for the following six criteria:

A. Project Design and Project Management (15 Points)

Under this section, the applicant must describe the project design and its management plan. The proposed project design must address the proposed design for the Ending Chronic Homelessness through Employment and Housing Cooperative Agreement including its response to the requirements outlined in Part V (Eligible Applicants and Required Partnerships) of this Solicitation.

In addition, the project design must address the movement of individuals into integrated community employment opportunities; coordination with the state's lead agency implementing the Olmstead decision as well as their state's overall Olmstead plan, describing how the project will contribute to the development of their state's plan and implementation strategy related to employment; and integration of customized employment strategies with the state's employment programs and services, including existing services available through the One-Stop Centers, the state and local Workforce Investment Boards, and their partners. Additional considerations under this section are to:

(a) Coordinate efforts with existing homeless services, veterans organizations and employment programs for people with disabilities;

(b) Develop customized employment opportunities in a variety of occupations and industries based on the strengths, needs, and desires of persons who are chronically homeless, including self-employment and entrepreneurship where appropriate. Services and supports must be organized in ways that provide informed choice and promote self-determination;

(c) Establish employer involvement, track and respond to customer service and satisfaction for both persons who are chronically homeless and employers, and provide services, including follow-up services, to ensure job retention and career development;

(d) Collaborate with community-based and faith-based and community organizations in their state in order to expand opportunities for customized employment for the target population. This includes facilitating the availability and use of customized employment strategies by such organizations as well as facilitating the organizations' registration as eligible training providers with their local One-Stop Career Centers;

(e) Educate relevant stakeholders and systems personnel about changes needed to increase customized community employment outcomes for persons who are chronically homeless;

(f) Consider the usefulness of increasing the availability of personal agents and job development personnel offering customized services through customer-controlled approaches that result in customized employment. One possible area of focus could include demonstrating the effectiveness of paying family members and/or other individuals with disabilities to serve as personal agents when selected by the individual with a disability to assist in negotiating and implementing employment plans and services;

(g) Incorporate use of funds leveraged across several systems available to people with disabilities through personal budgets and other forms of self-directed accounts.

Applicants must provide a detailed management plan which identifies the critical activities, time frames, and responsibilities for effectively implementing the project, including the evaluation process for assuring successful implementation of Cooperative Agreement objectives. The management plan will be evaluated to determine whether the applicant has developed an adequate management plan to effectively carry out the objectives and scope of the proposed project on time and within budget, to describe the predicted outcomes resulting from activities funded under this SGA, and to identify the ''methods of evaluation'' that will be used by the applicant to determine success.

B. Staff Capacity (5 Points)

The applicant must describe the proposed staffing of the DOL Cooperative Agreement project, including the key personnel and the roles each will play and the responsibilities each will assume. The applicant must also identify how it will ensure that trained staff with adequate knowledge of diverse disabilities, knowledge of/experience with diverse customized employment strategies, and employment-related experience for the target population will be available to manage and provide employment-related services. The staffing plan should:

(a) Summarize the qualifications, including relevant education, training, and experience of both key project personnel and project consultants or subcontractors, including their qualifications, relevant training, and experience. Attach copies of resumes in the Appendices.

(b) Describe the experience in serving persons who are chronically homeless and in providing customized employment services.

(c) Describe the extent to which the time commitments of the project director and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

C. Evaluation and Continuous Improvement Strategies (10 Points)

The proposal must demonstrate how the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable; the extent to which performance feedback and continuous improvement are integral to the design of the proposed project; and the extent to which the applicant encourages involvement of people with disabilities and their families, experts and organizations, and other relevant stakeholders in project activities that lead to stronger evaluation and continuous improvement strategies. The proposal will be evaluated on:

(a) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population and other identified needs and the quality of the applicant's plans for recruiting and retaining the target population;

(b) The extent to which the design of the proposed project provides clear understanding of, and experience with, utilization of customized employment strategies for increasing employment, choice, and earnings of persons who are chronically homeless;

(c) The extent to which the proposed project will be coordinated, including demonstrated support from the state governor or designated agency implementing the Olmstead decision

and commitment from key organizations, employers, and agencies;

(d) The extent to which the design of the project will facilitate an increase in the number of faith-based and community organizations that register as eligible training providers or as providers of supplemental and supportive services with their local One-Stop Center;

(e) The extent to which the management plans for project implementation is likely to achieve the objectives of the proposed project on time and within budget; and

(f) The extent to which the proposed project design features innovative strategies to implement customized employment and choice.

D. Documenting and Reporting (5 Points)

Applicants should outline their strategy for documenting and reporting the activities undertaken during the life of the Cooperative Agreement for ODEP's future use in working with other grantees and constituencies. In evaluating this section ODEP considers the following factors to be of particular importance and must be addressed:

(a) The extent to which the project will provide information to other programs about effective strategies suitable for replication or testing in other settings;

(b) The extent to which the methods of documentation and reporting include the objective use of performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data; and

(c) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

*Section III—HUD Grant Application Requirements (35 Points)*

*General:* This Section contains information on the two programs for which you can apply. They are the Supportive Housing and the Shelter Plus Care programs. The purpose of the housing section of this SGA and application is to provide specific guidance on accessing financial resources for the provision of housing for chronically homeless persons when proposed as part of homeless assistance projects in which housing is directly linked to needed employment services funded through other components of this application or through other sources. Applicants may request funding for only ONE of the following three types of projects—Permanent Housing for Persons with Disabilities, Safe Havens, or Shelter Plus Care.

The Supportive Housing Program (SHP) [detailed in Section 4. Part I] promotes the development of supportive housing and services that help homeless persons transition from homelessness to living as independently as possible. Each project submitted under SHP must be classified as one of the program components described below. For this application and SGA, only two components of SHP are eligible for funding and all SHP projects must be for a three (3) year grant term.

(1) Permanent Housing for Persons with Disabilities (PH) is long-term housing for this population. It is community-based housing and supportive services as described above, designed to enable homeless persons with disabilities to live as independently as possible in a permanent setting. Permanent housing can be provided in one structure or several structures at one site or in multiple structures at scattered sites. All PH for Persons with Disabilities projects must comply with the program size limitations, as described in Section 424(c) of the Stewart B. McKinney-Vento Homeless Assistance Act, as amended.

(2) Safe Haven (SH) projects must meet the following criteria: (1) Have no limit on length of stay; (2) serve hard-to-reach homeless persons who have severe mental illness, are on the streets, and have been unable or unwilling to participate in supportive services; (3) provide 24-hour residence for an unspecified duration; (4) provide private or semiprivate accommodations; and (5) have overnight occupancy limited to 25 persons.

For many persons with mental illness who have been living on the streets, the transition to self-sufficiency is best made in stages, starting with a small, highly supportive environment where an individual can feel at ease, out of danger, and subject to no immediate service demands. Safe Havens do not require participation in services and referrals as a condition of occupancy. Rather, it is hoped that after a period of stabilization in a Safe Haven, residents will be more willing to participate in services and referrals, and will eventually be ready to move to more traditional forms of housing. Also, Safe Havens must have a lease agreement with each client.

The Shelter Plus Care (S+C) Program [detailed in Section 4. Part II] components were created by statute and designed to give applicants flexibility in devising appropriate housing and supportive services for homeless persons with disabilities. Assisted units may be of any type from group settings to apartments. You may design a program that has participants first living in a group setting with intensive supportive services, then moving to another setting but retaining the rental assistance during the term of the grant, as long as they stay within a S+C unit. The components that may be applied for are: tenant-based rental assistance, sponsor-based rental assistance and project-based rental assistance without rehabilitation. For this SGA, all Shelter Plus Care projects will be for a five (5) year grant term.

A. Match

Applicants must match Supportive Housing Program funds provided for acquisition and minor rehabilitation (new construction, major rehabilitation, and supportive services are not eligible activities under this SGA) with an equal amount of funds from other sources. For operating costs, since by law SHP can pay no more than 75 percent of the total operating budget for supportive housing, applicants must provide at least 25 percent of the total annual operating costs. The cash source may be the applicant, the Federal Government, state and local governments, or private resources. In-kind contributions are not eligible as a match under SHP.

Applicants must match rental assistance provided through the Shelter Plus Care Program on a dollar for dollar basis with supportive services.

B. Statutory and Regulatory Requirements

An applicant selected for funding as a result of the competition will be required to coordinate and integrate the homeless project with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, and services funded through the Mental Health Block Grant and Substance Abuse Block Grant, Workforce Investment Act, Welfare-to-Work grant program, SSI, SSDI, and Healthcare for Homeless Veterans Program. In addition, as a condition for award, any governmental entity serving as an applicant must agree to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such

persons. This condition for award is intended to emphasize that states and units of general local government are primarily responsible for the care of these individuals, and to forestall attempts to use scarce McKinney-Vento Act funds to assist such persons in lieu of state and local resources.

C. Special Provisions Applicable to This Notice

(a) Only new SHP and S+C projects, including expansions of HUD-funded existing projects, will be funded.

(b) Any project submitted under this SGA must be coordinated with the Continuum of Care plan for its region and must submit a certification of consistency with the applicable Continuum of Care plan.

(c) Only the following components of the SHP will be funded under this SGA: Permanent Housing and Safe Havens.

(d) Only tenant-, sponsor-, and project-based without rehabilitation components of S+C projects will be funded.

(e) The term of all proposed SHP projects must be three (3) years. The term of all proposed S+C projects must be five (5) years.

(f) New construction and substantial rehabilitation activities will not be eligible SHP activities under this notice. Minor rehabilitation activities, such as those required to remove lead-based paint or conform a unit to ADA standards, are eligible. All other activities eligible under the SHP program are eligible for purposes of this SGA.

(g) Applicants are asked to use approaches that can rapidly move chronically homeless persons into housing with necessary supportive services.

D. Other Program-Specific Requirements

Where an applicant for Supportive Housing Program funding is a state or unit of general local government that utilizes one or more nonprofit organizations to administer the homeless assistance project(s), administrative funds provided as part of the SHP grant must be passed on to the non-profit organization(s) in proportion to the administrative burden borne by them for the SHP project(s). States or units of general local government that pass on at least 50 percent of the administrative funds made available under the grant will be considered as having met this requirement. (Note: This requirement does not apply to the S+C Program, since paying the costs associated with the administration of these grants is ineligible by regulation. For the S+C program, administrative costs associated with the administration of rental assistance are eligible, but are capped at eight (8) percent of the total grant award).

E. Timeliness Standards

As an applicant, you are expected to initiate your approved projects promptly in accordance with the instructions of this announcement. In addition, if you fail to satisfy the following timeliness standards being established specifically for funding awarded under this collaborative SGA, the awarded funding may be withdrawn in whole or in part:

1. Supportive Housing Program

(a) Your award may be withdrawn if you do not demonstrate site control within three (3) months of the date of your grant award letter.

(b) Your award may be terminated if the following additional timeliness standards are not met:

- You must complete any minor rehabilitation activities permitted under the terms of your SHP award within nine (9) months of the date of the grant award letter.
- You must begin all activities that may proceed independent of minor rehabilitation activities within six (6) months of the date of the grant award letter.

2. Shelter Plus Care Program Components

Your award may be terminated if you do not meet the following timeliness standard:

- For Tenant-Based Rental Assistance, for Sponsor-Based Rental Assistance, and for Project-Based without Rehabilitation Rental Assistance, you must begin providing the rental assistance to at least a majority of the awarded units within six (6) months of the date of the grant award letter.

F. Action on Selected Applications

Selected applicants, including those conditionally selected, will be notified in writing. As necessary, conditionally selected applicants will subsequently be requested to submit additional project information, which may include documentation to show the project is financially feasible; documentation of firm commitments for cash match; documentation showing site control; information necessary for the performance of an environmental review, where applicable; and such other documentation as specified in writing to the applicant that confirms or clarifies information provided in the application. Conditionally selected applicants will be notified of the deadline for submission of such information. If a conditionally selected applicant is unable to meet any conditions for fund award within the specified time frame, those funds may be withdrawn and instead used to select the next highest ranked application(s) from the competition for which there are sufficient funds available.

G. Required Materials

The application provides the application materials, including the HUD–424 and certifications that must be used in applying for homeless assistance under this notice. In addition to the required narratives, the items that you must submit as part of the application for funding are the following:

(a) HUD–424
(b) Applicant Certification
(c) Consolidated Plan Certification
(d) Certification of Consistency with the Continuum of Care
(e) Special Projects Certifications-Discharge Policy and Mainstream Programs
(f) Disclosure of Lobbying Activities (only complete this form if applicant organization engages in lobbying activities)
(g) Applicant /Recipient Disclosure/ Update Report

H. Certification Requirements

The application also contains certifications that the applicant will comply with fair housing and civil rights requirements and other federal requirements, and (where applicable) that the proposed activities are consistent with the HUD-approved Consolidated Plan of the applicable state or unit of general local government, including the Analysis of Impediments to Fair Housing Choice and the Action Plan to address these impediments. Projects funded under this SGA will also coordinate with the regional Continuum of Care process and will provide a certification of consistency with the applicable Continuum of Care plan, if any. Projects funded under this SGA shall operate in a fashion that does not deprive any individual of any right protected by the Fair Housing Act (42 U.S.C. 3601–19), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 *et seq.*), Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5301) or the Age Discrimination Act of 1974 (42 U.S.C. 6101).

I. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with its regulations in 24 CFR part 4, subpart B, consider any unsolicited information you, the applicant, may want to provide. HUD may contact you to clarify an item in your application or to correct technical deficiencies. HUD may not seek clarification of items or responses that improve the substantive quality of your response to any rating factors. In order not to unreasonably exclude applications from being rated and ranked, HUD may contact applicants to ensure proper completion of the application and will do so on a uniform basis for all applicants. Examples of curable (correctable) technical deficiencies include failure to submit the proper certifications or failure to submit an application that contains an original signature by an authorized official. In each case, HUD will notify you in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by USPS, return receipt requested. Clarifications or corrections of technical deficiencies in accordance with the information provided by HUD must be submitted within 14 calendar days of the date of receipt of the HUD notification. (If the due date falls on a Saturday, Sunday, or federal holiday, your correction must be received by HUD on the next day that is not a Saturday, Sunday or federal holiday.) If the deficiency is not corrected within this time period, HUD will reject the application as incomplete, and it will not be considered for funding.

J. Environmental Requirements

All assistance is subject to the National Environmental Policy Act and applicable related Federal environmental authorities. Section 208 of Public Law 106–377 (114 Stat. 1441, approved October 27, 2000) amended Section 443 of the Stewart B. McKinney-Vento Homeless Assistance Act to provide that for purposes of environmental review, projects shall be treated as assistance for special projects that are subject to Section 305(c) of the Multifamily Housing Property Disposition Reform Act of 1994, and shall be subject to HUD's regulations implementing that section. The effect of this provision is that environmental reviews for project activities are to be completed by responsible entities (states or units of general local government) in accordance with 24 CFR Part 58, whether or not the applicant is itself a state or a unit of general local government. Applicants (such as PHAs or nonprofit organizations) that are not states or units of general local government must request the unit of general local government to perform the environmental review. This statutory provision supersedes those portions of 24 CFR 582.230 and 583.230 that provide for automatic HUD environmental review in the case of applications from such entities. With this exception, conditional selection of projects is subject to the environmental review requirements of 24 CFR 582.230 and 583.230 as applicable. Recipients may not commit or expend any assistance or nonfederal funds on project activities (other than those listed in 24 CFR 58.22(c), 58.34 or 58.35(b)) until HUD has approved a Request for Release of Funds and environmental certification from the responsible entity. The expenditure or commitment of assistance or nonfederal funds for such activities prior to this HUD approval may result in the denial of assistance for the project under consideration.

K. Local Resident Employment

To the extent that any housing assistance funded through this collaborative SGA is used for housing rehabilitation (including reduction and abatement of lead-based paint hazards, but excluding routine maintenance, repair, and replacement), it is subject to Section 3 of the Housing and Urban Development Act of 1968, and the implementing regulations at 24 CFR part 135. Section 3, as amended, requires that economic opportunities generated by certain financial assistance for housing and community development programs shall, to the greatest extent feasible, be given to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to businesses that provide economic opportunities for these persons.

L. Relocation

The SHP and S+C programs are subject to the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). These requirements are explained in HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition. Any person or family that moves, even temporarily, as a direct result of acquisition, rehabilitation, or demolition for a project that is assisted through one of these programs (whether or not HUD funded the acquisition, rehabilitation, or demolition) is entitled to relocation assistance. Displacement that results from leasing a unit in a structure may also trigger relocation requirements. Relocation assistance can be expensive. To avoid unnecessary costs, it is important to provide occupants with timely information notices, including a general information notice to be sent at the time the application is submitted to HUD. HUD Handbook 1378 contains guide form information notices. The HUD field office can provide a copy of the handbook and copies of appropriate information booklets to be provided to occupants. Accordingly, if the site is occupied, the applicant should contact the HUD field office in the planning stage to obtain advice, including help in estimating the cost of required relocation assistance.

M. Compliance With Fair Housing and Civil Rights Laws

As threshold items in this SGA:

(a) All applicants and their sub-recipients must comply with all Fair Housing and Civil Rights laws, statutes, regulations, and Executive Orders as enumerated in 24 CFR 5.105(a).

(b) If you, the applicant:

(i) Have been charged with a systemic violation of the Fair Housing Act alleging ongoing discrimination;

(ii) Are a defendant in a Fair Housing Act lawsuit filed by the Department of Justice alleging an on-going pattern or practice of discrimination; or,

(iii) Have received a letter of non-compliance findings, identifying on-going or systemic noncompliance, under Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, or section 109 of the Housing and Community Development Act, and if the charge, lawsuit, or letter of findings has not been resolved to HUD's satisfaction before the application deadline stated in this NOFA, you may not apply for assistance under this NOFA. HUD will not rate and rank your application.

HUD's decision regarding whether a charge, lawsuit, or a letter of findings has been satisfactorily resolved will be based upon whether appropriate actions have been taken to address allegations of on-going discrimination in the policies or practices involved in the charge, lawsuit, or letter of findings. Examples of actions that may be taken prior to the application deadline to resolve the charge, lawsuit, or letter of findings, include but are not limited to:

(a) A voluntary compliance agreement signed by all parties in response to the letter of findings;

(b) A HUD-approved conciliation agreement signed by all parties;

(c) A consent order or consent decree; or

(d) A judicial ruling or a HUD Administrative Law Judge's decision

that exonerates the respondent of any allegations of discrimination.

N. Conducting Business in Accordance With Core Values and Ethical Standards

Entities subject to 24 CFR parts 84 and 85 (most non-profit organizations and state, local and tribal governments or government agencies or instrumentalities who receive federal awards of financial assistance) are required to develop and maintain a written code of conduct (see Sec. 84.42 and 85.36(b)(3)). Consistent with regulations governing specific programs, your code of conduct must: prohibit real and apparent conflicts of interest that may arise among officers, employees, or agents; prohibit the solicitation and acceptance of gifts or gratuities by your officers, employees, and agents for their personal benefit in excess of minimal value; and, outline administrative and disciplinary actions available to remedy violations of such standards. If awarded assistance under this SGA, you will be required, prior to entering into an agreement with HUD, to submit a copy of your code of conduct and describe the methods you will use to ensure that all officers, employees, and agents of your organization are aware of your code of conduct. Failure to meet the requirement for a code of conduct will prohibit you from receiving an award of funds from HUD.

O. Delinquent Federal Debts

Consistent with the purpose and intent of 31 U.S.C. 3720B and 28 U.S.C. 3201(e), no award of federal funds shall be made to an applicant who has an outstanding delinquent federal debt until: (a) The delinquent account is paid in full; (b) a negotiated repayment schedule is established and at least one payment is received; or (c) other arrangements satisfactory to the Department of Housing and Urban Development are made prior to the deadline submission date.

P. Pre-Award Accounting System Surveys

HUD may arrange for a pre-award survey of the applicant's financial management system in cases where the recommended applicant has no prior federal support, the program area has reason to question whether the applicant's financial management system meets federal financial management standards, or the applicant is considered a high risk based upon past performance or financial management findings. HUD will not make an award to any applicant who does not have a financial management system that meets federal standards.

Q. Participation in HUD-Sponsored Program Evaluation

As a condition of the receipt of financial assistance under this SGA all successful applicants will be required to cooperate with all HUD staff or contractors performing HUD-funded research and evaluation studies.

R. HUD Reform Act

(A) Section 102 of the HUD Reform Act, Documentation and Public Access Requirements. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545) (HUD Reform Act) and the regulations codified in 24 CFR part 4, subpart A, contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992, HUD published a notice that also provides information on the implementation of Section 102 (57 FR 1942). The documentation, public access, and disclosure requirements of Section 102 apply to assistance awarded under this SGA as follows:

(1) Documentation, public access, and disclosure requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this SGA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations (24 CFR part 15).

(2) HUD Form 2880. HUD will also make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this SGA. Update reports (also reported on HUD Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period of less than three years. All reports, both applicant disclosures and updates, will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations (24 CFR part 5).

(3) Publication of Recipients of HUD Funding. HUD's regulations at 24 CFR part 4 provide that HUD will publish a notice in the **Federal Register** to notify the public of all decisions made by the Department to provide:

(i) Assistance subject to Section 102(a) of the HUD Reform Act; and/or

(ii) Assistance provided through grants or Cooperative Agreements on a discretionary (non-formula, non-demand) basis, but that is not provided on the basis of a competition.

(4) Debriefing. Beginning 30 days after the awards for assistance are publicly announced and for at least 120 days after awards for assistance are publicly announced, HUD will provide a debriefing to any applicant requesting one on their application. All debriefing requests must be made in writing or by email by the authorized official whose signature appears on the HUD–424 or his or her successor in office, and submitted to the person or organization identified as the Contact under the section entitled ''Further Information and Technical Assistance.'' Information provided during a debriefing will include, at a minimum, the final score you received for each rating factor, final evaluator comments for each rating factor, and the final assessment indicating the basis upon which assistance was provided or denied.

(B) Section 103 of the HUD Reform Act. HUD's regulations implementing Section 103 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3537a), codified in 24 CFR part 4, subpart B, section 4.26(2)(c) et. seq. and 4.28 apply to this funding competition. The regulations continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by the regulations from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Ethics Law Division at 202–708–3815. (This is not a toll-free number.) HUD employees who have specific program questions should contact the appropriate field office counsel or Headquarters counsel for the program to which the question pertains.

S. Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the HUD regulations at 24 CFR part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for

public inspection during regular business hours in the Office of the General Counsel, Regulations Division, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

T. Glossary of Terms for the HUD Application

*Applicant.* An applicant is an entity that applies to HUD for funds. In order to be an applicant, you must submit an HUD 424. If selected for funding, the applicant becomes the grantee and is responsible for the overall management of the grant, including drawing grant funds and distributing them to project sponsors. The applicant may also be a project sponsor.

*Applicant Certification.* The form, required by law, in which an applicant certifies that it will adhere to certain statutory requirements, such as the Civil Rights Act of 1964.

*Consolidated Plan.* A long-term housing and community development plan developed by State and local governments and approved by HUD. The Consolidated Plan contains information on homeless populations. The plan also contains both narratives and maps, the latter developed by localities using software provided by HUD.

*Consolidated Plan Certification.* The form, required by law, in which a state or local official certifies that the proposed activities or projects are consistent with the jurisdiction's Consolidated Plan and, if the applicant is a State or unit of local government, that the jurisdiction is following its Consolidated Plan.

*Homeless Person.* A person sleeping in a place not meant for human habitation or in an emergency shelter. The programs covered by this application are not for populations who are at risk of becoming homeless.

Private Nonprofit Status (includes faith-based and community-based organizations). Private nonprofit status is documented by submitting either: (a) A copy of the Internal Revenue Service (IRS) ruling providing tax-exempt status under Section 501(c)(3) of the IRS Code; (b) documentation showing that the applicant is a certified United Way agency; or (c) a certification from a designated official of the organization that no part of the net earnings of the organization inures to the benefit of any member, founder, contributor, or individual; that the organization has a voluntary board; that the organization practices nondiscrimination in the provision of assistance; and that the organization has a functioning accounting system that provides for each of the following (mention each in the certification):

(a) Accurate, current and complete disclosure of the financial results of each federally sponsored project.

(b) Records that identify adequately the source and application of funds for federally sponsored activities.

(c) Effective control over and accountability for all funds, property and other assets.

(d) Comparison of outlays with budget amounts.

(e) Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Treasury and the use of the funds for program purposes.

(f) Written procedures for determining the reasonableness, allocability and allowability of costs.

(g) Accounting records including cost accounting records that are supported by source documentation.

*Public Non-profit Status.* Public nonprofit status is documented for community mental health centers by including a letter or other document from an authorized official stating that the organization is a public nonprofit organization.

*Project Sponsor.* The primary organization responsible for carrying out the proposed project activities. A project sponsor does not submit an HUD 424, unless it is also the applicant.

*HUD 424.* The information sheet required to be submitted by applicants requesting Federal Assistance.

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

General Information

*Eligible and Ineligible Activities and Limitations.* There are five activities that can be funded under SHP under this SGA and application for chronic homelessness. They are: acquisition, minor rehabilitation, leasing, operating costs, and administrative costs. Specific activities that are not eligible under the program components include:

(a) Support for permanent housing for non-disabled persons.

(b) Rehabilitation of a structure owned by a primarily religious organization, except in accordance with the requirements of 24 CFR 583.150(b)(2).

(c) Rehabilitation of a structure prior to an executed grant agreement with HUD. Acquisition and rehabilitation that exceeds statutory funding limitations. (See section I of this Section for the specific limits.)

(d) Homeless prevention activities.

HUD ELIGIBLE APPLICANTS AND ACTIVITIES CHART

| Elements | Supportive housing | Shelter plus care |
|---|---|---|
| Authorizing Legislation | Subtitle C of Title IV of the McKinney-Vento Homeless Assistance Act. | Subtitle F of Title IV of the McKinney-Vento Homeless Assistance Act. |
| Implementing Regulations | 24 CFR part 583 | 24 CFR part 582. |
| Eligible Applicant(s) | • States<br>• Units of general local government<br>• Special purpose units of government such as Public housing agencies (PHAs)<br>• Private non-profit organizations<br>• CMHCs that are public non-profit organizations | • States<br>• Units of general local government<br>• PHAs |
| Eligible Components | • Permanent Housing for Persons with Disabilities<br>• Safe havens | • Tenant-based<br>• Sponsor-based<br>• Project-based without Rehabilitation |
| Eligible Activities [1] | • Rehabilitation<br>• Leasing<br>• Operating Costs | • Rental assistance |
| Eligible Populations | • Chronically Homeless Persons | • Chronically Homeless Persons |

HUD ELIGIBLE APPLICANTS AND ACTIVITIES CHART—Continued

| Elements | Supportive housing | Shelter plus care |
|---|---|---|
| Term of Assistance | 3 years | 5 years. |

[1] Homeless prevention activities are statutorily ineligible under these programs. Persons at risk of homelessness are statutorily ineligible for assistance under these programs.

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

1. Project Narrative

The Project Narrative is a description of your proposed project. Please respond to the items in this section according to the SHP program you propose to carry out, using the numbering below.

Project summary. Please provide the following:

(a) Applicant and sponsor names.

(b) Program component.

(c) Total SHP request.

(d) Activities for which you are requesting funds.

(e) The type of housing (*e.g.,* apartments) proposed.

(f) The population(s) to be served.

(c) Chronically homeless population to be served. Briefly describe the following:

(a) Their characteristics and need for housing and supportive services.

(b) Where they will come from (*e.g.,* streets and emergency shelters).

(c) The outreach plan to bring them into the project.

**Project (Housing) Quality**

Up to 12 points will be awarded based on the extent to which your application demonstrates how the housing is appropriate to the needs of the persons to be served and the innovative quality of the project.

(a) Describe how the TYPE (*e.g.* apartments) and SCALE (*e.g.* number of units, number of persons per unit) of the proposed housing will fit the needs of the participants.

(b) Describe how the basic COMMUNITY AMENITIES (*e.g.* medical facilities, grocery store, recreation facilities, schools, etc.) will readily be accessible to your clients.

(c) Describe how the housing will be ACCESSIBLE to persons with disabilities in accordance with applicable laws.

(d) Describe how services and treatment will be LINKED to permanent housing so that the target population will be sustained in that housing.

(e) For the permanent housing for persons with disabilities component where more than 16 persons will reside in a structure: Describe what local market conditions necessitate the development of a project of this size and how the housing will be integrated into the neighborhood.

**Applicant Capacity**

Up to 12 points will be awarded based on the experience and performance of the applicant/sponsor involved in carrying out the project.

(a) Describe the project applicant's/sponsor's experience specifically in providing housing for the chronically homeless.

(b) Describe the applicant's/sponsor's past experiences working with other community partners on the employment and training needs of homeless individuals.

(c) Describe the project applicant's/sponsor's performance in administering housing activities, especially in serving the population to be assisted by this project.

**Timeliness**

Up to 11 points will be awarded based on the demonstrated ability of the applicant and project sponsor to execute the program in a timely manner.

(a) Describe the applicant's and project sponsor's ability to achieve rapid project start-up based on site control, permitting, minor rehabilitation, and rehab and occupancy schedules.

(b) Describe the applicant's and project sponsor's ability to outreach to the target population and swiftly bring them into the program and occupy all units committed in the application.

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

2. Project Information (please type or print)

[To be completed by applicants requesting SHP funding.]

| Project Name: | |
|---|---|
| Project Address (street, city, state, & zip): | |
| Project Sponsor's Name: | Proj. Congressional District(s): |
| Sponsor's Address (street, city, state, & zip): | |
| Authorized Representative of Project Sponsor (name, title, phone number, & fax): | |

65

Form HUD-40076-modified
OMB Approval No. 3114-0001 (exp. 09/30/C

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

3. Program Component/Types

Please check the box that best classifies the project for which you are requesting funding. Check only one box. The components/types are:

☐ Permanent Housing for Persons with Disabilities
☐ Safe Havens

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

4. Existing Facilities and/or Activities Serving Homeless Persons (To be completed for new projects)

Will your proposed project use an existing homeless facility or incorporate activities that you are currently providing?

☐ Yes (Check one or more of the activities below that describe your proposed project, and proceed to section E.)
☐ No (Skip to section E.)

Facilities that you are currently operating and activities you are currently undertaking to serve homeless persons may only receive funding for the three purposes listed below. SHP funds cannot be used to fund ongoing activities. My project will:

☐ Increase the number of homeless persons served.
☐ Bring existing facilities up to a level that meets State and local government health and safety standards. If this box is checked, you must describe what standards the facility is not meeting, and why it does not meet the standards you described.

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

5. Number of Beds and Participants

This is composed of two charts:

Chart 1 is for recording the number of beds/bedrooms in the project.

Chart 2 is for recording the number of participants to be served.

Complete Chart 1 and Chart 2 based on the following instructions:

1. In the first column, please enter the requested information for all items at a point in time (a given night). You should only fill out this column if you checked ''Yes'' in section D. If you checked ''No'' in section D enter ''N/A'' in this column.

2. In the second column, enter the new number of beds and persons served at a point in time if this project is funded.

3. In the third column, enter the projected level (columns 1 and 2 added together) that your project will attain at a point in time.

4. In the fourth column, enter the number of persons to be served over the grant term.

**Chart 1: Beds**

| Beds | Current Level (if applicable) | New Effort or Change in Effort | Projected Level (col.1+ col. 2) | No. Projected To Be Served Over the Grant Term |
|---|---|---|---|---|
| Number of Bedrooms | | | | |
| Number of beds | | | | |

**Chart 2: Participants**

| Participants | Current Level (if applicable) | New Effort or change in Effort | Projected Level (col.1+col. 2) | No. Projected to be served over the Grant Term |
|---|---|---|---|---|
| Number of families with children | | | | |
| Of persons in families with children<br>a. number of disabled | | | | |
| b. number of other adults | | | | |
| c. number of children | | | | |
| Of single individuals not in families | | | | |
| a. number of disabled individuals | | | | |
| b. number of other individuals | | | | |

***Note that, if your project is funded, you will be held responsible for achieving the numbers you enter in Section E.***

67-A

Form HUD-40076-modified
OMB Approval No. 3114-0001 (exp. 09/30/03)

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

6. Operations Budget

Complete the Chart on the following page for your new project's total operations budget. In the first column, the operating cost activity is given. You must enter the quantity (if applicable) for each operating item that will be paid for using SHP funds. Add any other eligible operating costs not listed on the chart that will be paid for using SHP funding. For staff positions, please include the job title, salary, percent of time allocated for the position, and fringe benefits. Please ensure that the total SHP dollars requested match the amount you entered in the ''SHP Total Request'' column on Line 5, Operations, in your Project Budget in Section I.

In the second column, enter the amount of SHP funding requested for

each eligible operating cost that will be needed in your project.

Operating costs are those costs associated with the day-to-day operation of supportive housing. Operating costs support the function and the operation of the housing project. Examples of SHP eligible operating costs include utilities, maintenance, security and salaries of staff not delivering services, such as the project manager or executive director, and indirect operating costs that meet the standards of OMB Circulars A–87 and A–122.

If requesting SHP operating funds, only the portion of the costs directly related to the operation of the housing project is eligible. For example, if a project sponsor's executive director will spend 10% of his/her time providing management to the housing project, then (up to) 10% of his/her salary can be charged as an SHP operating expense. As another example, in cases of shared utilities, SHP operating funds may pay only for the portion of the utilities associated with the housing project based on the square footage of the project's space. If the housing project occupies 25% of the building's space, then (up to) 25% of the monthly utility bill can be paid for using SHP operating funds.

(a) SHP operating funds may not be used to pay for the following costs:

(b) Operating costs of a supportive services only facility;

(c) Administrative expenses such as audits and preparing HUD reports;

(d) Rent of space for supportive housing and/or supportive services (see Real Property Leasing);

(e) The payment of principal and interest on a loan for a facility currently being used as supportive housing and/or for the delivery of services; and

(f) Depreciation, because it does not constitute an incurred cost that requires a cash outlay.

SHP funds can be used to pay up to 75% of the total operations budget for the housing project. This means that the project sponsor must make a cash payment for 25% of the project's operating budget annually.

Example:

| Operating costs | SHP dollars requested (3 years) |
|---|---|
| Utilities ..... | 32,000 |
| Maintenance Engineer (salary, % time, fringe benefits) $40,000/annually .20 × .15 fringe benefits × 3 years = $18,400 ..... | 27,600 |

Chart: Operating Costs

Identify the day-to-day costs of operating supportive housing that will be paid for using SHP funding during the term of the project.

| Operating costs | SHP dollars requested (3 years) |
|---|---|
| Maintenance, Repair | |
| Staff (position, salary, % of time, fringe benefits) | |
| Utilities | |
| Equipment (lease/buy) | |
| Supplies (quantity) | |
| Insurance | |
| Furnishing (quantity) | |
| Relocation (no. of persons) | |
| Food (perishable/non-perishable) | |
| Other operating costs (please specify**) | |
| Other operating costs (please specify**) | |
| Other operating costs (please specify**) | |
| Total SHP Dollars Requested* | |
| Total Operating Costs Budget*** | |

*Total SHP dollars requested must equal the amount shown in the ''SHP Total Request'' column, Line 5, of the Project Budget portion of Section I.

**If not specified, the costs will be removed from the budget.

***The total operating costs entered here must equal the amount shown in the ''Total Budget'' column, Line 5 of the Project Budget portion of Section I.

## Section III. HUD Grant Application Requirements

*Part A. Supportive Housing Program (SHP) Application*

7. Leasing

SHP funds may be used to lease space for supportive housing. If you are requesting SHP leasing funds, fill out the appropriate table(s) that follows. Housing space may be in the form of scattered-site leased units, or within a structure. The structures to be leased may be structures currently configured for, or structures to be converted to provide, supportive housing. Under no circumstances may SHP leasing funds be used to lease units or structures owned by the project sponsor, the selectee, or their parent organizations. This includes organizations that are members of a general partnership where the general partnership owns the structure.

A. Leased Unit(s) for Housing

If you propose to lease units in more than one metropolitan or non-metropolitan area, fill in the appropriate number of tables for each area with a different FMR or actual rent.

• Please reproduce this Section as needed to accommodate projects using more than one FMR or actual rent.

• Enter the number of unit(s) by the bedroom size to be leased and the lower of the actual rent or the FMR as published in the **Federal Register** on September 30, 2002. (FMRs may be found using this Web site: *http://www.huduser.org/datasets/fmr.html*) The space to be leased may be scattered-site (*e.g.*, one-bedroom apartments in five different apartment complexes) or contained within a structure (*e.g.*, a group home with six bedrooms).

• Multiply the number of units by the FMR or actual rent, whichever is lower, by the length of the grant (# of units × FMR or actual rent × months based on grant term) and enter the result in the total column.

• Please note that the FMR for a single room occupancy (SRO) unit is equal to 75% (0.75) of the 0-bedroom FMR. The FMRs for unit sizes larger than 4-bedrooms are calculated by adding 15% to the 4-bedroom FMR for each extra bedroom. For example, the FMR for a 5-bedroom unit is 1.15 times the 4-bedroom FMR, and the FMR for a 6-bedroom unit is 1.30 times the 4-bedroom FMR.

• If your project has been approved for exception rents, use those amounts when completing these charts and submit your approval letter with this document.

• Chart A should be filled out only if you will lease individual units or structures that are currently configured for housing and, therefore, an FMR or actual rent can be used. If you have negotiated an actual rent(s) that is lower than the FMR, please use that amount instead of the FMR. The actual rent may not exceed the FMR.

Chart A:

Name of metropolitan or non-metropolitan FMR area:

Address (indicate if scattered site):

| Size of units | No. of units | FMR or actual rent | No. of months | Total |
|---|---|---|---|---|
| 1. SRO | X | | | |
| 2. 0 bdrm | X | | | |
| 3. 1 bdrm | X | | | |
| 4. 2 bdrm | X | | | |
| 5. 3 bdrm | X | | | |
| 6. 4 bdrm | X | | | |
| 7. 5 bdrm | X | | | |
| 8. 6 bdrm | X | | | |
| 9. Other | X | | | |
| 10. Totals | | | | $ |

B. Leased Structure(s) for Housing

If you will lease a structure or portion of a structure for housing, fill out Chart B below using a monthly leasing cost that is comparable to and no more than the rents being charged for similar space in the area. This applies to structures already configured for housing and for those that will be converted. If your project has more than one structure, reproduce Chart B and fill it out starting with structure 2.

• Multiply the monthly leasing costs by the number of months requested for funding and enter the result in the total column.

• Chart B should be filled out only if you will lease a structure or portion of a structure for which an FMR is not applicable.

Chart B:

Address:

| Structure | Monthly leasing cost | Number of months | Total |
|---|---|---|---|
| | $ | = | $ |

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

8. Homeless Veterans

Are veterans among the homeless subpopulations your project will specifically target and intends to serve?

☐ Yes ☐ No

If your answer to the first question is yes, are veterans the primary target population of your proposed project?

☐ Yes ☐ No

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

9. Budget

This section consists of two budgets—a project budget and a structure budget. Please refer to the budgets for specific instructions. The project budget is to be used for all projects.

When developing your budget(s), please keep in mind that each structure can receive the maximum amount of funds according to the following per-structure limits:

• For acquisition and/or rehabilitation, the SHP request for these activities combined is limited by law to between $200,000 and $400,000 depending on whether the structure is in a HUD-identified high-cost area for acquisition and rehabilitation. Contact your local HUD Field Office to determine if your project is in a high-cost area, and, if so, which of the following percentages or limits apply:

• 100% to 119%, the limit is $200,000

• 120% to 139%, the limit is $250,000

• 140% to 159%, the limit is $300,000

• 160% to 174%, the limit is $350,000

• 175% and up, the limit is $400,000

• If you request funds for acquisition and/or rehabilitation, the law requires that you match the requested amount with an equal amount of cash for the activities. Documentation of matching funds is not required in this application; however, you will be asked to submit it at a later date.

Project Budget (complete all 3 columns)

• Enter the amount of SHP funds requested by line item in the ''SHP Total Request'' column. You may request funding for three years. The three-year term will be the same for leasing, and operations. In the ''Applicant Cash'' column, enter the amount of other cash that will be contributed to the project. This amount plus the SHP request must equal the ''Total Budget'' amount for the project, as shown in the last column.

• If your project contains one structure or no structures this is the only budget you need to fill out. If your project contains multiple structures, please add up the SHP structure budgets on the next page and enter those totals below.

• HUD will review this chart in relation to the proposed activities and the number of persons to be served to determine whether the project is cost-effective (which is a threshold criterion).

• Applicants requesting funds for acquisition and/or rehabilitation must comply with Section 423 of the Stewart B. McKinney-Vento Homeless Assistance Act, as amended.

The grant term for all projects is for 3 years.

## Complete the Project Budget

| Proposed Activities | SHP Request | Applicant Cash | Total Budget (Col. 1 + Col. 2) |
|---|---|---|---|
| 1. Acquisition | | | |
| 2. Rehabilitation | | | |
| 3. Subtotal (lines 1 and 2) | * | | |
| 4. Real Property Leasing (three years) | | | |
| 5. Operations (three years) | ** | | |
| 6. SHP Request (subtotal lines 3 through 5) | | | |
| 7. Administrative Costs (up to 5% of line 6) | *** | | |
| 8. Total SHP Request (total lines 6 and 7) | | | |

***By law, SHP funds can be no more than 50% of the total acquisition, rehabilitation, and new construction budget.***

****By law, SHP can pay no more than 75% of the total operating budget.***

*****Applicants may request up to 5% of each project award for administrative costs, such as accounting for the use of the grant funds, preparing HUD reports, obtaining audits, and other costs associated with administering the grant. State and local government applicants and project sponsors must work together to determine the plan for distributing administrative funds between applicant and project sponsor (if different). Please refer to the HUD Section II of the NOFA. If selected for funding, all applicants will be required to submit a plan for distributing administrative funds as part of the technical submission.***

Form HUD-40076-modified
OMB Approval No. 3114-0001 (exp. 09/30/03)

**Structure Budget for Projects With More Than One Structure**

If your project contains only one structure or no structures, please fill out only the project budget on the previous page. If, however, your project contains more than one structure, fill out the information requested below for the number of structures your project proposes. Do not fill out structure budgets for scattered site leasing projects unless SHP funds for rehabilitation are being requested. For each structure budget, enter the amount of SHP funds requested by line item in the first column. For leasing and operations, the amounts you enter should be for three years, which is the SHP grant term. The term will be the same for leasing and operations. In the second column, enter the total cost for each line item, which is the SHP request plus all other funds needed to pay for each line item. For your convenience, four structure budgets are provided below. You may reproduce this page if your project will have five or more structures; however, please attach the additional structure budgets to this page and label them appropriately starting with Structure E. Enter administrative costs only on the Project Budget.

**Structure A**

Structure Address:

City, State, ZIP:

| | SHP Request | Total Budget |
|---|---|---|
| 1. Acquisition | | |
| 2. Rehabilitation | | |
| 3. Real Property Leasing | | |
| 4. Operations | | |
| 5. Total | | |

**Structure B**

Structure Address:

City, State, ZIP:

| | SHP Request | Total Budget |
|---|---|---|
| 1. Acquisition | | |
| 2. Rehabilitation | | |
| 3. Real Property Leasing | | |
| 4. Operations | | |
| 5. Total | | |

**Structure C**

Structure Address:

City, State, ZIP:

| | SHP Request | Total Budget |
|---|---|---|
| 1. Acquisition | | |
| 2. Rehabilitation | | |
| 3. Real Property Leasing | | |
| 4. Operations | | |
| 5. Total | | |

**Structure D**

Structure Address:

City, State, ZIP:

| | SHP Request | Total Budget |
|---|---|---|
| 1. Acquisition | | |
| 2. Rehabilitation | | |
| 3. Real Property Leasing | | |
| 4. Operations | | |
| 5. Total | | |



Form HUD-40076-modified
OMB Approval No. 3114-0001 (exp. 09/30/03)

**Section III. HUD Grant Application Requirements**

*Part A. Supportive Housing Program (SHP) Application*

10. Additional Information

HUD needs the following information to respond to public inquiries about program benefit. Your responses will not affect in any way the scoring of your submission.

1. Which of the following subpopulations will your project serve? (Check all that apply)

☐ Severely Mentally Ill
☐ Chronic Substance Abusers
☐ Dually Diagnosed
☐ AIDS or Related Diseases

2. Will the proposed project be located in a rural area? (A project is considered to be in a rural area when the project will be primarily operated either (1) in an area outside of a Metropolitan Area, or (2) in an area outside of the urbanized areas within a Metropolitan Area.)

☐ Yes
☐ No

3. Is the sponsor of the project a religious organization, or a religiously affiliated or motivated organization? (Note: This characterization of religious is broader than the standards used for defining a religious organization as ''primarily religious'' for purposes of applying HUD's church/state limitations. For example, while the YMCA is often not considered ''primarily religious'' under applicable church/state rules, it would likely be classified as a religiously motivated entity.)

☐ Yes
☐ No

4. Will the proposed project be located in, or make use of, surplus military buildings or properties that are located on a military base that is covered by the provisions of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994?

☐ Yes
☐ No

If ''yes,'' please provide the name of the military installation: _____

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

**General**

This Section is for Shelter Plus Care projects. Eligible applicants for this program are States, units of local government and Public Housing Authorities.

**Program Components**

Shelter Plus Care (S+C) components were created by statute and designed to give applicants flexibility in devising appropriate housing and supportive services for homeless persons with disabilities. Assisted units may be of any type, from apartments to SRO-type units. You may design a program that has participants' first living in a group setting with intensive supportive services, then moving to another setting but retaining the rental assistance during the term of the grant, as long as they stay within a S+C unit.

Participants in S+C units receive supportive services. These services may be provided by the applicant, funded by the applicant but provided by a third party, or both funded and provided by a third party. Rental assistance provided through the S+C program must be matched in the aggregate on a dollar for dollar basis by the recipient with supportive services.

Tenant-based Rental Assistance (TRA) provides rental assistance that permits participants to choose their own housing. Participants retain the rental assistance even if they move. To help you provide supportive services or for purposes of controlling housing costs, you may require participants to live in a particular structure for the first year of assistance or to live in a particular area for the entire rental assistance period.

Sponsor-based Rental Assistance (SRA) provides rental assistance through contract(s) between the grant recipient and nonprofit organization(s), called a sponsor. The nonprofit organization may be a private nonprofit organization or a community mental health center established as a public nonprofit organization. The assisted units must be owned or leased by the sponsor. After a grant is awarded, should the sponsor lose its capacity to own or lease the assisted units, the grantee must identify an alternate sponsor in order to continue to serve the original number of persons proposed to be served.

Project-based Rental Assistance (PRA) without Rehabilitation provides rental assistance through a contract with a building owner(s). An applicant must enter into a contract with the building owner(s) for the full five-year period of assistance. The building owner must agree to accept eligible S+C participants to live in an assisted unit for this time period. Only minor (up to $3,000 per unit) rehabilitation is eligible under this component.

**Persons With Disabilities**

To be eligible to participate in a Shelter Plus Care funded project, a person must be both homeless and disabled.

Persons with disabilities are those who have a disability that:

- Is expected to be of long-continued and indefinite duration;
- Substantially impedes his or her ability to live independently; and
- Is such a nature that the disability could be improved by more suitable housing conditions. The disability may be a physical, mental, or emotional impairment, including an impairment due solely to alcohol or drug abuse.

The S+C Program specifically targets several disabilities. These targeted disabilities are:

- Serious mental illness
- Chronic alcohol and/or other drug abuse
- AIDS or related diseases

The disability may also be developmental. A severe, chronic developmental disability is characterized as

- Being caused by mental or physical impairment;
- Manifested before the person is 22 years old;
- Likely to continue indefinitely;
- Reflecting a need for a combination and sequence of special, inter-disciplinary, or generic care, treatment, or other services that are of lifelong or extended duration and are individually planned and coordinated; and
- Resulting in substantial functional limitations in at least three of the following areas: Self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, and economic self-sufficiency.

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

1. Project Narrative

This section is a description of your proposed project. Please respond to all of the items in this section. A project may include no more than one component and may be carried out by no more than one project sponsor.

1. Project summary. Please provide the following:

a. Names of applicant and sponsor (if appropriate)
b. Program component
c. Total S+C request
d. The type of housing and number of units proposed
e. The population to be served.

2. Homeless population to be served. Briefly describe the following:

a. Their characteristics and needs for housing and supportive services.
b. Where they will come from (streets and emergency shelters).

c. The outreach proposed to bring them into the project.

3. Project (Housing) Quality

Up to 12 points will be awarded based on the extent to which your application demonstrates how the housing is appropriate to the needs of the persons to be served.

a. Describe how the TYPE (*e.g.* apartments, group home) and SCALE (*e.g.* number of units, number of persons per unit) of the proposed housing will fit the needs of the participants.

b. Describe how the basic COMMUNITY AMENITIES (*e.g.* medical facilities, grocery store, recreation facilities, schools, etc.) will readily be accessible to your clients.

c. Describe how the housing will be ACCESSIBLE to persons with disabilities in accordance with applicable laws.

d. Describe how services and treatment will be LINKED to permanent housing so that the target population will be sustained in that housing.

4. Applicant Capacity

Up to 12 points will be awarded based on the experience of all organizations involved in carrying out the project.

a. Describe the project applicant's experience specifically in providing housing, especially for the population to be assisted by this project.

b. Describe the project applicant's performance in administering housing activities, especially in serving the population to be assisted by this project.

5. Timeliness

Up to 11 points will be awarded based on the demonstrated ability of the applicant and project sponsor to execute the program in a timely manner.

a. Describe the applicant's and project sponsor's ability to achieve rapid project start-up based on site control, permitting, minor rehabilitation, and occupancy and rehab schedules.

b. Describe the applicant's and project sponsor's ability to outreach to the target population and swiftly bring them into the program and occupy all units committed in the application.

[To be completed only by applicants requesting Shelter Plus Care funding.]

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

2. Component Selection

Select the S+C component that describes your project (check only one box)

☐ TRA ☐ SRA
☐ PRA without Rehab

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

**3. Project Information** (please type or print)

| Project Name: | |
|---|---|
| Project Address (street, city, state, & zip): | |
| Project Sponsor's Name (for SRA projects): | Project Congressional District(s): |
| Sponsor's Address (street, city, state, & zip) (for SRA projects): | |
| Authorized Representative of Project Sponsor (name, title, phone number, & fax) (for SRA projects): | |

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

4. Targeted Disabilities

In each category shown in the chart below, estimate, when the program is fully operational, the number of proposed participants expected to receive rental assistance at a point in time. Include each participant only once, in either Part 1 or Part 2. Part 1 should only include persons with disabilities who will not have family members living with them. Do not double count.

| **Part 1: Individual Participants not in Families**<br>Persons with:<br>Serious Mental Illness | **Number of Participants** |
|---|---|
| Chronic Substance Abuse Problems | |
| Both Serious Mental Illness & Chronic Substance Abuse Problems | |
| AIDS or Related Diseases | |
| Other Disabilities (specify) | |
| **(a) Total Participants:** (not in families) | |
| **Part 2: Participants in Families**<br>Persons with:<br>Serious Mental Illness | |
| Chronic Substance Abuse Problems | |
| Both Serious Mental Illness & Chronic Substance Abuse Problems | |
| AIDS or Related Diseases | |
| Other Disabilities (specify) | |
| **(b) Total Participants**: (in families) | |
| **(c) Number of other Family Members Living with Participants** | |
| **Total Persons Served from Parts 1 and 2 [(a) + (b) +(c)]** | |

Form HUD-40076-modified
OMB Approval No. 3114-0001 (exp. 09/30/03)

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

5. Major Milestones

Please complete the chart by entering the number of months planned from grant execution to the following milestones:

| First unit occupied | Supportive services begin | Last unit occupied |
|---|---|---|
| months | months | months |

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

6. Budget

Fill out the information requested for the S+C component you are requesting funding for. Make certain that only one component (TRA, SRA, PRA without rehab) budget is completed in this section.

Requested subsidy cannot exceed current FMR unless an Exception Rent approval letter is attached.

6.1. Tenant-based Rental Assistance (TRA) Project Budget

Applicants requesting TRA must complete the chart below showing the number of units expected to be used in your program. Multiply the applicable existing fair market rents (FMRs) as published in the **Federal Register** (FR)

on September 30, 2002, by the number of units of a given size by 60 months. [Please be advised that the actual FMRs used in calculating your grant will be those in effect at the time the grants are approved which may be higher than those found in the September 30, 2002, FR Notice.] The SRO FMR should be rounded to the nearest whole number before multiplying by the number of units and the number of months. The FMR for each single room occupancy SRO unit is equal to 75 percent of the 0-bedroom FMR.

Complete a separate chart for each jurisdiction that has a different FMR.

Name of metropolitan or non-metropolitan area for the FMR used:

| Dwelling United | Number of units | × | FMR $ | × | Number of months | = | Total amount requested $ |
|---|---|---|---|---|---|---|---|
| SRO | | | | | 60 | | |
| 0 Bedroom | | | | | 60 | | |
| One Bedroom | | | | | 60 | | |
| Two Bedroom | | | | | 60 | | |
| Three Bedroom | | | | | 60 | | |
| Four Bedroom | | | | | 60 | | |
| Other: (specify) | | | | | 60 | | |
| Total TRA Assistance | | | | | | | $ |

6.2. Sponsor-based Rental Assistance (SRA) Project Budget

*A. Non-profit Status:* Non-profit organizations must attach to this section one of the following:

- Private non-profit organizations must submit a copy of their IRS ruling, providing tax-exempt status under Section 501 C (3) of the IRS Code of 1986, as amended, or documentation of nonprofit status as described in the Glossary on page 4.
- Public non-profit community mental health centers must attach a letter or other document acceptable to HUD from an authorized official stating that the organization is a public nonprofit organization.

*B. Housing Description.* Complete the chart below indicating the address of the specific structure(s) to be used, the number of units by bedroom size in each, and whether it is or will be owned or leased by the nonprofit entity.

| Address (street, city, state & ZIP) | Number of units by size | | | | | | | Owned/Leased (check one) | |
|---|---|---|---|---|---|---|---|---|---|
| | SRO | 0 | 1 | 2 | 3 | 4 | 4 | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |
| | | | | | | | | | |

Reminder: You may only have one sponsor per project.

C. *Grant Amount.* In the following chart, show the number of units by size expected to be owned or leased by the sponsor. Multiply the applicable existing FMRs as published in the **Federal Register** (FR) on September 30, 2002, by the number of units of a given size by 60 months. [Please be advised that the actual FMRs used in calculating your grant will be those in effect at the time the grants are approved which may be higher than those found in the September 30, 2002, FR Notice.]

The SRO FMR should be rounded to the nearest whole number before multiplying by the number of units and the number of months. The FMR for each SRO unit is equal to 75 percent of the 0-bedroom FMR. Complete a separate chart for each jurisdiction that has a different FMR.

Name of metropolitan or non-metropolitan area for the FMR used:

| Dwelling units | Number of units | × | FMR $ | × | Number of months | = | Total amount requested $ |
|---|---|---|---|---|---|---|---|
| SRO ..... | ..... | | | | 60 | | . |
| 0 Bedroom ..... | ..... | | | | 60 | | . |
| One Bedroom ..... | ..... | | | | 60 | | . |
| Two Bedroom ..... | ..... | | | | 60 | | . |

| Dwelling units | Number of units | × | FMR $ | × | Number of months | = | Total amount requested $ |
|---|---|---|---|---|---|---|---|
| Three Bedroom ..... | ..... | | | | 60 | | . |
| Four Bedroom ..... | ..... | | | | 60 | | . |
| Other: (specify) ..... | ..... | | | | 60 | | . |
| Total SRA Assistance .. | ..... | | | | | | $. |

6.3. Project-based Rental Assistance (PRA) Project Budget

*A. Site.* In the chart below, indicate the address of the property to be assisted.

Address: (street, city, state and ZIP) _____

_____

_____

*B. Grant Amount.* For each property, complete a separate copy of the appropriate chart below showing the number of units by size, expected to be assisted at this property. Multiply the applicable existing FMRs as published in the **Federal Register** (FR) on September 30, 2002, by the number of units of a given size by the number of months. [Please be advised that the actual FMRs used in calculating your grant will be those in effect at the time the grants are approved which may be higher than those found in the September 30, 2002, FR Notice.] The SRO FMR should be rounded to the nearest whole number before multiplying by the number of units and the number of months. The FMR for each SRO unit is equal to 75 percent of the 0-bedroom FMR.

CHART 1. PRA UNITS WITHOUT REHABILITATION

Name of metropolitan or non-metropolitan area for the FMR used:

| Dwelling units | Number of units | × | FMR $ | × | Number of months | = | Total amount requested $ |
|---|---|---|---|---|---|---|---|
| SRO ..... | ..... | | | | 60 | | . |
| 0 Bedroom ..... | ..... | | | | 60 | | . |
| One Bedroom ..... | ..... | | | | 60 | | . |
| Two Bedroom ..... | ..... | | | | 60 | | . |
| Three Bedroom ..... | ..... | | | | 60 | | . |
| Four Bedroom ..... | ..... | | | | 60 | | . |
| Other: (specify) ..... | ..... | | | | 60 | | . |
| Total PRA without Rehab $. | ..... | | | | | | $. |

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

7. Homeless Veterans

Are veterans among the homeless subpopulation(s) your project will specifically target and intend to serve?

☐ Yes ☐ No

If your answer to the first question is yes, are veterans the primary target population of your proposed project?

☐ Yes ☐ No

**Section III. HUD Grant Application Requirements**

*Part B. Shelter Plus Care Program (S+C) Application*

8. Additional Information

HUD needs the following information to respond to public inquiries about program benefit. Your responses will not affect in any way the scoring of your submission.

Which of the following subpopulations will your project serve? (Check all that apply)

☐ Severely Mentally Ill
☐ Chronic Substance Abusers
☐ Dually Diagnosed
☐ AIDS or Related Diseases

Will the proposed project be located in a rural area? (A project is considered to be in a rural area when the project will be primarily operated either (1) in an area outside of a Metropolitan Area, or (2) in an area outside of the urbanized areas within a Metropolitan Area.)

☐ Yes
☐ No

Is the sponsor of the project a religious organization, or a religiously affiliated or motivated organization? (Note: This characterization of religious is broader than the standards used for defining a religious organization as ''primarily religious'' for purposes of applying HUD's church/state limitations. For example, while the YMCA is often not considered ''primarily religious'' under applicable church/state rules, it would likely be classified as a religiously motivated entity.)

☐ Yes
☐ No

Will the proposed project be located in, or make use of, surplus military buildings or properties that are located on a military base that is covered by the provisions of the Base Closure Community Redevelopment and Homeless Assistance Act of 1994?

☐ Yes
☐ No

If ''yes,'' please provide the name of the military installation: _____

Additional stipulations for HUD applicants follow:

Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on federal and federally-funded Construction Contracts. Compliance with HUD regulations at 24 CFR 5.108 implementing Executive Order 13202 is a condition of receipt of assistance under this SGA.

*Procurement of Recovered Materials.* State agencies and agencies of a political subdivision of a state, including PHAs, that are using assistance under this SGA for procurement, and any person contracting with such an agency with respect to work performed under an assisted contract, must comply with the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. In accordance with Section 6002, these agencies and persons must procure items designated in guidelines of the Environmental Protection Agency at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the quantity acquired in the preceding fiscal year exceeded $10,000; must procure solid waste management services in a manner that maximizes energy and resource recovery; and must have established an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.''

**PART VIII. Monitoring and Reporting**

*DOL Monitoring:* The ODEP is responsible for ensuring the effective implementation of each competitive Cooperative Agreement project in accordance with the provisions of this announcement and the terms of the Cooperative Agreement award document. Applicants should assume that ODEP staff, or their designees (*i.e.*, VETS, ETA, or HUD), will conduct on-site project reviews periodically. Reviews will focus on timely project implementation, performance in meeting the Cooperative Agreement's programmatic goals and objectives, expenditures of Cooperative Agreement funds on allowable activities, integration and coordination with other resources and service providers in the local area, project management, and administration of project activities. The Ending Homelessness through Employment and Housing Cooperative Agreements may be subject to other additional reviews, at the discretion of the ODEP.

*DOL Reporting:* In addition to the combined HUD and DOL Annual Performance Report cited at the end of this Section, DOL Cooperative Agreement awardees will be required to submit to DOL quarterly financial and narrative progress reports for those quarters other than the one that coincides with the HUD and DOL Annual Performance Report. Also, all awardees will be expected to provide demographic and other types of information on persons who are chronically homeless securing employment through use of ''customized employment'' strategies (including information on veteran status, types of jobs, wages, and benefits secured by specific homeless individuals with disabilities) and other areas addressed through the linkages and networks facilitated by project activities.

Awardees will be required to submit periodic financial and participation reports. Specifically, the following reports will be required:

*A. Quarterly reports:* The quarterly report is estimated to take ten hours to complete. The form for the Quarterly Report will be provided by the ODEP. The ODEP will work with the awardee to help refine the requirements of the report, which will, among other things, include measures of ongoing analysis for continuous improvement and customer satisfaction. Quarterly reports will be due for the 1st, 2nd & 3rd quarters of each year only (Note that the HUD and DOL Annual Performance Report required at the end of this section replaces the 4th quarter report).

*B. Standard Form 269:* Financial Status Report Form (FSR) will be Completed on a quarterly basis, using the on-line electronic reporting system.

C. *Final Project Report:* The final report will include an assessment of project performance and outcomes achieved. The final report is estimated to take 20 hours. This report will be submitted in hard copy and on electronic disk using a format and following instructions, which will be provided by the DOL. An outline of the final report is due to ODEP 45 days before termination of the Cooperative Agreement with a draft of the final report due to the ODEP 30 days before the termination of the Cooperative Agreement. The final report is due to the DOL within 30 days following the termination of the Cooperative Agreement.

All awardees must agree to cooperate with an independent evaluation to be conducted by ODEP. ODEP will arrange for and conduct this independent evaluation of the outcomes, impacts, and accomplishments of each funded project. Awardees must agree to make available records on all parts of project activity, including participant employment and wage data, and to provide access to personnel, as specified by the evaluator(s), under the direction of the ODEP. This independent evaluation is separate from the ongoing evaluation for continuous improvement required of the awardee for project implementation. The ODEP's evaluation of the Ending Homelessness through Employment and Housing Cooperative Agreements includes a process evaluation that includes extensive information pertaining to achievements under the Cooperative Agreement, summary information, number of people with disabilities receiving services, number of people employed through the One-Stop system and other sources.

Under support provided by the ETA, it is planned that a complimentary technical assistance effort will be undertaken. Awardees are expected to cooperate with this planned technical assistance initiative. Awardees must also agree to work with ODEP's other various technical assistance efforts in order to freely share with others what is learned about delivering customized employment services to the persons who are chronically homeless. Awardees must agree to collaborate with other research institutes, centers, studies, and evaluations that are supported by DOL, HUD, and other relevant federal agencies, as appropriate. Finally, awardees must agree to actively utilize the programs sponsored by the ODEP, including the Job Accommodation Network, (www.jan.wvu.edu), and the Employer Assistance Referral Network (www.earnworks.com).

**HUD Monitoring and Reporting**

HUD grantees will be required to complete the Annual Performance Report and will be monitored by their nearest HUD field office.

**DOL and HUD Performance Reporting**

With the assistance of the technical assistance providers, DOL and HUD grantees will produce a combined annual narrative report to:

1. Document lessons learned—Grantees should discuss the successes and challenges during the grant year regarding a. collaborative interagency efforts, b. new service delivery models; and c. working with the chronically homeless population; 2. Report success rates of program participants regarding a. completion of employment preparation, b. achievement of employment, c. increase in earned

income, and d. sustaining of housing over time.

**Part IX. Review Process and Evaluation Criteria**

Applications will be reviewed by representatives from DOL and HUD in a comprehensive review process. First, representatives at DOL and HUD will separately score DOL and HUD sections, respectively, to determine a score for each agency's section. Next, an interdepartmental team will review the Collaborative Approach and will score this section jointly, according to the criteria set forth in this SGA. The scores from the agency-specific and the reviews of the Collaborative section will be totaled, and the applications will be ranked by score from highest to lowest nationally. In order to ensure maximum geographic diversity in the awards, the federal departments reserve the right to make selections out of rank order to provide for geographic distribution of funds.

The maximum total score for any applicant under this SGA is 100 points. These points are divided between the HUD and DOL sections and the Collaboration section. The HUD and DOL sections are worth a total of 70 points. Within these 100 points, HUD's portion is worth 35 points and the DOL section is worth 35 points. If an application is deficient in either the HUD or DOL section, the entire application will be disqualified. Deficiency is defined as scoring below 40 percent of the allotted points for either agency's section.

DOL Cooperative Agreement applications will be reviewed for compliance with the requirements of this notice. DOL's panel results are advisory in nature and not binding on the DOL Grant Officer. DOL may elect to award Cooperative Agreements with or without discussion with the offeror. In situations without discussions, an award will be based on the offeror's signature on the SF–424, which constitutes a binding offer. The DOL Grant Officer may consider any information that is available and will make final award decisions based on what is most advantageous to the government, considering such factors as:

- Panel findings;
- Geographic distribution of the competitive applications;
- Assuring a variety of program designs; and
- Availability of funds

**Part X. Administrative Provisions**

*A. Administrative Standards and Provisions*

Grantees are strongly encouraged to read these regulations before submitting a proposal. The Cooperative Agreements awarded under this SGA shall be subject to the following as applicable:

- 29 CFR Part 95—Grants and Agreements With Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, and With Commercial Organizations, Foreign Governments, Organizations Under the Jurisdiction of Foreign Governments, and International Organizations;
- 29 CFR Part 96—Audit Requirements for Grants, Contracts, and Other Agreements;
- 29 CFR Part 97—Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments.

*B. Allowable Costs*

Determinations of allowable costs shall be made in accordance with the following applicable federal cost principles:

- State and Local Government—OMB Circular A–87
- Nonprofit Organizations—OMB Circular A–122
- Profit-Making Commercial Firms—48 CFR part 31

Profit will not be considered an allowable cost in any case.

*C. Cooperative Agreement Assurances*

As a condition of the award, the applicant must certify that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

- 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 Disability in Programs and Activities Receiving or Benefiting from Federal Assistance (Implementing section 504 of the Rehabilitation Act, 29 U.S.C. 794);
- 29 CFR Part 36—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance (Implementing title IX of the Education Amendments of 1972, 20 U.S.C. 1681 *et. seq.*); and
- 29 CFR Part 37—Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998 (WIA), (Implementing Section 188 of the Workforce Investment Act, 29 U.S.C. 2938).

The applicant must include assurances and certifications that it will comply with these laws in its Cooperative Agreement application. The assurances and certifications are attached as Appendices A, B.

Signed at Washington, DC this 11th day of July, 2003.

**Lawrence J. Kuss,**

*DOL Grant Officer.*

Signed at Washington, DC this 11th day of July, 2003.

**Roy A. Bernardi,**

*Assistant Secretary for Community Planning and Development, U.S. Department of Housing and Urban Development.*

**Appendix A. DOL forms/certifications**

- Application for Federal Assistance, Form SF 424
- Budget Information Sheet, Form SF 424A
- Assurances and Certifications Signature Page
- Survey on Ensuring Equal Opportunity

**Appendix B. HUD forms/certifications**

- HUD–424
- Applicant Certification
- Consolidated Plan Certification
- Certification of Consistency with the Continuum of Care
- Special Projects Certifications-Discharge Policy and Mainstream Programs
- Disclosure of Lobbying Activities (only complete this form if applicant organization engages in lobbying activities)
- Applicant/Recipient Disclosure/Update Report

BILLING CODE 4510–CX–P

OMB Approval No. 0348-0043

**APPLICATION FOR FEDERAL ASSISTANCE**

| | | |
|---|---|---|
| **2. DATE SUBMITTED** July 10, 2003 | Applicant Identifier | |
| **3. DATE RECEIVED BY STATE** | State Application Identifier | |
| **4. DATE RECEIVED BY FEDERAL AGENCY** | Federal Identifier | |

**1. TYPE OF SUBMISSION:**

| Application | Preapplication |
|---|---|
| ☐ **Construction** | ☐ **Construction** |
| ☐ **Non-Construction** | ☐ **Non-Construction** |

**5. APPLICANT INFORMATION**

| | |
|---|---|
| Legal Name: | Organizational Unit: |
| Address *(give city, county, State, and zip code)*: | Name and telephone number of person to be contacted on matters involving this application *(give area code)* |

**6. EMPLOYER IDENTIFICATION NUMBER** *(EIN)*:

☐☐ – ☐☐☐☐☐☐☐

**7. TYPE OF APPLICANT:** *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

**8. TYPE OF APPLICATION:**

☐ **New** ☐ **Continuation** ☐ **Revision**

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

**9. NAME OF FEDERAL AGENCY:**

**10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:**

☐☐ – ☐☐☐

TITLE:

**11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:**

**12. AREAS AFFECTED BY PROJECT** *(Cities, Counties, States, etc.)*:

| **13. PROPOSED PROJECT** | | **14. CONGRESSIONAL DISTRICTS OF:** | |
|---|---|---|---|
| Start Date | Ending Date | a. Applicant | b. Project |

**15. ESTIMATED FUNDING:**

| | |
|---|---|
| a. Federal | $ .00 |
| b. Applicant | $ .00 |
| c. State | $ .00 |
| d. Local | $ .00 |
| e. Other | $ .00 |
| f. Program Income | $ .00 |
| g. TOTAL | $ 0.00 |

**16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?**

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

**17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?**

☐ **Yes** **If "Yes," attach an explanation.** ☐ **No**

**18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.**

| | | |
|---|---|---|
| a. Type Name of Authorized Representative | b. Title | c. Telephone Number |
| d. Signature of Authorized Representative | | e. Date Signed |

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Appendix A

## INSTRUCTIONS FOR THE SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

| Item: | Entry: |
|---|---|
| 1. | Self-explanatory. |
| 2. | Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable). |
| 3. | State use only (if applicable). |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. |
| 7. | Enter the appropriate letter in the space provided. |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:<br>-- "New" means a new assistance award.<br>-- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.<br>-- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. |
| 9. | Name of Federal agency from which assistance is being requested with this application. |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. |
| 12. | List only the largest political entities affected (e.g., State, counties, cities). |
| 13. | Self-explanatory. |
| 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |

SF-424 (Rev. 7-97) Back

Appendix A

## BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

**SECTION A - BUDGET SUMMARY**

| Grant Program Function or Activity (a) | Catalog of Federal Domestic Assistance Number (b) | Estimated Unobligated Funds | | New or Revised Budget | | |
|---|---|---|---|---|---|---|
| | | Federal (c) | Non-Federal (d) | Federal (e) | Non-Federal (f) | Total (g) |
| 1. | | $ | $ | $ | $ | $ 0.00 |
| 2. | | | | | | 0.00 |
| 3. | | | | | | 0.00 |
| 4. | | | | | | 0.00 |
| 5. Totals | | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

**SECTION B - BUDGET CATEGORIES**

| 6. Object Class Categories | GRANT PROGRAM, FUNCTION OR ACTIVITY | | | | Total |
|---|---|---|---|---|---|
| | (1) | (2) | (3) | (4) | (5) |
| a. Personnel | $ | $ | $ | $ | $ 0.00 |
| b. Fringe Benefits | | | | | 0.00 |
| c. Travel | | | | | 0.00 |
| d. Equipment | | | | | 0.00 |
| e. Supplies | | | | | 0.00 |
| f. Contractual | | | | | 0.00 |
| g. Construction | | | | | 0.00 |
| h. Other | | | | | 0.00 |
| i. Total Direct Charges *(sum of 6a-6h)* | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| j. Indirect Charges | | | | | 0.00 |
| k. TOTALS *(sum of 6i and 6j)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |
| | | | | | |
| 7. Program Income | $ | $ | $ | $ | $ 0.00 |

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| SECTION C - NON-FEDERAL RESOURCES | | | | |
|---|---|---|---|---|
| (a) Grant Program | (b) Applicant | (c) State | (d) Other Sources | (e) TOTALS |
| 8. | $ | $ | $ | $ 0.00 |
| 9. | | | | 0.00 |
| 10. | | | | 0.00 |
| 11. | | | | 0.00 |
| 12. TOTAL *(sum of lines 8-11)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION D - FORECASTED CASH NEEDS | | | | | |
|---|---|---|---|---|---|
| | Total for 1st Year | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter |
| 13. Federal | $ 0.00 | $ | $ | $ | $ |
| 14. Non-Federal | 0.00 | | | | |
| 15. TOTAL *(sum of lines 13 and 14)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT | | | | |
|---|---|---|---|---|
| (a) Grant Program | FUTURE FUNDING PERIODS (Years) | | | |
| | (b) First | (c) Second | (d) Third | (e) Fourth |
| 16. | $ | $ | $ | $ |
| 17. | | | | |
| 18. | | | | |
| 19. | | | | |
| 20. TOTAL *(sum of lines 16-19)* | $ 0.00 | $ 0.00 | $ 0.00 | $ 0.00 |

| SECTION F - OTHER BUDGET INFORMATION | |
|---|---|
| 21. Direct Charges: | 22. Indirect Charges: |
| 23. Remarks: | |

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**Standard Form 424A (Rev. 7-97) Page 2**

Appendix A

## INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**General Instructions**

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

**Section A. Budget Summary Lines 1-4 Columns (a) and (b)**

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in *Column* (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

**Lines 1-4, Columns (c) through (g)**

*For new applications*, leave Column (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

*For continuing grant program applications*, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

*For supplemental grants and changes* to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

**Line 5** - Show the totals for all columns used.

**Section B Budget Categories**

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

**Line 6a-i** - Show the totals of Lines 6a to 6h in each column.

**Line 6j** - Show the amount of indirect cost.

**Line 6k** - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

**Line 7** - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program

**INSTRUCTIONS FOR THE SF-424A** (continued)

narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

**Section C. Non-Federal Resources**

**Lines 8-11** Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

**Column (a)** - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

**Column (b)** - Enter the contribution to be made by the applicant.

**Column (c)** - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

**Column (d)** - Enter the amount of cash and in-kind contributions to be made from all other sources.

**Column (e)** - Enter totals of Columns (b), (c), and (d).

**Line 12** - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

**Section D. Forecasted Cash Needs**

**Line 13** - Enter the amount of cash needed by quarter from the grantor agency during the first year.

**Line 14** - Enter the amount of cash from all other sources needed by quarter during the first year.

**Line 15** - Enter the totals of amounts on Lines 13 and 14.

**Section E. Budget Estimates of Federal Funds Needed for Balance of the Project**

**Lines 16-19** - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

**Line 20** - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

**Section F. Other Budget Information**

**Line 21** - Use this space to explain amounts for individual direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

**Line 22** - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

**Line 23** - Provide any other explanations or comments deemed necessary.



Appendix A

OMB Approval No. 0348-0040

## ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

**NOTE:** Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §§7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (P.L. 93-523); and, (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §§2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

| SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | TITLE |
|---|---|
| APPLICANT ORGANIZATION | DATE SUBMITTED |

**Standard Form 424B (Rev. 7-97) Back**

Appendix A

# Survey on Ensuring Equal Opportunity for Applicants

*Federal Agency Use Only*

OMB No. 1225-0083 Exp. 02/28/2006

**NOTE: Please place survey form directly behind the Standard Application for Federal Assistance (SF 424) fact sheet.**

**Purpose:** This form is for applicants that are private nonprofit organizations (not including private universities). Please complete it to assist the federal government in ensuring that all qualified applicants, small or large, non-religious or faith-based, have an equal opportunity to compete for federal funding. Information provided on this form will not be considered in any way in making funding decisions and will not be included in the federal grants database.

1. Does the applicant have 501(c)(3) status?

   ☐ Yes ☐ No

2. How many full-time equivalent employees does the applicant have? *(Check only one box).*

   ☐ 3 or Fewer ☐ 15-50
   ☐ 4-5 ☐ 51-100
   ☐ 6-14 ☐ over 100

3. What is the size of the applicant's annual budget? *(Check only one box.)*

   ☐ Less Than $150,000
   ☐ $150,000 - $299,999
   ☐ $300,000 - $499,999
   ☐ $500,000 - $999,999
   ☐ $1,000,000 - $4,999,999
   ☐ $5,000,000 or more

4. Is the applicant a faith-based/religious organization?

   ☐ Yes ☐ No

5. Is the applicant a non-religious community-based organization?

   ☐ Yes ☐ No

6. Is the applicant an intermediary that will manage the grant on behalf of other organizations?

   ☐ Yes ☐ No

7. Has the applicant ever received a government grant or contract (Federal, State, or local)?

   ☐ Yes ☐ No

8. Is the applicant a local affiliate of a national organization?

   ☐ Yes ☐ No

Appendix A

## Survey Instructions on Ensuring Equal Opportunity for Applicants

1. 501(c) (3) statuses is a legal designation provided on application to the Internal Revenue Service by eligible organizations. Some grant programs may require nonprofit applicants to have 501(c)(3) status. Other grant programs do not.

2. For example, two part-time employees who each work half-time equal one full-time equivalent employee. If the applicant is a local affiliate of a national organization, the responses to survey questions 2 and 3 should reflect the staff and budget size of the local affiliate.

3. Annual budget means the amount of money your organization spends each year on all of its activities.

4. Self-identify.

5. An organization is considered a community-based organization if its headquarters/service location shares the same zip code as the clients you serve.

6. An "intermediary" is an organization that enables a group of small organizations to receive and manage government funds by administering the grant on their behalf.

7. Self-explanatory.

8. Self-explanatory

## Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless such collection displays a valid OMB control number. The valid OMB control number for this information collection is **1225-0083**. The time required to complete this information collection is estimated to average five (5) minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. **If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:** Departmental Clearance Officer, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, D.C. 20210. **If you have comments or concerns regarding the status of your individual submission of this form, write directly to:** Joyce I. Mays, Application Control Center, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Appendix A

**Application for Federal Assistance**

**U.S. Department of Housing and Urban Development**

OMB Approval No.2501-0017 (exp. 03/31/2005)

1. Type of Submission
☐ Application ☐ Preapplication

2. Date Submitted

3. Date and Time Received by HUD

4. HUD Application Number

5. Existing Grant Number

6. Applicant Identification Number

7. Applicant's Legal Name

8. Organizational Unit

9. Address (give city, county, State, and zip code)
A. Address:
B. City:
C. County:
D. State:
E. Zip Code:

10. Name,title,telephone number,fax number, and e-mail of the person to be contacted on matters involving this application (including area codes)
A. Name:
B. Title:
C. Phone:
D. Fax:
E. E-mail:

11. Employer Identification Number (EIN) or SSN

12. Type of Applicant (enter appropriate letter in box)

| | |
|---|---|
| A. State | I. University or College |
| B. County | J. Indian Tribe |
| C. Municipal | K. Tribally Designated Housing Entity (TDHE) |
| D. Township | L. Individual |
| E. Interstate | M. Profit Organization |
| F. Intermunicipal | N. Non-profit |
| G. Special District | O. Public Housing Authority |
| H. Independent School District | P. Other (Specify) |

13. Type of Application
☐ New ☐ Continuation ☐ Renewal ☐ Revision

If Revision, enter appropriate letters in box(es) ☐ ☐
A. Increase Amount B. Decrease Amount C. Increase Duration
D. Decrease Duration E. Other (Specify)

14. Name of Federal Agency
**U.S. Department of Housing and Urban Development**

15. Catalog of Federal Domestic Assistance (CFDA) Number
1 4 ---
Title:
Component Title:

16. Descriptive Title of Applicant's Program

17. Areas affected by Program (boroughs, cities, counties, States, Indian Reservation, etc.)

18a. Proposed Program start date

18b. Proposed Program end date

19a. Congressional Districts of Applicant

19b. Congressional Districts of Program

20. Estimated Funding: **Applicant must complete the Funding Matrix on Page 2.**

21. Is Application subject to review by State Executive Order 12372 Process?
A. Yes ☐ This preapplication/application was made available to the State Executive Order 12372 Process for review on: Date_____
B. No ☐ Program is not covered by E.O. 12372
☐ Program has not been selected by State for review.

22. Is the Applicant delinquent on any Federal debt? ☐ No
☐ Yes If "Yes," explain below or attach an explanation.

Previous versions of HUD-424 and 424-M are obsolete

Page 1 of 2

form **HUD-424** (01/2003)
ref. OMB Circular A-102

Appendix B

## Funding Matrix

The applicant must provide the funding matrix shown below, listing each program for which HUD funding is being requested, and complete the certifications.

| Grant Program* | HUD Share | Applicant Match | Other HUD Funds | Other Federal Share | State Share | Local/Tribal Share | Other | Program Income | Total |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | 0.00 |
| | | | | | | | | | 0.00 |
| | | | | | | | | | 0.00 |
| | | | | | | | | | 0.00 |
| | | | | | | | | | 0.00 |
| **Grand Totals** | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |

* For FHIPs, show both initiative and component

## Certifications

I certify, to the best of my knowledge and belief, that no Federal appropriated funds have been paid, or will be paid, by or on behalf of the applicant, 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 this Federal grant or its extension, renewal, amendment or modification. If funds other than Federal appropriated funds have or will be paid for influencing or attempting to influence the persons listed above, I shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying. I certify that I shall require all sub awards at all tiers (including sub-grants and contracts) to similarly certify and disclose accordingly.

Federally recognized Indian Tribes and tribally designated housing entities (TDHEs) established by Federally-recognized Indian tribes as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but State-recognized Indian tribes and TDHEs established under State law are not excluded from the statute's coverage.

This application incorporates the Assurances and Certifications (HUD-424B) attached to this application or renews and incorporates for the funding you are seeking the Assurances and Certifications currently on file with HUD. To the best of my knowledge and belief, all information in this application is true and correct and constitutes material representation of fact upon which HUD may rely in awarding the agreement.

| 23. Signature of Authorized Official | Name (printed) |
|---|---|
| Title | Date (mm/dd/yyyy) |

Previous versions of HUD-424 and 424-M are obsolete.

Page 2 of 2

form **HUD-424** (01/2003)
ref. OMB Circular A-102

Appendix B

## Applicant Certification

(These certified statements are required by law.)

**A. For the Supportive Housing (SHP), Shelter Plus Care (S+C), and Single Room Occupancy (SRO) programs:**

**1. Fair Housing and Equal Opportunity.**

It will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000(d)) and regulations pursuant thereto (Title 24 CFR part I), which state that no person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the applicant receives Federal financial assistance, and will immediately take any measures necessary to effectuate this agreement. With reference to the real property and structure(s) thereon which are provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer, transferee, for the period during which the real property and structure(s) are used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

It will comply with the Fair Housing Act (42 U.S.C. 3601-19), as amended, and with implementing regulations at 24 CFR part 100, which prohibit discrimination in housing on the basis of race, color, religion, sex, disability, familial status or national origin.

It will comply with Executive Order 11063 on Equal Opportunity in Housing and with implementing regulations at 24 CFR Part 107 which prohibit discrimination because of race, color, creed, sex or national origin in housing and related facilities provided with Federal financial assistance.

It will comply with Executive Order 11246 and all regulations pursuant thereto (41 CFR Chapter 60-1), which state that no person shall be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of Federal contracts and shall take affirmative action to ensure equal employment opportunity. The applicant will incorporate, or cause to be incorporated, into any contract for construction work as defined in Section 130.5 of HUD regulations the equal opportunity clause required by Section 130.15(b) of the HUD regulations.

It will comply with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701(u)), and regulations pursuant thereto (24 CFR Part 135), which require that to the greatest extent feasible opportunities for training and employment be given to lower-income residents of the project and contracts for work in connection with the project be awarded in substantial part to persons residing in the area of the project.

It will comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as amended, and with implementing regulations at 24 CFR Part 8, which prohibit discrimination based on disability in Federally-assisted and conducted programs and activities.

It will comply with the Age Discrimination Act of 1975 (42 U.S.C. 6101-07), as amended, and implementing regulations at 24 CFR Part 146, which prohibit discrimination because of age in projects and activities receiving Federal financial assistance.

It will comply with Executive Orders 11625, 12432, and 12138, which state that program participants shall take affirmative action to encourage participation by businesses owned and operated by members of minority groups and women.

If persons of any particular race, color, religion, sex, age, national origin, familial status, or disability who may qualify for assistance are unlikely to be reached, it will establish additional procedures to ensure that interested persons can obtain information concerning the assistance.

It will comply with the reasonable modification and accommodation requirements and, as appropriate, the accessibility requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, as amended.

**Additional for S+C:**
If applicant has established a preference for targeted populations of disabled persons pursuant to 24 CFR 582.330(a), it will comply with this section's nondiscrimination requirements within the designated population.

**2. Drug – Free Workplace.**
It will provide drug-free workplaces in accordance with the Drug-Free Workplace Act of 1988 (41 U.S.C. 701) 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 grantees policy of maintaining a drug-free workplace;
  (3) any available drug counseling, rehabilitation, and employee assistance programs; and

(4) the penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) abide by the terms of the statement; and

(2) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) notifying the agency in writing, within ten calendar days after receiving notice under subparagraph (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 subparagraph (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);

(h) providing the street address, city, county, state and zip code for the site or sites where the performance of work in connection with the grant will take place. For some applicants who have functions carried out by employees in several departments or offices, more than one location may need to be specified. It is further recognized that States and other applicants who become grantees may add or change sites as a result of changes to program activities during the course of grant-funded activities. Grantees, in such cases, are required to advise the HUD Field Office by submitting a revised Place of Performance form. The period covered by the certification extends until all funds under the specific grant have been expended.

**3. Anti-Lobbying.**

(a) No Federally 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 any 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.

(b) If any funds other than Federally 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.

(c) The undersigned shall require that the language of this certification be included in the award documents for all sub awards 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 of more than $100,000 for each such failure.

**4. Debarment.**

It and its principals (see 24 CFR 24.105(p)):

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (see 24 CFR 24.110) by any Federal department or agency;

(b) have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicated for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in (b) of this certification; and

(d) have not within a three-year period preceding this application/proposal had one or more public

transactions (Federal, State or local) terminated for cause or default.

**5. Uniform Act.**

It will comply with the Uniform Relocation and Real Property Acquisition Policies Act of 1970 (as amended), and the implementing regulations at: 24 CFR 583.310 for SHP, 24 CFR 582.335 for S+C, and 24 CFR 882.810 for SRO.

**B. For SHP Only.**

**1. Maintenance of Effort.**

It will comply with the maintenance of effort requirements described at 24 CFR 583.150(a).

**2. 20-Year Operation Rule.**

For applicants receiving assistance for acquisition, rehabilitation or new construction: The project will be operated for no less than 20 years from the date of initial occupancy or the date of initial service provision for the purpose specified in the application.

**3. 1-Year Operation Rule.**

For applicants receiving assistance for supportive services, leasing, or operating costs but not receiving assistance for acquisition, rehabilitation, or new construction: The project will be operated for the purpose specified in the application for any year for which such assistance is provided.

**4. Environmental Rule.**

(a) If the applicant is a State or other governmental entity with general governmental powers (see 24 CFR 583.5), it assumes all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act (42 U.S.C. 4321) (NEPA) and related environmental laws and authorities listed in 24 CFR part 58, including acceptance of jurisdiction of the Federal courts, and will assess the environmental effects of each application for assistance in accordance with the provisions of NEPA and 24 CFR part 58.

(b) If the applicant is a private nonprofit organization or a governmental entity with special or limited purpose powers, it will (i) not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of an environmental review in accordance with 24 CFR Part 50 and HUD's approval of the application; (ii) supply HUD with information necessary for HUD to perform any applicable environmental review when requested under 24 CFR 583.225(a); and (iii) carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

**C. For S+C Only.**

**1. Maintenance of Effort.**

It will comply with the maintenance of effort requirements described at 24 CFR 582.115(d).

**2. Supportive Services.**

It will make available supportive services appropriate to the needs of the population served and equal in value to the aggregate amount of rental assistance funded by HUD for the full term of the rental assistance and that it will fund the supportive services itself if the planned resources do not become available for any reason.

**3. Components: Standards, Definitions, and $3,000 Minimum.**

(a) For the SRO component only, the proposed site meets HUD's site and neighborhood standards (24 CFR 882.803(b)(4), and meets the regulatory definition of single room occupancy housing (24 CFR 882.802).

(b) For the SRO and PRA with rehabilitation components, the rehabilitation costs will meet the per unit rehabilitation minimum of $3,000.

**4. Environmental Rule.**

(a) If the applicant is not a PHA, it assumes all the environmental review responsibility that would otherwise be performed by HUD as the responsible Federal official under the National Environmental Policy Act (42 U.S.C. 4321)(NEPA) and related environmental laws and authorities listed in 24 CFR Part 58, including acceptance of jurisdiction of the Federal courts, and will assess the environmental effects of each application for assistance in accordance with the provisions of NEPA and 24 CFR Part 58.

(b) If the applicant is a PHA, it will (i) not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of an environmental review in accordance with 24 CFR Part 50 and HUD's approval of the application; (ii) supply HUD with information necessary for HUD to perform any applicable environmental review when requested under 24 CFR 583.225(a); and (iii) carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

**D. For SRO Only.**

**1. Standards, Definitions, and $3,000 Minimum.**

The proposed site meets HUD's site and neighborhood standards (24 CFR 882.803(b)(4)), meets the regulatory definition of single room occupancy housing (24 CFR 882.802), and the rehabilitation costs will met the per unit rehabilitation minimum of $3,000.

**2. Environmental Rule.**

It will comply with the environmental review requirement for the SRO Program at 24 CFR 882.804(d).

**E. For SHP and SRO**

**1. Nonprofit Board of Directors.**

For private nonprofit applicants, members of its Board of Directors serve in a voluntary capacity and receive no compensation, other than reimbursement for expenses, for their services.

**F. For SHP and S+C.**

**1. Lead-Based Paint.**

It will comply with the requirements of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4821-4846, and implementing regulations at 24 CFR Part 35.

**G. For S+C and SRO.**

**1. PHA Qualification.**

For PHA applicants, that it qualifies as a Public Housing Agency as specified in 24 CFR 882.102 and is legally qualified and authorized to carry out the proposed project(s).

**H. Explanation.**

Where the applicant is unable to certify to any of the statements in this certification, such applicant shall attach an explanation behind this page.

| **Signature of Authorized Certifying Official:** | **Date:** |
|---|---|
| **Title:** | |
| **Applicant:** | **For PHA Applicants Only: (PHA Number)** |

# Consolidated Plan Certification

**HUD requires applicants to obtain Consolidated Plan Certification for each proposed project.**

**A. Completing the Consolidated Plan Certification**

Except as stated below, all projects must have a Consolidated Plan (which is hereafter called the Plan) certification from the applicable State or local government official responsible for submitting the appropriate Plan. The following instructions indicate the requirement for certification by applicant type for each program.

**Insular Areas** (America Samoa, Guam, Northern Mariana Islands, U.S. Virgin Islands) are not required to have a Plan or Abbreviated Plan, and therefore applications submitted from these jurisdictions do not require a certification of consistency with a Plan.

An applicant that is a **private nonprofit organization, a community mental health organization that is a public nonprofit organization** must provide a certification from each jurisdiction in which a project will be located. If the local jurisdiction in which the project will be located does not have a Plan or an Abbreviated Plan, then a certification from the State must be submitted. For example, if an application contained projects in jurisdiction A have a Plan and jurisdiction B not having a Plan, then the applicant would have to submit a certification from jurisdiction A and a certification from the State for jurisdiction B.

**Non-State applicants** proposing activities which will occur in more than one jurisdiction, only need to obtain a certification from the jurisdiction in which the program is administered if they are proposing Scattered-Site Leasing where a participant selects the specific rental unit for which rental assistance will be used. For other forms of leasing, submit a certification from each jurisdiction where units are located.

**State government applicants** must submit a certification from both the State and the applicable local jurisdiction(s) where the proposed project will be located.

**B. Completing the Location Section**

**Facility-Based.** If the project involves acquisition, rehabilitation, or leasing (except scattered-site leasing of rental housing units), enter the city and county in which the site is located.

**Scattered-Site Leasing.** Follow (1) or (2) depending on whether the project sponsor or the participant selects the units.

(1) If the project involves scattered-site leasing of rental housing units where the project sponsor will select and lease the units, identify each city and county in which the rental units will be located.

(2) If the project involves scattered-site leasing of rental housing units where the participant will select the rental units, enter the city and county in which the organization that will be administering the rental assistance is located.

Please consult your local HUD Field Office for assistance in identifying jurisdictions with a Plan and the official authorized to provide certification. **For each required certification, use the exact language as stated on the form.** HUD recommends completing the form itself and submitting it as the certification, rather than retyping it.

Appendix B

HUD-40076

U. S. Department of Housing and Urban Development

## Certification of Consistency with the Consolidated Plan

**I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan. As a unit of local government (Local Workforce Investment Board or LWIB), our jurisdiction is following its currently approved Consolidated Plan.**

**(Type or clearly print the following information)**

**Applicant Name:** _____

**Project Name:** _____

**Location of the Project:** _____

_____

_____

**Name of the Federal Program to which the Applicant is applying:** _____

**Name of Certifying Jurisdiction:** _____

**Certifying Official Of the Jurisdiction**

**Name:** _____

**Title:** _____

**Signature:** _____

**Date:** _____

Appendix B

HUD-40076

U. S. Department of Housing and Urban Development

## Certification of Consistency with the Continuum of Care

**I certify that the proposed project, as identified below, is consistent with the Continuum of Care (CoC) plan covering the jurisdiction in which the project will be carried out. In addition, I certify that the proposed project will fill an existing gap in the community's inventory of housing for homeless persons or families in the community.**

**(Type or clearly print the following information)**

**Applicant Name:** _____

**Project Name:** _____

**Location of the Project:** _____

_____

_____

**Name of the Federal Program to which the Applicant is applying:** _____

**Name of Certifying Continuum of Care Jurisdiction:** _____

**Certifying Official for the Continuum of Care**

**Name:** _____

**Title:** _____

**Signature:** _____

**Date:** _____

Appendix B

# Special Project Certification

## Discharge Policy

Required of all State and local government applicants. Submit this certification along with the HUD form SF 424. (You may submit a single certification covering all of your projects.)

I hereby certify that as a condition for any funding received as a result of this competition, our government agrees to develop and implement, to the maximum extent practicable and where appropriate, policies and protocols for the discharge of persons from publicly funded institutions or systems of care (such as health care facilities, foster care or other youth facilities, or correction programs and institutions) in order to prevent such discharge from immediately resulting in homelessness for such persons. I understand that this condition for award is intended to emphasize that States and units of general local government are primarily responsible for the care of these individuals, and that McKinney-Vento Act funds are not be to used to assist such persons in place of State and local resources.

_____

Authorized signature of applicant
***(required only for applicants that are States or units of general local government)***

_____

Position Title

_____

Date



Form HUD-40076

# Special Project Certification

## Coordination and Integration of Mainstream Programs

All applicants must certify the following regarding their project(s) and submit this certification along with form SF 424 as part of their application.

I hereby certify that if our organization's project(s) (are) selected for funding as a result of this competition, we will coordinate and integrate our homeless project with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Stamps, SSI, Workforce Investment Act and Veterans Health Care programs.

_____
Authorized signature of applicant
(***required for all applicants***)

_____
Position Title

_____
Date

## DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

| 1. Type of Federal Action: | 2. Status of Federal Action: | 3. Report Type: |
|---|---|---|
| ☐ a. contract<br>b. grant<br>c. cooperative agreement<br>d. loan<br>e. loan guarantee<br>f. loan insurance | ☐ a. bid/offer/application<br>b. initial award<br>c. post-award | ☐ a. initial filing<br>b. material change<br>**For Material Change Only:**<br>year _____ quarter _____<br>date of last report _ _ |

| 4. Name and Address of Reporting Entity: | 5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: |
|---|---|
| ☐ Prime ☐ Subawardee<br>Tier _____, *if known*:<br><br>**Congressional District**, *if known*: 4c | **Congressional District**, *if known*: |
| **6. Federal Department/Agency:** | **7. Federal Program Name/Description:**<br><br>CFDA Number, *if applicable*: _____ |
| **8. Federal Action Number**, *if known*: | **9. Award Amount**, *if known*:<br>$ |
| **10. a. Name and Address of Lobbying Registrant** (*if individual, last name, first name, MI*): | **b. Individuals Performing Services** (*including address if different from No. 10a*) (*last name, first name, MI*): |
| **11.** Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure. | Signature: _____<br>Print Name: _____<br>Title: _____<br>Telephone No.: _____ Date: _____ |
| **Federal Use Only:** | Authorized for Local Reproduction<br>Standard Form LLL (Rev. 7-97) |

Appendix B

## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Appendix B

# Applicant/Recipient Disclosure/Update Report

**U.S. Department of Housing and Urban Development**

OMB Approval No. 2510-0011 (exp. 06/30/2003)

**Instructions.** (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 2.)

## Applicant/Recipient Information

**Indicate whether this is an Initial Report** ☐ **or an Update Report** ☐

| | |
|---|---|
| 1. Applicant/Recipient Name, Address, and Phone (include area code):<br><br>( ) - | 2. Social Security Number or Employer ID Number:<br><br>- - |
| 3. HUD Program Name | 4. Amount of HUD Assistance Requested/Received |

5. State the name and location (street address, City and State) of the project or activity:

## Part I Threshold Determinations

1. Are you applying for assistance for a specific project or activity? These terms do not include formula grants, such as public housing operating subsidy or CDBG block grants. (For further information see 24 CFR Sec. 4.3).
   ☐ **Yes** ☐ **No**

2. Have you received or do you expect to receive assistance within the jurisdiction of the Department (HUD), involving the project or activity in this application, in excess of $200,000 during this fiscal year (Oct. 1 - Sep. 30)? For further information, see 24 CFR Sec. 4.9
   ☐ **Yes** ☐ **No.**

If you answered **"No"** to either question 1 or 2, **Stop!** You do not need to complete the remainder of this form. ***However***, you must sign the certification at the end of the report.

## Part II Other Government Assistance Provided or Requested / Expected Sources and Use of Funds.

Such assistance includes, but is not limited to, any grant, loan, subsidy, guarantee, insurance, payment, credit, or tax benefit.

| Department/State/Local Agency Name and Address | Type of Assistance | Amount Requested/Provided | Expected Uses of the Funds |
|---|---|---|---|
| | | | |
| | | | |

(**Note**: Use Additional pages if necessary.)

## Part III Interested Parties. You must disclose:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

| Alphabetical list of all persons with a reportable financial interest in the project or activity (For individuals, give the last name first) | Social Security No. or Employee ID No. | Type of Participation in Project/Activity | Financial Interest in Project/Activity ($ and %) |
|---|---|---|---|
| | | | |

(**Note**: Use Additional pages if necessary.)

## Certification

**Warning**: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosures of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

| | |
|---|---|
| Signature:<br><br>X | Date: (mm/dd/yyyy) |

Form **HUD-2880** (3/99)

Appendix B

**Public reporting burden** for this collection of information is estimated to average 2.0 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collection displays a valid OMB control number.

**Privacy Act Statement**. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §4.38.

**Note**: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

## Instructions

### Overview.

A. Coverage. You must complete this report if:
   (1) You are applying for assistance from HUD for a specific project or activity **and** you have received, or expect to receive, assistance from HUD in excess of $200,000 during the during the fiscal year;
   (2) You are updating a prior report as discussed below; or
   (3) You are submitting an application for assistance to an entity other than HUD, a State or local government if the application is required by statute or regulation to be submitted to HUD for approval or for any other purpose.

**B. Update reports (filed by "Recipients" of HUD Assistance): General**. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

### Line-by-Line Instructions.

**Applicant/Recipient Information.**
All applicants for HUD competitive assistance, must complete the information required in blocks 1-5 of form HUD-2880:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered.
2. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.
3. Applicants enter the HUD program name under which the assistance is being requested.
4. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.
5. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

**Part I. Threshold Determinations - Applicants Only**

Part I contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

If the answer to ***either*** questions 1 or 2 is No, the applicant need not complete Parts II and III of the report, but must sign the certification at the end of the form.

**Part II. Other Government Assistance and Expected Sources and Uses of Funds.**

A. Other Government Assistance. This Part is to be completed by both applicants and recipients for assistance and recipients filing update reports. Applicants and recipients must report any other government assistance involved in the project or activity for which assistance is sought. Applicants and recipients must report any other government assistance involved in the project or activity. Other government assistance is defined in note 4 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available.
2. State the type of other government assistance (e.g., loan, grant, loan insurance).
3. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).
4. Uses of funds. Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

B. Non-Government Assistance. Note that the applicant and recipient disclosure report must specify all expected sources and uses of funds - both from HUD ***and any other source*** - that have been or are to be, made available for the project or activity. Non-government sources of

funds typically include (but are not limited to) foundations and private contributors.

**Part III. Interested Parties.**

This Part is to be completed by both applicants and recipients filing update reports. Applicants must provide information on:

1. All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and
2. any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

   **Note:** A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses. If the person is an entity, the listing must include the full name and address of the entity as well as the CEO. Please list all names alphabetically.
2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.
3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).
4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

**Note** that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

**Notes:**

1. All citations are to 24 CFR Part 4, which was published in the Federal Register. [April 1, 1996, at 63 Fed. Reg. 14448.]
2. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Fed. Acquisition Regulation (FAR) (48 CFR Chapter 1).
3. See 24 CFR §4.9 for detailed guidance on how the threshold is calculated.
4. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
5. For the purpose of this form and 24 CFR Part 4, "person" means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Form **HUD-2880** (3/99)

Appendix B

[FR Doc. 03–18046 Filed 7–17–03; 8:45 am]
BILLING CODE 4510–CX–C

Federal Register

Friday,
July 18, 2003

# Part III

# Department of Transportation

## Federal Aviation Administration

**14 CFR Parts 121 and 129**

**Flightdeck Security on Large Cargo Airplanes; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 121 and 129**

**[Docket No.: FAA–2003–15653; Amendment Nos. 121–287 and 129–37]**

**RIN 2120–AH96**

## Flightdeck Security on Large Cargo Airplanes

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

**ACTION:** Final rule; request for comments.

**SUMMARY:** This action provides an alternative means of compliance to operators of all-cargo airplanes that are required to have a reinforced security flightdeck door. This rule allows those operators to either install reinforced doors or adopt enhanced security procedures approved by the Transportation Security Administration.

**DATES:** This rule is effective on August 18, 2003. Comments must be received by September 16, 2003.

**ADDRESSES:** Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–15653 at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that the FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Joe Keenan, Program Management Branch (AFS–200) Flight Standards Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9579; facsimile (202) 267–5229, e-mail *joe.keenan@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

This final rule is being adopted without prior notice and prior public comment. The Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 1134; February 26, 1979), however, provide that, to the maximum extent possible, operating administrations for the DOT should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments relating to environmental, energy, federalism, or international trade impacts that might result from this amendment also are invited. Comments must include the regulatory docket or amendment number and must be submitted in duplicate to the address above. All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the public docket. The docket is available for public inspection before and after the comment closing date.

The FAA will consider all comments received on or before the closing date for comments. Late filed comments will be considered to the extent practicable. This final rule may be amended in light of the comments received.

Commenters who want the FAA to acknowledge receipt of their comments submitted in response to this final rule must include a preaddressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2003–.'' The postcard will be date-stamped by the FAA and mailed to the commenter.

Comments that you may consider to be of a sensitive security nature should not be sent to the docket management system. Send those comments to the FAA, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591.

### Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www2.faa.gov/avr/arm/nprm.cfm?nav=nprm* or the **Federal Register**'s Web page at *http://www.gpoaccess.gov/fr/index.html.*

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

### What Is the Small Business Regulatory Enforcement Fairness Act?

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.htm,* or by e-mailing us at *9–AWA–SBREFA@faa.gov.*

### Background

*What Rule Changes Are You Making?*

We are issuing a rule that allows an alternative means of compliance with a current FAA regulation. This rule allows operators of large cargo airplanes to either install reinforced flightdeck doors or adopt enhanced security procedures approved by the Transportation Security Administration.

*Isn't Airplane Security the Responsibility of an Agency Other Than the FAA?*

Yes, the Aviation and Transportation Security Act (ATSA) enacted by Congress on November 19, 2001, transferred airplane security to the Transportation Security Administration (TSA). The safety of the physical airplane structure and the operational rules of airplanes are still the responsibility of the FAA. We work with the TSA when our interests overlap to further our missions of safety and security. We coordinated this rule change closely with the TSA. The TSA has significantly contributed to this rule and supports the rule change.

*How Many Rules Are Affected by This Change?*

This change has significant effects on two rules. First, Title 14 Code of Federal Regulations (14 CFR), 121.313(j), which applies to the operation of U.S. transport category all-cargo airplanes, is amended to permit operators to adopt a

TSA approved security program in lieu of installing reinforced doors. The second rule, 14 CFR 129.28(c), applies to the operation of transport category all-cargo airplanes by foreign operators within the United States. This amendment permits foreign operators to adopt a TSA approved security program in lieu of installing reinforced doors.

*Why Were the Old Rules Adopted?*

The former rules were adopted in response to the terrorist attacks against the United States on September 11, 2001, and the ATSA enacted by Congress on November 19, 2001. The terrorist acts demonstrated a need to improve design as well as operational and procedural security of the flightdeck.

*What Are the Flightdeck and the Flightdeck Door?*

The flightdeck, or cockpit, is that area where the pilots fly the airplane. The flightdeck door is what separates the pilots from the passengers on passenger airplanes. On passenger airplanes, there are operating rules that require a door between the flightdeck and the passenger compartment. These rules do not require that cargo airplanes have a flightdeck door. Some cargo airplanes have flightdeck doors and many do not.

Traditionally, the door merely served as a privacy door to assure that the pilots were able to concentrate on flying the airplane. As discussed in the original reinforced door rulemakings, efforts were underway prior to the September 11, 2001, attacks to develop standards for a stronger door. The attacks led to the immediate adoption of those standards and the requirement for installation of stronger doors.

*What Did the Old Rules Require?*

On January 15, 2002, parts 25 and 121 were amended to set new standards for flightdeck doors (Amendments 25–106 and 121–288; 67 FR 2118; Docket No. FAA–2002–11032). Section 25.795 was amended to set standards for reinforcing flightdeck doors. The new standards require them to resist forcible intrusion and ballistic penetration.

Section 121.313(f) was amended to mandate installation of the reinforced doors on certain airplanes not later than April 9, 2003. The affected airplanes included transport category all-cargo airplanes operated under part 121 which had flightdeck doors installed on or after January 15, 2002.

On June 21, 2002, part 129 was amended to apply similar standards to foreign operators operating into the United States (Amendment 129–33; 67 FR 42450; Docket No. FAA–2002–12504). Section 129.28 requires installation of the reinforced door not later than April 9, 2003. The affected airplanes include transport category all-cargo airplanes operated under part 129 which had flightdeck doors installed on or after June 21, 2002.

On December 23, 2002, the FAA issued amendment No. 129–36 as a result of input received from a public hearing held on July 30, 2002, and comments received as a result of the rulemaking. Amendment 129–36 clarifies the applicability of the part 129 regulation for foreign operators.

In effect, section 355 of the Consolidated Appropriations Resolution, Pub. L. 108–007, postponed the compliance date for this section as to all-cargo aircraft until October 1, 2003. We have changed the cargo portion of the rule to replace the April 9, 2003, compliance date with October 1, 2003, to correspond to the Congressional action.

*What Has Happened Since the Old Rules Were Adopted?*

The old rule was an FAA response to the potential security threat to cargo airplanes. Because of the urgency of the response, there was little time for receiving and evaluating a broad range of inputs on the issues and alternatives. But with time, and with additional input from knowledgeable parties, the FAA has identified several elements that convince us that a change is needed. Over the last year, the FAA has received information from parties through comments responding to several rulemakings, as well as petitions for exemption and a petition for rulemaking.

**Public Comments on Prior Reinforced Flightdeck Door Rulemakings**

As discussed above, the FAA has had two rulemaking actions that established reinforced door requirements. We received public comments on both rules. The following discussion is limited to those comments related to this specific rule change. The FAA will respond to the other comments in a separate document that will be published later in the **Federal Register**.

*Part 121*

Three pilot groups (Air Line Pilots Association International (ALPA), FedEx Pilots Association, and the Coalition of Airline Pilots Association (CAPA)), a public safety group (Aviation Policy Institute), and one individual suggested expanding the reinforced door requirement to all cargo airplanes. This would require installation of reinforced doors on cargo airplanes that do not already have any door. The principal arguments of those parties were centered on increased flightdeck security. Those commenters expressed concerns about the qualification, screening, and identification of the people authorized to ride on the subject airplanes.

ALPA stated that meetings with safety representatives from many of the cargo airlines revealed it is potentially easier for an intruder to gain access to cargo airplanes because of limited ground security procedures, less secure ramp areas, and less scrutiny of persons carried on board cargo flights. ALPA stated that flight attendant and passenger intervention have been discussed as a strategy to defeat the attempts of an intruder to commandeer a passenger airplane. But cargo operators lack the potential benefit of flight attendant or passenger intervention.

Additionally, three commenters proposed enhancement of flightdeck security beyond that provided by the reinforced doors, suggesting the use of dual doors (FedEx Pilots Association) and reinforcing the bulkheads between the flightdeck and other airplane areas (ALPA and the CAPA).

Three operators and the Cargo Airline Association (CAA) and the Air Transport Association opposed the installation of the reinforced flightdeck doors in airplanes operated for the carriage of cargo. Those comments included two comments that the application of the reinforced flightdeck doors was impractical for the types of airplanes involved and the installation of doors would compromise emergency egress. They also stated it would be difficult to address issues, such as the rapid decompression, when retrofitting flightdeck doors to airplanes in which no door had been previously installed. Six commenters were opposed to the installation of flightdeck doors on cargo airplanes based upon economic considerations, including cost of the doors, installation costs, and lost revenues while airplanes were out of service for modifications. Further, two commenters indicated that the costs should be borne by the government.

The CAA represents 13 all-cargo operators, including the largest operators. In its comments, the CAA argued that the ATSA did not require that cargo airplanes be equipped with the reinforced flightdeck door. Therefore, the FAA rule was procedurally deficient because there was inadequate justification for adopting the rule without prior public comment. The CAA also argued that the unique nature of cargo operations would

allow a screening program to provide the same level of security as a retrofit flightdeck door.

*Part 129*

Seven of the 32 commenters to Amendment 129–33 addressed all-cargo operations. Except for the following three comments, commenters raised similar issues described in the discussion of part 121 above. One commenter stated that of all the various types of operators serving the U.S., cargo operators, particularly those that operate on a charter basis, pose the least risk of having their aircraft used as weapons by terrorists. The commenter contends that cargo charter operations do not publish a schedule for services and it would be difficult to know in advance when or where the airplane would be operated.

Another commenter explained that crewmembers leave the flightdeck on a regular basis to visit the galley or lavatory and to perform in-flight duties. There is no flight attendant to ensure the area is clear and secure before a flight crewmember leaves. Also, in the event of an intrusion when a flightcrew member is absent from the flightdeck, a reinforced door will prevent reentry to assist other flightcrew members. This commenter also states that this rule will place it at a competitive disadvantage compared to operators whose fleets are designed and operated with no doors.

At the public meeting, one foreign cargo operator explained that he might not know until 3 hours before a flight which airplane would be used on flights to or from the U.S. The operator believed it would be much more efficient and effective to establish security procedures controlling who has access to the airplanes rather than modifying the doors.

**Requests for Exemptions**

Since January 30, 2002, 11 cargo operators have filed exemption requests from the reinforced door requirements. Two sought relief from the requirement for internal locking devices on existing doors (Special Federal Aviation Regulation (SFAR) 92), three sought relief from part 121, and six sought relief from part 129. In supporting the need for an exemption, requesters cited economic burden caused by the need to make modifications to their airplanes. In several instances, operators indicated that they have a small fleet of airplanes and engineering and design costs would be borne by them alone. The requesters also identified a safety concern with the requirements to close and lock the flightdeck doors. The safety concern is the lack of adequate emergency exits available to persons on either side of a locked reinforced door. Also, four operators indicated their security measures for allowing riders on their cargo airplanes are strict and would compensate for not reinforcing the door.

**Petition for Rulemaking**

Atlas Air submitted a petition for rulemaking that requested the FAA allow cargo carriers to adopt enhanced security plans in lieu of the reinforced flightdeck doors. Most of the issues raised by Atlas were also raised by commenters on the prior reinforced flightdeck rulemakings discussed above. Atlas supported its request with the following points:

- The original rule was premised on the inadequacy of then existing security procedures
- The FAA has since issued detailed procedures for access to cargo airplane flightdecks
- The TSA has since issued additional security requirements that cover certain cargo airplanes
- Reinforced doors are necessary on passenger but superfluous on cargo airplanes
- Cargo operations do not depend on riders
- The number of persons on cargo airplanes is quite small
- Pilots of cargo airplanes are more willing to exclude suspicious persons
- Cargo operators can impose more screening without disrupting schedules
- Access to cargo airplanes is tightly controlled by practice and regulation
- A reinforced door is less effective on a cargo airplane since a terrorist may have an unfettered opportunity to penetrate it
- Keeping terrorists off cargo airplanes is a better alternative
- Cargo doors are expensive and resources could be better utilized elsewhere
- Cost of reinforced doors is much higher than the FAA estimates
- Money is better spent on security procedures keeping terrorists off cargo airplanes
- Passenger airplanes are a higher priority for reinforced doors than cargo airplanes
- Congress is urging a review of reinforced door requirements for cargo airplanes
- ATSA mandated reinforced doors on passenger airplanes, not cargo airplanes
- Two proposed bills before Congress would require reexamination of the issue

*Why Are the Changes Better Than the Old Rule?*

This rule provides an alternative means of compliance for operators. It allows them to meet the security needs for their particular operation through security procedures rather than doors. This option will be available through the security expertise of the TSA. As the economic analysis later in this rule reflects, many operators have airplanes both with and without flightdeck doors. If they adopt security procedures for the airplanes with the doors, they must apply those same procedures to airplanes without doors. By providing the option, operators can decide where to concentrate their limited economic resources. Also, nothing in this rule prevents operators from using both doors and security procedures if they choose.

*What Factors Influenced the Decision To Change the Rule?*

Viability of Enhanced Security Procedures

In acting quickly to establish current standards, the FAA included cargo airplanes with doors in the same security category with passenger carrying airplanes. At the time, security procedures for riders on cargo airplanes had not been enhanced. With a diverse population flying on commercial passenger airplanes, a reinforced door to the flightdeck is essential. In comparison, cargo operations transport far fewer riders, those riders are authorized by the company, and cargo operators have greater discretion in deciding who rides on the airplane. Security procedures can be adapted to fit the needs of cargo operations making the reinforced door less significant in terms of airplane security.

Safety Issues Unique to Cargo Designs

People behind the locked doors on passenger airplanes have multiple exits from the plane. Cargo riders may not. On several models of cargo airplanes, some exits are blocked by cargo or by airplane modifications. Often, modifications of cargo airplanes result in emergency exits being on the other side of the flightdeck door. As a result, rider safety may be significantly compromised if a locked door blocks access to the exits. Without a better security option, the FAA originally concluded that this safety concern was outweighed by the security concern with highjacking. However, since enhanced security procedures are now a viable option, the safety of occupants in an emergency evacuation takes on a higher priority.

Differences in Locations of Persons on Flightdeck of Cargo and Passenger Airplanes

The number and variety of persons who frequently ride on the flightdeck of cargo airplanes are different from those who ride on passenger airplane flightdecks. Under current screening procedures, persons may have access to the flightdeck on cargo airplanes without having undergone the same level of screening used on passenger airplanes. These persons may be in front of the door or behind it. As one commenter pointed out, locking a reinforced door could result in a ''bad'' person being in front of the door, while preventing a ''good'' person seated behind the door from assisting the pilots. This may render reinforced doors less valuable on cargo airplanes.

Need for Tools and Equipment

Cargo operators carry diverse cargo, such as animals and dangerous goods. This requires them to carry persons who need specialized tools and equipment during the flight. This necessary equipment is prohibited on passenger flights. Also, on passenger flights, crewmembers, Federal Air Marshals, and passengers can intervene to inhibit efforts to penetrate the reinforced doors. On cargo operations, the limited number of riders means a terrorist might have time and equipment to defeat the protection offered by the doors.

The Cost of the Doors

The original analysis of reinforced door costs was made before designs had been proposed and approved. The FAA has learned that the door will cost substantially more than originally estimated. Instead of $17,000, nearly all doors will cost at least $50,000, and some as much as $210,000. This cost would be acceptable if it were the only alternative to preventing highjackings. But, with the enhanced security procedures now available, it is incumbent on the FAA to allow operators to select the option that best fits their needs.

*What Comments Do You Believe Support This Rule Change?*

As discussed above, the petition of Atlas Air contained many suggestions and comments that were common to comments received on the original rules. As should be obvious from the rationale explained in the preceding answer, we found many of their points to be persuasive and thus supportive of this rule change.

*What Comments Do You Believe Would Not Support This Rule Change?*

Many comments were received supporting the original rule. In particular, pilots and organizations representing pilots believed that the reinforced door was a valuable step toward assuring the safety of the flightcrew and ultimately the airplanes. These commenters urged additional steps for cargo airplanes, to include expanding the rule to require installation of reinforced doors on all cargo airplanes. This would require installation of reinforced doors on those cargo airplanes that have not had doors. This option will be discussed later.

We expect that these commenters would not favor this rule change and would see it as a lessening of security. We expect to receive comments on this during the comment period. At this point, we are confident that the plans that will be approved by the TSA will be comparable to the security provided by the doors. As discussed above, we believe the change will be better than the reinforced doors in some respects.

*Were There Comments Submitted on the Original Rules That Were Not Considered in This Rule Change?*

Yes. Some comments dealt with issues other than cargo airplanes. Some comments on cargo airplanes were not relevant to this rule change. We will respond to these comments in a separate document that will be published later in the **Federal Register**.

*What Other Options Were Considered?*

Maintaining the Status Quo

We considered this option but decided that the status quo was no longer justified. When the rule was originally adopted, there was no alternative that would provide security for the flightdeck. As discussed previously, this is no longer the case and security procedures can provide a viable security alternative. Operators should have the option of selecting which alternative to use to meet the security goal.

Expanding the Reinforced Door Rule to All Cargo Airplanes

As mentioned previously, this was an option originally supported by pilots and pilot organizations. Whether this is still the case in light of changes since adoption of the original rule will be revealed during the comment period on this rule.

We do not believe that this expansion is either practical or necessary. Many cargo airplanes have no door between the pilot area and aft portions of the flightdeck. On some airplanes, there is existing structure that would readily support a new door. On many other airplanes, however, there is no structure to which a door could be fitted. We have spent over a year administering the current reinforced door rule. We have learned that simply replacing existing doors can be expensive and time-consuming, particularly in design development and approval. Undertaking a retrofit requirement for all cargo airplanes could not be done in the time frame relevant to this rule.

Further, since we have identified security procedures as a valid alternative to a reinforced door in cargo operations, there is currently no justification for the substantial cost involved in retrofit.

As discussed in the next question and answer, responsibility for aviation security and threat assessment resides with the TSA. If the TSA decides that the threat warrants expansion of the reinforced door requirement, the FAA will assist them in developing relevant rules and standards.

Expanding Cargo Security Requirements to All Cargo Operations

The old rule, and this new rule change, cover only those cargo airplanes that had doors. With the transfer of security responsibility, the TSA assumed responsibility for developing and imposing security requirements on all aviation operations. As a result, the FAA no longer has the authority to unilaterally establish security requirements applicable to all cargo operators.

Several operators, including Atlas Air, suggested that expansion of security programs to the entire air cargo industry would be beneficial. The FAA and TSA agree with those comments. The TSA will commence a separate rulemaking on this subject. We hope this expansion will be, in part, a consequence of this rule change. The FAA supports this expansion and will assist the TSA in implementing any changes it deems appropriate.

Eliminating the Ability of Cargo Carriers To Carry Supernumeraries

We considered reducing the ability of cargo operators to carry supernumeraries. Under 14 CFR 121.547 and 121.583, supernumeraries are persons who may be on board but who are not essential to the actual operation of the airplane. Limiting the carriage of supernumeraries would have a crippling effect on many cargo operations. Although not in the passenger carrying business, cargo operators need to carry riders who can handle cargo either

during the flight or at remote destinations where trained support is not available. They often carry additional pilots for long flights and mechanics to service the airplane at remote locations. These concerns were identified in the petitions for exemption mentioned earlier. As a result, we conclude this is not a viable option for protecting the flightdeck of cargo airplanes.

Supernumeraries were partially addressed by the original rule changes that accompanied the reinforced door requirements. In the original rules, we modified § 121.547 and added § 129.28(d) to limit the number of persons authorized on the flightdeck and required additional approvals for such access.

Case-by-Case Exemptions Allowing Security Programs in Lieu of Reinforced Doors

We considered requiring individual exemption applications from cargo operators instead of a rule change. This has been the process for dealing with problems raised under SFAR 92 with its requirement for internal locking devices on flightdeck doors. This has not been efficient, even for the relatively small number of SFAR exemptions.

We anticipate that most, if not all, cargo operators would file exemption requests should we adopt this option instead of a rule change. Dealing with exemption requests would be inefficient and lead to lengthy delays and uncertainty, even if most petitioners raised the same issues. Our immediate adoption of this rule seeks to avoid uncertainty. Also, just as the operators wish to focus their resources on addressing security, we want to use our resources on matters other than individual exemption requests.

*Does This Rule Establish Specific Security Requirements?*

This rule does not require specific security procedures. Rather, a carrier may choose to adopt a security program rather than harden its doors. Security programs may vary from operator to operator because airplanes used, routes and missions flown, and persons carried are not uniform. Instead of establishing specific criteria for a security program, this rule provides flexibility to the operator and the TSA to meet specific needs and threats.

*Who Will Approve New Security Procedures?*

The TSA is the agency with approval authority for security programs and procedures related to alternative compliance with this rule. Operators who have principal security inspectors should work with them in preparing programs and procedures.

*Is This an Airplane Security Issue or an Economic Issue?*

Implementation of any security measure carries with it some costs. The subsequent economic analysis discusses the relative costs of installing reinforced doors versus adopting a security program. Adopting the security program option will cost operators less than installing the reinforced doors. If this were not the case, operators would opt for the doors instead of the security program. But this rule is not just about money. As discussed previously, reinforced doors are not as effective a security measure on cargo airplanes as on passenger airplanes. On many cargo designs, reinforced doors raise safety issues that do not exist on passenger airplanes. Although cost is an issue, it is not the deciding factor in adopting this rule. Security is paramount.

*Will Cargo Airplanes Be Less Secure if Reinforced Doors Are Not Required?*

Airplanes would be less secure if the requirement were dropped without any compensating action. The compensating action expected in this rule is development and implementation of alternative security plans to control who enters cargo aircraft. This will compensate for the lack of doors by keeping potential terrorist's out of the airplane.

As explained above, this rule does not itself establish the criteria for the new program. That program will come from the TSA.

Most importantly, when a security plan is developed, it can be used by all cargo operators, not just those with doors. The result will be greater security for all cargo operations, not just those with existing doors.

Also as discussed above, we believe that the reinforced doors produce vulnerabilities both from a safety and security standpoint that are not present in passenger carrying operations. Providing an alternative to installing reinforced doors reduces those risks.

*What Airplanes or Operations Will Be Affected by This Rule Change?*

This rule will affect both U.S. and foreign operators. For foreign operators, this rule also clarifies the coverage of the rule.

For U.S. certificated operators, only those operations conducted under part 121, utilizing transport category airplanes, for the sole purpose of the carriage of cargo, will be affected. And those operations are only affected if they had a flightdeck door installed on or after January 15, 2002. Those all-cargo operators electing to achieve compliance through a TSA approved security program must apply the security program to the operator's entire fleet of aircraft, not just those with doors. There will be no change for those cargo operators who elect to install the reinforced flightdeck door.

Foreign operators conducting cargo operations under § 129.1(a) are covered when they are operating airplanes with a payload capacity greater than 7,500 pounds and with a flightdeck door installed on or after June 21, 2002. Those all-cargo operators electing to achieve compliance through a TSA approved security program must apply the security program to the operator's entire fleet of aircraft, not just those with doors. There will be no change for those cargo operators who elect to install the reinforced flightdeck door. In addition, nothing precludes a foreign all-cargo air carrier from implementing a TSA security program in addition to reinforcing its flightdeck doors.

*Why Does the Rule Have a June 21, 2002, Threshold Date for Foreign Operators and a January 15, 2002, Threshold Date for U.S. Operators?*

Section 129.28(a)(2) establishes a compliance threshold date of June 21, 2002. Section 121.313(j)(2) establishes a compliance threshold date of January 15, 2002. These threshold dates identify the airplanes that must comply with the rule, and maintains the applicability of the requirement even if operators remove the non-reinforced doors after that date. If an airplane had a non-reinforced door in place (installed) on the threshold date, or if one is installed on the airplane after that date, then the rule requires that such a door be replaced with a reinforced door. Without the threshold date, operators could avoid compliance with the rule by removing the non-reinforced doors. The threshold dates correspond with the issue dates of the original rules imposing the reinforced door requirement on operators. The dates differ because the original rules were not issued at the same time.

*How Will Compliance Be Monitored?*

The FAA is working with the TSA to establish procedures to share information and monitor compliance with various aspects of aircraft security. This is a new relationship and details on specific aspects of the cooperative monitoring effort are not currently in place. We expect, however, that the TSA approval of programs under this rule will occur in cooperation with the FAA

and the FAA will receive information on approved programs either directly from the TSA or through reporting requirements placed on operators. A formal process for either of these alternatives will be established to assure compliance by affected operators.

**Regulatory Evaluation Summary**

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. sections 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.)

In conducting these analyses, the FAA has determined this rule (1) has benefits which justify its costs; (2) is a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 and is ''significant'' as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will have little effect on international trade; and (5) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. The FAA has placed these analyses in the docket and summarizes them below.

*How Many Operators and Airplanes Are Affected by the Rule?*

The FAA determined that 46 U.S. air cargo carriers with 1,132 transport category cargo airplanes operate under part 121. Brokers and leasing companies currently hold 125 turbojet cargo airplanes that could be operated under part 121. Thus, 1,257 cargo airplanes could be affected by this rule. The FAA determined that 540 of these airplanes have a flightdeck door, while 26 air cargo carriers operate at least one airplane with a flightdeck door. Of these 26 air cargo operators, 3 are likely to be large operators (more than 50 airplanes), 9 are likely to be medium sized operators (between 10 and 50 airplanes), and 14 are likely to be small operators (fewer than 10 airplanes).

*What Are the Uncertainties Affecting the Potential Costs of This Rule?*

The cost of a security program could be significantly reduced if the air cargo carrier does not transport any people other than its own employees. To avoid underestimating the potential total cost, the FAA assumed that every affected air cargo operator will occasionally transport people other than their employees. Further, the TSA has not finalized its requirements. This regulatory evaluation does not assume that the TSA will require the screening of cargo. The next question identifies some assumptions about the content of the potential security program. We have not included the potential costs of screening air cargo itself in the estimated costs of these security programs.

*What Are the Bases for the Estimated Costs of a Security Program?*

For the purpose of this economic analysis, we have assumed, for cost purposes only, that the following types of costs might be incurred. Actual costs may vary between programs sought by operators and approved by the TSA. Further, the TSA may choose to require certain components of a security plan that will differ from the assumptions included in the FAA cost analysis. The FAA assumes that air cargo carriers will incur costs from reviewing their employee employment files, performing employee background checks, developing procedures to perform security clearances on non-employee passengers, and applying to the TSA for approval in creating their programs. They will incur similar annual costs in operating the program.

*How Much Will It Cost To Establish and Operate a Security Program?*

The FAA estimates that establishing a security program will cost, on *average*, about $250,000 for a large air cargo airline, about $75,000 for a medium sized air cargo airline, and about $20,000 for a small air cargo airline. The annual cost to operate a security program will average about $120,000 at a large air cargo airline, about $40,000 at a medium sized air cargo airline, and about $10,000 at a small air cargo airline. Thus, if all of the affected air cargo carriers chose to establish security programs, the total first-year cost will be $1.705 million. However, several air cargo operators have voluntarily developed personnel security programs that include some or most of the activities envisioned by the FAA in its cost estimates. Thus, those air cargo operators have already made many of these expenditures and their estimated costs will be lower than those projected. Nevertheless, in order to ensure that the costs are not underestimated, the FAA assumed that no air cargo operator has such a program. Using an anticipated 5.3 percent growth rate of the air cargo industry, the annual costs of operating security programs for 10 years would be $10.265 million. Thus, it will cost air cargo operators a total of $12.330 million, which has a present value of $9.217 million using the 7 percent discount rate required by the Office of Management and Budget.

*How Much Will It Cost To Install Reinforced Flightdeck Security Doors?*

The FAA calculated that installing reinforced doors on the 540 cargo airplanes would cost air cargo operators $66.5 million in 2003.

TABLE 1.—AVERAGE COST PER AIRPLANE TO INSTALL A REINFORCED DOOR BY TYPE OF AIRPLANE

| Type of airplane | Door kit cost | Numbers of labor hours to install | Total labor costs | Number of days out-of-service | Lost net revenue per day | Total lost net revenue | Total costs to install |
|---|---|---|---|---|---|---|---|
| 727 | $65,000 | 96 | $7,680 | 2 | $20,500 | $41,000 | $113,680 |
| 737 | 50,000 | 96 | 7,680 | 2 | 4,500 | 9,000 | 66,680 |
| 747/100/200/300 | 210,000 | 172 | 13,760 | 4 | 24,500 | 98,000 | 321,760 |
| 747/400 | 51,500 | 96 | 7,680 | 2 | 24,500 | 49,000 | 112,020 |
| 757 | 50,000 | 96 | 7,680 | 2 | 20,500 | 41,000 | 98,680 |
| 767 | 50,000 | 96 | 7,680 | 2 | 20,500 | 41,000 | 98,680 |
| DC–10 | 50,000 | 96 | 7,680 | 2 | 24,500 | 49,000 | 106,680 |

TABLE 1.—AVERAGE COST PER AIRPLANE TO INSTALL A REINFORCED DOOR BY TYPE OF AIRPLANE—Continued

| Type of airplane | Door kit cost | Numbers of labor hours to install | Total labor costs | Number of days out-of-service | Lost net revenue per day | Total lost net revenue | Total costs to install |
|---|---|---|---|---|---|---|---|
| DC–8 | 42,000 | 72 | 5,760 | 2 | 20,500 | 41,000 | 88,760 |
| DC–9 | 42,000 | 72 | 5,760 | 1.5 | 4,500 | 6,750 | 54,530 |
| MD–10/11 | 45,000 | 96 | 7,680 | 2 | 24,500 | 49,000 | 101,680 |
| A–300 | 50,000 | 192 | 15,360 | 4 | 20,500 | 82,000 | 147,360 |
| A–300–600 | 50,000 | 192 | 15,360 | 4 | 20,500 | 82,000 | 147,360 |
| A–310 | 50,000 | 192 | 15,360 | 4 | 20,500 | 82,000 | 147,360 |

*Are There Any Other Costs That Would Be Associated With These Reinforced Doors?*

Reinforced flightdeck security doors have electronic systems that would need to be periodically inspected, maintained, and possibly repaired. It would take 8 additional maintenance labor hours every year for these tasks, and the average annual materials costs are minimal. These increased maintenance costs would total 4.4 million between 2004 and 2013, which has a present value of 3.0 million.

Reinforced flightdeck security doors and associated doorway strengthening materials would add weight to the airplane, which would increase fuel consumption. The FAA estimated that the installed door would add 120 pounds to a large cargo airplane, 90 pounds to a medium sized cargo airplane, and 75 pounds to a small cargo airplane. Each additional pound increases annual fuel consumption by 12.25 gallons for a large cargo airplane, 19.1 gallons for a medium sized cargo airplane, and 5.75 gallons for a small cargo airplane. Using a price of $0.80 per gallon, the annual additional fuel cost would be $700,000 in 2004, increasing to $1.1 million in 2013. These additional fuel costs would total $9.5 million between 2004 and 2013, which has a present value of $6.7 million.

*What, Then, Are the Total Costs of Installing These Doors?*

As shown in Table 2, the total costs of installing reinforced security flightdeck doors would be about $80.450 million, which has a present value of about $76.225 million. Of particular note is that the biggest expenditure of $66.5 million would occur in 2003, the first year.

TABLE 2.—TOTAL AND PRESENT VALUES IN 2003 OF COSTS TO INSTALL REINFORCED SECURITY DOORS IN CARGO AIRPLANES THAT CURRENTLY HAVE FLIGHTDECK DOORS

[In millions of dollars]

| Cost to retrofit doors | Increased maintenance cost (2004–2013) | Present value increased maintenance | Increased fuel costs (2004–2013) | Present value increased fuel cost | Total cost | Present value total cost |
|---|---|---|---|---|---|---|
| $66.499 | $4.406 | $3.007 | $9.542 | $6.722 | $80.447 | $76.228 |

*What Is the Net Economic Impact of This Rule?*

If all air cargo operators affected by the final rule chose to develop a TSA-approved security program instead of installing reinforced flightdeck security doors, they would save about $68.117 million between 2003 and 2013, which has a present value of $67.011 million. More importantly, they would save $64.704 million by April 9, 2003. It should be noted that to the extent that several air cargo operators have voluntarily developed these programs, the cost savings have been underestimated. Further, an individual operator has the option to install the reinforced flightdeck security door if it would be financially advantageous. Thus, the FAA determined that this rule provides substantial cost savings to affected air cargo operators.

**Regulatory Flexibility Act**

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This action provides equal regulatory relief to all air cargo carriers. Therefore, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

**Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. The FAA assessed the potential effect of this rulemaking and determined that it provides equal

regulatory relief to both U.S. (under part 121) and foreign air cargo carriers (under part 129). Therefore, the FAA determined that this rule will have a minimal effect on international trade.

**Unfunded Mandates Assessment**

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

**What Other Assessments Has the FAA Conducted?**

*Paperwork Reduction Act*

There are no current or new requirements for information collection associated with this amendment.

*International Compatibility*

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

*Executive Order 13132, Federalism*

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

*Environmental Analysis*

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

*Energy Impact*

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. We have determined that the final rule is not a major regulatory action under the provisions of the EPCA.

**Plain English**

Executive Order 12866 (58 FR 51735, October. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this final rule easier to understand, including answers to questions such as the following:

- Are the requirements in the regulations clearly stated?
- Do the regulations contain technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the question and answer format helpful in understanding the regulations?

Please send your comments to the address specified in the **ADDRESSES** section.

*What Urgency Requires Immediate Adoption of These Changes?*

Under current rules, operators should have installed reinforced doors by April 9, 2003, or the airplane could not be operated after that date. However, the 2003 Consolidated Appropriations Resolution mentioned previously effectively postponed the compliance date for all-cargo aircraft. Absent additional action by Congress, this legislative provision will expire on September 30, 2003. As a result, effective October 1, 2003, cargo operators will have to have installed doors on the affected aircraft or not operate those aircraft.

We have changed the April 9, 2003, date to October 2003, to correspond with the Congressional action. Time is of the essence to operators. The doors are expensive and there is a significant lead-time required to order and install the doors. Cargo operators need to know immediately that there is an alternative to installation of reinforced doors.

Additionally, operators need time to evaluate the requirements of the TSA security procedures, and determine if they can adopt a new security program before the deadline. Delaying the rule for notice and comment would create uncertainty for operators, and frustrate the purpose of the rule.

Further, the FAA received a large number of public comments on this subject through the other rulemakings discussed in this document. We considered those comments in developing this rule.

Sections 553(b)(3)(B) and 553(d)(3) of the Administrative Procedures Act (APA) (5 U.S.C. sections 553(b)(3)(B) and 553(d)(3)) authorize agencies to dispense with certain notice procedures for rules when they find ''good cause'' to do so. Under section 553(b)(3)(B), the requirements of notice and opportunity for comment do not apply when the agency, for good cause, finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' In the context of the APA, impracticable means that, if notice and comment procedures were followed, they would defeat the purpose of the rule. As explained above, the delay associated with notice and comment would negate the security option as a viable alternative to the reinforced door requirement.

For the reasons discussed previously in this document, the FAA finds that notice and public comment on this final rule are impracticable, unnecessary, and contrary to the public interest. This final rule must be adopted promptly to create the certainty and the time needed by cargo operators to meet the airplane security requirements.

**Lists of Subjects**

*14 CFR Part 121*

Air carriers, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 129*

Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

**The Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 121 and 129 as follows:

## PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, 45101–45105, 46105.

■ 2. Sections 121.313(j)(1) and (2) are revised to read as follows:

**§ 121.313 Miscellaneous equipment.**

* * * * *

(j) * * *

(1) After April 9, 2003, for airplanes required by paragraph (f) of this section to have a door between the passenger and pilot or crew rest compartments,

(i) Each such door must meet the requirements of § 25.795(a)(1) and (2) in effect on January 15, 2002; and

(ii) Each operator must establish methods to enable a flight attendant to enter the pilot compartment in the event that a flightcrew member becomes incapacitated. Any associated signal or confirmation system must be operable by each flightcrew member from that flightcrew member's duty station.

(2) After October 1, 2003, for transport category, all-cargo airplanes that had a door installed between the pilot compartment and any other occupied compartment on or after January 15, 2002, each such door must meet the requirements of § 25.795(a)(1) and (2) in effect on January 15, 2002; or the operator must implement a security program approved by the Transportation Security Administration (TSA) for the operation of all airplanes in that operator's fleet.

## PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S. REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

■ 3. The authority citation for part 129 continues to read as follows:

**Authority:** 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec. 104.49 U.S.C.

■ 4. Sections 129.28(c)(1), (2), and (3) are revised to read as follows:

**§ 129.28 Flightdeck security.**

* * * * *

(c) * * *

(1) Except for a newly manufactured airplane on a non-revenue delivery flight, no foreign air carrier covered by § 129.1(a) may operate:

(i) After April 9, 2003, a passenger carrying transport category airplane within the United States, except on overflights, unless the airplane's flightdeck door installation meets the requirements of paragraphs (c)(2) and (c)(3) of this section or an alternative standard found acceptable to the Administrator.

(ii) After October 1, 2003, a transport category all-cargo airplane that had a door installed between the pilot compartment and any other occupied compartment on or after June 21, 2002, within the United States, except on overflights, unless the airplane's flightdeck door installation meets the requirements of paragraphs (c)(2) and (c)(3) of this section or an alternative standard found acceptable to the Administrator; or the operator must implement a security program approved by the Transportation Security Administration (TSA) for the operation of all airplanes in that operator's fleet.

(2) The door must resist forcible intrusion by unauthorized persons and be capable of withstanding impacts of 300 joules (221.3 foot-pounds) at the critical locations on the door, as well as a 1,113-newton (250 pounds) constant tensile load on the knob or handle, and

(3) The door must resist penetration by small arms fire and fragmentation devices to a level equivalent to Level IIIa of the National Institute of Justice Standard (NIJ) 0101.04.

* * * * *

Issued in Washington, DC, on July 11, 2003.

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 03–18075 Filed 7–17–03; 8:45 am]

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Federal Register

Friday,
July 18, 2003

# Part IV

# Environmental Protection Agency

## 40 CFR Part 82

## Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane Production and Consumption; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 82**

**[FRL–7529–4]**

**RIN 2060–AJ27**

## Protection of Stratospheric Ozone: Phaseout of Chlorobromomethane Production and Consumption

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

**ACTION:** Final rule.

**SUMMARY:** In accordance with the *Montreal Protocol on Substances that Deplete the Ozone Layer* (Protocol), EPA is adding chlorobromomethane (CBM) to the list of substances subject to production and consumption controls under the Clean Air Act (CAA) and EPA's implementing regulations. Today's action creates a new Group (Group VIII) of class I substances for CBM, and designates the value of CBM's ''ozone depleting potential'' (ODP) as 0.12. In accordance with the Protocol, today's action will phase out CBM production and consumption upon publication of this rule with permitted exemptions. Today's action also restricts trade in CBM with countries who are not Parties to the Beijing Amendments to the Protocol. EPA received no comments on the Notice of Proposed Rulemaking (NPRM) during the comment period between October 29, 2002 and November 29, 2002.

**DATES:** This rule is effective on August 18, 2003.

**ADDRESSES:** Materials relevant to this rulemaking are contained in Public Docket No. A–92–13, Section XII. The docket is located at U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, NW., Room: B108, Mail Code 6102T, Washington, DC 20004. The materials may be inspected from 8 am until 5:30 pm, Monday through Friday. The telephone number is (202) 566–1742. The fax number is (202) 566–1741. The docket may charge a reasonable fee for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** The Stratospheric Ozone Information Hotline at 1–800–296–1996, or Jabeen Akhtar, U.S. Environmental Protection Agency, Global Programs Division (6205J), 1200 Pennsylvania Avenue, NW., Washington, DC, 20460, (202) 564–3514; *akhtar.jabeen@epa.gov*. You may also visit the Ozone Depletion Web site of EPA's Global Programs Division at *http://www.epa.gov/ozone/index.html* for further information about EPA's Ozone Protection regulations, the science of ozone depletion, and other topics.

**SUPPLEMENTARY INFORMATION:** This document concerns amendments to the production and import controls for ozone-depleting substances (ODS). The amendment concerns the addition of a new controlled substance, chlorobromomethane (CBM), to the list of substances already subject to controls related to production, import, export, destruction, transhipment, essential uses, and feedstock uses.

The regulated categories that may be affected by this action include:

| Category | SIC | NAICS | Examples of potentially regulated entities |
|---|---|---|---|
| 1. Industrial organic chemicals, NEC | 2869 | 325199 | Producers, importers, or exporters of CBM. |
| 2. Pharmaceutical preparations | 2834 | 325412 | Transformers of CBM. |
| 3. Pesticides and agricultural chemicals, NEC | 2879 | 32532 | Transformers of CBM. |
| 4. Chemicals and allied products, NEC | 5169 | 42269 | Lab suppliers of CBM. |
| 5. Testing laboratories, except veterinary testing labs | 8734 | 54138 | Lab users of CBM. |
| 6. Medical and diagnostic laboratories | 8071 | 6215 | Lab users of CBM. |
| 7. Research and development in the physical, engineering and life sciences | 8731 and 8733 | 54171 | Lab users of CBM. |

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be affected. To determine whether your facility, company, business organization, etc., could be regulated by this action, you should carefully examine the applicability criteria in § 82.1(b) of Title 40 of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

**Table of Contents**

I. What Is the Scientific and Legal Background for the Regulations to Phase Out Ozone-Depleting Substances?
II. What Chemicals Are Addressed by Today's Action and How Are They Used?
III. What Are the Elements of the International Agreement To Regulate CBM?
IV. What New U.S. Requirements Will Today's Action Impose?
A. Legal Authority
B. Specific Elements of Today's Action
1. Listing CBM and Controls
2. Ban on Trade With Non-Parties
3. Laboratory Essential Use Exemption
4. Process Agents
5. Recordkeeping and Reporting Requirements
(a) Producers
(b) Importers
(c) Exporters
(d) Destroyers
(e) Transformers
(f) Transhipments and Heels
(g) Laboratory Essential Uses
V. What Other Stratospheric Protection Regulations Will Relate to CBM Following Today's Action?
VI. 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 & 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

### I. What Is the Scientific and Legal Background for Regulations To Phase Out Ozone-Depleting Substances?

In response to the body of evidence linking chlorofluorocarbons (CFCs) and other chlorinated and brominated compounds to ozone depletion, the international community reached agreement in 1987 on a landmark treaty. This treaty, the Montreal Protocol on Substances that Deplete the Ozone

Layer (''Montreal Protocol'' or ''Protocol'') was signed by the United States and ratified on April 4, 1988. The Protocol establishes controls on the production and consumption of ozone depleting chemicals.

In the context of the regulatory program, the use of the term consumption may be misleading. Consumption does not mean the ''use'' of a controlled substance, but rather is defined as the formula: consumption = production + imports −exports, of controlled substances (Article 1 of the Protocol and section 601 of the CAA).

The Clean Air Act Amendments of 1990 direct the EPA to issue regulations to implement the provisions of the Protocol within the United States. Accordingly, EPA developed a scheme of production and consumption controls relative to substances addressed by the Protocol. The current regulatory requirements of the Stratospheric Ozone Protection Program implement the provisions of the Protocol and the Clean Air Act (CAA) by limiting the production and consumption of ozone-depleting substances. These regulatory requirements are codified at subpart A to part 82 of Volume 40 of the Code of Federal Regulations (40 CFR part 82, subpart A). As the control measures of the Protocol have been amended or adjusted, and in consideration of other factors, subpart A has also been amended. For example, following the amendments to the Protocol made at the Fourth Meeting of the Parties in Copenhagen in 1992, a number of changes to the control provisions of subpart A to 40 CFR part 82 were made, including an accelerated phaseout of ODS production and consumption. EPA published a final regulation in December of 1993, implementing the United States' obligation under the Copenhagen amendments (58 FR 65018). Other regulations amending Subpart A include those published on December 20, 1994 (59 FR 65478), May 10, 1995 (60 FR 24970), August 4, 1998 (63 FR 41625), and October 5, 1998 (64 FR 53290).

Although the regulations phased out the production and consumption of class I, Group II substances (halons) on January 1, 1994, and all other class I controlled substances (except methyl bromide) on January 1, 1996, a very limited number of exemptions exist, consistent with U.S. obligations under the Protocol. The regulations allow for the manufacture of phased-out class I controlled substances, provided the substances are either transformed, or destroyed (40 CFR 82.4(b)). They also allow limited manufacture if the substances are (1) exported to countries operating under Article 5 of the Protocol or (2) produced for essential uses as authorized by the Protocol and the regulations.

Limited exceptions to the ban on the import of phased-out class I controlled substances also exist if the substances are: (1) Previously used, (2) imported for essential uses as authorized by the Protocol and 40 CFR part 82, subpart A, (3) imported for destruction or transformation only, or (4) a transhipment (*i.e.*, from one foreign country through the U.S., to another foreign country) or a heel (a small amount of controlled substance remaining in a container after discharge) (40 CFR 82.4(d), 82.13(g)(2)).

## II. What Chemicals Are Addressed by Today's Action and How Are They Used?

Today's action will affect only one chemical, chlorobromomethane (CBM).[1] CBM is a chemical compound found in trace quantities in the atmosphere with both natural and man-made sources. The Parties to the Montreal Protocol designated the ozone-depleting potential of CBM as 0.12. This value is consistent with an examination of scientific investigations on this topic, which concluded that an appropriate range for the ODP of CBM is 0.07—0.15 (See 64 FR 22985, 4/18/99).

The uses of CBM are described in the NPRM published in the **Federal Register** on October 29, 2002 (67 FR 65916).

## III. What Are the Elements of the International Agreement To Regulate CBM?

The NPRM (67 FR 65916, 10/29/02) discussed the Parties' preliminary consideration of CBM as an ozone depleting substance as well as the provisions adopted at the Parties' meeting in Beijing in 1999.

## IV. What Are the New U.S. Requirements Imposed by Today's Action?

### *A. Legal Authority*

Several provisions of the CAA provide the legal authority for today's action. Section 602(a) provides EPA with the general authority to list Class I substances. Section 602(a) requires EPA to add to the list of Class I substances those substances that it finds cause or contribute significantly to harmful effects on the stratospheric ozone layer. Section 602(a) also requires the listing of new substances, pursuant to subsection 602(c), that have an ozone-depleting potential of 0.2 or greater. Section 602(c) requires that the Administrator place newly added Class I substances, to the extent consistent with the Montreal Protocol, either into an existing Group or a new Group. Whenever EPA adds a substance to the Class I list, EPA is also required by section 602(e) to assign a numerical value representing the substance's ozone-depleting potential (ODP). Section 602(e) requires this ODP numerical value to be consistent with the Montreal Protocol if such ODP is specified by the Montreal Protocol.

Those substances listed as a Class I (or Class II) substance are then subject to the monitoring and reporting requirements as set forth and implemented under section 603. Section 603(b) requires that on a quarterly basis, or other such basis as EPA may prescribe, a report be filed with EPA regarding the amount of substance(s) produced, imported, and exported during the preceding reporting period.

Section 604 sets forth the general phase-out schedule of Class I substances and exceptions to the phase-out. Section 604(a) requires EPA to promulgate regulations implementing the phase-out schedule for Class I substances set forth in the CAA. The section 604 phaseout date for most Class I substances is January 1, 2000; however, under section 602(d), EPA may establish a later phaseout date for a newly listed substance if the section 604 phaseout date is unattainable, considering when the substance is listed.

Section 614(b) requires that Title VI of the CAA be ''construed, interpreted, and applied as a supplement to the terms and conditions of the Montreal Protocol, * * *, and shall not be construed, interpreted, or applied to abrogate the responsibilities of the United States to implement fully the provisions of the Montreal Protocol.'' Section 614(b) requires that in the case of any conflict ''between any provision of this title and any provision of the Montreal Protocol, the more stringent provision shall govern.'' Thus, today's actions list CBM and put in place the phaseout controls consistent with the Montreal Protocol.

### *B. Specific Elements of Today's Action*

EPA received no comments in response to the actions proposed in the NPRM (67 FR 65916, 10/29/02). Therefore, EPA is finalizing these actions as they were proposed.

The effective date for all of today's actions will be 30 days from the date of publication of today's rule in the

[1] The terms chlorobromomethane and bromochloromethane are synonymous. They both refer to the chemical, $CH_2BrCl$. Both terms can be found in industry, scientific, and regulatory documents.

**Federal Register**. Under section 604(b) of the CAA, unless otherwise stated, the phaseout date for Class I substances is January 1, 2000. However, pursuant to section 602(d), EPA may establish a later phaseout date for a newly listed substance if the section 604(b) date is unattainable. Because the January 1, 2000 phaseout date is in the past, it is unattainable. Therefore, EPA is establishing a later phaseout date linked to the publication date of the final rule.

Today's effective date takes into consideration that the Beijing Amendments entered-into-force under the Protocol on February 25, 2002, for Parties that have ratified the amendment package. The U.S. Senate gave their advice and consent to the ratification of the Beijing Amendment package on October 9, 2002, but the U.S. must still officially deposit its instrument of ratification with the United Nations. Ninety days following the date the U.S. officially deposits the instrument of ratification for the Beijing Amendment package, the U.S. assumes obligations to comply with the provisions of the Beijing Amendment. Thus, EPA needs to have put in place (prior to the deposit of the instrument of ratification) final regulatory programs that will implement and ensure U.S. compliance with the provisions of the Beijing Amendment package.

1. Listing CBM and Controls

Today's action creates a new Group (Group VIII) of class I substances, places CBM in this new Group, and assigns CBM an ODP of 0.12. Today's action establishes a full ban on CBM production and import. This ban does not apply to the production or import of CBM that is subsequently transformed or destroyed, or to imports of transhipments or heels (see section I). There are no interim phasedown levels; that is, production and import are unrestricted until 30 days after publication of this rule.

Today's action does not allow production for the ''basic domestic needs'' of Article 5 countries for reasons described in section III B of the NPRM (67 FR 65916, 10/29/02).

If there is a need for CBM for laboratory and analytical uses after the phaseout, a framework exists to allow the inclusion of CBM in the production and import exemption for laboratory and analytical uses, described in greater detail in section IV.B.3 of this Preamble.

2. Ban on Trade with Non-Parties

Today's action also prohibits CBM import from and export to a foreign state that is not a Party to the 1999 Beijing Amendments to the Protocol. In accordance with previously established provisions under the Protocol, current EPA regulations (60 FR 24970; 40 CFR 82.4(l)) prohibit certain class I controlled substances from export to or import from foreign states not Parties to the Montreal Protocol or specific amendment packages to the Protocol (*e.g.*, the London Amendments). With today's action, EPA is adding a new subparagraph, § 82.4(l)(5) regarding a CBM trade ban that will become effective 30 days after the date of publication of today's rule in the **Federal Register**.

A list of Parties that have ratified the Montreal Protocol and successive amendments to the Protocol is published as Annex 1 in appendix C to subpart A with today's final action. For the purposes of the trade ban in today's action, companies should refer to appendix C to subpart A of part 82 to identify nations that have not yet ratified the Beijing Amendments. CBM imports from or exports to these nations that have not ratified the Beijing Amendments are prohibited. EPA will publish notices on a periodic basis to update this list (appendix C) to reflect when Parties ratify the Montreal Protocol and its amendments. For additional information on countries that have ratified the Protocol and its amendments, visit the website of the United Nations Environment Program (UNEP) Ozone Secretariat at www.unep.org/ozone/ and look for the ''Status of Ratification.''

3. Laboratory Essential Use Exemption

Article 21 of the Montreal Protocol allows for the possibility of ''essential use'' exemptions from the phaseout established for CBM. The Parties have set up a framework for exempting phased out ozone-depleting substances for laboratory and analytical uses under the context of the essential use exemption. EPA has also provided a *de minimis* exemption for essential laboratory uses of class I ODSs. The criteria identifying exempt applications are specified in appendix G to 40 CFR part 82, subpart A.

The existing framework for exempting laboratory and analytical uses is found in the criteria listed in appendix G of subpart A of 40 CFR part 82. Entities wishing to use the exemption for laboratory and analytical uses for CBM should refer to this criteria, which include purity standards, containment requirements, and recycling and disposal requirements for the substance. No prior approval is needed to use the exemption for continued production and import of CBM, as long as the criteria listed in appendix G of subpart A of 40 CFR part 82 are met and the recordkeeping and reporting requirements specified in 40 CFR 82.13 (v) to (z) of subpart A, which are summarized later in this Preamble, are followed. For further information about the essential use exemption, you may refer to the NPRM (67 FR 65916, 10/29/02).

On February 11, 2002, EPA extended the exemption for laboratory and analytical uses through the year 2005, while eliminating the following uses, consistent with Decision XI/15: (a) Testing of oil, grease and total petroleum hydrocarbons in water; (b) Testing of tar in road-paving materials; and (c) Forensic finger-printing (67 FR 6352). However, it should be noted that the Parties to the Montreal Protocol have not extended the global laboratory and analytical essential-use exemption indefinitely. This issue is further discussed at 66 FR 14767 (3/13/01).

4. Process Agents

Controlled substances produced or imported as process agents are listed in table A of Decision X/14 of the Meetings of the Parties to the Montreal Protocol. Parties may propose additions to the list of controlled substances designated as process agents by sending a detailed proposal to the Ozone Secretariat, which will forward them to the Technology and Economic Assessment Panel (TEAP). The Panel will then investigate the proposed change and make a recommendation to the Parties whether or not the proposed use should be added to the list by decision of the Parties.

In advance of publication of the NPRM (67 FR 65916, 10/29/02), EPA received a letter from one stakeholder requesting that their use of CBM as a solvent in the process of producing a polymer additive be considered a process agent use. Based on information in this letter, EPA determined this company's use of CBM to be exempt from restrictions on controlled substances in 40 CFR part 82, subpart A. EPA submitted a request to the Parties to the Protocol to add this use of CBM to the list of process agents in Table A of Decision X/14 and to change the emissions limit for the United States in Table B to reflect this addition. The TEAP considered this U.S. request regarding the process agent use of CBM and recommended to the Parties its inclusion in Table A of Decision X/14. The Parties are expected to act on the U.S. request during their meeting in the fall of 2003.

5. Recordkeeping and Reporting Requirements

With the designation of CBM as a class I ODS, existing recordkeeping and reporting requirements in 40 CFR 82.13 will apply to production, importation, destruction, transformation, transhipments, export, or essential uses of CBM. Potentially affected parties are urged to consult the relevant regulatory paragraphs in 40 CFR 82.13, subpart A. In addition, guidance and reporting forms for these requirements are available from EPA's Stratospheric Ozone Hotline ((800) 296–1996).

(a) Producers

Entities that produce CBM, as for other class I controlled substances, must submit a report to the EPA Administrator within 120 days of publication of this rule, describing in detail how daily production quantities are measured and recorded, including how fugitive losses are accounted for and the estimated percent efficiency of the production process. These entities must also maintain detailed records pertaining to (i) the quantity of controlled substances produced at each facility and the purposes for which they are produced, used, and sold, with certain written verifications; (ii) quantities of other chemicals produced within each facility and quantities of inputs used in the production of controlled substances; and (iii) shipments of controlled substances produced at each facility. These entities must, in addition, submit a quarterly report identifying quarterly production amounts and amounts sold, transferred, or exported (and specifying amounts transformed or destroyed by the producer or recipient), with appropriate verifications; and a list of the essential-use (including laboratory essential use) allowance holders from whom orders were placed and the quantity of essential-use controlled substances requested and produced, with appropriate verifications. See 40 CFR part 82, subpart A (§ 82.13) for the complete reporting and recordkeeping requirements.

(b) Importers

According to EPA's existing requirements for ODSs, a person may import a used class I controlled substance if they comply with the petition process described in 40 CFR 82.4(j), 40 CFR 82.13(g)(2), and (3), and the revisions to this process published in a final rule in the **Federal Register** on December 31, 2002 (67 FR 79861), entitled ''Protection of Stratospheric Ozone: Additional Reconsideration of Petition Criteria and Incorporation of Montreal Protocol Decisions.'' Under the Protocol and the CAA, the import of ''used controlled substances'' does not count against a country's obligation to completely phase out import. Therefore, with the listing of CBM as a class I controlled substance, an importer of used, recycled, or reclaimed CBM is subject to the requirements specified in these sections. Specifically, importers of used, recycled, or reclaimed controlled substances and transshipments would need to fulfill the import petition process.

The revised petition process for Class I substances (67 FR 79861, 12/31/02) now requires that for each individual shipment of greater than five lbs, at least 40 working days before the shipment leaves the foreign port of export, the importer must submit to EPA a petition including the identity and quantity of the controlled substance; information pertaining to the source, foreign owner, and exporter of the controlled substance, information regarding the previous use and identity of any domestic or foreign reclaimer; information on the equipment from which the substance was recovered at each source, information on import port of entry, vessel, and dates of shipment; the intended use of the controlled substance, an export license from the appropriate government agency in the country of export, and certification of the accuracy of the information included in the petition.

Entities that import CBM are also subject to the standard recordkeeping and reporting requirements for importers of class I substances. These include the requirement to maintain detailed records of the quantity of each controlled substance, including information and documentation pertaining to the amounts that may be in mixtures, that are used, recycled or reclaimed, that are for use or sold for use in processing resulting in their transformation or destruction, and that are imported for essential uses; and including documentation and/or certification relating to port of entry, country from which the substance was imported, bill of lading, the U.S. customs entry form, and intended use of the imported substance. Such entities must also submit to EPA a quarterly report summarizing the records described above and including certifications regarding the intended use of controlled substances (*e.g.*, transformation, destruction, essential uses). In the case of imports of used (including recycled or reclaimed) controlled substances, or heels of controlled substances, bills of lading or invoices must be labeled, indicating that the controlled substance is used, recycled, reclaimed, or a heel, as appropriate. See 40 CFR part 82, subpart A (§ 82.13) for complete reporting and recordkeeping requirements.

(c) Exporters

Exporters of CBM, as for other class I controlled substances, must submit information within 45 days after the end of the control period, including the names and addresses of the exporter and the recipient of the exports, the type and quantity of the controlled substances exported, percentage which is used, recycled, or reclaimed, date/port of export, amount exported to Article 5 countries, and documentation or certification relating to purchaser's or importer's intent to transform or destroy the controlled substance. Exporters of class I controlled substances must also label, in the case of exports of used (including recycled or reclaimed) controlled substance, bills of lading or invoices, indicating that the controlled substance is used, recycled, or reclaimed. *See* 40 CFR part 82, subpart A (§ 82.13) for the complete reporting and recordkeeping requirements.

(d) Destroyers

Entities that destroy CBM, as with other class I controlled substances, must submit a one-time report stating the destruction unit's efficiency and the methods used to determine destruction efficiency and to record the volume destroyed. Changes to these methods must be reported within 60 days of the change. The report must also include names of other regulations applicable to the destruction process. Such entities must also provide the producer or importer from whom they purchased or received the controlled substances with a verification that controlled substances will be used in processes that result in their destruction. Destroyers of class I controlled substances must also report the names and quantities of class I controlled substances destroyed for each control period within 45 days of the end of the control period. *See* 40 CFR part 82, subpart A (§ 82.13) for the complete reporting and recordkeeping requirements.

(e) Transformers

Entities that transform CBM, as for other class I controlled substances, must provide the producer or importer of the controlled substances the IRS certification that the controlled substances are to be used in processes resulting in their transformation, and report the names and quantities of class I controlled substances transformed for each control period within 45 days of

the end of the control period. *See* 40 CFR part 82, subpart A (§ 82.13) for the complete reporting and recordkeeping requirements.

(f) Transhipments and Heels

Entities that bring back a container with a heel of CBM to the United States must report quarterly the amount brought into the United States, certifying that the residual amount in each shipment is less than 10% of the volume of the container and will remain in the container and be included in a future shipment, be recovered and transformed or destroyed, or be recovered for a non-emissive use. They must also report on the final disposition of each shipment within 45 days of the end of the control period. Entities that transship a controlled substance must maintain records that indicate that the controlled substance shipment originated in a foreign country destined for another foreign country, and does not enter interstate commerce with the United States.

(g) Laboratory Essential Uses

CBM that is to be used in laboratory applications is exempted from the ban in the same manner that all other Class I ODSs are exempted for laboratory uses. Laboratory distributors who sell CBM under this exemption are subject to the reporting requirements outlined in 40 CFR part 82, subpart A (§ 82.13). These reporting requirements are as follows: Laboratory distributors/suppliers must report quarterly the quantity received of each class I controlled substance from each producer or importer. Distributors must also keep on record certifications from customers who purchase CBM (or any Class I ODS) stating that the CBM will only be used in laboratory applications defined in 40 CFR part 82, subpart A (§ 82.13), appendix G. (Laboratory customers purchasing a controlled substance under the global laboratory essential-use exemption must provide the producer, importer or distributor with a one-time-per-year certification for each controlled substance that the substance will only be used for laboratory applications and not be resold or used in manufacturing). Distributors must report quarterly the quantity of the controlled substance purchased by each laboratory customer. If the controlled substances are only sold as reference standards for calibrating laboratory analytical equipment, the distributor may write a letter to the EPA Administrator requesting permission to submit these reports annually rather than quarterly. See 40 CFR part 82, subpart A (§ 82.13) for complete reporting and recordkeeping requirements.

## V. What Other Stratospheric Protection Regulations Will Relate to CBM Following Today's Action?

A regulation originally published on February 11, 1993 (58 FR 8136) and amended at 60 FR 4020 (January 19, 1995) establishes requirements pertaining to labeling of products containing or made with ozone-depleting substances. The text of that regulation (as well as Fact Sheets about it) can be found at the following Web site: *http://www.epa.gov/ozone/title6/labeling/labeling.html.* The labeling requirements apply to products manufactured with, containers of, and products containing specific ozone-depleting substances pursuant to section 611 of the CAA. Specifically, the regulations require products that are manufactured with a process using a class I substance; products containing a class I substance; and containers of a class I or class II (hydrochlorofluorocarbons (HCFCs)) substance or mixture to bear a ''clearly legible and conspicuous'' warning statement. Manufacturers, distributors, wholesalers, and retailers of products manufactured with, containers of, and products containing CBM are therefore required to comply with the labeling requirements which would become applicable to CBM one year after its final listing as a class I ODS; See 40 CFR part 82, subpart E.

## VI. Statutory and Executive Order Reviews

### *A. Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The 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 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 rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

### *B. Paperwork Reduction Act*

The information collection requirements in this rule have been approved by the Office of Management and Budget (OMB) (OMB Control Number 2060–0170) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1432.22) and a copy may be obtained from Susan Auby by mail at Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460, by email at *auby.susan @epa.gov,* or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.*

As explained in EPA's ICR document, EPA's Office of Air and Radiation is revising the previously approved information collection by the same title.[2] Today's action imposes new recordkeeping and reporting requirements associated with the production, import, export, recycling, destruction, transhipment, and feedstock use of CBM. Specifically, producers, importers, and exporters will be required to submit to EPA quarterly reports of the quantity of CBM in each of their transactions; they will also be required to report the quantity of CBM transformed or destroyed. Producers, importers, and exporters of CBM must also maintain records such as Customs entry forms, bills of lading, sales records, and canceled checks to support their quarterly reports. The quarterly reports may be faxed or mailed to EPA, where they will be handled as confidential business information. EPA will store the submitted information in a computerized database designed to track production, import, and export balances and transfer activities. EPA is currently exploring the possibility of having reports filed and submitted to the Agency over a secure Web site. If

[2] On March 5, 2001, the Office of Management and Budget (OMB) approved EPA's request for the extension of approval of this ICR. The request for extension was submitted by EPA on November 29, 2000. With that approval, OMB stated that it ''understands that EPA is in the process of developing several rules that would result in revisions to this collection * * * EPA will need to revise this collection as part of those rulemaking processes.'' This ICR revision is one such revision.

and when electronic reporting would occur, EPA would change its guidance document and its ICR to indicate a change in burden hours. EPA will use the information to ensure that the U.S. maintains compliance with the Protocol requirements and to report annually to United Nations Environment Programme the U.S. activity in CBM. EPA will store the submitted information in a computer system designed to track production, import, and export balances and transfer activities. EPA estimates that the information collection will involve approximately 133 respondents: 2 producers, 2 exporters, 8 importers, 100 laboratory certifiers, 8 transformers and destroyers, 6 essential use allowance holders, 2 laboratory suppliers, and 5 laboratory suppliers (reference standards). The total annual industry burden and cost are estimated at 2,580 hours and $201,350, of which $3,000 are annual operating and maintenance (O&M) costs.

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 are listed in 40 CFR part 9 and 48 CFR chapter 15. Comments were requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. No comments were received.

*C. Regulatory Flexibility Act*

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities. For purposes of assessing the impact of today's rule on small entities, small entities are defined as: (1) A small business that is identified by the North American Industry Classification System (NAICS) code, in the Table below; (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. The size standards described in this section apply to all Small Business Administration (SBA) programs unless otherwise specified. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a concern and its affiliates to be considered small.

| Category | SIC code | NAICS code | SIC small business size standard (in number of employees or millions of dollars) |
|---|---|---|---|
| 1. Industrial organic chemicals, NEC | 2869 | 325199 | 1,000 |
| 2. Pharmaceutical preparations | 2834 | 325412 | 750 |
| 3. Pesticides and agricultural chemicals, NEC | 2879 | 32532 | 500 |
| 4. Chemicals and allied products, NEC | 5169 | 42269 | 100 |
| 5. Testing laboratories, except veterinary testing labs | 8734 | 54138 | $5.0 |
| 6. Medical and diagnostic laboratories | 8071 | 6215 | $5.0 |
| 7. Research and development in the physical, engineering and life sciences | 8731 and 8733 | 54171 | $5.0 |

After considering the economic impacts of today's final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. The only small entities that will be impacted by the recordkeeping and reporting requirements of this rule are laboratories. We have determined that about 100 laboratories (only a portion of which are owned by small entities) will experience an annual estimated impact of $7,688 due to the reporting and recordkeeping requirements described in 40 CFR part 82, subpart A (§ 82.13).

In addition to the recordkeeping and reporting requirements, today's action bans the production and import of CBM. There are only 2 known producers of CBM in the United States. These are large, multinational corporations and not small entities. In addition, informal discussions with these producers indicate that virtually all of their CBM production is for customers who transform CBM; this production is not subject to the CBM phaseout implemented by today's action.

Regarding import, EPA records indicate that during the years 1995–1999 (the years for which data were available), 22 companies had imported CBM during one or more years. Of these, 16 had imported CBM in only one of the 5 years of record. Informal discussions with the primary importer (responsible for 77% of the imported CBM) indicate that 80–85% of their imports are for transformation. Thus, the impacts of today's action on CBM importers will also be limited (providing that import is from countries that are Parties to or in compliance with the Beijing Amendments).

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. Laboratories will only be required to certify purchases of CBM one time per year, in which they must indicate their use of CBM will only be used for laboratory or analytical purposes and identify the specific use to which the substance will be put. This requirement

is to ensure proper use of exempted production and import and allow the U.S. to report specific information to the Montreal Protocol under Annex II of Decision VI/9. EPA received no comment on the NPRM (67 FR 65916, 10/29/02) regarding impact on laboratories.

EPA conducted outreach to consult with and notified the potentially affected community of today's action. EPA sent letters on February 28, 2001, and again on April 25, 2000, to all importers for which addresses could be found, as well as other identified entities that may be impacted by this rule, notifying them of EPA's anticipated implementation of the 1999 Beijing Amendments to the Montreal Protocol, including the ban on production and import, and new recordkeeping and reporting requirements. EPA received no adverse concern by any recipient of the letters.

*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 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 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.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Today's ban on production and import is expected to have minimal economic impact because production and import for feedstock uses (which represent the majority of current production and import uses) are exempt from the ban. Furthermore, CBM use has been largely curtailed by prior environmental and safety regulations in the fire protection, explosion suppression, and solvent sectors. Therefore the ban of CBM is not expected to significantly affect the regulated community.

Based upon research and information available to EPA at this time, EPA understands that the regulated community directly impacted by today's action is restricted in size. Potentially regulated entities include entities that produce, export, or import CBM; entities that use CBM in a process that results in its transformation or destruction; entities that are laboratory suppliers of CBM; and entities with laboratory uses of CBM. For all of these entities, there would be new recordkeeping and reporting requirements imposed by today's action, but these are estimated to be minimal (approximately a total for the industry of $200,000 per year; see VII.B. for explanation of this estimate).

Thus, today's rule is not subject to the requirements of sections 202 or 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments; therefore, we are not required to develop a plan with regard to small governments under section 203.

*E. 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 the various levels of government.''

This final rule will not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

Today's rule is expected to primarily affect private sector entities that either produce, import, export, transform, or use or supply CBM for laboratory purposes. EPA is not aware of any current uses of CBM by public sector entities. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

This final rule does not have tribal implications, as specified in Executive Order 13175. It 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, as specified in Executive Order 13175.

Today's rule is expected to primarily affect private sector entities that either produce, import, export, transform, or use or supply CBM for laboratory purposes. EPA is not aware of any current uses of CBM by tribal governments or their communities. Thus, Executive Order 13175 does not apply to this rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicited additional comment on this rule from tribal officials. No comments were received.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an

environmental health 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.

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 Order has the potential to influence the regulation.

This final rule is not subject to the Executive Order 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. This rule implements an obligation of the United States to implement fully the provisions of the Montreal Protocol and is not directly based on health or safety risks.

*H. Executive Order 13211: Action That Significanty 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 under Executive Order 12866.

*I. National Technology Transfer Advancement Act*

As noted in the proposed rule, 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 note) 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 standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

*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. 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 October 16, 2003.

**List of Subjects in 40 CFR Part 82**

Environmental protection, Administrative practice and procedure, Air pollution control, Chemicals, Exports, Government procurement, Imports, Labeling, Reporting and recordkeeping requirements .

Dated: July 11, 2003.

**Christine Todd Whitman,**

*Acting Administrator.*

■ For reasons set out in the preamble, 40 CFR part 82 is amended as follows:

## PART 82—PROTECTION OF STRATOSPHERIC OZONE

■ 1. The authority citation for part 82 continues to read as follows:

**Authority:** 42 U.S.C. 7414, 7601, 7671–7671q.

## Subpart A—Production and Consumption Controls

■ 2. Section 82.3 is amended by:
■ a. Adding in alphabetical order the definition of Beijing Amendments.
■ b. Revising the last sentence in the definition of Controlled substances.

The revision and addition read as follows:

### § 82.3 Definitions.

* * * * *

*Beijing Amendments* means the Montreal Protocol, as amended at the Eleventh Meeting of the Parties to the Montreal Protocol in Beijing in 1999.

* * * * *

*Controlled substance* * * * Class I substances are further divided into eight groups, Group I, Group II, Group III, Group IV, Group V, Group VI, Group VII, and Group VIII, as set forth in appendix A to this subpart.

* * * * *

■ 3. Section 82.4 is amended by:
■ a. Revising the first sentence of paragraph (b),
■ b. Revising the first sentence of paragraph (d),
■ c. Adding paragraph (l)(5).

The revisions and addition read as follows:

### § 82.4 Prohibitions.

* * * * *

(b) Effective January 1, 1996, for any class I, Group I, Group II, Group III, Group IV, Group V, or Group VII controlled substances, and effective January 1, 2005, for any class I, Group VI controlled substance, and effective August 18, 2003, for any class I, Group VIII controlled substance, no person may produce, at any time in any control period, (except that are transformed or destroyed domestically or by a person of another Party) in excess of the amount of conferred unexpended essential-use allowances or exemptions under this section, or the amount of unexpended Article 5 allowances as allocated under § 82.9 for that substance held by that person under the authority of this subpart at that time for that control period. ***

* * * * *

(d) Effective January 1, 1996, for any class I, Group I, Group II, Group III, Group IV, Group V, or Group VII controlled substances, and effective January 1, 2005, for any class I, Group VI controlled substance, and effective August 18, 2003, for any class I, Group VIII controlled substance, no person may import (except for transhipments or heels), at any time in any control period, (except for controlled substances that are transformed or destroyed) in excess of the amount of unexpended essential-use allowances or exemptions as allocated under this section for that substance held by that person under the authority of this subpart at that time for that control period. * * *

* * * * *

(l) * * *

(5) Import or export any quantity of a controlled substance listed in Class I, Group VIII, in appendix A to this subpart, from or to any foreign state not Party to the Beijing Amendments (as noted in appendix C, Annex 1, to this subpart), unless that foreign state is complying with the Beijing Amendments (as noted in appendix C, Annex 2, to this subpart).

* * * * *

■ 4. Section 82.13 is amended by:
■ a. Revising paragraph (a).
■ b. Revising paragraph (f)(1) introductory text.

The revisions read as follows:

**§ 82.13 Recordkeeping and reporting requirements.**

(a) Unless otherwise specified, the recordkeeping and reporting requirements set forth in this section take effect on January 1, 1995. For class I, Group VIII controlled substances, the recordkeeping and reporting requirements set forth in this section take effect on August 18, 2003.

* * * * *

(f) * * *

(1) Within 120 days of May 10, 1995, or within 120 days of the date that a producer first produces a class I controlled substance, whichever is later, and within 120 days of July 18, 2003 for class I, Group VIII controlled substances, every producer who has not already done so must submit to the Administrator a report describing:

* * * * *

■ 5. Appendix A to subpart A is amended by adding paragraph H to read as follows:

**Appendix A to Subpart A of Part 82—Class 1 Controlled Substances**

Class 1 controlled substances ODP

* * * * *

H. Group VIII:

CH2BrCl (Chlorobromomethane 0.12

■ 6. Appendix C to subpart A is revised to read as follows:

**Appendix C to Subpart A of Part 82—Parties to the Montreal Protocol, and Nations Complying With, But Not Parties to, the Protocol**

**Annex 1 to Appendix C of Subpart A—Parties to the Montreal Protocol (as of April 11, 2003)**

The check mark [✓] means the particular country ratified the Protocol or the specific Amendment package. Amendment packages are identified by the name of the city where the amendment package was negotiated and agreed. Updated lists of Parties to the Protocol and the Amendments can be located at: *www.unep.org/ozone/ratif.shtml*.

| Foreign State | Montreal protocol | London amendment | Copenhagen amendments | Montreal amendments | Beijing amendments |
|---|---|---|---|---|---|
| Albania | ✓ | | | | |
| Algeria | ✓ | ✓ | ✓ | | |
| Angola | ✓ | | | | |
| Antigua and Barbuda | ✓ | ✓ | ✓ | ✓ | |
| Argentina | ✓ | ✓ | ✓ | ✓ | |
| Armenia | ✓ | | | | |
| Australia | ✓ | ✓ | ✓ | ✓ | |
| Austria | ✓ | ✓ | ✓ | ✓ | |
| Azerbaijan | ✓ | ✓ | ✓ | ✓ | |
| Bahamas | ✓ | ✓ | ✓ | | |
| Bahrain | ✓ | ✓ | ✓ | ✓ | |
| Bangladesh | ✓ | ✓ | ✓ | ✓ | |
| Barbados | ✓ | ✓ | ✓ | ✓ | ✓ |
| Belarus | ✓ | ✓ | | | |
| Belgium | ✓ | ✓ | ✓ | | |
| Belize | ✓ | ✓ | ✓ | | |
| Benin | ✓ | ✓ | ✓ | | |
| Bolivia | ✓ | ✓ | ✓ | ✓ | |
| Bosnia and Herzegovina | ✓ | | | | |
| Botswana | ✓ | ✓ | ✓ | | |
| Brazil | ✓ | ✓ | ✓ | | |
| Brunei Darussalam | ✓ | | | | |
| Bulgaria | ✓ | ✓ | ✓ | ✓ | ✓ |
| Burkina Faso | ✓ | ✓ | ✓ | ✓ | ✓ |
| Burundi | ✓ | ✓ | ✓ | ✓ | ✓ |
| Cambodia | ✓ | | | | |
| Cameroon | ✓ | ✓ | ✓ | | |
| Canada | ✓ | ✓ | ✓ | ✓ | ✓ |
| Cape Verde | ✓ | ✓ | ✓ | ✓ | |
| Central African Republic | ✓ | | | | |
| Chad | ✓ | ✓ | ✓ | ✓ | |
| Chile | ✓ | ✓ | ✓ | ✓ | ✓ |
| China | ✓ | ✓ | | | |
| Colombia | ✓ | ✓ | ✓ | | |
| Comoros | ✓ | ✓ | ✓ | ✓ | ✓ |
| Congo | ✓ | ✓ | ✓ | ✓ | ✓ |
| Congo, Democratic Republic of | ✓ | ✓ | ✓ | | |
| Costa Rica | ✓ | ✓ | ✓ | | |
| Cote d'Ivoire | ✓ | ✓ | | | |
| Croatia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Cuba | ✓ | ✓ | ✓ | | |
| Cyprus | ✓ | ✓ | | | |
| Czech Republic | ✓ | ✓ | ✓ | ✓ | ✓ |
| Denmark | ✓ | ✓ | ✓ | | |
| Djibouti | ✓ | ✓ | ✓ | ✓ | |
| Dominica | ✓ | ✓ | | | |
| Dominican Republic | ✓ | ✓ | ✓ | | |
| Ecuador | ✓ | ✓ | ✓ | | |
| Egypt | ✓ | ✓ | ✓ | ✓ | |
| El Salvador | ✓ | ✓ | ✓ | ✓ | |
| Equatorial Guinea | | | | | |
| Estonia | ✓ | ✓ | ✓ | ✓ | |

| Foreign State | Montreal protocol | London amendment | Copenhagen amendments | Montreal amendments | Beijing amendments |
|---|---|---|---|---|---|
| Ethiopia | ✓ | | | | |
| European Community | ✓ | ✓ | ✓ | ✓ | ✓ |
| Federated States of Micronesia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Fiji | ✓ | ✓ | ✓ | | |
| Finland | ✓ | ✓ | ✓ | ✓ | ✓ |
| France | ✓ | ✓ | ✓ | | |
| Gabon | ✓ | ✓ | ✓ | ✓ | ✓ |
| Gambia | ✓ | ✓ | | | |
| Georgia | ✓ | ✓ | ✓ | ✓ | |
| Germany | ✓ | ✓ | ✓ | ✓ | ✓ |
| Ghana | ✓ | ✓ | ✓ | | |
| Greece | ✓ | ✓ | ✓ | | |
| Grenada | ✓ | ✓ | ✓ | ✓ | |
| Guatemala | ✓ | ✓ | ✓ | ✓ | ✓ |
| Guinea | ✓ | ✓ | | | |
| Guinea Bissau | ✓ | ✓ | ✓ | ✓ | ✓ |
| Guyana | ✓ | ✓ | ✓ | ✓ | |
| Haiti | ✓ | ✓ | ✓ | ✓ | |
| Honduras | ✓ | ✓ | ✓ | | |
| Hungary | ✓ | ✓ | ✓ | ✓ | ✓ |
| Iceland | ✓ | ✓ | ✓ | ✓ | |
| India | ✓ | ✓ | ✓ | ✓ | ✓ |
| Indonesia | ✓ | ✓ | ✓ | | |
| Iran, Islamic | ✓ | ✓ | ✓ | ✓ | |
| Ireland | ✓ | ✓ | ✓ | | |
| Israel | ✓ | ✓ | ✓ | | |
| Italy | ✓ | ✓ | ✓ | ✓ | |
| Jamaica | ✓ | ✓ | ✓ | | |
| Japan | ✓ | ✓ | ✓ | ✓ | ✓ |
| Jordan | ✓ | ✓ | ✓ | ✓ | ✓ |
| Kazakhstan | ✓ | ✓ | | | |
| Kenya | ✓ | ✓ | ✓ | ✓ | |
| Kiribati | ✓ | | | | |
| Korea, Democratic People's Republic of | ✓ | ✓ | ✓ | ✓ | ✓ |
| Korea, Republic of | ✓ | ✓ | ✓ | ✓ | |
| Kuwait | ✓ | ✓ | ✓ | | |
| Kyrgyzstan | ✓ | | | | |
| Lao, People's Democratic Republic | ✓ | | | | |
| Latvia | ✓ | ✓ | ✓ | ✓ | |
| Lebanon | ✓ | ✓ | ✓ | ✓ | |
| Lesotho | ✓ | | | | |
| Liberia | ✓ | ✓ | ✓ | | |
| Libyan Arab Jamahiriya | ✓ | ✓ | | | |
| Liechtenstein | ✓ | ✓ | ✓ | | |
| Lithuania | ✓ | ✓ | ✓ | | |
| Luxembourg | ✓ | ✓ | ✓ | ✓ | ✓ |
| Madagascar | ✓ | ✓ | ✓ | ✓ | ✓ |
| Malawi | ✓ | ✓ | ✓ | | |
| Malaysia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Maldives | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mali | ✓ | ✓ | ✓ | ✓ | |
| Malta | ✓ | ✓ | | | |
| Marshall Islands | ✓ | ✓ | ✓ | ✓ | |
| Mauritania | ✓ | | | | |
| Mauritius | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mexico | ✓ | ✓ | ✓ | | |
| Moldova | ✓ | ✓ | ✓ | | |
| Monaco | ✓ | ✓ | ✓ | ✓ | ✓ |
| Mongolia | ✓ | ✓ | ✓ | ✓ | |
| Morocco | ✓ | ✓ | ✓ | | |
| Mozambique | ✓ | ✓ | ✓ | | |
| Myanmar | ✓ | ✓ | | | |
| Namibia | ✓ | ✓ | | | |
| Nauru | ✓ | | | | |
| Nepal | ✓ | ✓ | | | |
| Netherlands | ✓ | ✓ | ✓ | ✓ | ✓ |
| New Zealand | ✓ | ✓ | ✓ | ✓ | ✓ |
| Nicaragua | ✓ | ✓ | ✓ | | |
| Niger | ✓ | ✓ | ✓ | ✓ | |
| Nigeria | ✓ | ✓ | ✓ | ✓ | |
| Norway | ✓ | ✓ | ✓ | ✓ | ✓ |
| Oman | ✓ | ✓ | ✓ | | |
| Pakistan | ✓ | ✓ | ✓ | | |

| Foreign State | Montreal protocol | London amendment | Copenhagen amendments | Montreal amendments | Beijing amendments |
|---|---|---|---|---|---|
| Palau | ✓ | ✓ | ✓ | ✓ | ✓ |
| Panama | ✓ | ✓ | ✓ | ✓ | ✓ |
| Papua New Guinea | ✓ | ✓ | | | |
| Paraguay | ✓ | ✓ | ✓ | ✓ | |
| Peru | ✓ | ✓ | ✓ | | |
| Philippines | ✓ | ✓ | ✓ | | |
| Poland | ✓ | ✓ | ✓ | ✓ | |
| Portugal | ✓ | ✓ | ✓ | | |
| Qatar | ✓ | ✓ | ✓ | | |
| Romania | ✓ | ✓ | ✓ | ✓ | |
| Russian Federation | ✓ | ✓ | | | |
| Rwanda | ✓ | | | | |
| Saint Kitts & Nevis | ✓ | ✓ | ✓ | ✓ | |
| Saint Lucia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Saint Vincent and the Grenadines | ✓ | ✓ | ✓ | | |
| Samoa | ✓ | ✓ | ✓ | ✓ | ✓ |
| Sao Tome and Principe | ✓ | ✓ | ✓ | ✓ | ✓ |
| Saudi Arabia | ✓ | ✓ | ✓ | | |
| Senegal | ✓ | ✓ | ✓ | ✓ | |
| Seychelles | ✓ | ✓ | ✓ | ✓ | ✓ |
| Sierra Leone | ✓ | ✓ | ✓ | ✓ | ✓ |
| Singapore | ✓ | ✓ | ✓ | ✓ | |
| Slovakia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Slovenia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Solomon Island | ✓ | ✓ | ✓ | ✓ | |
| Somalia | ✓ | ✓ | ✓ | ✓ | ✓ |
| South Africa | ✓ | ✓ | ✓ | | |
| Spain | ✓ | ✓ | ✓ | ✓ | ✓ |
| Sri Lanka | ✓ | ✓ | ✓ | ✓ | ✓ |
| Sudan | ✓ | ✓ | ✓ | | |
| Suriname | ✓ | | | | |
| Swaziland | ✓ | | | | |
| Sweden | ✓ | ✓ | ✓ | ✓ | ✓ |
| Switzerland | ✓ | ✓ | ✓ | ✓ | ✓ |
| Syrian Arab Republic | ✓ | ✓ | ✓ | ✓ | |
| Tajikistan | ✓ | ✓ | | | |
| Tanzania, United Republic of | ✓ | ✓ | ✓ | ✓ | ✓ |
| Thailand | ✓ | ✓ | ✓ | | |
| The Former Yugoslav Republic of Macedonia | ✓ | ✓ | ✓ | ✓ | ✓ |
| Togo | ✓ | ✓ | ✓ | ✓ | ✓ |
| Tonga | ✓ | | | | |
| Trinidad and Tobago | ✓ | ✓ | ✓ | ✓ | |
| Tunisia | ✓ | ✓ | ✓ | ✓ | |
| Turkey | ✓ | ✓ | ✓ | | |
| Turkmenistan | ✓ | ✓ | | | |
| Tuvalu | ✓ | ✓ | ✓ | ✓ | |
| Uganda | ✓ | ✓ | ✓ | ✓ | |
| Ukraine | ✓ | ✓ | ✓ | | |
| United Arab Emirates | ✓ | | | | |
| United Kingdom | ✓ | ✓ | ✓ | ✓ | ✓ |
| United States of America | ✓ | ✓ | ✓ | | |
| Uruguay | ✓ | ✓ | ✓ | ✓ | |
| Uzbekistan | ✓ | ✓ | ✓ | | |
| Vanuatu | ✓ | ✓ | ✓ | | |
| Venezuela | ✓ | ✓ | ✓ | ✓ | |
| Viet Nam | ✓ | ✓ | ✓ | | |
| Yemen | ✓ | ✓ | ✓ | ✓ | |
| Yugoslavia | ✓ | | | | |
| Zambia | ✓ | ✓ | | | |
| Zimbabwe | ✓ | ✓ | ✓ | | |

**Annex 2 to Appendix C of Subpart A—Nations Complying With, But Not Parties to, the Protocol [Reserved]**

■ 7. Appendix F to subpart A is amended by:

■ a. Removing entries F and G,

■ b. Under A. Class I: by adding entries 6, 7, and 8.

The additions read as follows:

**Appendix F to Subpart A—Listing of Ozone Depleting Chemicals**

| Controlled substance | ODP | AT L | CLP | BLP |
|---|---|---|---|---|
| A. Class I | | | | |
| * * * | * | * | * | * |
| 6. Group VI: | | | | |
| CH3Br-Bromomethane (Methyl Bromide) | 0.7 | | [Reserved] | |
| 7. Group VII: | | | | |
| $CHFBr_2$- | 1.00 | | [Reserved] | |
| $CHF_2Br$-(HBFC–22B1) | 0.74 | | [Reserved] | |
| $CH_2FBr$ | 0.73 | | [Reserved] | |
| $C_2HFBr_4$ | 0.3–0.8 | | [Reserved] | |
| $C_2HF_2Br_3$ | 0.5–1.8 | | [Reserved] | |
| $C_2HF_3Br_2$ | 0.4–16 | | [Reserved] | |
| $C_2HF_4Br$ | 0.7–1.2 | | [Reserved] | |
| $C_2H_2FBr_3$ | 0.1–1.1 | | [Reserved] | |
| $C_2H_2F_2Br_2$ | 0.2–1.5 | | [Reserved] | |
| $C_2H_2F_3Br$ | 0.7–1.6 | | [Reserved] | |
| $C_2H_3FBr_2$ | 0.1–1.7 | | [Reserved] | |
| $C_2H_3F_2Br$ | 0.2–1.1 | | [Reserved] | |
| $C_2H_4FBr$ | 0.07–0.1 | | [Reserved] | |
| $C_3HFBr_6$ | 0.3–1.5 | | [Reserved] | |
| $C_3HF_2Br_5$ | 0.2–1.9 | | [Reserved] | |
| $C_3HF_3Br_4$ | 0.3–1.8 | | [Reserved] | |
| $C_3HF_4Br_3$ | 0.5–2.2 | | [Reserved] | |
| $C_3HF_5Br_2$ | 0.9–2.0 | | [Reserved] | |
| $C_3HF_6Br$ | 0.7–3.3 | | [Reserved] | |
| $C_3H_2FBr_5$ | 0.1–1.9 | | [Reserved] | |
| $C_3H_2F_2Br_4$ | 0.2–2.1 | | [Reserved] | |
| $C_3H_2F_3Br_3$ | 0.2–5.6 | | [Reserved] | |
| $C_3H_2F_4Br_2$ | 0.3–7.5 | | [Reserved] | |
| $C_3H_2F_5Br$ | 0.9–1.4 | | [Reserved] | |
| $C_3H_3FBR_4$ | 0.08–1.9 | | [Reserved] | |
| $C_3H_3F_2Br_3$ | 0.1–3.1 | | [Reserved] | |
| $C_3H_3F_3Br_2$ | 0.1–2.5 | | [Reserved] | |
| $C_3H_3F_4Br$ | 0.3–4.4 | | [Reserved] | |
| $C_3H_4FBr_3$ | 0.03–0.3 | | [Reserved] | |
| $C_3H_4F_2Br_2$ | 0.1–1.0 | | [Reserved] | |
| $C_3H_4F_3Br$ | 0.07–0.8 | | [Reserved] | |
| $C_3H_5FBr_2$ | 0.04–0.4 | | [Reserved] | |
| $C_3H_5F_2Br$ | 0.07–0.8 | | [Reserved] | |
| $C_3H_6FB$ | 0.02–0.7 | | [Reserved] | |
| 8. Group VIII: | | | | |
| $CH_2BrCl$ (Chlorobromomethane) | 0.12 | | [Reserved] | |

[FR Doc. 03–18154 Filed 7–17–03; 8:45 am]

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Federal Register

Friday,
July 18, 2003

Part V

# Environmental Protection Agency

## Announcement of Regulatory Determinations for Priority Contaminants on the Drinking Water Contaminant Candidate List; Notice

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7529–2]**

## Announcement of Regulatory Determinations for Priority Contaminants on the Drinking Water Contaminant Candidate List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Safe Drinking Water Act (SDWA), as amended in 1996, directs the United States Environmental Protection Agency (EPA) to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL) to assist in priority-setting efforts for the Agency's drinking water program. SDWA also directs the Agency to select five or more contaminants every five years from the current CCL and determine whether or not to regulate these contaminants with a National Primary Drinking Water Regulation (NPDWR).

On June 3, 2002, EPA published preliminary regulatory determinations for nine contaminants together with the determination process, rationale, and supporting technical information for each contaminant to seek comment from the public (67 FR 38222). The nine contaminants include three inorganic compounds (IOCs) (manganese, sodium, and sulfate); three synthetic organic compounds (SOCs) (aldrin, dieldrin, and metribuzin); two volatile organic compounds (VOCs) (hexachlorobutadiene and naphthalene); and one microbial contaminant, *Acanthamoeba.* EPA's preliminary determination was that no regulatory action was appropriate for any of the nine contaminants.

EPA received 15 comments from individuals or organizations on the preliminary regulatory determinations for the nine contaminants. The Agency has reviewed these comments and, after careful consideration, decided that no regulatory action is appropriate, at this time, for the nine CCL contaminants published in the June 2002 notice. Regulation of the nine contaminants would not present a meaningful opportunity for health risk reduction for persons served by public water systems (PWSs).

Today's action describes the statutory requirements for the CCL, the analysis EPA used to make the regulatory determinations, a summary of relevant public comments with the Agency's responses, a summary of the nine CCL contaminants, and the Agency's findings for each contaminant.

**ADDRESSES:** The official public docket for this action is located at EPA's West Building, Room B–102, 1301 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** For copies of, and general information about this document or information about the nine contaminants discussed in this action, contact the Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791 or its local number (703) 412–3330. The Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m., Eastern Time. For technical inquiries contact: Thomas Carpenter (202) 564–4885, e-mail: *carpenter.thomas@epa.gov* or Harriet Colbert, (202) 564–4698, e-mail: *colbert.harriet@epa.gov.*

**SUPPLEMENTARY INFORMATION**

### I. General Information

*A. Does This Notice Apply to My Public Water System?*

Today's action does not impose any requirements on anyone. Instead, it notifies interested parties of EPA's responses to comments received on EPA's preliminary determination and of EPA's final determination not to regulate nine CCL contaminants.

*B. How Can I Get Copies of Related Information?*

1. Docket. EPA has established an official public docket for this action under Docket ID No. OW–2002–0021. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.B.1. Once in the system, select "search," then key in the appropriate docket identification number.

**Abbreviations and Acronyms Used in This Action**

ATSDR Agency for Toxic Substances and Disease Registry
AWQC Ambient Water Quality Criteria
CASRN Chemical Abstract Services Registry Number
CCL Contaminant Candidate List
CWS Community Water Supply
EPA U.S. Environmental Protection Agency
FDA U.S. Food and Drug Administration
FR Federal Register
g gram
HRL Health reference level
IOC Inorganic compound
kg Kilogram
L Liter
MCL Maximum contaminant level
MCLG Maximum contaminant level goal mg milligram
MTBE Methyl-t-butyl ether
NDWAC National Drinking Water Advisory Council
NIRS National Inorganic and Radionuclide Survey
NPDWR National Primary Drinking Water Regulation
NRC National Research Council
OPP Office of Pesticides Program
ORD Office of Research and Development
PWS Public Water System
RSC Relative Source Contribution
SAB Science Advisory Board
SDWA Safe Drinking Water Act
SOC Synthetic organic compound
TRI Toxic Release Inventory
UCM Unregulated Contaminant Monitoring
USEPA United States Environmental Protection Agency
USGS United States Geological Survey
VOC Volatile organic compound

### II. Background

*A. What Is the Statutory Requirement for the Contaminant Candidate List?*

SDWA, as amended in 1996, directs EPA to publish a list of contaminants (referred to as the Contaminant Candidate List, or CCL) to assist the Agency in priority-setting efforts. The CCL is a list of contaminants which are not subject to any proposed or promulgated NPDWRs, are known or anticipated to occur in PWSs, and may require regulation under SDWA.

The first CCL was developed with considerable input from the scientific community and stakeholders. EPA published a draft CCL requesting public comment on October 6, 1997 (62 FR 52193, USEPA 1997). The first final CCL was published on March 2, 1998 (63 FR 10273, USEPA 1998). The SDWA requires that a new CCL be published every five years. EPA is currently preparing the next CCL. The March 1998 CCL contained 60 contaminants, including 50 chemicals or chemical groups and 10 microbiological contaminants or microbial groups. Many of these contaminants lacked some of the information necessary to support a regulatory determination and were identified in the March 1998 CCL notice (USEPA 1998) as having data needs. The 60 CCL contaminants were divided into categories to represent research and data needs associated with each contaminant. The categories were: (1) Regulatory determination priorities; (2) health effects research priorities; (3) treatment research priorities; (4) analytical methods research priorities; and (5) occurrence priorities.

In 1998, 20 of the 60 contaminants were classified as regulatory determination priorities because EPA believed that, at that time, there was sufficient data for these contaminants to evaluate both exposure and risk to public health and to support a determination of whether or not to proceed to promulgation of a NPDWR. Since the March 1998 CCL, EPA found that there was insufficient information, in the Agency's judgement, to support a regulatory determination for 12 of the 20 priority contaminants. In addition, the CCL-contaminant, sodium, was reclassified and added to the list of regulatory determination priorities as a means of reassessing the current guidance level for sodium. Thus, EPA is now presenting regulatory determinations for nine priority contaminants that have sufficient information to support a regulatory determination at this time.

The Agency however, continues to conduct research and/or to collect occurrence information on the remaining 51 CCL contaminants. EPA has been aggressively conducting research to fill in the data gaps and recognizes that stakeholders may have a particular interest in the timing of future regulatory determinations for other contaminants on the CCL. Stakeholders may be concerned that regulatory determinations for such contaminants should not necessarily wait until the end of the next regulatory determination cycle. In this regard, it is important to recognize that the Agency is not precluded from monitoring, conducting research, developing guidance, or regulating contaminants not included on the CCL as necessary and appropriate (see SDWA sections 1412(b)(1)(B)(ii)(III) and 1412(b)(1)(F)), or from taking action on CCL contaminants when information becomes available. Thus, some regulatory determinations may be made before the end of the next regulatory determination cycle (*i.e.,* August 2006).

*B. What Contaminants Did EPA Consider for Regulation?*

EPA published preliminary regulatory determinations in the June 3, 2002, edition of the **Federal Register** (67 FR 38222, USEPA 2002a) for nine priority contaminants that have sufficient information to support a regulatory determination at this time. The nine contaminants include three IOCs (manganese, sodium, and sulfate); three SOCs (aldrin, dieldrin, and metribuzin); two VOCs (hexachlorobutadiene and naphthalene); and one microbial contaminant, Acanthamoeba. Information for each of the nine CCL contaminants is available in the EPA Fact Sheet (USEPA 2002b), in the Health Effects Support Documents or Drinking Water Advisories for each of the nine CCL contaminants (2003a–h), and in the regulatory determination support documents (USEPA 2001a–g). This information is available at the Water Docket (No. OW–2002–021) and is also available on EPA's Safe Drinking Water Regulatory Determination website at *http://www.epa.gov/safewater/ccl/cclregdetermine.html.* Brief descriptions of each of the nine CCL contaminants considered for regulatory determinations are included in section V of this notice.

## III. What Analyses Did EPA Use To Make the Regulatory Determinations?

The precepts for guiding EPA in making regulatory determinations for a drinking water contaminant are included in Section 1412(b)(1)(A) of SDWA. This section of SDWA requires EPA to consider the following three evaluation criteria prior to making a regulatory decision: (1) Potential adverse health effects from the contaminant; (2) occurrence of the contaminant in PWSs with a frequency and at levels of public health concern; and (3) whether regulation of the contaminant would present a meaningful opportunity for health risk reduction for persons served by PWSs.

EPA developed a comprehensive approach for making regulatory determinations with significant expert input and recommendations suggested by the National Research Council (NRC), National Drinking Water Advisory Council (NDWAC), and stakeholders. The regulatory determination approach is largely based on the NDWAC recommendations. For each of the nine contaminants, EPA evaluated the best available peer reviewed data on health effects, and approximately seven million analytical data points on contaminant occurrence. For those contaminants with adequate monitoring methods, as well as health effects and occurrence data, EPA applied an approach in making regulatory determinations that followed the NDWAC recommendations and complies with the SDWA requirements under Section 1412(b)(1)(A). In June 2002, EPA consulted with the Science Advisory Board (SAB) Drinking Water Committee and requested its review and comment on whether the protocol EPA developed, based on the NDWAC recommendations, was consistently applied and appropriately documented. The SAB provided verbal feedback regarding the use of the NRC and NDWAC recommendations in EPA's decision criteria for making its regulatory determinations, as well as its interest in remaining involved in future regulatory determinations. SAB recommended that the Agency provide a transparent and clear explanation of the process for making regulatory determinations. In today's announcement and in the documentation supporting this announcement, the Agency has taken the SAB recommendation into consideration in explaining the evaluation process used to make today's regulatory determinations.

EPA characterized the human health effects that may result from exposure to a contaminant found in drinking water. Based on this characterization, EPA estimated a health reference level (HRL) or benchmark value for each contaminant. EPA has prepared Health Effects Support Documents or Drinking Water Advisories (USEPA 2002c and 2003a–g) for each contaminant, which are available at the EPA Water Docket and on-line at *http://www.epa.gov/edocket/.* The support documents address the following: Exposure from drinking water and other media; toxicokinetics; hazard identification; dose-response assessment; and an overall characterization of risk from drinking water.

Using the Agency's Unregulated Contaminant Monitoring (UCM) program data and National Inorganic and Radionuclide Survey (NIRS) data, EPA estimated the number of PWSs and the population served by the PWSs at the benchmark values, and the

geographic distribution, using a large amount of State occurrence data that are generally indicative of national occurrence. The UCM data form part of the Agency's basis for its estimates of national occurrence since these data provide occurrence information for several unregulated contaminants. The NIRS data provide a statistically representative sample of the national occurrence of many other unregulated and regulated inorganic contaminants in ground water community water supplies (CWSs).

EPA also employed other State drinking water data, use and environmental release information (*e.g.*, EPA's Toxic Release Inventory (TRI), academic and private sector publications), as well as ambient water quality data (*i.e.*, source water existing in surface waters and aquifers before extraction and treatment as drinking water), to augment the UCM drinking water data and to evaluate the likelihood of contaminant occurrence. EPA included, when available, data from the U.S. Geological Survey's (USGS) National Water Quality Assessment program.

A detailed discussion of the data collected and analyses for each contaminant can be found in the respective regulatory determination support document. The regulatory determination support documents (USEPA 2001a–g) are available in the EPA Water Docket.

The underlying data and analysis supporting the findings used by the Agency to make the regulatory determinations are summarized in the June 2002 notice (USEPA 2002a).

## IV. Summary of Public Comments and the Agency's Responses on the CCL Regulatory Determination Process

The comment period on the June 3, 2002, notice ended on August 2, 2002. EPA received 15 comments on the preliminary regulatory determinations for the nine CCL contaminants published by EPA in the June 2002 notice (USEPA 2002a). Four comments were received from water systems and related associations, seven from industry groups, two from environmental advocacy groups, one from a State agency and one from a State-related association. Although most commenters generally approved of EPA's determination not to regulate any new contaminants at this time, some commenters expressed concerns about the process associated with EPA's regulatory determinations for these nine contaminants, as well as with CCL activities not specifically related to the preliminary determinations.

A majority of the comments were focused on five over-arching topic areas:

1. Some commenters expressed concern over the transparency of the CCL decision-making process.
2. Several industry groups expressed a concern that the health effects assessments were too conservative.
3. Several commenters expressed concern with EPA's progress in filling research gaps related to the CCL and encouraged EPA to publicly track research needs and progress on remaining CCL contaminants.
4. The majority of commenters generally approved of EPA's determination not to regulate any new contaminants at this time. However, one commenter questioned the appropriateness of EPA's decisions not to regulate any of the nine priority contaminants.
5. Several comments were received regarding contaminants on the CCL for which draft regulatory determinations were not included in the June 2002 notice, including perchlorate and methyl-t-butyl ether (MTBE).

A complete copy of the public comments and the Agency's responses are included in the Docket for today's action. The remainder of this section discusses the five key topic areas identified by commenters in response to the June 2002 CCL regulatory determination notice (USEPA 2002a).

### *1. Lack of Transparency of Regulatory Determination Approach*

*Comment Summary:* Several commenters expressed a concern about the ''lack of transparency'' in the regulatory determination approach used by the Agency for the June 2002 notice. Most of those commenters suggested that EPA did not provide an adequate explanation for the reduction in the number of the priority contaminants from twenty to nine since the publication of the first CCL in March 1998 (USEPA 1998). These commenters suggested that the Agency needs to provide better justification regarding the reasons for excluding the twelve contaminants listed in the March 1998 CCL from the regulatory determination process.

Several commenters suggested that this regulatory determination process approach does not provide for enough participation from outside groups for the development of non-regulatory strategies. These commenters suggested that the Agency should allow for more meaningful public involvement in the regulatory determination process. One commenter stated that, given the Agency's analysis of occurrence and health effects data over several years, the 60-day comment period was not adequate to allow ''detailed analysis by interested stakeholders.''

Other commenters, however, observed that the CCL regulatory determination approach taken by EPA was ''reliably consistent'' with the basic charge of the SDWA and the NDWAC workgroup recommendations. Several commenters noted that, by EPA following the protocol recommended by the NDWAC Work Group, stakeholders were assured that the Agency used the ''best-available, peer-reviewed science'' in these determinations.

*Agency Response:* EPA developed a consistent regulatory determination approach for evaluating CCL contaminants that followed NDWAC's recommended protocol for health effects and occurrence analysis. The regulatory determination approach for each contaminant on the list included an evaluation of the adequacy of current analytical and treatment methods, the best available peer-reviewed data on health effects, and an occurrence data set of about seven million contaminant occurrence data points.

By using this approach, EPA determined that, at the time of the June 2002 notice (USEPA 2002a) of preliminary regulatory determinations there was not sufficient information to support a regulatory determination on twelve of the twenty priority contaminants. As noted previously, the CCL-contaminant, sodium, was moved to the list of regulatory determination priorities to allow an update of the Agency's position on the issue of sodium in drinking water.

The NDWAC, which is comprised of representatives from the general public, State and local agencies, and private groups concerned with drinking water safety, was convened to provide input during the regulatory determination process. Throughout the regulatory determination process, EPA's approach has been to maintain a strong partnership with stakeholders and involve them to the maximum extent possible, thereby helping to ensure that stakeholders understand the regulatory determination process and provide valuable input.

The Agency agrees that a meaningful opportunity for discussions with stakeholders is an important component of the CCL Regulatory Determination process. The Agency utilized a variety of mechanisms to involve stakeholders in the process. These included two broad-based stakeholder meetings, one in November 1999 and one in July 2002. Members of the public also were invited to attend the three sessions of the NDWAC Work Group in the Spring/

Summer of 2000, which focused on protocol recommendations to the Agency. In addition, EPA representatives delivered presentations at a variety of meetings held by other organizations. Moreover, EPA did ask for and considered comments made on the sodium and sulfate Drinking Water Advisories during the comment period on the June 2002 notice (USEPA 2002a).

The Agency believes the 60-day public comment period for the June 2002 notice (USEPA 2002a) was sufficient. The Agency took steps to facilitate public review of its preliminary decisions, as well as supporting documentation. In addition to the July 2002 stakeholder meeting, these steps included making key materials available on the Agency's website and providing hard copies of materials upon request.

*2. Health Effects Assessments*

*Comment Summary:* Some commenters suggested that EPA's analysis of adverse health effects and calculation of the HRLs were too conservative. On the other hand, one commenter questioned how the Agency's analysis underlying the regulatory determination approach incorporated appropriate safety factors and exposure assessments relative to children's health concerns.

Commenters recommended that EPA use the revised Office of Water methodology for deriving ambient water quality criteria (AWQC), (USEPA 2000), in an effort to protect human health in the final health effects support documents. According to the comments, this revised methodology establishes five different consumption rates and body weight classifications as a means to make the human health exposure assessments. One commenter specified that EPA needs to use more accurate consumption data for sodium rather than simply incorporating U.S. Food and Drug Administration (FDA) assertions.

*Agency Response:* EPA believes it is appropriate to use a conservative approach to assessing the health effects of an unregulated contaminant in the context of a determination of whether it should be considered for NPDWR regulation. In order to determine whether to propose an NPDWR for an unregulated contaminant, SDWA requires EPA to determine whether the contaminant ''may have an adverse effect on the health of the persons,'' Section 1412(b)(1)(A)(i), which is a very broad criterion. As a result, EPA believes that a conservative health effects analysis is appropriate.

The HRL used by EPA in these determinations is a conservative health-based value and is different depending on whether a contaminant is considered a carcinogen or a noncarcinogen. For carcinogens, a 10–6 risk was chosen as the HRL since the maximum contaminant level goal (MCLG) for such contaminants will generally be zero. For noncarcinogens, the reference dose and a 20 percent relative source contribution (RSC) factor was used in conjunction with a 70 kilogram (kg) adult body weight and a 2 liter (L) water intake for the HRL calculation. EPA uses these standard regulatory assumptions for determining the MCLG of a noncarcinogen that lacks specific data on the RSC. EPA used best available peer reviewed data and analyses in evaluating adverse health effects. Accordingly, EPA disagrees with those commenters that felt that EPA was too conservative in establishing the HRL. EPA followed practices and policies that are similar to those used to establish an NPDWR and that are consistent with the SDWA section 1412(b)(1)(A)(i) criterion. If such a conservative approach does not result in EPA deciding to initiate a regulatory process for a contaminant, the Agency may decide to use a non-regulatory approach in addressing the issue, such as issuing a Drinking Water Advisory.

Children's health issues were considered in making regulatory determinations for each of the nine contaminants included in this final notice. The details of the individual assessments are included in the Health Effects Support Documents or Drinking Water Advisories for each contaminant. These documents are available for review at the EPA Water Docket and on-line at *http://www.epa.gov/edocket/.*

The AWQC (USEPA 2000) methodology continues to recommend the use of 70 kg for adult body weight and 2 liters per day for water intake for risk calculations. These are the same parameters used by EPA to derive an MCLG. EPA believes that its current methodology, based on adult exposures, for the derivation of MCLGs, and for making regulatory determinations under SDWA section 1412, remains generally appropriate. EPA has not yet determined a protocol for making a regulatory determination for a chemical for which an infant's or a particular childhood age grouping's body weight and drinking water intake would be the basis of a regulatory action. A decision for such a contaminant would be made on the basis of the toxicity and exposure data, and could utilize the age groupings and body weight information from the AWQC human health methodology if it were appropriate.

EPA did not use FDA's sodium consumption data of 4 to 6 grams/day (g/day) in establishing a benchmark value for sodium. EPA decided to use a benchmark value for sodium instead of an HRL because sodium lacks suitable dose-response data and there is considerable controversy regarding the role of sodium in the etiology of hypertension. EPA derived the benchmark value for sodium of 120 mg/L in drinking water from the National Institutes of Health, National Academy of Sciences, American Heart Association, and the U.S. Department of Agriculture recommended daily dietary intake of 2.4 g/day.

*3. EPA Research Agenda*

*Comment Summary:* Several commenters expressed concern that, in their view, there is a lack of progress by EPA in filling research gaps related to the CCL. In particular, commenters focused on high visibility contaminants, such as the microbiological contaminants, MTBE, and other ''emerging contaminants.'' Commenters also stressed the need to establish a vehicle for publicly tracking research needs and progress made in research areas.

*Agency Response:* Before EPA can determine whether to regulate contaminants, additional data on health, treatment technologies, and analytical methods, are needed for contaminants on the Research Priorities portion of the CCL, and occurrence data is needed for contaminants on the Occurrence Data Needs portion of the CCL. The remaining 51 CCL contaminants for which decisions are not being made today do not have sufficient data to support a regulatory determination. The Agency considers obtaining this data to be the priority of its research and occurrence monitoring programs. The Agency continues to actively conduct research and/or to collect occurrence information on these 51 CCL contaminants and other emerging contaminants. Because these research issues are broader than those that EPA can address alone, it is anticipated that other entities will be involved in conducting much of the needed research to support this process. For example, EPA already is jointly undertaking research efforts, and encourages stakeholders, through close and regular consultation, to be partners in filling many of the research gaps. The EPA continues to identify and develop new collaborations to conduct research and gather the additional data to characterize occurrence and adverse

health effects to support future regulatory determinations of CCL contaminants. EPA is also engaged with our stakeholders in a NDWAC work group to refine the CCL listing process to address emerging contaminants for future efforts.

EPA agrees with the comment concerning the importance of establishing a vehicle that will allow stakeholders to track the status of drinking water research projects. EPA is committed to providing a means for stakeholders to track research needs and progress made in research areas, and is developing a web-based research inventory that is expected to be available to the public in 2003. This website will serve as a repository of information on drinking water research projects currently funded or performed by the EPA.

*4. Criticism of Regulatory Decisions Made*

*Comment Summary:* One commenter expressed concern that EPA's decision not to regulate any of the nine priority contaminants was not appropriate. A comment submitted and co-signed by 22 environmental organizations disagreed with the regulatory determinations for four contaminants, hexachlorobutadiene, manganese, sodium and sulfate. The commenters believe that EPA's monitoring data presented in the June 2002 notice shows that over 22,000 people were exposed to hexachlorobutadiene at concentrations above the HRL. The commenters assert that although EPA says manganese has low toxicity, EPA finds that nearly 3% of the population exceeded EPA's HRL. The commenters also disagreed with the Agency determination that regulation is not warranted because food sources of sodium are a more significant contribution to sodium in the diet than drinking water. The commenters also assert that EPA should regulate sulfate because EPA's monitoring data shows that millions of Americans are likely to have sulfate levels above the HRL in their drinking water, which puts infants and other subpopulations at risk.

*Agency Response:* The preliminary regulatory determinations on whether or not to regulate the nine priority contaminants were based on the three SDWA statutory requirements, and the contaminants were evaluated in terms of national significance. EPA's assessment of the health effects and national occurrence were discussed in detail in the June 2002 notice. EPA disagrees that each of the contaminants identified by the commenters should be regulated. The rationale supporting the regulatory determination is provided below.

EPA found that hexachlorobutadiene occurs in systems, but not at a frequency or level of public health concern. The commenter has misinterpreted the monitoring data presented in the June 2002 notice. The number 22,736 in the notice refers to the number of reporting PWSs in the monitoring data set and does not reflect the number of people exposed to hexachlorobutadiene concentrations above the HRL. The June 2002 notice states that 0.02% (4 out of 22,736) reporting systems detected hexachlorobutadiene above the HRL affecting 0.005% (3,350 out of the 67 million) of the population served by these systems (67 FR 38235). Because of this low frequency, EPA believes it is most appropriate at this time to address occurrence of hexachlorobutadiene at the State level rather than at the national level.

EPA disagrees with the commenter's criticism of the decision not to regulate manganese. Manganese is an essential trace element needed for the normal healthy growth and function of animals as well as human beings. Therefore, the decision whether or not to regulate manganese needs to balance the concern for the potential toxic effects from high oral exposure with the concern for adverse effects from manganese deficiency. In 2001, the Institute of Medicine (IOM) set an adequate level for manganese at 2.3 mg/day for men and 1.8 mg/day for woman.

Furthermore, in 2001, the IOM set a tolerable upper intake level for manganese at 11 mg/day. While 3% of the population may be exposed to manganese at levels above the 0.30 mg/L HRL for drinking water, this level is well below the IOM tolerable level. For example, assuming a daily intake of 2 liters of drinking water with manganese at the HRL of 0.30 mg/L, the daily intake of manganese from drinking water at the HRL would only expose a person to 0.6 mg/day. This value is well below IOM's 11 mg/L adequate level for manganese and represents only 5.5% of IOM's upper limit for manganese. Public drinking water accounts for a relatively small proportion of a person's manganese intake, even at the HRL. Therefore, the Agency concludes that regulation of drinking water for manganese does not provide a meaningful opportunity to reduce the risk of adverse health effects. The commenter is referred to the *CCL Preliminary Regulatory Determination Support Document for Manganese* (EPA 815–R–01–013) for a more detailed discussion of this issue.

EPA disagrees with the commenter's criticism of the decision not to regulate sodium. Because sodium in drinking water is a very small contributor to daily dietary intake and because the levels at which sodium intake can contribute to increasing the blood pressure of individuals with normal blood pressures is not clearly established, EPA does not believe that a NPDWR for sodium presents a meaningful opportunity for public health protection at this time.

EPA disagrees with the commenter's criticism of the decision not to regulate sulfate. EPA used current data (Round 2 of the UCM program) that indicate that about 1.8% of the reporting systems serving approximately 2 million people from a 20-state cross section of the unregulated contaminant monitoring study exceeded 500 mg/L. Although additional data from six states had very similar results, EPA found that the weight of evidence suggests that the adverse health effect is generally mild, of short duration, and generally occurs at concentrations considerably greater than 500 mg/L, except in very limited circumstances when contaminants that exacerbate the effects of sulfate are also present in the water. Therefore, EPA has made the determination not to regulate sulfate with a NPDWR at this time because regulation would not present a meaningful opportunity for health risk reduction for persons served by public drinking water systems. However, EPA prepared a Drinking Water Advisory to provide guidance to communities that may be exposed to drinking water with high sulfate concentrations. This advisory contains information of use to sensitive sub-populations, such as infants and travelers.

*5. Stakeholder's Highest Priority for Future Regulatory Determinations*

*Comment Summary:* Commenters encouraged EPA to be aggressive and consider an expedited regulatory determination for several CCL contaminants including MTBE and perchlorate.

*Agency Response:* For this regulatory determination, EPA developed a comprehensive evaluation approach based on the recommendations from NRC and NDWAC. As explained in the June 2002 notice (USEPA 2002a), this evaluation satisfies the three SDWA requirements under section 1412(b)(1)(A)(i)–(iii). For each of the contaminants, the Agency evaluated the adequacy of current analytical and treatment methods, the best available peer-reviewed data on health effects, and an occurrence data set of approximately seven million analytical data points. At this time, EPA does not believe adequate data exists in these key areas to make a regulatory

determination either for perchlorate or MTBE. EPA is gathering information to fill the data gaps for these contaminants.

With respect to perchlorate, EPA is gathering national occurrence data on perchlorate in drinking water through the Unregulated Contaminant Monitoring (UCM) Rule. The Agency is also completing a rigorous peer review of health effects studies and is developing a final toxicity review and risk characterization. As part of this effort, EPA has asked the National Academy of Sciences to review science issues related to the 2002 draft EPA risk assessment for perchlorate. In addition, the Agency is funding research studies on treatability of perchlorate for PWSs. Some of the technology currently in use at hazardous waste sites is being evaluated for the feasibility of using it in water treatment at community water systems. At the same time, EPA is seeking to improve the analytical method sensitivity that would allow concentrations of perchlorate to be quantified at lower levels than are presently possible. The Agency is moving concurrently in each of these areas to meet data and research needs as quickly as possible. When the necessary information is collected, we plan to move forward with a regulatory determination. In this regard, it should be emphasized that where EPA determines there is sufficient information on this or any other unregulated contaminant, the Agency is prepared to act in advance of the next five year regulatory determination cycle.

Regarding MTBE, on-going activities will provide the Agency with improved health effects and occurrence data. At this time, EPA is preparing its revised risk assessment for MTBE for peer review. The Agency established the 1997 Drinking Water Advisory for MTBE at 20–40 micrograms per liter (µg/L, or parts per billion, ppb) to avoid unacceptable taste and odor and provide a protective margin of exposure for adverse health effects. The 20–40 ppb level was not based on the possible cancer risks. As a result of the UCM Rule, data from PWSs required to monitor for MTBE will be available in the middle of 2004.

## V. Summary of the Agency's Findings on the Nine CCL Contaminants

### *A. Acanthamoeba*

*Description:* Acanthamoeba is a free-living protozoa commonly found in water, soil, and air. Species of this microbe have been isolated worldwide from brackish and sea water, tap water, bottled water, airborne dust, swimming pools, hot springs, thermal effluents of power plants, ocean sediments, vegetables, and hot tubs. *Acanthamoeba* species have been associated with human infections affecting the eye, lung, brain, and skin. *Acanthamoeba* has been recovered from the nose and throat of humans with impaired respiratory function and from apparently healthy persons, suggesting that the amoeba is commonly inhaled.

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate *Acanthamoeba* with a NPDWR at this time, because regulation would not present a meaningful opportunity for health risk reduction for the people served by public drinking water systems (PWSs). As noted in the June 2002 notice (USEPA 2002a), EPA has no national monitoring data to indicate occurrence of *Acanthamoeba* cysts in drinking water, and filtration practices commonly used to treat drinking water remove *Acanthamoeba* cysts.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for *Acanthamoeba* were presented in the June 2002 notice (USEPA 2002a) and in the health effects support document for *Acanthamoeba* (USEPA 2003h). EPA intends to release a guidance document for *Acanthamoeba* that will be directed mainly to contact lens wearers and will address the risks of *Acanthamoeba* eye infection associated with improper care of contact lenses.

### *B. Aldrin and Dieldrin*

*Description:* Aldrin and dieldrin (Chemical Abstract Services Registry Number (CASRN) 309–00–2 and 60–57–1, respectively) are the common names of two structurally similar insecticides. They are discussed together because aldrin readily changes to dieldrin in the body and in the environment, and they cause similar adverse health effects. From 1950–1970, aldrin and dieldrin were popular pesticides used for crops, such as corn and cotton. Because of concerns about damage to the environment and the potential harm to human health, EPA banned most uses of aldrin and dieldrin in 1974, except for the control of termites, and banned all uses outright since 1987. According to the Agency for Toxic Substances and Disease Registry (ATSDR), aldrin and dieldrin have not been produced in the United States since 1974 (ATSDR 1993).

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate aldrin or dieldrin with a NPDWR at this time, because regulation would not present a meaningful opportunity for health risk reduction for the people served by PWSs. EPA recognizes that aldrin and dieldrin are probable human carcinogens, but the chemicals have been banned for most uses since 1974, and have a low frequency and low level of occurrence in drinking water supplies.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for aldrin and dieldrin were presented in the June 2002 notice (USEPA 2002a) and in the regulatory determination (USEPA 2001a) and health effects (USEPA 2003a) support documents for aldrin and dieldrin.

### *C. Hexachlorobutadiene*

*Description:* Hexachlorobutadiene (CASRN 87–68–3) is a VOC that is relatively insoluble in water (solubility of 2–2.55 mg/L). Hexachlorobutadiene is mainly used to make rubber compounds. It is also used in gyroscopes, as a heat transfer liquid, as a hydraulic fluid, as a solvent, and to make lubricants. It has never been manufactured as a commercial product in the United States, however, it is imported and significant quantities of the chemical are generated in the United States as a waste by-product from the chlorination of hydrocarbons.

Most exposure to hexachlorobutadiene comes from breathing contaminated air in the workplace environment. People living near hazardous waste sites containing hexachlorobutadiene may be exposed to it by breathing air or by drinking contaminated water.

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate hexachlorobutadiene with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. Hexachlorobutadiene occurs in PWSs, but not at a frequency or level of public health concern.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for hexachlorobutadiene were presented in the June 2002 notice (USEPA 2002a) and in the regulatory determination (USEPA 2001b) and health effects (USEPA 2003b) support documents for hexachlorobutadiene.

### *D. Manganese*

*Description:* Manganese (CASRN 7439–96–5) is a naturally occurring element found at low levels in soil, water, and food. It is an essential trace element for humans and all animal species. It constitutes approximately 0.1

percent of the earth's crust, however, it does not occur in the environment in its pure metal form, but is ubiquitous as a component of more than 100 minerals including many silicates, carbonates, sulfides, oxides, phosphates, and borates (ATSDR 2000).

Manganese is generally considered to have low toxicity when ingested orally. The major source of manganese intake in humans (with the exception of possible occupational exposure) is dietary ingestion; manganese is a nutrient and is not considered to be very toxic when ingested with food. Reports of adverse effects following oral exposure are rare.

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate manganese with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. Manganese is generally not considered to be very toxic when ingested with the diet and drinking water accounts for a relatively small proportion of manganese intake.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for manganese were presented in the June 2002 notice (USEPA 2002a) and in the regulatory determination (USEPA 2001c) and health effects (USEPA 2003c) support documents for manganese. EPA is developing a Drinking Water Advisory for manganese to provide guidance to communities that might be exposed to elevated concentrations of manganese in their drinking water.

*E. Metribuzin*

*Description:* Metribuzin (CASRN 21087–64–9) is a pesticide that does not volatilize readily, yet is relatively soluble in water. It is relatively persistent in the environment and degrades primarily through exposure to sunlight. Metribuzin is used as an herbicide on soybeans, potatoes, alfalfa, sugar cane, lentils, asparagus, tomatoes, carrots, peas, barley, wheat, range grasses, and Christmas trees. Metribuzin has limited non-agricultural utility. Metribuzin is not classifiable as a human carcinogen, but there may be effects on the liver and body weight from chronic exposure to high doses.

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate metribuzin with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. Metribuzin is not known to occur in PWSs at levels of public health concern. National monitoring data indicate that metribuzin is infrequently detected in public water supplies.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for metribuzin were presented in the June 2002 notice (USEPA 2002a) and in the regulatory determination (USEPA 2001d) and health effects (USEPA 2003d) support documents for metribuzin.

*F. Naphthalene*

*Description:* Naphthalene (CASRN 91–20–3) is a VOC that is naturally present in fossil fuels, such as petroleum and coal, and is formed when wood or tobacco are burned. Naphthalene is produced in commercial quantities from either coal tar or petroleum. Most naphthalene use (60%) is as an intermediary in the production of phthalate plasticizers, resins, phthaleins, dyes, pharmaceuticals, and insect repellents. Crystalline naphthalene is used as a moth repellent and as a solid block deodorizer for diaper pails and toilets.

The major source of human exposure to naphthalene is through the use of moth-balls containing naphthalene. This exposure can be from breathing the vapors or handling the mothballs. People also may be exposed by breathing tobacco smoke and air near industries that use or produce naphthalene. Usually naphthalene is not found in water because it evaporates or biodegrades quickly. When it is found in water, it is usually at levels lower than 0.01 mg/L (ATSDR 1995).

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate naphthalene with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. Naphthalene is not known to occur in PWSs at levels of public health concern. National monitoring data indicate that naphthalene is infrequently detected in public water supplies.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for naphthalene were presented in the June 2002 notice (USEPA 2002a) and in the regulatory determination (USEPA 2001e) and health effects (USEPA 2003e) support documents for naphthalene.

*G. Sodium*

*Description:* Sodium (CASRN 7440–23–5) is the sixth most abundant element on earth and is widely distributed in soils, plants, water, and foods. Ground water typically contains higher concentrations of minerals including sodium salts than do surface waters. In addition to naturally occurring sources of sodium, sodium compounds are used in deicing roads, as water treatment chemicals, and in domestic water softeners. Sewage effluents can also contribute significant quantities of sodium to water.

Sodium is an essential trace element, and adequate levels of sodium are required for good health. Food is the main source of daily human exposure to sodium, primarily in the form of sodium chloride (table salt). Most of the sodium in our diet is added during food processing and preparation.

*Agency Findings:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate sodium with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. The contribution of drinking water to daily sodium intake is very small when compared to the total dietary intake. Short-term excursions beyond the benchmark values pose no adverse health risk for most individuals, including the majority of persons with hypertension. Sodium in drinking water is a very small contributor to daily dietary intake and the levels at which sodium intake can contribute to increasing the blood pressure of individuals with normal blood pressures are not clearly established. The Agency currently does, however, require monitoring for sodium at the entry point to the distribution system and that results be reported annually to public health officials for surface water systems, and every three years for ground water systems (as defined in 40 CFR 141.41). The water supplier must report sodium test results to local and State public health officials, unless this responsibility is assumed by the State. This requirement is intended to provide the public health community with information on sodium levels in drinking water to be used in counseling patients and is the most direct route for gaining the attention of the affected population.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for sodium were presented in the June 2002 notice (USEPA 2002a) as well as in the regulatory determination (USEPA 2001f) support document for sodium. EPA is issuing a final Drinking Water Advisory for sodium concurrent with today's action (USEPA 2003f). The sodium advisory provides guidance to

communities that might be exposed to elevated concentrations of sodium chloride or other sodium salts in their drinking water. This sodium advisory also provides appropriate cautions for individuals on low-sodium or sodium-restricted diets.

*H. Sulfate*

*Description:* Sulfate ($SO_4^{-2}$, CASRN 14808–79–8) exists in a variety of inorganic salts. Sulfate salts such as sodium, potassium, and magnesium are very water soluble and are often found in natural waters. Sulfate salts of metals such as barium, iron, or lead have very low water solubility. Sulfate is found in soil, sediments, and rocks and occurs in the environment as a result of both natural processes and human activities. Sulfate compounds are used for a variety of commercial and industrial purposes.

Sulfate may enter surface or ground water as a result of discharge or disposal of sulfate-containing wastes. In addition, sulfur oxides produced during the combustion of fossil fuels are transformed to sulfuric acid in the atmosphere. Through precipitation (acid rain), sulfuric acid can enter surface waters, lowering the pH and raising sulfate levels.

Sulfate is present in the diet. A number of food additives are sulfate salts and most (such as copper sulfate and zinc sulfate) are approved for use as nutritional supplements.

Sulfate may have adverse health affects on persons, primarily through its laxative effect following high-level, acute exposures. The adverse health effect from ingesting high levels of sulfate is increased water in the fecal matter (diarrhea), possibly contributing to dehydration. Because local populations usually acclimate to high sulfate levels, the impact is primarily on infants, transient populations (*e.g.*, business travelers, visitors, and vacationers), and new residents.

*Agency Finding:* After reviewing the best available public health and occurrence information, EPA has made the determination not to regulate sulfate with a NPDWR at this time, because it would not present a meaningful opportunity for health risk reduction for persons served by PWSs. Although sulfate occurs in many PWSs nationally, the weight of evidence suggests that the adverse health effect is generally mild, of short duration, and generally occurs at concentrations considerably greater than 500 mg/L, except in very limited circumstances when sulfate co-occurs with magnesium and high total dissolved solids, which exacerbate its laxative effects. EPA is issuing a final Drinking Water Advisory to provide guidance to communities that may be exposed to drinking water with high sulfate concentrations.

A complete review of EPA's analysis of the health effects, occurrence, and exposure for sulfate were presented in the June 2002 notice (USEPA 2002a) as well as in the regulatory determination (USEPA 2001g) support document for sulfate. EPA will issue a final Drinking Water Advisory for sulfate concurrent with today's action (USEPA 2003g). The advisory for sulfate provides guidance to communities that may be exposed to drinking water contaminated with high sulfate concentrations. This advisory contains information of use to sensitive sub-populations, such as infants and travelers.

## VI. How Will EPA Address the Data Needs of the Remaining 51 CCL Contaminants?

The Agency continues to conduct research and/or to collect occurrence information on the remaining CCL contaminants. EPA has been conducting research to fill identified data gaps. The Agency will take action as appropriate when information becomes available and will not necessarily wait until the end of the next regulatory determination cycle before making other regulatory determinations.

To support decisions on CCL contaminants, the Agency is required to evaluate when and where these contaminants occur, the extent of exposure, and their risk to public health. EPA must also determine if regulating the contaminant presents a meaningful opportunity for reducing public health risk. Contaminants deemed ready for regulatory determination, which include those that are the subject of today's decisions, are determined to have sufficient data to support a decision as to whether or not to regulate based on evaluation of both exposure and risk to public health.

The remaining 51 CCL contaminants for which decisions are not being made today do not have sufficient data to support regulatory decisions. The Agency continues to conduct research and/or collect occurrence information on these remaining contaminants. The research issues are broader than those that EPA can address alone. It is anticipated that other entities will be involved in conducting much of the needed research to support this process. EPA continues to identify and develop new collaborations to conduct research and gather the additional data to characterize occurrence and adverse health effects to support future regulatory determinations of CCL contaminants. EPA is also engaged with our stakeholders in a NDWAC work group to refine the CCL listing process to address emerging contaminants for future efforts

EPA is committed to providing a means for our stakeholders to track progress of research on remaining CCL contaminants. The Agency is currently developing a web-based system that will be available to the public in 2003. This website will serve as a repository of information on drinking water research projects currently funded or performed by EPA.

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USEPA, 2003h. *Health Effects Support Document for Acanthamoeba.* EPA 822 R–03–012.

Dated: July 11, 2003.

**Linda J. Fisher,**

*Acting Administrator.*

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# Part VI

# Environmental Protection Agency

## National Primary Drinking Water Regulations; Announcement of Completion of EPA's Review of Existing Drinking Water Standards; Notice

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7529–1]**

**RIN 2040–AD67**

# National Primary Drinking Water Regulations; Announcement of Completion of EPA's Review of Existing Drinking Water Standards

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Safe Drinking Water Act (SDWA) requires the United States Environmental Protection Agency (EPA) to conduct a periodic review of existing National Primary Drinking Water Regulations (NPDWRs). EPA has completed its review of 69 NPDWRs that were established prior to 1997, including 68 chemical NPDWRs and the Total Coliform Rule (TCR). The intended purpose of the review was to identify those NPDWRs for which current health risk assessments, changes in technology, and/or other factors, provide a health or technological basis to support a regulatory revision that will maintain or improve public health protection.

EPA published its protocol for the review of NPDWRs and its preliminary revise/not revise decisions for the 69 NPDWRs in the April 17, 2002, edition of the **Federal Register** (67 FR 19030 (USEPA, 2002g)) in order to seek comment from the public. Today's action briefly describes the major comments, other new information, and EPA's current revise/not revise decisions for the 69 NPDWRs.

**ADDRESSES:** The official public docket for this action is located at EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Contact: Ken Rotert, (202) 564–5280, e-mail: *rotert.kenneth@epa.gov* for inquiries regarding the TCR. For all other technical inquiries contact: Judy Lebowich, (202) 564–4884, e-mail: *lebowich.judy@epa.gov*, or Wynne Miller, (202) 564–4887, e-mail: *miller.wynne@epa.gov*. General information may also be obtained from the EPA Safe Drinking Water Hotline. Callers within the United States may reach the Hotline at (800) 426–4791. The Hotline is open Monday through Friday, excluding Federal holidays, from 9 a.m. to 5:30 p.m. Eastern Time.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. General Information
A. Does this Notice Apply to My Public Water System?
B. How Can I Get Copies of Related Information?
1. Docket
2. Electronic Access
II. Background
A. What Is the Statutory Requirement for the Six-Year Review?
B. What Has the Agency Done to Address the Statutory Requirement?
III. EPA's Current Revise/Not Revise Decisions for the 69 Pre-1997 NPDWRs
IV. Summary of Major Comments and New Information and the Agency's Response
A. What Did Commenters Say Regarding the Reasonableness and Appropriateness of EPA's Six-Year Review Approach?
1. Overall Approach and Decision Criteria
2. Health Effects Technical Review
3. Analytical Methods Feasibility Technical Review
4. Review of Treatment Technologies and Related Issues
5. Review of Implementation-Related Issues
6. Review of Occurrence and Exposure
7. Consideration of Available Economic Information
B. What Comments or New Information Did EPA Receive on Chemical Contaminant-Specific Issues?
1. Alachlor
2. Antimony
3. Atrazine
4. Beryllium
5. Carbofuran
6. Chromium
7. 1,1-Dichloroethylene
8. Dichloromethane
9. Di(2-ethylhexyl)adipate (DEHA)
10. Di(2-ethylhexyl)phthalate (DEHP)
11. Fluoride
12. Glyphosate
13. Lead and Copper
14. Lindane (γ-hexachlorocyclohexane)
15. Simazine
C. What Comments Did EPA Receive Regarding the Review of Implementation-Related Issues for Chemical NPDWRs?
D. What Comments Did EPA Receive on the Total Coliform Rule?
E. What Comments Did EPA Receive on Research Needs?
V. References

**List of Tables**

Table III–1: Current Revise/Not Revise Decisions for the 68 Chemical NPDWRs and the TCR
Table IV–1: 1,1-Dichloroethylene Occurrence
Table IV–2: Lindane Occurrence

## I. General Information

### *A. Does This Notice Apply to My Public Water System?*

This action itself does not impose any requirements on anyone. Instead, it notifies interested parties of the availability of EPA's responses to comments received on EPA's Six-Year Review protocol and the Agency's current revise/not revise decisions for 69 NPDWRs.

### *B. How Can I Get Copies of Related Information?*

1. Docket

EPA has established an official public docket for this action under Docket ID No. OW–2002–0012. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.B.1. Once in the system, select ''search,'' then key in the appropriate docket identification number.

### *Abbreviations and Acronyms Used in This Action*

BAT—best available technology
CBI—confidential business information
CCL—contaminant candidate list
CFR—Code of Federal Regulations
CMR—Chemical Monitoring Reform
DACT—diaminochlorotriazine
DEA—desethyl atrazine
DEHA—di(2-ethylhexyl)adipate
DEHP—di(2-ethylhexyl)phthalate
DIA—desisopropyl atrazine
EPA—United States Environmental Protection Agency

EPA/DC—EPA Docket Center
FQPA—Food Quality Protection Act
FR—**Federal Register**
IOC—inorganic chemical
IRED—interim reregistration eligibility decision
IRIS—Integrated Risk Information System
LCCA—Lead Contamination Control Act of 1988
LCR—Lead and Copper Rule
MCL—maximum contaminant level
MCLG—maximum contaminant level goal
MDL—method detection limit
mg/kg/day—milligram(s) per kilogram of body weight per day
mg/L—milligram(s) per liter
MYP—multi-year plan
NAS—National Academy of Sciences
NCOD—National Contaminant Occurrence Database
NDWAC—National Drinking Water Advisory Council
NPDWR—National Primary Drinking Water Regulation
NRC—National Research Council
NTP—National Toxicology Program
NTNCWS—non-transient non-community water system
Occurrence Methodology Document—Occurrence Estimation Methodology and Occurrence Findings Report for the Six-Year Review of Existing National Primary Drinking Water Regulations
Occurrence Summary Document—Occurrence Summary and Use Support Document for the Six-Year Review of Existing National Primary Drinking Water Regulations
OPP—Office of Pesticide Programs
OW—Office of Water
PE—performance evaluation
PHS—Public Health Service
PQL—practical quantitation level
Protocol Document—EPA Protocol for Review of Existing National Primary Drinking Water Regulations
RED—reregistration eligibility decision
RfD—reference dose
ROS—regression on ordered statistics
RSC—relative source contribution
SAB—Science Advisory Board
SAP—Science Advisory Panel
SDWA—Safe Drinking Water Act
SOC—synthetic organic chemical
TCR—Total Coliform Rule
TMDLs—total maximum daily loads
Treatment Feasibility Document—Water Treatment Technology Feasibility Support Document for Chemical Contaminants; In Support of EPA Six-Year Review of National Primary Drinking Water Regulations
TT—treatment technique
VOC—volatile organic chemical
WQP—water quality parameter
WS—water supply

## II. Background

### *A. What Is the Statutory Requirement for the Six-Year Review?*

Under the Safe Drinking Water Act (SDWA), as amended in 1996, EPA must periodically review existing National Primary Drinking Water Regulations (NPDWRs) and, if appropriate, revise them. Section 1412(b)(9) of SDWA states:

> The Administrator shall, not less often than every 6 years, review and revise, as appropriate, each national primary drinking water regulation promulgated under this title. Any revision of a national primary drinking water regulation shall be promulgated in accordance with this section, except that each revision shall maintain, or provide for greater, protection of the health of persons.

### *B. What Has the Agency Done To Address the Statutory Requirement?*

The Agency developed a systematic process, or protocol, for the review of existing NPDWRs in accordance with the SDWA requirements and applied the protocol to the review of the NPDWRs for total coliforms and 68 inorganic and organic chemicals published prior to the SDWA 1996 Amendments (*i.e.*, pre-1997 NPDWRs). In the April 17, 2002, **Federal Register**, EPA provided:

- A description of the review protocol;
- A detailed discussion of how the protocol was applied in assessing each of the 69 pre-1997 NPDWRs;
- The preliminary results of each of the technical reviews, and the preliminary decision for each NPDWR; and
- A request for the public to comment on any aspect of the Agency's protocol and preliminary decisions.

Please refer to the April 17, 2002, **Federal Register** for the detailed discussion of EPA's revise/not revise decisions for each of the 69 NPDWRs. Today's action briefly summarizes the major public comments, other new information, and EPA's current revise/not revise decisions for the 69 NPDWRs. Today's action only discusses in detail those decisions or rationales that were affected by public comments or other new information that has become available since April 2002.

In June 2002, EPA consulted with the Science Advisory Board (SAB) Drinking Water Committee and requested their review and comment on whether the protocol EPA developed based on the National Drinking Water Advisory Council (NDWAC) recommendations was consistently applied and appropriately documented. The SAB provided verbal feedback regarding the transparency and clarity of EPA's decision criteria for making its revise/not revise decisions under the current review. EPA has revised this protocol document to better explain how the decision criteria were applied and will also take the SAB comments into consideration when planning for the next review cycle.

## III. EPA's Current Revise/Not Revise Decisions for the 69 Pre-1997 NPDWRs

EPA received comments from 44 commenters on its preliminary revise/not revise decisions in the April 17, 2002, **Federal Register**. The Agency responded to these comments in the ''Public Comment and Response Summary for the Six-Year Review of National Primary Drinking Water Regulations'' (USEPA, 2003e), which is available in the Water Docket in the EPA Docket Center and at the EPA Dockets Web site *http://www.epa.gov/epadocket/*. Other technical support documents [1] for the decisions discussed in today's action are also available in the Water Docket and at the EPA Dockets Web site *http://www.epa.gov/epadocket/* and the Safewater Web site *http://www.epa.gov/safewater/*.

Based on the Agency's preliminary review, as well as the public comments received and other new information, EPA believes that it is appropriate to revise the Total Coliform Rule (TCR). The Agency also believes that it is not appropriate to revise the 68 chemical NPDWRs at this time. However, for the reasons discussed in sections IV.B.7, IV.B.13, and IV.B.14 of today's action, the Agency has modified the basis of its not revise findings for 1,1-dichloroethylene, lead, and lindane, respectively. Table III–1 reflects the Agency's current revise/not revise decisions for the 69 NPDWRs. As indicated in Table III–1, EPA's decision not to revise an NPDWR at this time is based on one of the following reasons:

- Health risk assessment is in process: As of December 31, 2002, the Agency is currently conducting, or has scheduled, a detailed review of current health effects information. Because the results of the assessment are not yet available, or were not available in time for consideration under the 1996–2002 review cycle, the Agency does not believe it is appropriate to revise the NPDWR at this time. In these cases, EPA will consider the results of the updated

[1] These include: (1) EPA's overall protocol for the review of NPDWRs (USEPA, 2003c); (2) health effects (USEPA, 2003f); (3) analytical methods feasibility (USEPA, 2003a); (4) treatment technology (USEPA, 2003g); (5) consideration of other regulatory revisions (USEPA, 2003b); (6) occurrence and exposure (USEPA, 2003d; USEPA, 2002f); (7) and economic considerations (USEPA, 2002c).

health risk assessment during the 2002–2008 review cycle. If the results of the health risk assessment indicate a compelling reason to reconsider the maximum contaminant level goal (MCLG), EPA may decide to accelerate the review schedule for that contaminant's NPDWR.

• NPDWR remains appropriate after data/information review: The outcome of the review indicates that the current regulatory requirements remain appropriate, and therefore, no regulatory revisions are warranted. Any new information available to the Agency either supports the current regulatory requirements or does not justify a revision.

• New information, but no revision appropriate at this time because:

—Low priority: In EPA's judgment, any resulting revisions to the NPDWR would not provide a meaningful opportunity for health risk reduction or result in meaningful cost-savings to public water systems and their customers. These revisions are a low priority activity for the Agency and, thus, are not appropriate for revision at this time because of one or more of the following considerations: competing workload priorities; the administrative costs associated with rulemaking; and the burden on States and the regulated community to implement any regulatory change that resulted.

—Information gaps: Although results of the review support consideration of a possible revision, the available data are insufficient to support a definitive regulatory decision at this time.

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**Table III-1: Current Revise/Not Revise Decisions for the 68 Chemical NPDWRs and the TCR**

| | | | | |
|---|---|---|---|---|
| **Not Appropriate for Revision at this Time** | Risk assessment in process [1]: chemical currently undergoing an EPA health risk assessment; includes the three initiated as a result of this review (34 NPDWRs) | | Acrylamide<br>Alachlor<br>Antimony<br>Asbestos<br>Atrazine<br>Benzo[a]pyrene<br>Cadmium<br>Carbofuran<br>Carbon tetrachloride<br>Copper<br>Cyanide<br>2,4-D (2,4-Dichlorophenoxyacetic acid)<br>1,2-Dichlorobenzene<br>1,4-Dichlorobenzene<br>1,2-Dichloroethane<br>Di(2-ethylhexyl)adipate<br>Di(2-ethylhexyl)phthalate | Diquat<br>Endothall<br>Ethylbenzene<br>Ethylene dibromide<br>Glyphosate<br>Methoxychlor<br>Pentachlorophenol<br>Polychlorinated biphenyls<br>Simazine<br>Styrene<br>2,3,7,8-TCDD (Dioxin)<br>Tetrachloroethylene<br>Thallium<br>Toluene<br>1,1,1-Trichloroethane<br>Trichloroethylene<br>Xylenes |
| | NPDWR remains appropriate after data/information review (16 NPDWRs) | | Barium<br>Dalapon<br>cis-1,2-Dichloroethylene<br>trans-1,2-Dichloroethylene<br>Dinoseb<br>Endrin<br>Epichlorohydrin<br>Hexachlorocyclopentadiene | Mercury<br>Monochlorobenzene<br>Nitrate<br>Nitrite<br>Selenium<br>2,4,5-TP (Silvex)<br>1,2,4-Trichlorobenzene<br>Vinyl chloride |
| | New information, but no revision appropriate because: | Low priority (14 NPDWRs) | Benzene<br>Beryllium<br>Chlordane<br>1,2-Dibromo-3-chloropropane<br>1,1-Dichloroethylene<br>1,2-Dichloropropane<br>Heptachlor | Heptachlor epoxide<br>Hexachlorobenzene<br>Lindane<br>Oxamyl<br>Picloram<br>Toxaphene<br>1,1,2-Trichloroethane |
| | | Information gaps (4 NPDWRs) | Chromium<br>Dichloromethane | Fluoride<br>Lead |
| **Candidate for Revision** | Based on review of "other regulatory revisions" (1 NPDWR) | | Total Coliform Rule (TCR) | |

[1] As of December 31, 2002, the Agency is currently conducting, or has scheduled, a detailed review of current health effects information.



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## IV. Summary of Major Comments and New Information and the Agency's Response

This section summarizes the major public comments, including the Agency's response, and other new information, and explains any modifications to EPA's preliminary revise/not revise decisions. For a more detailed summary of the comments and the Agency's response, please refer to the document: ''Public Comment and Response Summary for the Six-Year Review of National Primary Drinking Water Regulation'' (USEPA, 2003e).

### *A. What Did Commenters Say Regarding the Reasonableness and Appropriateness of EPA's Six-Year Review Approach?*

1. Overall Approach and Decision Criteria

*a. Adequacy of the Review.* Commenters generally agreed that EPA had identified the appropriate key elements of the review. However, some commenters stated that the Agency could have done more in some areas (*e.g.,* implementation) and a few commenters expressed the opinion that the Agency's review process contains weaknesses, or was not applied appropriately, because it did not identify any chemical NPDWRs for revision at this time.

*EPA Response:* The Agency believes that its basic review protocol and decision rationale are reasonable and appropriate. Even though EPA's application of the protocol did not identify any chemical NPDWRs for revision at this time, that is not a reason to reject or modify the protocol. The review did result in the initiation of health risk assessments for three contaminants and efforts to address data gaps/research needs for several other contaminants. Health risk assessments are underway for approximately half of the chemical contaminants addressed in today's action. The Agency expects most of these assessments to be completed within the next few years. When completed, these assessments will support further analysis that may result in different revise/not revise decisions as part of the ongoing Six-Year Review process.

*b. Criteria for Deciding that an MCLG/MCL Revision is Appropriate and Definition of ''Significant'' and ''Negligible.''* While some commenters agreed, others disagreed with the Agency's consideration of estimated changes in occurrence levels and available economic information whenever a health or technological basis exists to revise a standard. For example, some commenters felt that EPA should revise the MCLG and, as appropriate, the maximum contaminant level (MCL), whenever a health basis exists, regardless of other considerations. A few commenters criticized the Agency for not defining what it considers ''significant'' and ''negligible'' gains in public health protection and/or cost-savings in terms of regulatory revision.

*EPA Response:* Section 1412(b)(9) of SDWA, as amended in 1996, provides the Administrator with broad discretion to determine when a revision to an NPDWR is appropriate. As a part of this determination, the Agency believes it is reasonable to consider whether a potential revision is likely to provide a meaningful opportunity for health risk reduction. This criterion is consistent with the statutory provisions governing the regulatory determination process under section 1412(b)(1)(A) for contaminants not currently regulated. EPA also believes it is reasonable to consider the extent of potential cost-savings for public water systems and their customers when determining whether revisions that potentially would result in a relaxed standard (*i.e.,* where a health basis exists for a less stringent standard) or streamlined implementation are appropriate. These considerations allow the Administrator to better prioritize efforts that are most likely to result in a meaningful opportunity for health risk reduction or cost-savings to public water systems and their customers. Revisions that do not satisfy at least one of these criteria are a low priority activity for the Agency, and thus are not appropriate at this time because of one or more of the following considerations:

- Competing workload priorities;
- The administrative costs associated with rulemaking; and
- The burden on States and the regulated community to implement any regulatory change that resulted.

EPA believes that the determination of whether the impact of a potential revision is ''significant'' or ''negligible'' is a matter of judgment that depends on a number of variables, not all of which are amenable to precise definition. However, EPA recognizes that the use of ''negligible/significant'' terminology may imply more precision and quantitation in the determination than is possible. The Agency also understands that the use of the term ''negligible'' may imply to some that the Agency is belittling small gains in health risk reduction. This is not the Agency's intent. Accordingly, in today's action, the Agency has explained its rationale more clearly in terms of the criteria noted in the previous paragraph.

*c. Authority to Relax an Existing Standard and Deregulation of Low/Non-Occurring Contaminants.* Some commenters argued that the Agency should never consider relaxing a standard because doing so, by definition, would lessen the level of public health protection. Other commenters encouraged the Agency to actively consider deregulating contaminants that have low occurrence or do not appear to be occurring in finished water or, at a minimum, to further reduce the frequency of monitoring for these contaminants.

*EPA Response:* EPA disagrees with those commenters who oppose relaxing a standard for any reason. The legislative history of the SDWA Amendments of 1996 makes clear that Congress envisioned the possibility that a relaxed standard might be appropriate under circumstances that would not result in a lessening of the level of public health protection. In its discussion of potential revisions to an existing drinking water standard, Senate Report Number 104–169 (available electronically at *http://thomas.loc.gov/*) states:

> Amendments made by the bill require that any future standard issued for a contaminant already regulated must maintain or provide for greater protection of the health of persons. Generally, this will preclude the promulgation of a revised standard for a contaminant that is less stringent than the standard already in place. However, there are circumstances under which a standard may be relaxed. The maximum contaminant level goal for a contaminant is set at a level at which there is no adverse effect on the health of persons with an adequate margin of safety. New scientific information may cause the MCLG to be revised and in some cases these revisions may be to less stringent levels. This may lead to a revision of the maximum contaminant level since it need be no more stringent than the MCLG. New information may also allow for a smaller margin of safety because it narrows the range of uncertainty for estimates of health risks. Finally, some substances which have been regulated as carcinogens for ingestion in drinking water may be reclassified (as asbestos has been in the most recent revision) or assigned a threshold for the effect based on new scientific information. In each of these cases, EPA may issue a revised standard for a contaminant that is less stringent than the one it replaces.
>
> (S. Rep.104–169, 104th Cong., 1st Sess. (1995) at 38)

However, because section 1412(b)(9) of SDWA requires that any revision to an existing NPDWR maintain or improve the level of public health protection, EPA believes that a clear, technically-based demonstration

regarding the absence of potential risk is necessary to deregulate a contaminant. EPA does not believe it is appropriate to deregulate any currently regulated contaminant at this time because the Agency is not able to make a determination, pursuant to section 1412(b)(9) of SDWA, that there would be no lessening of public health protection if the contaminant were deregulated. The Agency disagrees that evaluation of finished water data is sufficient to consider deregulation of low or non-occurring contaminants. The apparent low or non-occurrence of these contaminants in finished water may be the result of effective treatment processes in place rather than the lack of occurrence in source water.

EPA believes that the existing waiver provisions in the SDWA regulations give States sufficient flexibility to reduce or potentially eliminate monitoring of a chemical contaminant, where appropriate. States that have primacy for the drinking water regulations are responsible for their waiver programs and can grant waivers if a particular pesticide or herbicide has not been previously used, manufactured, stored, transported, or disposed in the area, a system's source water is not susceptible to contamination from the chemical, or the State has determined the system is not vulnerable. The State can grant waivers for individual contaminants, a group of contaminants, or issue an area-wide waiver (*see* 40 CFR 141.23 (b) and (c), and 141.24 (f) and (h)). In addition, States can adopt alternative monitoring strategies as long as the approach is as stringent as the Federal requirements (USEPA, 1997b).

2. Health Effects Technical Review

*a. Contaminants Undergoing Health Risk Assessments.* A few commenters raised issues with respect to the 36 chemical contaminants for which health risk assessments were underway when EPA published its preliminary revise/not revise decisions in the April 17, 2002, **Federal Register**. In particular, these commenters wanted to know the process that EPA plans to follow to review each NPDWR once the risk assessment is completed, including when that review would occur and when an accelerated review would be appropriate.

*EPA Response:* Between April and August 2002, the Agency completed health risk assessments for 2 of the 36 contaminants: 1,1-dichloroethylene and lindane. The results of those assessments and the impact on the Agency's revise/not revise decisions are discussed in sections IV.B.7 and IV.B.14, respectively, of today's action. NPDWRs for the remaining contaminants for which health risk assessments are in process will be reviewed as a part of the 2002–2008 review cycle. However, if in the Agency's judgment, a compelling reason exists to revisit the ''not revise'' decision sooner, EPA may accelerate the review cycle for that NPDWR. In reviewing these regulations, EPA expects to apply an approach consistent with the protocol used for the current review. That is, the Agency will consider the same key elements and apply the same basic decision tree for making a revise/not revise decision. The key elements of the review include health effects technical review, technology review, other regulatory revisions review, and, if appropriate, occurrence/exposure analyses and consideration of available economic information (see 67 FR 19030 at 19038, April 17, 2002 (USEPA, 2002g)).

*b. Other Issues Related to the Health Effects Technical Review.* One commenter stated that the Agency risk assessments underestimate risk because absorption of chemicals through the skin, lung, and nose is not ''adequately'' taken into account. Another commenter encouraged the Agency to evaluate the literature for potential reproductive and developmental effects for chemicals with zero MCLGs since risk management strategies, such as monitoring frequency or treatment requirements, may be affected by such information.

*EPA Response:* EPA disagrees that the Agency underestimates risk when deriving MCLGs. The Agency takes multiple routes of exposure into account by including a relative source contribution (RSC) in its calculation of an MCLG value. The RSC compares exposure from air, food, and drinking water and uses the data in allocating a portion of the total exposure to drinking water. When exposure data for the chemical are not available, EPA assumes that the RSC from drinking water is 20 percent of the total exposure. This allows 80 percent of the total exposure to come from sources other than drinking water, such as exposure from food, inhalation, or dermal contact.

EPA recognizes the possibility that some chemicals with zero MCLGs may also be of reproductive and/or developmental concern. EPA is investigating these endpoints and their potential impact on monitoring frequency or treatment requirements. However, the Agency does not believe the analysis can be completed during the current review cycle without significantly delaying the current revise/not revise decisions. To the extent possible, EPA will consider the results of this analysis and any additional information during subsequent Six-Year Reviews.

3. Analytical Methods Feasibility Technical Review

Commenters generally supported the Agency's approach of using Performance Evaluation (PE) Water Supply (WS) data and the 10 times method detection limit (MDL) multiplier to evaluate possible changes in analytical feasibility for several of the contaminants under this Six-Year Review. A few commenters agreed that the WS data are a valuable source of information for evaluating interlaboratory performance and for developing practical quantitation levels (PQLs). However, the same commenters questioned whether the approach of using PE WS data will be possible for future reviews since the Agency's laboratory certification program that once collected this information has been externalized to private providers. These commenters questioned whether the externalized or privatized data would be sufficient for the determination and/or re-evaluation of PQLs. In addition, at least one commenter suggested that it may be appropriate (in the next Six-Year Review) to re-evaluate the policy of basing the PQL on only EPA Regional and State laboratory results, and recommended that the Agency include commercial and large utility laboratory results. According to the commenter, these laboratories (commercial and large utility) have demonstrated ''significant innovation in method development and improved quantitation.''

*EPA Response:* EPA agrees that the WS studies have been a valuable source of information for determining PQLs. At this time, the Agency has not determined whether the privatized data will be sufficient for the purposes mentioned by the commenter. In addition, the Agency has not yet determined how best to gather data to determine and/or reassess PQLs for future reviews. The Agency is in the process of evaluating acceptable options. The policy for determining the most appropriate methodology for calculating PQLs for drinking water contaminants is outside the scope of the Six-Year Review.

4. Review of Treatment Technologies and Related Issues

Commenters suggested that, while EPA's review of existing NPDWRs was generally consistent with the NDWAC recommendations to EPA (NDWAC, 2000), the Agency's review of treatment

technologies which support the regulations should be expanded. Specifically, commenters recommended that EPA review all treatment technique (TT) requirements and allow for changing or expanding these TT requirements where new information warrants such a change.

*EPA Response:* EPA continues to believe its approach to reviewing TT requirements is appropriate. The ''EPA Protocol for the Review of Existing NPDWRs'' (Protocol Document) discusses when it is appropriate for the Agency to consider revisions to TT-type regulations (see sections II.C and III.B of the Protocol documents) (USEPA, 2002d; USEPA, 2003c). The Agency discussed the review of the four chemical treatment technique NPDWRs (*i.e.,* acrylamide, copper, epichlorohydrin, and lead) in both the draft and final ''Water Treatment Technology Feasibility Support Document for Chemical Contaminants; In Support of EPA Six-Year Review of National Primary Drinking Water Regulations'' (Treatment Feasibility Documents) (USEPA, 2002b; USEPA, 2003g). The Agency has no specific information that provides a basis for revisions to TT requirements at this time. However, EPA believes that research data in a number of treatment-related areas may be useful in future reviews of NPDWRs. The Agency is committed to working with stakeholders to identify and prioritize treatment-related research needs, and to work with EPA's research partners to address the highest priority needs.

5. Review of Implementation-Related Issues

While several commenters felt overall that EPA's Six-Year Review protocol was reasonable and appropriate, they encouraged EPA to consider implementation-related modifications (*i.e.,* ''other regulatory revisions'') as a reason to revise a rule, even if there were no basis to revise the MCLG and/or MCL/TT requirements.

*EPA Response:* Implementation-related issues are the primary reason for the Agency's decision to revise the TCR at this time (67 FR 19030 at 19085, April 17, 2002 (USEPA, 2002g)), so it is clear that EPA considered implemented-related issues in its review. The Protocol Document (USEPA, 2002d; USEPA, 2003c) identifies the conditions under which the Agency will consider implementation-related revisions. EPA continues to believe these criteria are appropriate. During the current review, none of the identified potential implementation-related revisions pertaining to the chemical NPDWRs, in EPA's judgment, met the stated criteria for reasons documented in EPA's final document, ''Consideration of Other Regulatory Revisions for Chemical Contaminants in Support of the Six-Year Review of National Primary Drinking Water Regulations'' (USEPA, 2003b).

6. Review of Occurrence and Exposure

*a. Occurrence Database Concerns.* A few commenters asked for information regarding next steps for the National Contaminant Occurrence Database (NCOD). Another commenter pointed out that States have been willing to assist EPA by providing occurrence data beyond what is required of them. However, the commenter raised concerns that he/she felt EPA needs to address to facilitate further data sharing.

Some commenters expressed concern about the completeness and representativeness of the 16-State data set used for the Six-Year Review. One commenter suggested that the Agency should have issued an Information Collection Request to obtain more complete data for the Six-Year Review analysis.

*EPA Response:* The Agency is updating the NCOD to provide sample data that have been quality checked and used in various EPA analyses. This update to NCOD includes unregulated occurrence data collected prior to 1999 as well as the latest Unregulated Contaminant Monitoring Rule data (64 FR 50556, September 17, 1999 (USEPA, 1999b)) reported by laboratories for public water systems required to report results. It also includes the data used for the Six-Year Review of regulated contaminants. EPA appreciates that some States are willing to share their full compliance monitoring records with the Agency, even though it is not required. The Agency and the States are continuing to work together to establish a protocol for data sharing, including safeguards to prevent misuse and misinterpretation of data.

The 16-State cross-section data set compiled for occurrence analyses for the Six-Year Review is the largest compliance monitoring data set for drinking water assembled by EPA to date. The design and construction of the 16-State cross-section data set was based on the fact that contaminant occurrence varies spatially (geographically) due to differing patterns of population, land use, chemical use, geology, hydrology, and climate. The detailed description of the ''pollution-potential'' and geographic diversity considerations, and the derived balanced cross-section of States (that was developed to be collectively indicative of national occurrence) is included in the ''Occurrence Estimation Methodology and Occurrence Findings Report for the Six-Year Review of Existing National Primary Drinking Water Regulations'' (Occurrence Methodology Document) (USEPA, 2003d). EPA selected its 16-State cross-section to be as representative as possible of national contaminant occurrence. In EPA's judgment, these States provide a reasonable cross-section of agricultural and industrial pollution potential, as described in the Occurrence Methodology Document, and also provide geographic coverage of the United States. Therefore, EPA believes that the data assembled from these States is the most representative data currently available of national contaminant occurrence.

The Agency did receive occurrence data from States other than those in its 16-State cross-section. However, many State data sets contained incomplete records (*e.g.*, no water type or population records specified) or had other quality problems. Therefore, they were not included in the analyzed data set.

b. *Occurrence Analysis Methodology.* One commenter noted that while the occurrence estimation methodology has several strengths, it also has a number of flaws. The commenter was concerned about the large proportion of non-detected observations in the occurrence data, and the difficulty of verifying the assumptions made by the Agency. The commenter agreed that EPA's occurrence analysis may represent a ''decent'' estimate given the limitations of the data. The commenter also noted that the occurrence estimation methodology is premised on ''subjective decisions or qualitative observations * * * rather than documented, statistically-based quantitative ones'' and would like to have seen alternate approaches used to provide confirmation of the estimates. In addition, the commenter questioned why the Agency used ''modeled data sets to test the model rather than a standard statistical strategy of basing the model on a portion of the data set and using the remainder to test the model.''

One commenter stated that the Stage 2 analysis (Bayesian analysis) was poorly described and that this conflicts with the transparency requirements of the 1996 SDWA Amendments. In addition, the commenter asked EPA to clarify how the occurrence data from other survey efforts, which are summarized in ''Occurrence Summary and Use Support Document for the Six-Year Review of Existing National Primary Drinking Water Regulations''

(Occurrence Summary Document) (USEPA, 2002f), were used to inform the modeling effort.

*EPA Response:* EPA's occurrence model development work was significantly revised to reflect peer review comments prior to the March 2002 Occurrence Methodology Document (USEPA, 2002e) and the April 17, 2002, **Federal Register**. The additional work involved the development of a detailed simulation study to evaluate the Bayesian model. EPA evaluated the performance of the Bayesian estimator and an alternative occurrence estimation approach, the Regression on Ordered Statistics (ROS) method, against synthetic data (*i.e.*, data developed with known national contaminant occurrence distributions). This simulation study also enabled an explicit evaluation of the validity of the assumption of a log-normal distribution of the data.

The simulation study was conducted using varying conditions of a correctly and incorrectly specified model, and synthetic data sets developed with high and low amounts of non-detected data. The study findings indicated that the Bayesian estimator performed well at estimating the distributions of contaminant concentration means (especially in the upper tails), performed better than the alternate approach (*i.e.*, the ROS method), and accurately estimated the uncertainty of the distributional estimates. The Agency believes that this analysis supports the validity of EPA's analytical approach. The Bayesian model was tested against the ROS approach because the ROS method is an accepted drinking water contaminant occurrence estimation approach and was used to estimate occurrence for the recent arsenic rule. These findings were all included and described in the Six-Year Review's Occurrence Methodology Document.

EPA has attempted to make its occurrence analysis as clear as possible. In response to the concerns raised by the peer reviewers, a less technical description of the occurrence estimation methodology, aimed at the general reader, was added to the main body of the document. A detailed description of the analysis, intended for readers with technical expertise, including the complete computer code used for model analysis, was incorporated into an appendix of the document. EPA agrees that its estimation methodology is complex, but also believes that it is as transparent as possible while still providing a technically accurate description of the Agency's analysis. The use of simple national occurrence (statistical) assessments is not possible at this time because there is no national database with a complete collection of regulated contaminant occurrence data. Thus, there is no ideal basis for comparison of national occurrence studies (*i.e.*, the true system contaminant means and national distributions of contaminant occurrence are not, and cannot, be known). The validation approach suggested by the commenter (*i.e.*, basing the model on a portion of the data set and using the remainder to test the model) is intended for a regression-type of model using observed system means to develop a model for system-specific predictions. This approach is not possible for the six-year occurrence assessments, since, to the best of EPA's knowledge, data on the true individual system contaminant mean concentrations and national distributions are not available.

Regarding the other survey studies included in the Occurrence Summary Document, few, if any, provide the quantitative analytical results and national, representative coverage that would enable direct comparison to, or inclusion in, the Six-Year Review estimation analyses conducted with the 16-State cross-section occurrence data.

*c. Other Issues Related to the Occurrence Technical Review.* One commenter stated that the Agency's current approach to estimate occurrence, employing a conservative methodology and making conservative simplifying assumptions in the absence of definitive data, was appropriate. On the other hand, the commenter argued that it was not appropriate for the Agency to conduct as massive a data collection and analysis project as was undertaken without clear quantitative objectives for the analysis identified a priori. The commenter noted that it was not apparent from either the April 17, 2002, **Federal Register** or the Occurrence Methodology Document (USEPA, 2002e) that the Agency undertook an effort to set performance objectives for the occurrence estimation.

The commenter felt that the Occurrence Methodology Document does not allow the reader to determine if the data are well apportioned among the categories for which results are reported. They also noted that they were unable to find indications in the support document that such an analysis was undertaken in preparation for constructing the Bayesian model. The commenter stated that the support document does not include actual numeric counts or ranges of detected values and suggested that it would be useful to have this information by contaminant, State, system size category, and water type, as well as an explicit count of non-detects by this same matrix.

*EPA Response:* There are several general approaches when undertaking and designing studies that require large amounts of data. As the commenter states, a priori data quality objectives are part of one research approach where study objectives (including technical statistical performance measures) are set, determinations are made on how to meet those objectives, and then the study is designed and implemented accordingly. This ideal was not practical for the national occurrence study conducted for the Six-Year Review because EPA did not have the resources to generate original data, and was thus dependent on the data that could be obtained from the States. The approach taken by the Six-Year Review was to gather a large amount of data that, in aggregate, was expected to be indicative of national contaminant occurrence, develop an occurrence estimation model that built upon what has been learned from recent regulatory development work, and then evaluate how good the resulting model estimates are.

As discussed in section IV.A.6.b of today's action, the true national distributions of contaminant occurrence cannot be known. The 16-State national cross-section data set used for the Six-Year Review is the largest compliance monitoring database for drinking water compiled by EPA to date. The database represents approximately 37 percent of the total number of public water systems and 43 percent of the total population served by public water systems in the United States. External peer reviews assessed the approach for developing the national cross-section and its ''representativeness'' separately under the Chemical Monitoring Reform (CMR) project (in 1998/1999) (USEPA, 1999c) and the Six-Year Review project (USEPA, 2002e), and provided generally favorable comments.

The data management and cross-section development have been described in detail in the support documents for the CMR and the Six-Year Review. Further tabulations of the data have been generated and presented, as the commenter requested, in the final Occurrence Methodology Document (USEPA, 2003d). This information includes the numbers and percentages of analytical detections and non-detections for each contaminant in each of the system size and source water type categories. Generally, because of the large amount of data and the manner in which the Bayesian model handles data, the distribution of observations across the various categories does not significantly affect EPA's estimates. The

number of analytical records differed by contaminant. EPA evaluated 27,648 to 93,062 analytical records for the individual inorganic chemicals, 32,606 to 121,327 records for the synthetic organic chemicals, and 123,229 to 201,235 records for the volatile organic chemicals. Most importantly, the Stage 2 occurrence model also quantifies the uncertainty of the estimates in the different categories of system size and source water type. Hence, the statistical significance of differences in occurrence between the categories can be easily assessed. However, the Agency believes it is more appropriate to consider the universe of potentially affected systems within the 16-State cross-section, rather than individual system categories, when making its revise/not revise decisions as part of the Six-Year Review process.

7. Consideration of Available Economic Information

Some commenters stated that, while the Agency's review of NPDWRs was generally consistent with NDWAC recommendations to EPA (NDWAC, 2000), it is not clear how the Agency took economic factors into account.

*EPA Response:* An EPA memorandum, dated March 18, 2002, describes the Agency's qualitative evaluation of economic factors (USEPA, 2002c). This memorandum was cited in the April 17, 2002, **Federal Register** and is available in the docket for the Six-Year Review (Docket No. OW–2002–0012). It notes that detailed economic analyses were not deemed by the Agency to be necessary to support its decisions of whether or not to revise a particular NPDWR. Rather, a qualitative assessment, based on the extent of occurrence of a contaminant at the MCL, as well as at alternative levels, was undertaken to inform the Agency's judgment about whether possible changes to an MCL offered a meaningful opportunity for health risk reduction and/or cost-savings to public water systems and their customers. EPA has conducted this assessment for 15 of the chemical NPDWRs for which the Agency had determined that a potential health or technological basis may exist for considering a revision to the MCLG/MCL.[2] EPA compared the estimated occurrence and exposure values at the current MCL and at potentially revised regulatory level(s). For 14 of these chemical NPDWRs, the Agency's assessment showed that the differences were small. In EPA's judgment, these differences are unlikely to provide a meaningful opportunity for health risk reduction or cost-savings to public water systems and their customers. After consideration of these factors, EPA decided that any revision would be a low priority activity for the Agency, and, thus, not appropriate to revise at this time because of: Competing workload priorities; the administrative costs associated with rule making; and the burden on States and the regulated community to implement any regulatory change that resulted. In the case of dichloromethane, the Agency did not have sufficient data to recalculate the PQL to support any potential regulatory revision and thus placed it in the data gaps category.[3]

*B. What Comments or New Information Did EPA Receive on Chemical Contaminant-Specific Issues?*

1. Alachlor

One commenter stated that the Office of Pesticide Programs (OPP) found that the chloroacetanilide pesticides (acetochlor, alachlor, and butachlor) should be considered as a group of chemicals having a common mechanism of toxicity due to their ability to cause nasal turbinate tumors. The commenter believes EPA therefore should adopt a strong total chloroacetanilide pesticide standard that would strengthen the current standards.

*EPA Response:* Butachlor and acetochlor do not presently have an NPDWR and thus, are not included in the Six-Year Review. However, acetochlor is included on the Contaminant Candidate List (CCL) and may in the future be considered as a candidate for regulation. Alachlor is a regulated drinking water contaminant and is included in the Six-Year Review. It is currently undergoing a risk assessment and, therefore, the Agency believes that revision of the NPDWR is not appropriate at this time.

If the Agency decides to regulate either acetochlor or butachlor in the future, EPA may consider regulating them as a group, including alachlor, following a cumulative risk assessment process for pesticides that have a common mechanism of toxicity. It would be premature to propose a total chloroacetanilide pesticide standard until a cumulative risk assessment is completed because this analysis could impact the Agency's evaluation of specific members of this group, or the group as a whole.

2. Antimony

*a. Health Effects.* A number of commenters have suggested that the current MCLG and MCL of 0.006 milligrams per liter (mg/L) for antimony need to be revised. Some of the reasons given were:

- The study used to derive the current MCLG (Schroeder *et al.*,1970) is not consistent with current good laboratory practice guidelines and there are several newer studies of antimony toxicity that should be considered in deriving a new reference dose (RfD).
- Animals used in the Schroeder *et al.*, 1970 study had a viral infection. To compensate for this infection, adjustments were made to the size of the animal groups in an attempt to salvage the data.
- The antimony compound used in the Schroeder *et al.*, 1970 study was potassium antimony tartrate, the most water soluble and toxic form of antimony. Antimony found in drinking water is likely to be in the form of less toxic trivalent and pentavalent antimony species. Therefore, basing the MCLG on the most toxic species of antimony (potassium antimony tartrate) is likely to overestimate the risk posed by antimony in drinking water.

*EPA Response:* EPA agrees that the MCLG and MCL for antimony may need to be re-evaluated. EPA is in the process of developing a new health risk assessment for antimony, taking into consideration new studies that have become available on the toxicity of antimony. EPA expects to complete the health risk assessment for antimony in the 2003–2004 time frame (68 FR 5870, February 5, 2003 (USEPA, 2003h)). As a result of the ongoing health risk assessment, a revision to the antimony standard is not appropriate at this time, and antimony will be re-evaluated as part of the next Six-Year Review process.

*b. Treatment and Implementation Issues.* Several commenters questioned the appropriateness of the antimony MCL, and the effectiveness of using the EPA-designated best available technologies (BATs) to meet the antimony MCL. A few small systems in Utah have levels of antimony in water at or above the MCL value of 0.006 mg/L. These systems were granted

[2] These 15 chemical NPDWRs are: Benzene; beryllium; chlordane; 1,2-dibromo-3-chloroproppane dichloromethane; 1,1-dichloroethylene; 1,2-dichloropropane; heptachlor; heptachlor, epoxide; hexachlorobenzene; lindane; oxamyl; picloram; toxaphene; and 1,1,2-trichloroethane.

[3] The other three NPDWRs in the data gaps category, chromium, fluorida, and lead, were placed there for reasons other than occurrence and economic considerations. Chrominum is in the data gaps category because of the studies being conducted by the National Toxicology Program studies. Fluoride is in the data gaps category pending a National Academy of Sciences update of the health risk assessment and review of the RSC assumptions. Lead is in the data gaps category based on consideration of public comments (see section IV.B.13 of today's action).

exemptions contingent upon testing and installation of treatment by March 2004.

These systems are investigating treatment options for the removal of antimony from their source water. Commenters submitted supporting data documenting the results of their testing and cost analyses. According to commenters, on-site testing indicated that the designated BATs (*i.e.*, reverse osmosis and coagulation/filtration) and most of the other tested treatments were ineffective and/or prohibitively expensive due to: raw water quality concerns; water conservation needs; current costs for water production; and other concerns, such as waste water management. However, commenters did identify treatment options that may be feasible, but these may require further investigation prior to full scale use.

*EPA Response:* As discussed in the April 17, 2002, **Federal Register** and as noted in the previous response in section IV.B.2.a, EPA does not believe it is appropriate to consider revisions to the NPDWR for antimony at this time because of the ongoing health risk assessment (67 FR 19030 at 19051 (USEPA, 2002g)).

When EPA initially promulgated the antimony NPDWR in 1992, the Agency estimated that 200 public water systems would be affected (USEPA, 1992). EPA recognizes that implementation of this standard may present challenges for a few localities. Although the use of the designated BATs for antimony may not be appropriate in some cases, as long as systems comply with the MCL, they are not limited to these technologies.

EPA believes that the treatment data generated by the commenters may be valuable and may provide insight into potential alternative treatment technologies. The Agency has revised the document, ''Water Treatment Technology Feasibility Support Document for Chemical Contaminants; In support of EPA Six-Year Review of National Primary Drinking Water Regulations'' (Treatment Feasibility Document) (USEPA, 2003g) to refer to these preliminary test data as they may be applicable to the development of potential new treatment technologies for the removal of antimony and other contaminants.

3. Atrazine

*a. Health Effects.* Several commenters addressed the EPA decision not to consider revision of the MCL for atrazine at this time. Some of these commenters stated that EPA should use the risk assessment, released by OPP in May 2002, as a basis for reconsidering the atrazine NPDWR. One of the commenters noted that the 2002 risk assessment is based on reproductive and developmental endpoints which represents a change from the toxicity endpoint that formed the basis of the current MCLG. Two commenters stated that the MCL for atrazine should be revised upward because of the results of the 2002 OPP risk assessment in which the RfD increased and the cancer classification changed from ''possible human carcinogen'' to ''not likely to be a human carcinogen.'' The commenters stated that the change in the cancer assessment implies elimination of the additional 10-fold risk management factor used in 1991 to derive the MCLG/MCL for atrazine. Another commenter stated that atrazine should be regulated using a non-linear approach which recognizes that there is a level at which no known health effects occur and that these findings must be part of the new MCL.

Conversely, another commenter stated that there is substantial new evidence from epidemiological and occupational studies that atrazine poses a serious cancer risk, and that it is an endocrine disruptor at low levels. The commenter believes EPA should adopt a revised atrazine and total triazine standard lower than (*i.e.*, more stringent than) the current 0.003 mg/L standard for atrazine.

A commenter also urged the Agency to:

- Provide a definitive timetable for review of the standard;
- Outline a preliminary scope for its review of the standard; and
- State the underlying premise for the scope of the review.

Other commenters stated that the existing NPDWR only regulates the parent compound atrazine, and that a revised NPDWR should include the chloro-metabolite degradants (*i.e.*, diaminochlorotriazine (DACT), desethyl atrazine (DEA), and desisopropyl atrazine (DIA)). These commenters believe that inclusion of the chloro-metabolites would strengthen compliance monitoring programs for public water systems under SDWA and thereby strengthen public health protection. They stated that a regulation for atrazine and the chloro-metabolites should be developed and promulgated within the next 12 to 18 months. Another commenter stated that since the Agency has found that atrazine, simazine, propazine, and the degradants DACT, DEA, and DIA have a common mechanism of toxicity, these should be regulated in a total triazine regulation.

*EPA Response:* EPA does not believe it is appropriate to consider revisions to the NPDWR for atrazine at this time because the revised risk assessment has not been finalized. For purposes of the Six-Year Review protocol, EPA considers a risk assessment final when an Interim Reregistration Eligibility Decision (IRED), Reregistration Eligibility Decision (RED), and/or IRIS assessments are complete.[4] Even though an IRED for atrazine was signed on January 31, 2003, an amended IRED is scheduled to be released in October 2003 which will include a Scientific Advisory Panel (SAP) peer review of new data related to health effects. Based upon the outcome of the SAP review, the October 2003 IRED may include additional information that could impact a revise/not revise decision. Therefore, EPA does not believe it is appropriate to consider possible revisions to the NPDWR at this time.

In reviewing the atrazine regulation, EPA will apply an approach consistent with the protocol used for the current review. The Agency will consider the same key elements (*i.e.*, health effects review, technology review, other regulatory revisions review, and, if appropriate, occurrence/exposure analyses and consideration of available economic information) and apply the same basic decision tree for making a revise/not revise decision.

To address the issue of regulating the triazines as a group, the Agency is evaluating the unregulated triazines as part of the CCL process. When the risk assessment is completed for atrazine, the Agency will consider whether or not there are compelling reasons for considering a revision to the atrazine regulation or to wait until the risk assessment for the triazines, which considers issues of cumulative risk, is finalized. EPA will use the CCL regulatory determination process in deciding whether the triazines should be regulated as a group.

*b. Costs of Treatment.* Commenters stated that the costs associated with not revising the MCL are great. These commenters are concerned that State agencies will be required to develop total maximum daily loads (TMDLs) based on 303(d)[5] listings resulting from

[4] The IRED is an intermediate decision for an individual pesticide that does not take into account cumulative risk issues for pesticides with a common mode of action. The RED does include cumulative risk. If an IRIS assessment is also in process when the IRED or RED is signed, EPA will make a case-by-case decision on whether to wait for the IRIS assessment before considering possible revisions to the NPDWR.

[5] Section 303(d) of the Clean Water Act and the implementing regulations (40 CFR 130.7) require States to develop TMDLs for waters where required point and nonpoint source pollution controls are not stringent enough to attain or maintain compliance with State water quality standards after the application of technology-based and other

Continued

an outdated MCL which creates a burden on State and local government, its citizens, and diverts limited resources away from programs that provide real benefits. Some commenters also stated that the treatment costs to hundreds of community water systems are considerable. One commenter also stated that these are real dollars that would otherwise be available for emergency services, education, nutrition programs, and other vital programs that are the responsibilities of local and State agencies.

*EPA Response:* As stated in the previous response in section IV.B.3.a, EPA does not believe it is appropriate to revise the NPDWR for atrazine at this time because the risk assessment is not yet final. If EPA decides to revise the NPDWR for atrazine, economic factors, including feasibility and an assessment of costs and benefits, will be taken into consideration for the drinking water program.

4. Beryllium

Two commenters believed that the current drinking water standard for beryllium is more stringent than necessary for the protection of public health and felt that EPA should adopt a higher value for the beryllium standard. These commenters disagreed with EPA on the use of an uncertainty factor of 300 in deriving the 1998 RfD. The commenters stated the use of uncertainty factors of 3 for database uncertainty, 10 for extrapolating data from a dog study to humans, and 10 for intraspecies variation is inappropriate. The commenters stated that EPA has the authority to raise the current drinking water standards for beryllium based on new information that allows for a smaller margin of safety than the one used by EPA. The commenter felt that the current standard for beryllium is ''lower than necessary to protect the public from beryllium toxicity and results in clean-up standards that are lower than naturally occurring level of beryllium in water sources and soils.'' This commenter also expressed concern that the local application of the Federal drinking water standard to private wells in some cases caused undue concerns among users of those wells.

*EPA Response:* One of the purposes of the Six-Year Review is to determine if the MCL of a chemical should be changed based on a revised RfD or cancer classification. Analytical methods and treatment technologies are considered, as well as occurrence in public water systems. The RfD for beryllium was revised in 1998 based on extensive Agency internal and external reviews, and is unlikely to be revised in the absence of new data. The 1998 assessment also provided separate cancer classification for inhalation and oral exposures (USEPA, 1998). In the revised assessment, the carcinogenicity of beryllium by the inhalation route was described as ''likely,'' while that by the oral route of exposure ''cannot be determined.'' As discussed in the April 17, 2002, **Federal Register**, the Agency considered the occurrence of beryllium at both potentially higher and lower regulatory levels. EPA concluded that a revision to the NPDWR would not result in a meaningful opportunity for health risk reduction or cost-savings to public water systems and their customers. As a result, revision of this NPDWR is a low priority action for the Agency and is not appropriate at this time.

The goal of drinking water standards is to protect public health. Therefore, it does not matter whether the source of contamination is naturally-occurring or man-made. While EPA appreciates the information on private wells, the SDWA requirements do not apply to private wells (*i.e.*, wells that are not part of a ''public water system''). The costs and benefits of a drinking water standard are assessed only with regard to the impacts on public water systems and their customers.

5. Carbofuran

Some commenters mentioned that the Agency concluded that N-methyl carbamates, including carbofuran, should be considered as a class because they have a common mechanism of toxicity. Therefore, they believe EPA should issue a stronger standard for total N-methyl carbamates, including carbofuran, which would be more stringent than the current carbofuran standard of 0.04 mg/L.

*EPA Response:* EPA is re-evaluating the toxicity of carbofuran. However, a final assessment has not been issued by EPA. The Agency considers N-methyl carbamate pesticides as a group of chemicals having a common mechanism of toxicity due to their ability to inhibit acetylcholinesterase. However, it is not appropriate to revise the NPDWR for carbofuran at this time because the Agency has not yet completed the final health risk assessment for carbofuran or the other N-methyl carbamates.

6. Chromium

One commenter requested that EPA move quickly in making a revise/not revise determination once the new data on chromium become available from the National Toxicology Program (NTP) studies of the health effects of chromium VI.

*EPA Response:* The NTP studies that the commenter refers to should be available before the end of the next Six-Year Review cycle. Meanwhile, EPA is continuing to follow the progress of NTP in conducting subchronic and chronic studies of chromium VI.[6] NTP made the data from the subchronic portion of the study available to the public in June 2002 (NTP, 2002). A peer review meeting was held at NTP on July 24, 2002. EPA will examine the peer review report covering the subchronic data once it becomes available. Once the subchronic and chronic studies are completed, the health effects data will be evaluated with regard to their impact on the present RfD and cancer assessment, and integrated with the occurrence and analytical method data before making a new revise/not revise decision.

7. 1,1-Dichloroethylene

In the April 17, 2002, **Federal Register**, the Agency preliminarily placed 1,1-dichloroethylene in the no revision category because a health risk assessment was pending at the time of publication. Since the publication of the April 17, 2002, **Federal Register**, the Agency has finalized the risk assessment for 1,1-dichloroethylene. The remaining paragraphs in this section include a brief background discussion about the original promulgation of the 1,1-dichloroethylene NPDWR, the results of the appropriate six-year technical reviews and the Agency's revise/not revise decision.

*a. Background.* EPA published the current NPDWR for 1,1-dichloroethylene on July 8, 1987 (52 FR 25690 (USEPA, 1987)). The NPDWR established an MCLG and an MCL of 0.007 mg/L. The Agency based the MCLG on an RfD of 0.009 milligram per kilogram of body weight per day (mg/kg/day) and a cancer classification of C, possible human carcinogen.

*b. Technical Reviews.* EPA updated the risk assessment for 1,1-dichloroethylene on August 13, 2002 (USEPA, 2002i). The new risk assessment established an RfD of 0.046 mg/kg/day, based on the same toxicological study as that of the MCLG, but using an uncertainty factor of 100

required controls. A TMDL establishes the maximum amount of a pollutant that may be introduced into a waterbody while still ensuring attainment and maintenance of water quality standards.

[6] Since NTP is posting its progress on its internet site *http://ntp-server.niehs.nih.gov/htdocs/Studies/HexChromium/hexchromiumpg.html*, EPA and the public will be able to evaluate the new data relative to the existing EPA assessment for chromium VI as it is released.

instead of 1,000, and using benchmark dose modeling for the dose-response analysis. Under the 1986 cancer guidelines (51 FR 33992, September 24, 1986 (USEPA, 1986)), 1,1-dichloroethylene was assigned to Group C, possible human carcinogen. Under the draft revised ''Guidelines for Carcinogen Risk Assessment'' (USEPA, 1999a), the data for 1,1-dichloroethylene were considered inadequate for an assessment of human carcinogenic potential by the oral route.

Based on the change in RfD for 1,1-dichloroethylene, using a 20 percent RSC and a 10-fold risk management factor for possible carcinogenicity, EPA used 0.03 mg/L as a level for evaluating the occurrence data. Without the use of the 10-fold risk management factor, EPA also used 0.3 mg/L as a level for evaluating the occurrence data.

Analytical or treatment feasibility do not pose any limitations for the current MCL and would not be a limiting factor at the 0.03 mg/L or the 0.3 mg/L level (USEPA, 2002a; USEPA, 2003g). The Agency's review of possible ''other regulatory revisions'' did not identify any issues that are specific to 1,1-dichloroethylene (USEPA, 2003b).

EPA evaluated the results of the occurrence and exposure analyses for 1,1-dichloroethylene to determine whether possible changes to the standard would be likely to result in a meaningful opportunity for cost-savings to public water systems and their customers (USEPA, 2003d). Table IV–1 shows the results of the detailed occurrence and exposure analysis based on the 16-State cross-section for the current MCL (0.007 mg/L), and for two higher levels (0.03 mg/L and 0.3 mg/L). Based on the detailed analysis, it appears that 1,1-dichloroethylene is unlikely to occur at concentrations above 0.007 mg/L in the States used for the cross-section.

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**Table IV-1: 1,1-Dichloroethylene Occurrence[1]**

| Systems[2] | | | | | |
|---|---|---|---|---|---|
| Level (in mg/L) | | 16-State Cross-Section - Total Systems with Data | Estimated # of Systems > Level Evaluated (credible intervals)[3,6] | | Estimated % of Systems > Level Evaluated (credible intervals)[3] | |
| Upper Level Evaluated (without 10-fold risk management factor)[4] | 0.3 | 19,101 | 0 | (0-0) | 0.000% | (0.000% - 0.000%) |
| Lower Level Evaluated (with 10-fold risk management factor)[5] | 0.03 | 19,101 | 0 | (0-0) | 0.000% | (0.000% - 0.000%) |
| Current MCL | 0.007 | 19,101 | 3 | (1-6) | 0.0144% | (0.00518% - 0.0311%) |
| **Population Served by Systems[2]** | | | | | | |
| Level (in mg/L) | | 16-State Cross-Section - Total Population Served by Systems with Data | Estimated Population Served by Systems > Level Evaluated (credible intervals)[3] | | Estimated % of Population Served by Systems > Level Evaluated (credible intervals)[3] | |
| Upper Level Evaluated (without 10-fold risk management factor)[4] | 0.3 | 106,607,600 | 0 | (0-0) | 0.000% | (0.000% - 0.000%) |
| Lower Level Evaluated (with 10-fold risk management factor)[5] | 0.03 | 106,607,600 | 0 | (0-0) | 0.000% | (0.000% - 0.000%) |
| Current MCL | 0.007 | 106,607,600 | 14,400 | (0 - 136,900) | 0.0135% | (0.0000328% - 0.128%) |

Notes:

[1] Results are based on the number and percent of systems (and the corresponding population served by those systems) with estimated mean concentrations above the specified level of evaluation.

[2] All percentages are shown to three significant figures. All system values are rounded to the nearest whole system. All population values are rounded to the nearest hundred.

[3] "Credible intervals" are generated to quantify the uncertainty around each estimated probability in the Bayesian analysis of the occurrence data. For further explanation of credible intervals and the Bayesian analysis, please see "Occurrence Estimation Methodology and Occurrence Findings Report for the Six-Year Review of Existing National Primary Drinking Water Regulations" (USEPA, 2003d).

[4] Based on the change in the RfD and a 20 percent RSC.

[5] Based on the change in the RfD, a 20 percent RSC, and a risk management factor of 10.

[6] This value does not necessarily reflect the number of systems out of compliance with the current MCL, because these data were collected over the 1993-1997 time period, and because the value represents the estimated mean value over that time period, not the running quarterly average on which compliance is based.



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The results of the detailed occurrence and exposure analysis indicate that less than 0.02 percent of the 19,101 systems sampled in the 16-State cross-section, and less than 0.02 percent of the population served by those 19,101 systems might be affected if EPA were to consider levels as high as 0.03 mg/L to 0.3 mg/L. The current BATs and small system compliance technology for 1,1-dichloroethylene have other beneficial effects (*e.g.*, reduction of other co-occurring contaminants, or other common impurities) in addition to 1,1-dichloroethylene removal. Therefore, if EPA were to consider any of these higher levels, the Agency does not know how many of these public water systems that are currently treating to comply with the current MCL of 0.007 mg/L would be likely to discontinue treatment that is already in place (USEPA, 2002c; USEPA, 2003g).

*c. Current Decision.* Although there are new health effects data that might support calculation of a less stringent standard for 1,1-dichloroethylene, EPA does not believe a revision to the NPDWR for 1,1-dichloroethylene is appropriate at this time. In making this decision, the Agency considered whether any potential revision to the 1,1-dichloroethylene NPDWR is likely to provide a meaningful opportunity for cost-savings to public water systems and their customers. After consideration of this factor, EPA has decided that any revision to 1,1-dichloroethylene would be a low priority activity for the Agency, and, thus, is not appropriate to revise at this time because of:

- Competing workload priorities;
- The administrative costs associated with rulemaking; and
- The burden on States and the regulated community to implement any regulatory change that resulted.

8. Dichloromethane

One commenter stated that it may be difficult to lower the PQL for dichloromethane below the range of 0.001 to 0.002 mg/L since it is required in a number of EPA methods and therefore is a common laboratory contaminant. Because it is a common laboratory contaminant, the commenter stated that using the MDL for 524.2 and 502.2 does not constitute a reasonable basis for assuming that the PQL can be lower. The commenter stated that none of the existing WS studies had spike samples this low and, in addition, the occurrence data may have been compromised due to laboratory contamination.

*EPA Response:* The basis for EPA indicating that a lower PQL ''may exist'' was due to the fact that laboratories had greater than 95 percent laboratory passing rates using a +/−40 percent acceptance window at ''known'' spike concentrations close to current MCL of 0.005 mg/L. If laboratory contamination due to dichloromethane were a problem, such high passing rates at this value would not be expected. The MDLs for 524.2 and 502.2 were only used with the 10 times MDL multiplier to estimate what the lower value could be. However, EPA does agree that, at this time, the Agency does not have sufficient data to recalculate the PQL for dichloromethane and for this reason, the Agency placed it in the data gap category.

Regarding the occurrence issue, EPA has no data to suggest that high occurrence values were due to false positives from laboratory contamination and the Agency is proceeding on the assumption that State data are accurate unless there is information to the contrary. If laboratory contamination due to dichloromethane does exist, laboratories should be able to identify and discern a contamination issue if they are running laboratory blanks.

9. Di(2-ethylhexyl)adipate (DEHA)

One commenter submitted detailed comments regarding di(2-ethylhexyl)adipate (DEHA). The commenter believed that EPA should consider removing the regulation for DEHA and provided the following reasons:

- The regulation of DEHA in drinking water does not provide any meaningful reduction in the health risk to humans because it is unlikely to cause adverse effects to humans, including reproductive effects, except at very high doses which cannot be attained in drinking water, due to the low water solubility of DEHA.
- The weight of evidence indicates that the peroxisome proliferation mechanism of DEHA rodent carcinogenicity is not relevant to humans. Thus, the MCLG for DEHA should not include an additional 10-fold risk management factor for possible carcinogenicity.
- The legislative history of the 1996 SDWA indicates that Congress envisioned circumstances where relaxation of an MCL would provide the same level of health protection as the existing regulation. Accordingly, if DEHA cannot be deregulated, the commenter believes the MCLG and MCL should be increased.

*EPA Response:* DEHA was regulated in 1992. Since that time, new studies have become available on the toxicity of DEHA and its metabolites. For this reason, EPA decided to initiate a new health risk assessment of DEHA (67 FR 1212, January 9, 2002 (USEPA, 2002a)). The assessment will include examination of the studies on which the current NPDWR is based, as well as an evaluation of the data provided by this commenter and new studies that have become available since DEHA was regulated. This health risk assessment is planned for completion in the 2003–2004 time frame (68 FR 5870, February 5, 2003 (USEPA, 2003h)) and is expected to include development of an RfD for non-cancer health effects, as well as an assessment of potential carcinogenicity from oral exposure. At this time, it is premature to predict the outcome of the Agency's assessment. Thus, as discussed in section IV.A.2.a of today's action, the Agency believes that revision to the NPDWR for DEHA is not appropriate at this time. EPA will determine in the future if revision of the MCLG/MCL is warranted. Any revision to the MCLG/MCL will also take into consideration all the new information, including the water solubility of DEHA under various environmental conditions.

As stated by the commenter, the legislative history of the 1996 SDWA Amendments supports EPA's interpretation that the Agency could increase an MCLG and MCL as long as the relaxed standard does not lessen the level of public health protection. However, EPA does not believe, at the present time, that it can demonstrate that deregulating DEHA would maintain the current level of public health protection (see section IV.A.1.c of today's action).

10. Di(2-ethylhexyl)phthalate (DEHP)

The same commenter who submitted comments on DEHA also submitted detailed comments regarding di(2-ethylhexyl)phthalate (DEHP). The commenter felt that EPA should consider removing the regulation for DEHP for a variety of reasons, including the following:

- The regulation of DEHP in drinking water does not provide any meaningful reduction in the health risk to humans.
- The weight of the evidence indicates that the mode of action through which DEHP causes cancer in rodents is not relevant to humans and, thus, the MCLG for DEHP should not be zero. Any MCLG for DEHP should be based on a threshold endpoint and not on cancer. The commenter cited the February 2000 International Agency for Research on Cancer reclassification of DEHP from Group 2B (possibly carcinogenic to humans) to Group 3 (not classifiable as to its carcinogenicity to humans) as justification for recommending that EPA also reconsider its cancer classification.

• The solubility of DEHP in drinking water is well below any concentrations that would pose a risk to humans.

• If DEHP were to be considered for regulation under the statutory requirements of the 1996 SDWA, it would not be regulated.

• The legislative history of the 1996 SDWA indicates that Congress envisioned circumstances where relaxation of an MCL would provide the same level of health protection as the existing regulation. Accordingly, the commenter believes consideration should be given to increasing the MCLG for DEHP based on the new health effects data.

• Reproductive effects from DEHP as observed in rodents do not appear to be relevant for primates and the doses that are associated with effects in animals are well above those that would be experienced for humans exposed through drinking water because of solubility limitations. The commenter also highlighted the findings of the NTP Center for the Evaluation of Risk to Human Reproduction that there was ''minimal concern for reproductive or developmental toxicity for the general population, based on estimates of total exposure to DEHP.''

*EPA Response:* Revision of the NPDWR for DEHP is not appropriate at this time because an Agency health risk assessment is currently in process. The assessment is anticipated to be completed in the 2003–2004 time frame (68 FR 5870, February 5, 2003 (USEPA, 2003h)). Advances in understanding differences between the primate and rodent response to DEHP and the body of toxicological data that have become available in the past decade motivated the Agency's re-examination of DEHP and will be fully considered in the reassessment.

Once the Agency assessment is completed, EPA will consider the findings and will determine if there is a compelling reason to review the DEHP NPDWR prior to the next Six-Year Review cycle. As discussed in sections IV.A.1.b and IV.A.2.a of today's action, ''revise'' versus ''not revise'' decisions under the Six-Year Review take into consideration occurrence, advances in analytical methods, treatment technologies, available economic information, and other factors.

As stated by the commenter, the legislative history of the 1996 SDWA Amendments supports EPA's interpretation that the Agency could increase an MCLG and MCL as long as the relaxed standard does not lessen the level of public health protection. However, EPA does not believe, at the present time, that it can demonstrate that deregulating DEHP would maintain the current level of public health protection (see section IV.A.1.c of today's action).

11. Fluoride

EPA received three comments on the Agency's decision to place fluoride in the data gap category while the National Academy of Sciences (NAS) examines the toxicological and RSC data published over the last decade. Two of the commenters supported EPA's decision. One of these requested that the NAS concentrate its review on all of the data on the toxicology of fluoride and not just data on the critical skeletal effects. A third commenter requested that EPA not lower the MCL for fluoride from 4 mg/L to 2 mg/L and supported the 1986 EPA decision that dental fluorosis is a cosmetic effect rather than an adverse health effect. The commenter stated that the Public Health Service (PHS) recommended fluoridation level to be used at schools is 3 mg/L. The commenter also stated that if EPA were to lower the MCL, then schools that are currently fluoridating might have a conflict with the PHS recommendations and the EPA MCL.

*EPA Response:* The National Research Council (NRC) of the NAS has agreed to review the toxicological data on fluoride that have been published since it completed the 1993 study of ''Health Effects of Ingested Fluoride'' (NRC, 1993), and to examine the data on relative fluoride exposure from drinking water compared to fluoride exposure from the diet and fluoride-containing dental products. Although the Agency indicated in the April 17, 2002, **Federal Register** that new data on bone effects were a reason for initiating the data review (because bone effects were the basis of the present MCLG), the NAS review will look at the new toxicological data for all endpoints. It is anticipated that the NAS review will take about two years to complete. Because of this pending review, revision of the NPDWR for fluoride is not appropriate at this time.

It is therefore premature to make any judgment regarding the NAS findings and whether or not they may lead to a consideration of a change in the MCL. However, PHS recommendations for school fluoridation programs are designed to provide the benefits of fluoridation without increasing the risk for dental fluorosis. The PHS recommends school water fluoridation only if:

• The school has its own source of water;

• The school is not connected to a community water system;

• More than 25 percent of students are not served by a public water system that provides water at levels adequate to protect against dental caries; and

• The students served are kindergarten age or greater.

12. Glyphosate

Two commenters made the statement that, despite continued use of glyphosate in pesticide applications, available data and the Agency's occurrence analysis, which includes a prediction of frequency of occurrence at levels below detection, indicate that glyphosate is not observed in compliance monitoring. One of these commenters stated that the occurrence appeared to be rare (less than 0.1 percent) at concentrations 1,000 times lower than the MCL. In addition, according to the commenters, the cost of analyzing for glyphosate is expensive, since it is a single analyte analysis. Accordingly, the commenters wanted EPA to reconsider the glyphosate standard taking costs and benefits into account. The commenters felt that the data may indicate that a glyphosate standard is inappropriate and does not result in any additional public health protection. Therefore, the commenters recommended EPA pursue data gaps that the Agency would need to fill in order to demonstrate that eliminating the glyphosate standard would not lower public health protection.

*EPA Response:* EPA is conducting an Agency risk assessment for glyphosate that will update the 1993 OPP assessment. As a part of this process, EPA is considering all the data that have been published or submitted to EPA since the completion of the RED in 1993 (USEPA, 1993). Accordingly, revision of the glyphosate NPDWR is not appropriate at this time due to the pending Agency assessment.

EPA recognizes that some utilities feel that the analysis of glyphosate in drinking water is expensive and that this should be taken into consideration with respect to cost and benefits. This will be considered when EPA evaluates glyphosate in the next review cycle (unless there is a compelling reason to evaluate glyphosate on an accelerated schedule). For the reasons stated in section IV.A.1.c of today's action, EPA does not believe it is appropriate to consider deregulation of glyphosate at this time.

13. Lead and Copper

*a. Research Needs.* Three commenters acknowledged the Agency's January 2000 revisions to the Lead and Copper Rule (LCR) but stated that the Agency should continue to consider how to

make the LCR easier to implement. In particular, they recommended that the following three LCR-related research areas be incorporated into EPA's overall research strategy:

1. How well LCR monitoring results correlate to actual exposure and the effectiveness of the rule in protecting public health.

2. Whether there is a correlation between water quality at indoor and outdoor taps.

3. What effect the ban on lead in fixtures has had on lead levels and whether changes need to be made based on this ban.

The commenters explained their rationale for recommending that the Agency determine if a correlation could be established between indoor and outdoor water quality. They stated that a major weakness of the LCR is that sample integrity may be compromised by allowing customers to collect water samples. If the Agency could establish such a correlation, the LCR could be revised to allow water system operators to collect samples from outdoor taps; thereby removing the need for customer-collected sampling.

*EPA Response:* EPA recognizes that the LCR is a challenging rule that requires difficult solutions to implement, but continues to believe that the public health objective addressed by the rule is as important and essential today as it was when the rule was first promulgated. Since the Agency promulgated the revisions to the LCR in January 2000 (65 FR 1950, January 12, 2000 (USEPA, 2000)), the Agency has received no significant new information that would support a revision. However, the Agency recognizes that more research would be useful to obtain additional information that could be utilized to address some of the issues associated with the implementation of this rule. For this reason, EPA has revised its rationale for not revising the NPDWR for lead and placed it in the data gaps category. Although the Agency continues to believe that the NPDWR for copper belongs in the risk assessment in process category at the present time, EPA will also consider copper-related risk management and implementation issues as a part of any LCR-related research plans. The Agency is committed to working with stakeholders to support and coordinate identification and prioritization of LCR-related research needs. Until this research is completed, EPA believes it is premature to consider revisions to the LCR; as a result, revision of the LCR is not appropriate at this time.

The Agency believes that understanding the possible correlation between monitoring results and actual rates of exposure and public health protection is a valid issue. However, EPA recognized during the initial regulatory development of the LCR that a significant effort would be necessary to provide a statistically valid number and frequency of samples for an exposure assessment. The Agency thus adopted an alternative approach which specified a monitoring scheme that sought to "* * * assure that systems are performing 'optimal corrosion control' in part by requiring systems to conduct comprehensive tap sampling at homes specifically targeted for their potential to contain elevated levels of lead and copper" (56 FR 26460 at 26514, June 7, 1991 (USEPA, 1991b)). One issue in assessing exposure reduction resulting from the LCR is a determination of an exposure baseline. EPA does not have a lot of data against which to measure changes in exposure that have occurred as a result of rule implementation. For these reasons, EPA believes that there is still insufficient information to change the basic monitoring approach adopted in the original rule, but recognizes that additional research may be useful.

Research on whether a correlation exists between the water quality at indoor taps and water quality at outdoor taps is a very complex issue. Several variables potentially affect whether a reliable correlation exists between indoor and outdoor taps. These variables include: standing time within the system; contact time with the building plumbing; and the content of the interior plumbing. These variables, coupled with the fact that lead levels from building-to-building can be highly site-specific, make a correlation between indoor and outdoor taps difficult to establish. EPA continues to believe that focusing on the point of delivery to the customer most closely links the data collected to the water quality consumed by the customer.

EPA recognizes the commenter's concerns regarding the integrity of samples collected by drinking water customers. To date, however, the Agency has not been able to identify an acceptable alternative to monitoring at the consumer's tap that can produce results equivalent to those obtained at the point of consumption in terms of ensuring adequate public health protection.

Regarding the commenter's third recommendation, EPA will consider this research need as part of the Agency's overall drinking water research planning process.

*b. Relaxing the Monitoring Requirements.* Three commenters recommended that water systems be allowed to conduct water quality parameter (WQP) monitoring in lieu of continued lead and copper tap monitoring. One of these commenters added that this should be allowed once the system has demonstrated that it does not have a lead problem. This commenter also stated that the new requirements to use lead-free solder and plumbing fixtures should preclude problems with lead. Two commenters noted the difficulty that water systems are having maintaining their current sampling pool because homeowners no longer want to participate in the LCR monitoring program. One of these commenters recommended using WQP results to ensure corrosion control treatment is being adequately maintained and to stop lead and copper monitoring after three to five years. The commenter added that once the system ceases lead and copper monitoring, it can use public education to supplement continuing corrosion control, and can use coupons to demonstrate that corrosion rates meet accepted standards.

*EPA Response:* While EPA is sensitive to the difficulties associated with the monitoring requirements of the LCR, the Agency is also concerned about the implications of reduced or discontinued monitoring. Significant treatment changes or water chemistry disturbances (such as new water sources, major pH/coagulation changes, disinfectant changes, or seasonal water/treatment changes) can influence the effectiveness of corrosion control, which in turn will require appropriate adjustments of treatment. Current regulations require water systems to continue monitoring lead and copper levels to assure that water quality changes adversely affecting the presence of these contaminants in the drinking water are detected and to assure that appropriate adjustments to maintain optimal corrosion control are made. Proper process control, including water quality and corrosion inhibitor residual concentration monitoring in the distribution system, is the key to making any corrosion control or other treatment work, and assure the continuation of proper water quality. However, EPA recognizes that some changes might be justified in the future based on new, scientifically valid, information and/or research. EPA is considering aspects such as the implications of simultaneous treatment modifications on water quality, including lead and copper control, in its research planning. EPA is not yet able to determine whether the outcome of such research will provide a basis for modifications to the LCR treatment or monitoring

requirements. As stated in the response in section IV.B.13.a. of today's action, EPA has placed the LCR in the data gaps category pending the completion of future research.

*c. Corrosion Control Treatment Strategy.* Two commenters noted concerns regarding the lead and copper corrosion control strategy. One commenter indicated that the LCR should be revised to allow systems to change corrosion control strategies. The commenter stated that considerable development of the corrosion control market has occurred since systems made their initial assessments and implemented corrosion control programs. The commenter felt that currently, the ''LCR locks utilities into a given control strategy,'' when in some instances limited pilot work and ongoing WQP monitoring would allow a system to re-assesses its treatment and implement an alternative corrosion control inhibitor.

The second commenter indicated that the current corrosion control strategies are marginally effective at preventing particulate lead and copper from entering the water supply. The commenter recommended that EPA consider methods for mitigating the release of insoluble components from plumbing fixtures.

*EPA Response:* The Agency disagrees that the LCR locks utilities into a given control strategy, but feels it is necessary to demonstrate a sound basis for re-assessing and implementing an alternative treatment strategy in the context of the existing regulation. EPA notes that the current regulation provides some flexibility to both States and water systems in the choice of a corrosion control strategy. For example, in response to its own initiative, a request by a water system or other interested party, a State may modify its determination of the optimal corrosion control treatment, among those listed in the Federal regulation, or may modify optimal WQPs if the State determines such changes are necessary to ensure that the system continues to optimize corrosion control treatment (40 CFR 141.82(h)).

The Agency believes that the existing requirements to notify the State when changing a corrosion control strategy remain necessary and appropriate. After they have optimized corrosion control, water systems must notify the State of any treatment changes [7] within 60 days of the change (40 CFR 141.90(a)(3)). The Agency encourages water systems to notify the State prior to making any changes thus allowing the Primacy Agency to review the changes to reduce the potential for detrimental side-effects. In the Agency's experience, changes in treatment, such as (but not restricted to) replacement of high pH treatment with corrosion inhibitor, changes in coagulant and coagulation conditions, changes in disinfection, installation of membrane processes, or introduction of chemically different waters into the distribution system provide potential for detrimental side-effects. Water treatment changes, therefore, should only be done with the greatest care and pilot investigations. While changes to treatment can be made under the existing regulation, systems should conduct additional monitoring (*e.g.*, of lead, copper, and WQPs) until the new treatment is fully implemented and stabilized.

EPA also recognizes that the current LCR may limit flexibility to some extent, particularly in the adoption of new or emerging technologies. The original rule attempted to balance this concern with the need to provide strong public health protection by ensuring that only control strategies of proven effectiveness are adopted. The Agency does not have an adequate basis to revise the treatment requirements at this time but will continue to monitor new developments, including emerging technology. The Agency may consider revisions to the LCR prior to the end of the next Six-Year Review cycle if the Agency receives new, scientifically-valid, information that provides a basis for achieving significant improvement in public health protection or significant cost-savings to utilities and their customers while maintaining current public health protection.

EPA has always recognized that the release of insoluble particulate material containing lead and copper can be an issue in some water systems. While more research may be of interest to improve optimization of corrosion control approaches with respect to this source, EPA expects that evaluations and pilot studies by water systems should include testing and consideration of the relative effectiveness of different treatments towards particulate release in systems for which it is important.

*d. Lead Levels in School Drinking Water.* One commenter was concerned that the data on lead levels that was analyzed under the Six-Year Review of NPDWR standards may not indicate actual lead contamination of drinking water sources. As an example, the commenter noted that even though Baltimore City is in compliance for lead levels, ⅓ of Baltimore schools are using alternative sources of drinking water due to lead contamination. The commenter expressed concern that since data obtained from schools, such as the data from Baltimore, was not considered in the evaluation of lead contamination in drinking water, the most vulnerable population may not be protected from exposure to lead. The commenter stated that it is time for the Agency to reassess how lead levels are evaluated.

*EPA Response:* The LCR is designed to address system-wide problems with lead and copper contamination. The rule does not specifically target particular structures, such as schools, but rather contains a monitoring protocol designed to ensure that the overall levels of lead and copper system-wide are minimized. Once optimal treatment is implemented, any remaining problems with elevated lead levels in schools may be due to plumbing, coolers, or other materials in the building. These potential sources of lead in schools are of concern and for this reason are explicitly addressed under the provisions of the Lead Contamination Control Act of 1988 (LCCA) (sections 1461 to 1465 of SDWA). The LCCA directed EPA to publish a guidance manual and testing protocol to assist States and schools in identifying sources and determining the extent of lead contamination in school drinking water and, if necessary, in remedying such contamination. In January 1989, the Agency published and distributed the guidance manual, ''Lead in School's Drinking Water,'' to States and schools (USEPA, 1989). In 1994, the Agency updated and revised the guidance manual entitled ''Lead in Drinking Water in Schools and Non-residential Buildings'' (USEPA, 1994). A copy of this manual may be obtained from the Safewater website *http://www.epa.gov/safewater/consumer/leadinschools.html.* In addition, the LCCA imposed a ban on the manufacture and sale of water coolers that are not lead free. The LCCA requirements are independent of the NPDWRs and therefore are not addressed under the Six-Year Review process. However, the Agency is continuing to work with schools and States to address problems dealing with lead in school drinking water.

14. Lindane (γ-hexachlorocyclohexane)

In the April 17, 2002, **Federal Register,** the Agency preliminarily placed lindane in the no revision category because a health risk assessment was pending at the time of publication. One commenter stated that

[7] Treatment changes are categorized as changes to any water quality treatment process, including (but not restricted to) disenfection, disinfection by-product removal, and corrosion control.

the RED risk assessment for lindane, issued after publication of the April 17, 2002, **Federal Register,** should be considered in the Agency's review of the NPDWR and expressed concerns regarding the existing regulation. The commenter stated that the current NPDWR is based on an RfD developed in 1988 on the basis of adverse kidney effects and should be revised (USEPA, 1988). The kidney effects were determined to occur through a pathway that is not relevant to human health risk assessment. The commenter stated that the new OPP toxicological assessment has resulted in a significant change to the quantitative dose-response assessment for lindane and that there are no data gaps or uncertainties which would prevent a revision of the NPDWR for lindane at this time.

*EPA Response:* Since the publication of the April 17, 2002, **Federal Register** and receipt of the comment regarding lindane, the Agency has finalized the risk assessment for lindane and signed the RED on July 31, 2002. The remaining paragraphs in this section include a brief background discussion about the original promulgation of the lindane NPDWR, the results of the appropriate six-year technical reviews and the Agency's revise/not revise decision.

*a. Background.* EPA published the current NPDWR for lindane on January 30, 1991 (56 FR 3526 (USEPA, 1991a)). The NPDWR established an MCLG and an MCL of 0.0002 mg/L. The Agency based the MCLG on an RfD of 0.0003 mg/kg/day and a cancer classification of C, possible human carcinogen.

*b. Technical Reviews.* EPA updated the risk assessment on July 31, 2002 (USEPA, 2002h). The new risk assessment established an RfD of 0.0047 mg/kg/day. The Food Quality Protection Act (FQPA) of 1996 provides for an additional safety factor of up to 10-fold, if necessary, in assessing the risks to infants and children to take into account the potential for pre- and post-natal toxicity, and the completeness of the toxicity and exposure databases. This is referred to as the FQPA safety factor. The Agency concluded that an FQPA safety factor of three was required for lindane since there is evidence for increased susceptibility of the young demonstrated in a developmental neurotoxicity and two-generation reproductive toxicity study in rats. The rationale for using an FQPA safety factor of three is detailed in the RED.

In accordance with the 1999 EPA Draft ''Guidelines for Carcinogen Risk Assessment'' (USEPA, 1999a), the Agency classified lindane as ''suggestive evidence of carcinogenicity, but not sufficient to assess human carcinogenic potential.'' Based on the RfD for lindane of 0.0047 mg/kg/day, the application of the additional FQPA safety factor of three to this RfD, a 20 percent RSC, and a 10-fold risk management factor of suggested evidence of carcinogenicity, EPA used 0.001 mg/L as a level for evaluating the occurrence data.

Analytical or treatment feasibility do not pose any limitations for the current MCL and would not be a limiting factor at the 0.001 mg/L level (USEPA, 2003a; USEPA 2003g). The Agency's review of possible ''other regulatory revisions'' did not identify any issues that are specific to lindane (USEPA, 2003b).

EPA evaluated the results of the occurrence and exposure analyses for lindane to determine whether possible changes to the standard would be likely to result in a meaningful opportunity for cost-savings to public water systems and their customers (USEPA, 2003d). Table IV–2 shows the results of the detailed occurrence and exposure analysis based on the 16-State cross-section for concentrations of 0.0002 mg/L (the current MCL), and for 0.001 mg/L. Based on the detailed analysis, it appears that lindane is unlikely to occur at concentrations above 0.0002 mg/L in the States used for the cross-section.

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| Table IV-2: Lindane Occurrence[1] | | | |
|---|---|---|---|
| Systems[2] | | | |
| Level (in mg/L) | 16-State Cross-Section - Total Systems with Data | Estimated # of Systems > Level Evaluated (credible intervals)[3,4] | Estimated % of Systems > Level Evaluated (credible intervals)[3] |
| Level Evaluated 0.001 | 16,098 | 0 (0-0) | 0.000% (0.000% - 0.000%) |
| Current MCL 0.0002 | 16,098 | 0 (0-0) | 0.000% (0.000% - 0.000%) |
| Population Served by Systems[2] | | | |
| Level (in mg/L) | 16-State Cross-Section - Total Population Served by Systems with Data | Estimated Population Served by Systems > Level Evaluated (credible intervals)[3] | Estimated % of Population Served by Systems > Level Evaluated (credible intervals)[3] |
| Level Evaluated 0.001 | 99,942,600 | 0 (0-0) | 0.000% (0.000% - 0.000%) |
| Current MCL 0.0002 | 99,942,600 | 0 (0-0) | 0.000% (0.000% - 0.000%) |

Notes:

[1] Results are based on the number and percent of systems (and the corresponding population served by those systems) with estimated mean concentrations above the specified level of evaluation.

[2] All percentages are shown to three significant figures. All system values are rounded to the nearest whole system. All population values are rounded to the nearest hundred.

[3] "Credible intervals" are generated to quantify the uncertainty around each estimated probability in the Bayesian analysis of the occurrence data. For further explanation of credible intervals and the Bayesian analysis, please see "Occurrence Estimation Methodology and Occurrence Findings Report for the Six-Year Review of Existing National Primary Drinking Water Regulations" (USEPA, 2003d).

[4] This value does not necessarily reflect the number of systems out of compliance with the current MCL, because these data were collected over the 1993-1997 time period, and because the value represents the estimated mean value over that time period, not the running quarterly average on which compliance is based.



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The results of the detailed occurrence and exposure analysis indicate that few, if any, of the 16,098 systems sampled in the 16-State cross-section might be affected if EPA were to consider levels as high as 0.001 mg/L. The current BATs and small system compliance technology for lindane have other beneficial effects (*e.g.,* reduction of other co-occurring contaminants, or other common impurities) in addition to lindane removal. Therefore, if EPA were to consider a higher level, the Agency does not know how many of these public water systems that are currently treating to comply with the current MCL of 0.0002 mg/L would be likely to discontinue any treatment that is already in place (USEPA, 2002c; USEPA, 2003g).

c. *Current Decision.* Although there are new health effects data that might support calculation of a less stringent standard for lindane, EPA does not believe a revision to the NPDWR for lindane is appropriate at this time. In making this decision, the Agency considered whether any potential revision to the lindane NPDWR is likely to provide a meaningful opportunity for cost-savings to public water systems and their customers. After consideration of this factor, EPA has decided that any revision to lindane would be a low priority activity for the Agency, and, thus, is not appropriate to revise at this time because of:

- Competing workload priorities;
- The administrative costs associated with rulemaking; and
- The burden on States and the regulated community to implement any regulatory change that resulted.

15. Simazine

One commenter agreed that simazine should be addressed after the risk assessment is completed in 2003 or 2004. The commenter requested that the Office of Water (OW) work closely with the OPP on the risk assessment at that time. The commenter also recommended that OW address the revision of the existing simazine NPDWR before the next review cycle year, scheduled for 2008. The commenter believes the extensive mammalian toxicology database, submitted as part of the Triazine Special Review, can be used in this process.

*EPA Response:* OW has been coordinating with OPP for the revision of the atrazine and simazine risk assessments. Once the simazine risk assessment is completed, EPA will determine whether a compelling reason exists to consider review of the simazine NPDWR on an accelerated schedule.

*C. What Comments Did EPA Receive Regarding the Review of Implementation-Related Issues for Chemical NPDWRs?*

Several commenters recommended that EPA ensure consistent application of rules by making rules more consistent with respect to monitoring frequency, triggers for increased monitoring, criteria for returning to routine monitoring, and criteria for reducing sample requirements. In addition, commenters suggested that the Agency review possible ways for reducing the reporting burden on States, which could free up State resources currently used to implement rules.

One commenter was concerned about monitoring and reporting issues in conjunction with CMR. The commenter felt that EPA should not miss an opportunity to relieve some of the unnecessary confusion that the monitoring requirements of Phase II and V have created. This confusion includes issues such as, what a detection is and what the monitoring requirements are for systems in States without a waiver program. EPA was encouraged to provide this consistency as much as possible, including using the standard monitoring framework to allow States and water systems to more easily understand rule requirements and reduce the need for States to update their data management systems.

One commenter said EPA should ensure consistent application of rules by determining whether or not chronic contaminants should be regulated at non-transient non-community water systems (NTNCWSs), and review existing NPDWRs to ensure that rules are applied consistently. Another commenter recommended that the compliance language for the synthetic organic chemicals (SOCs) and volatile organic chemicals (VOCs) in the Final Arsenic Rule (66 FR 6975, January 22, 2001 (USEPA, 2001)) be adopted for the inorganic chemicals (IOCs), and that systems not be considered in violation of the MCL until it has completed one year of quarterly samples.

*EPA Response:* The Agency agrees that consistency across regulations is desirable to the extent that it does not jeopardize public health protection or the environment.

As part of the Advanced Notice of Proposed Rulemaking for CMR (62 FR 36100, July 3, 1997 (USEPA, 1997a)), EPA considered some of the issues raised by the commenters. However, during the comment period for the CMR, stakeholders generally indicated that the existing monitoring framework was sufficient. Most State commenters indicated that it would be too burdensome to adopt CMR. As a result, the Agency decided to take no further action on the CMR. However, the Agency established a standardized monitoring framework which applies to all of the regulated chemical and radiological contaminants (except lead and copper). The new chemical and radiological rules that EPA has promulgated (*e.g.,* arsenic and radionuclides) are coordinated with the standardized monitoring framework. The Agency made special efforts to ensure that the reduced monitoring periods are in line with the 3-year compliance periods in the standardized monitoring framework.

To assist States with understanding rule requirements, the Agency conducted a series of Phase II/V training in 2001. The training provided information to help States make informed decisions about reducing quarterly monitoring requirements. With respect to reduced monitoring, States currently have the flexibility to reduce the frequency of monitoring and/or to waive sampling requirements for any given contaminant after minimum criteria are met to demonstrate that the system is reliably and consistently below the MCL and/or not vulnerable to contamination.

NTNCWSs are traditionally regulated for chronic contaminants. However, through an alternative mechanism, the Agency is currently evaluating risk and exposure as they pertain to NTNCWS monitoring requirements. This review will not be completed in time for this Six-Year Review process. Until all the issues have been identified and specific options have been formulated, it will not be clear if a revision to regulations is indicated.

EPA intends to consistently implement compliance determination provisions for IOCs, SOCs, and VOCs for all NTNCWSs and community water systems, as described in the preamble to the Final Arsenic Rule (66 FR 6975 at 6990, January 22, 2001 (USEPA, 2001)). The rule makes compliance determinations based on a running annual average. The clarifications to compliance determinations for SOCs, IOCs, and VOCs are based on the average of the initial MCL exceedance and any subsequent State-required confirmation samples. States have the flexibility to require confirmation samples and more frequent monitoring, in addition to required quarterly samples. The average of the exceedance and confirmation sample constitutes the first quarterly sample. Compliance with the MCL is based on the average of the first quarterly sample and three

additional samples over a period of one year, unless any one quarterly sample would cause the running annual average to exceed the MCL. Then the system is out of compliance immediately.

*D. What Comments Did EPA Receive on the Total Coliform Rule?*

Several commenters addressed the TCR. Several commenters raised several issues relating to monitoring. Some contended that routine monitoring should be focused on critical locations in the distribution system, rather than on the current requirement to monitor all parts of the distribution system. They also urged EPA to allow the use of dedicated sampling taps. Some commenters argued for allowing a finished water storage reservoir as a routine monitoring site. Two commenters urged EPA to focus on E. coli as the measure of water quality in the distribution system, rather than on total coliforms. In addition to routine monitoring, a few commenters addressed the topic of repeat samples after a total coliform-positive sample. One commenter, for example, urged EPA to eliminate the requirement to take upstream and downstream repeat samples after a total coliform-positive sample. Environmental groups urged EPA to strengthen the TCR and other rules that protect against pathogens, and exhorted EPA not to ease the TCR burden such that public health is compromised.

*EPA Response:* EPA's announcement in the April 17, 2002, **Federal Register** was only intended to discuss the Agency's intent to begin the process for revising the TCR. EPA will consider the commenters' suggestions as part of the revision process. As stated in the April 17, 2002, **Federal Register,** the Agency plans to consider revisions to the TCR with new requirements for ensuring the integrity of distribution systems. The Agency remains committed to obtaining input from stakeholders as part of the rule development process. EPA agrees with the comment that public health should not be compromised, and will consider only those revisions that will assure public health protection.

*E. What Comments Did EPA Receive on Research Needs?*

Commenters found that EPA's information on potential research resulting from the review of NPDWRs would be better represented by a summary of research needs that were identified by the Agency. Commenters felt that this summary is important to inform future regulatory decisions. Commenters also suggested additional research needs that had not been identified by EPA in its preliminary review.

*EPA Response:* EPA agrees that the identification of research needs is an important component of the review of NPDWRs. Research findings may support future reviews and/or revisions to NPDWRs.

The Agency is considering research needs that it identified as part of the review as well as those suggested by commenters. EPA will continue to identify areas where data are lacking. Dialogue with industry and other groups, including those that sponsor or conduct research on priority areas, would be beneficial to the drinking water program. Collaboration in sponsoring studies can provide multiple benefits.

There are two research needs associated with the Six-Year Review that are being addressed through mechanisms external to EPA. The National Research Council of the National Academy of Sciences is conducting an assessment of recent data on fluoride health effects. In addition, the National Toxicology Program is conducting a study on chromium VI toxicity. Both of these research efforts are discussed in the April 17, 2002, **Federal Register** announcement of EPA's preliminary revise/not revise decisions. The current review identified several general and specific areas of potential research related to treatment. The treatment-related research areas are briefly discussed in the Treatment Feasibility Document (USEPA, 2003g).

EPA is currently in the process of examining whether specific research needs exist within each of the Six-Year Review areas of regulatory consideration (*i.e.,* health effects, analytical methods, treatment, implementation, and occurrence/exposure). Some of the research needs identified during the Six-Year Review effort will be discussed in the context of the Multi-Year Plan (MYP) for drinking water. The MYP describes the EPA Office of Research and Development's fiscal year 2003 to 2010 research program to support the regulatory development activities of the EPA Office of Water. EPA plans to make this document available to the public in 2003.

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Dated: July 11, 2003.

**Linda J. Fisher,**

*Acting Administrator.*

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Federal Register

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# Part VII

# Department of Transportation

## Federal Aviation Administration

**14 CFR Parts 121, 125 and 135**

**Digital Flight Data Recorder Requirements—Changes to Recording Specifications and Additional Exceptions; Final Rule**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Parts 121, 125 and 135**

**[Docket No.: FAA–2003–15682; Amendment Nos. 121–288, 125–42, 135–84]**

**RIN 2120–AH81**

# Digital Flight Data Recorder Requirements—Changes to Recording Specifications and Additional Exceptions

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

**ACTION:** Final rule.

**SUMMARY:** This action amends the flight data recorder regulations by expanding the recording specifications of certain data parameters for specified airplanes, and by adding aircraft models to the lists of aircraft excepted from the 1997 regulations. In addition, this rule corrects specifications in an operating rule appendix that were inadvertently omitted in previous actions. These changes are necessary to allow the continued operation of certain aircraft that are unable to meet the existing recorder criteria using installed equipment. The changes are also necessary for certain aircraft for which the cost to retrofit under 1997 regulatory changes would be cost prohibitive.

**DATES:** This final rule is effective August 18, 2003.

**FOR FURTHER INFORMATION CONTACT:** Gary Davis, Flight Standards Service, Air Transportation Division, AFS–201A, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8166; facsimile (202) 267–5229, e-mail *gary.davis@faa.gov*.

**SUPPLEMENTARY INFORMATION:**

## Availability of Rulemaking Documents

You can get an electronic copy using the Internet by:

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

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

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

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

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

## Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.htm,* or by e-mailing us at *9-AWA-SBREFA@faa.gov.*

## Background

In response to a series of recommendations issued by the National Transportation Safety Board (NTSB), the FAA revised and updated parts 121, 125 and 135 of Title 14, Code of Federal Regulations (14 CFR) in 1997 to require that flight data recorders on U.S. registered airplanes be upgraded to record additional parameters of data (62 FR 38362, July 17, 1997). The exact number of parameters required depends on the age of the airplane; airplanes manufactured after August 19, 2002, must record 88 parameters of flight data.

Prior to the 1997 rule, the specifications for flight data recorders (the range, accuracy, sampling intervals, and resolution required for each parameter) were found in appendix B to part 121. As part of the 1997 rule upgrade, a new appendix M to part 121 was created, which includes the newly required parameters and new specifications for some of the existing parameters. The standards of appendix M were based in part on the specifications found in the European Organization for Civil Aviation Equipment (EUROCAE)'s Document ED–55, Minimum Operational Performance Specifications (MOPS) for Flight Data Recorder Systems. Appendix M requires increased range, accuracy, sampling interval, and resolution requirements, and reflects the performance expected of newer technologies. The same changes were made to appendix E to part 125 (appendix E), and appendix F to part 135 (appendix F) to apply to airplanes operating under those parts. Discussion of changes made to appendix M in this document also apply to appendices E and F.

## Actions Following the 1997 Rulemaking

*Airbus Industries.* Following the adoption of the 1997 regulations, Airbus Industries (Airbus) notified the FAA that, in order to comply with the new requirements of appendix M to part 121, several of its airplane models would have to undergo major equipment retrofits, a circumstance the 1997 rule explicitly tried to avoid. Airbus stated that although the DFDR's in its airplanes recorded the required parameters, some of the resolution and sampling intervals for certain parameters differed slightly from those required by appendix M. The FAA found that while Airbus had noted these differences in its comment to the NPRM proposing the 1997 regulations, its comment was not fully addressed in the preamble to the final rule.

After consulting with the NTSB, the FAA determined that the Airbus differences were acceptable as an alternative. The FAA determined the most appropriate way to accommodate the differences was to add footnotes to specific parameters of appendix M noting the Airbus airplanes affected and the different specifications. Footnote changes for Airbus airplanes were adopted in 1999, 2000, and 2002.

*Corrections to appendix F to part 135.* When the regulations were modified to accommodate Airbus airplanes, and during the adoption of other recent changes affecting all airplanes, the same changes should have been made to appendix M to part 121, appendix E to part 125, and appendix F to part 135 to reflect the fact that affected aircraft may operate under any of these three parts. On at least two occasions the amendments to appendix F were inadvertently omitted. Accordingly, this amendment incorporates all of the corresponding changes to appendix F that were not made previously. These changes are considered conforming changes to appendix F that are in the nature of a correction. The FAA is not specifically requesting comment on these changes, although any operator that finds itself adversely affected by these changes to appendix F may submit this information to the person listed under the **FOR FURTHER INFORMATION CONTACT** heading.

**SFAR 89**

On May 31, 2001, the Boeing Company (Boeing) petitioned the FAA for exemptions for three of its airplane models that did not meet the resolution requirements of appendix M for certain parameters, and for an exemption to the August 20, 2001, compliance date. Boeing requested that operators of its airplanes be allowed to continue operating without meeting the resolution requirements of appendix M, or that appendix M be revised to reflect the current recording capabilities of the affected airplanes.

After reviewing the petition, the FAA determined that it could not issue an exemption from an operating rule to a manufacturer on behalf of the operators of its affected airplanes. Further, the FAA found that the issues raised in Boeing's petition were complex and could not be resolved before the August 20 compliance date. The FAA found that additional time was needed to gather the technical and cost information necessary to make an informed decision and implement a solution.

In order to prevent the grounding of non-compliant airplanes, the FAA issued Special Federal Aviation Regulation Number 89 (SFAR 89)—Suspension of Certain Flight Data Recorder Requirements, on August 15, 2001 (66 FR 44270, August 22, 2001). The SFAR, published as a final rule with request for comments, provides temporary relief by suspending the resolution recording requirements for certain parameters on specified airplanes operating under part 121, part 125, or part 135, until August 18, 2003.

In memos dated June 25 and 27, 2001, Dassault Aviation (Dassault) notified the FAA that two of its model airplanes could not comply with DFDR resolution requirements. Dassault stated that, as configured with the current flight data acquisition unit and bus assembly, affected airplanes did not meet the resolution requirements of the regulation. Dassault indicated development of a new data acquisition unit to meet the resolution requirements of appendix M would be expensive, and requested relief similar to that previously granted to Airbus. Similar to the Boeing request, the FAA determined that there was not enough time to gather the information necessary to resolve these issues before the August 20, 2001, compliance date. The FAA included temporary relief for operators of affected Dassault airplanes in SFAR 89, and maintained that relief upon receiving a specific petition for rulemaking from Dassault on October 11, 2002.

Anticipating that there might be other airplanes with similar DFDR resolution issues that had not yet become evident, the FAA included a provision in SFAR 89 that provides relief to operators of other airplanes that might not meet the resolution recording requirements. Operators of those airplanes were required to notify the FAA of the situation and provide requested information in order to take advantage of the relief provided in the SFAR. Several operators of affected Boeing airplanes contacted the FAA to indicate that they were making use of the SFAR relief, but no other noncompliant aircraft models have been reported or identified.

**Disposition of Comments to SFAR 89**

Five comments were received in response to SFAR 89. Four of the five comments fully support the SFAR and urge the FAA to adopt a solution that would prevent the retrofit of currently installed equipment. The NTSB commented in favor of the SFAR as well, but also questioned some definitions and conclusions presented in the original Boeing petition. All of the comments addressed the problem on Boeing airplanes.

In a comment supplementing its original petition, Boeing stresses that the relief from the resolution requirements provided in SFAR 89 do not compromise the integrity of the DFDR signal and ''should not hinder any accident or incident investigation.'' Boeing's comment includes detailed technical information illustrating the difference between the requirements of appendix M and the existing resolution recorded by affected Boeing airplanes. In specific instances, Boeing notes, the differences between the requirements and the actual resolution are negligible, such as 9/10,000 of an inch of movement on the aileron trailing edge.

Boeing estimates that it would cost $38 million to redesign the components and modify the data frames in the 534 airplanes currently affected by the regulations, and the redesign and retrofit would take up to 3 years to complete. Boeing requests that the relief provided in the SFAR be made a permanent part of part 121 appendix M.

The Air Transport Association (ATA) submitted two comments on behalf of its member airlines. The first comment, dated September 21, 2001, supports the SFAR and recommends that the relief provided by the SFAR be made permanent for affected Boeing airplanes. Citing the parameters that were changed for specific Airbus airplanes, the ATA states that there is no justification for forcing further changes on Boeing airplanes because they already meet the intended purpose of the rule. The ATA attached comments from two of its members—Airborne Express and American Airlines—which also support adoption of a permanent change to the rule.

In a comment dated October 16, 2001, the ATA forwarded comments from Delta Airlines who also urges permanent adoption of the SFAR specifications for Boeing airplanes. The ATA and two of its members each expressed concern that a retrofit of the affected airplanes would be costly without providing any discernible improvement in the quality of recorded data.

United Parcel Service (UPS) supports permanent relief for Boeing 767 model airplanes. In its comment, UPS notes that the NTSB has found the varied resolution acceptable, and that the FAA had set the precedent for such action by amending the regulations for Airbus airplanes. The UPS comment includes specific technical information for the 767 model airplane. UPS states that permanent relief will allow it to continue operating 32 Boeing 767 model airplanes without incurring additional modification costs, and suggests that the change be adopted in the form of a footnote, similar to those used for Airbus airplanes.

Airbus submitted a comment supporting the FAA's action to provide relief by suspending the resolution requirements. Most of the Airbus comment, however, addresses the relationship between the operating rules and the certification rules of part 25, and the steps required for certification. Airbus's comment is directed at some of the information provided in the initial Boeing petition that was not adopted as part of the SFAR. This includes a Boeing statement that if its definition of resolution were adopted, there would be no need for a list of specific resolution requirements in the regulations. Airbus recognizes that this topic is outside the scope of the SFAR, but indicates that the FAA should not simply accept Boeing's suggested changes, and instead should take a harmonized approach to adoption of working definitions for DFDR systems and specifications.

The National Transportation Safety Board (NTSB) concurs with the intent of the SFAR to provide temporary relief while reviewing the comments. The NTSB states that since the SFAR resulted from the May 2001 Boeing petition, the NTSB's comments address the specifics of the Boeing petition rather than the SFAR language itself.

The NTSB notes that the Boeing petition includes a number of requests

for changes to the regulations addressing flight data recorders that are not relevant to the action providing relief for resolution requirements on certain Boeing airplanes.

The NTSB states that resolution is critical to the quality of digital flight data. If coarser resolution is allowed, data quality could be reduced to an unacceptable level and would more easily be subject to misinterpretation. The NTSB concludes that explicit resolution requirements should remain in the regulations.

The NTSB also notes that for many parameters, the resolution requirement is expressed as a percentage of the full range of travel of the control surface being measured, rather than the actual range of travel, since the latter differs widely between aircraft models. The NTSB notes that when the total range of motion is short, the percentages make the regulation more stringent. In such cases, the NTSB concludes, ''The minimum resolution for a given parameter should be evaluated to determine if regulatory relief could be granted and the accuracy requirements maintained.'' Using that criterion, the NTSB concludes it has no objection to the specific resolution relief requested by Boeing (with the exception of vertical acceleration in the Boeing 717 model airplane).

The NTSB comment goes on to give its position regarding each of the 11 specific changes requested in the Boeing petition.

**FAA Response**

The FAA agrees with Airbus that the issue of a new resolution definition is beyond the scope of the rulemaking. The FAA will continue to consider the broader issues outlined in the Boeing request, but will not change the current format of the regulation or adopt definitions that affect virtually all airplanes operating today. Any changes the FAA may choose to propose would be accomplished only after input from the industry.

In its original petition, Boeing requested that the amendments affecting its aircraft be codified as footnotes to the affected parameters. Based on discussions with Boeing technical representatives and NTSB, the FAA is amending the affected appendices by making appropriate changes requested by Boeing, except for the change to parameter 5 (vertical acceleration).

Boeing was asked to submit additional data to the FAA in order to clarify questions and concerns raised in the original petition and the NTSB comment. Boeing submitted the requested data and the new information was reviewed in a June 26, 2002, meeting between FAA personnel and NTSB representatives. In the meeting, NTSB agreed that global changes for the following parameters under appendix M of part 121 were acceptable: 12a, 14a, 16, 23, and 26. An amendment to footnote 12 to coordinate with changes to parameter 23 was also accepted during the meeting. The NTSB does not support a global change to the appendix concerning parameter 5. Instead, the NTSB agrees with the insertion of a footnote into each affected appendix providing the necessary relief for the Boeing B–717 airplane.

Boeing submitted another petition on October 18, 2002, seeking changes to three additional parameters. The requested changes would affect parameters 9, 87, and 88 for Boeing 737 and 777 airplanes. FAA personnel later discussed the request with NTSB representatives and the changes were found to be acceptable. The additional petition is consistent with a request by the FAA for information regarding airplane models that could not meet the resolution requirements, but were not included in the relief granted in SFAR 89.

No comments were received concerning Dassault's request to amend the resolution recording requirements for parameters 5 and 26 for two of its airplane models. Therefore, the FAA is revising footnotes 9 and 14 in each affected appendix to accommodate Dassault's requested relief from the existing requirement.

If the rule is not changed, operators of certain Boeing and Dassault airplanes would be required to complete costly retrofits. The incremental differences in the measurements obtained are considered insignificant. By incorporating global changes and footnotes into this rule, retrofits will not be necessary, and it is accepted that accident investigations will not be compromised. Therefore, the FAA has determined that retrofitting to meet the higher standards is unnecessary. Accordingly, the FAA is amending the resolution recording requirements for parameters 9, 12a, 14a, 16, 19, 23, 87, 88, and adding revised footnotes to parameters 5 and 26 of appendix M of part 121, appendix E of part 125, and appendix F of part 135. This rule also makes a correction to footnote 11 to add a missing decimal point. The revision of the recording requirements for parameters 9 and 19 will remove the need for the footnotes (9 and 14) in the current regulation. Rather than renumber each footnote in this rule, we are using footnotes 9 and 14 to apply the specific changes requested for the B–717 and Dassault airplanes. Therefore, footnotes 9 and 14 will be revised to apply to parameters 5 and 26 respectively.

**Exceptions to DFDR Requirements**

When the FAA developed the 1997 DFDR regulations, we recognized that the costs of retrofitting some older aircraft models would be prohibitive and would likely force the aircraft out of service. The regulations incorporated an exceptions paragraph into each of the operating rule parts; these paragraphs list specific aircraft models that are not subject to the 1997 upgrade requirements. These aircraft must continue to comply with the flight data recorder regulations previously in effect for their operation.The FAA also noted in the final rule that operators that found other models of aircraft appropriate for exception status could petition the FAA for inclusion of the aircraft model in the exceptions paragraph. In general, the FAA bases exception status on the age of the aircraft, the number of aircraft still in operation, and the expected cost of DFDR upgrades.

Since the 1997 rule was promulgated, the FAA has received a number of requests for exception status. After reviewing information submitted, most of the models were granted exemptions to continue operating without the upgrades until the operating rules were changed. No opposing comments were received when the exemption requests were published. Accordingly, this rulemaking includes those additions to the lists of excepted aircraft. While these aircraft are excepted from upgrade requirements, most are still covered under other current sections and as such, all installed equipment must continue to be used and maintained according to the regulation. The sections that are being amended to include additional excepted aircraft are Sections 121.344(l)(2), 121.344a(f), 125.226(l)(2), and 135.152(k).

**Paperwork Reduction Act**

There are no current or new requirements for information collection associated with this amendment.

**International Compatibility**

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

**Economic Evaluation, Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment**

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs each Federal agency to propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. section 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires agencies to consider international standards and, where appropriate, use them as the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.).

Regulations that are expected to have minimal impact are not required to be analyzed as described above. The Department of Transportation Order 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If it is determined that the expected impact is so minimal that the proposal does not warrant a full Evaluation, a statement to that effect and the basis for it is included in the proposed regulation. The FAA has determined that there are no costs associated with this final rule. Instead, this rule relieves operators of Boeing and other aircraft from a cost that would have been inadvertently imposed on them in the adoption of the 1997 regulations. This cost would have been imposed on Boeing beginning on August 20, 2002. Without exemption relief, other operators would have been affected at various times depending on the date of manufacture and type of equipment. This change effectuates the original intent of the 1997 regulations.

In conducting these analyses, the FAA has determined this rule (1) has benefits which justify its costs; (2) is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866 and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; (4) will have little effect on international trade; and (5) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector.

The purpose of this rule is to eliminate the necessity to incorporate unnecessary changes into an existing type of aircraft that already meets the requirements of the rule except for minor variations in the resolution-recording requirement or because of age and remaining service life it is impractical to install the new DFDR's. The FAA has determined that allowing the continued resolution recording at a slightly different value will not impact safety or the collection of accident investigation data nor will excepting certain older aircraft from the rules have a negative impact on safety. This rule relieves air carriers from a costly retrofit with no reduction in safety.

**Regulatory Flexibility Determination**

The Regulatory Flexibility Act of 1980 (RFA) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. We are required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as they are defined in the Act. If we find that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

This final rule will relieve unnecessary costs to operators of certain aircraft. Therefore, the FAA expects this rule to impose no cost on small entities. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

**Trade Impact Assessment**

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this rulemaking and has determined that it will reduce costs to U.S. operators of certain airplanes but will have a minimal effect on international trade.

**Unfunded Mandates Assessment**

The Unfunded Mandates Reform Act of 1995 (the Act), is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

**Executive Order 13132, Federalism**

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

**Environmental Analysis**

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

**Energy Impact**

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. We have determined that the final rule is not a major regulatory action under the provisions of the EPCA.

**List of Subjects**

*14 CFR Part 121*

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Safety, Transportation.

*14 CFR Part 125*

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

*14 CFR Part 135*

Air taxis, Aircraft, Aviation safety, Reporting and record keeping requirements.

**The Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends Chapter I of Title 14, Code of Federal Regulations as follows:

## PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 1. The authority citation for part 121 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

■ 2. Section 121.344(l)(2) is revised to read as follows:

**§ 121.344 Digital flight data recorders for transport category airplanes.**

* * * * *

(l) * * *

(2) British Aerospace 1–11, General Dynamics Convair 580, General Dynamics Convair 600, General Dynamics Convair 640, deHavilland Aircraft Company Ltd. DHC–7, Fairchild Industries FH 227, Fokker F–27 (except Mark 50), F–28 Mark 1000 and Mark 4000, Gulfstream Aerospace G–159, Jetstream 4100, Lockheed Aircraft Corporation Electra 10–A, Lockheed Aircraft Corporation Electra 10–B, Lockheed Aircraft Corporation Electra 10–E, Lockheed Aircraft Corporation Electra L–188, Lockheed Martin Model 382 (L–100) Hercules, Maryland Air Industries, Inc. F27, Mitsubishi Heavy Industries, Ltd. YS–11, Short Bros. Limited SD3–30, Short Bros. Limited SD3–60.

■ 3. Section 121.344a(f) is revised to read as follows:

**§ 121.344a Digital flight data recorders for 10–19 seat airplanes.**

* * * * *

(f) For airplanes that were manufactured before August 18, 1997, the following airplane types need not comply with this section, but must continue to comply with applicable paragraphs of § 135.152 of this chapter, as appropriate: Beech Aircraft–99 Series, Beech Aircraft 1300, Beech Aircraft 1900C, Construcciones Aeronauticas, S.A. (CASA) C–212, deHavilland DHC–6, Dornier 228, HS–748, Embraer EMB 110, Jetstream 3101, Jetstream 3201, Fairchild Aircraft SA–226, Fairchild Metro SA–227.

■ 4. Appendix M to part 121 is amended to revise item numbers 5, 9, 12a, 14a, 16, 19, 23, 26, 87 and 88 and footnotes 5, 9, 11, 12 and 14 to read as follows:

### Appendix M to Part 121—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 5. Normal acceleration (vertical) [9]. | −3g to +6g | ±1% of max range excluding datum error of ±5%. | 0.125 | 0.004g. | |
| * | * | * | * | * | * |
| 9. Thrust/power on each engine—primary flight crew reference. | Full range forward | ±2% | 1 (per engine) | 0.3% of full range. | Sufficient parameters (*e.g.* EPR, N1 or Torque, NP) as appropriate to the particular engine being recorded to determine power in forward and reverse thrust, including potential overspeed condition. |
| * | * | * | * | * | * |
| 12a. Pitch control(s) (non fly-by-wire systems). | Full range | ±2% Unless higher accuracy uniquely required. | 0.5 or 0.25 for airplanes operated under $121.344(f). | 0.5% of full range. | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable. |
| * | * | * | * | * | * |
| 14a. Yaw control position(s) (non-fly-by-wire) [5]. | Full range | ±2° Unless higher accuracy uniquely required. | 0.5 | 0.3% of full range. | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5. |
| * | * | * | * | * | * |
| 16. Lateral control surface(s) position [7]. | Full range | ±2° Unless higher accuracy uniquely required. | 0.5 or 0.25 for airplanes operated under § 121.344(f). | 0.3% of full range. | A suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25. |
| * | * | * | * | * | * |
| 19. Pitch trime surface position. | Full range | ±3° Unless higher accuracy uniquely required. | 1 | 0.6% of full range. | |
| * | * | * | * | * | * |
| 23. Ground spoiler position or brake selection [12]. | Full range or each position (discrete). | ±2° Unless higher accuracy uniquely required. | 1 or 0.5 for airplanes operated under § 121.344(f). | 0.5% of full range. | |

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 26. Radio Altitude [14]. | −20 ft to 2,500 ft | ±2 ft or ±3% whichever is greater below 500 ft and ±5% above 500 ft. | 1 | 1 ft +5% above 500 ft. | For autoland/category 3 operations. Each radio altimeter should be recorded, but arranged so that at least one is recorded each second. |
| * | * | * | * | * | * |
| 87. Ground spoiler position and speed brake selection. | Full range or discrete | ±5% | 0.5 | 0.3% of full range. | |
| 88. All cockpit flight control input forces (control wheel, control column, rudder pedal). | Full range control wheel ±70 lb control column ±85 rudder pedal ±165. | ±5% | 1 | 0.3% full range | For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away). capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1. |

* * * * * * *

[5] For A330/A340 series airplanes, resolution = 1.18% (0.703°>0.120°).

* * * * * * *

[7] For A330/A340 series airplanes, aileron resolution = 0.704% (0.352°>0.100°). For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).

* * * * * * *

[9] For B–717 series airplanes, resolution = .005g. For Dassault F900C/F900EX airplanes, resolution = .007g.

* * * * * * *

[11] For A330/A340 series airplanes, resolution = 1.05% (0.250°>0.120°). For A300 B2/B4 series airplanes, resolution = 0.92% (0.230°>0.125°).

[12] For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).

* * * * * * *

[14] For Dassault F900C/F900EX airplanes, Radio altitude resolution = 1.25 ft.

* * * * * * *

■ 5.–6. Special Federal Aviation Regulation No. 89 (SFAR 89)—Suspension of Certain Flight Recorder Requirements is removed on the date this rule becomes effective.

## PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 7. The authority citation for part 125 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 8. Section 125.226(l)(2) is revised to read as follows:

**§ 125.226 Digital flight data recorders.**

* * * * *

(l) * * *

(2) British Aerospace 1–11, General Dynamics Convair 580, General Dynamics Convair 600, General Dynamics Convair 640, deHavilland Aircraft Company Ltd. DHC–7, Fairchild Industries FH 227, Fokker F–27 (except Mark 50), F–28 Mark 1000 and Mark 4000, Gulfstream Aerospace G–159, Jetstream 4100, Lockheed Aircraft Corporation Electra 10–A, Lockheed Aircraft Corporation Electra 10–B, Lockheed Aircraft Corporation Electra 10–E, Lockheed Aircraft Corporation Electra L–188, Lockheed Martin Model 382 (L–100) Hercules, Maryland Air Industries, Inc. F27, Mitsubishi Heavy Industries, Ltd. YS–11, Short Bros. Limited SD3–30, Short Bros. Limited SD3–60.

■ 9. Appendix E to part 125 is amended to revise item numbers 5, 9, 12a, 14a, 16, 19, 23, 26, 87 and 88 and footnotes 5, 9, 11, 12 and 14 to read as follows:

### Appendix E to Part 125—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 5. Normal Acceleration (Vertical) [9]. | −3g to +6g | ±1% of max range excluding datum error of ±5%. | 0.125 | 0.004g. | |
| * | * | * | * | * | * |
| 9. Thrust/Power on each engine—primary flight crew reference. | Full Range Forward | ±2% | 1 (per engine) | 0.3% of full range. | Sufficient parameters (*e.g.* EPR, N1 or Torque, NP) as appropriate to the particular engine being recorded to determine power in forward and reverse thrust, including potential overspeed condition. |

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 12a. Pitch Control(s) position (non-fly-by-wire systems). | Full Range | ±2% Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 121.344(f). | 0.5% of full range. | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable. |
| * | * | * | * | * | * |
| 14a. Yaw Control position(s) (non-fly-by-wire) [5]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 | 0.3% of full range. | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5. |
| * | * | * | * | * | * |
| 16. Lateral Control Surface(s) Position [7]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 121.344(f). | 0.3% of full range. | A suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25. |
| * | * | * | * | * | * |
| 19. Pitch Trim Surface Position. | Full Range | ±3° Unless Higher Accuracy Uniquely Required. | 1 | 0.6% of full range | |
| * | * | * | * | * | * |
| 23. Ground Spoiler Position or Speed Brake Selection [12]. | Full Range or Each Position (discrete). | ±2° Unless Higher Accuracy Uniquely Required. | 1 or 0.5 for airplanes operated under § 121.344(f). | 0.5% of full range | |
| * | * | * | * | * | * |
| 26. Radio Altitude [14] | −20 ft to 2,500 ft | ±2 ft or ±3% Whichever is Greater Below 500 ft and ±5% above 500 ft. | 1 | 1 ft +5% Above 500 ft. | For autoland/category 3 operations. Each radio altimeter should be recorded, but arranged so that at least one is recorded each second. |
| * | * | * | * | * | * |
| 87. Ground spoiler position and speed brake selection. | Full Range or Discrete | ±5% | 0.5 | 0.3% of full range | |
| 88. All cockpit flight control input forces (control wheel, control column, rudder pedal). | Full Range Control Wheel ±70 lbs Control Column ±85 lb Rudder pedal ±165 lbs. | ±5% | 1 | 0.3% of full range | For fly-by-wire flight control systems, where flight control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1. |

* * * * * * *

[5] For A330/A340 series airplanes, resolution = 1.18% (0.703°>0.120°).

* * * * * * *

[7] For A330/A340 series airplanes, aileron resolution = 0.704% (0.352°>0.100°). For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).

* * * * * * *

[9] For B–717 series airplanes, resolution = .005g. For Dassault F900C/F900EX airplanes, resolution = .007g.

* * * * * * *

[11] For A330/A340 series airplanes, resolution = 1.05% (0.250°>0.120°). For A330 B2/B4 series airplanes, resolution = 0.92% (0.230°>0.125°).

[12] For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).

* * * * * * *

[14] For Dassault F900C/F900EX airplanes, Radio Altitude resolution = 1.25 ft.

* * * * * * *

## PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 10.–11. The authority citation for part 135 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 41706, 44113, 44101, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 12. Section 135.152(k) is revised to read as follows:

**§ 135.152 Flight recorders.**

* * * * *

(k) For aircraft manufactured before August 18, 1997, the following aircraft types need not comply with this section: Bell 212, Bell 214ST, Bell 412, Bell 412SP, Boeing Chinook (BV–234), Boeing/Kawasaki Vertol 107 (BV/KV–107–II), deHavilland DHC–6, Eurocopter Puma 330J, Sikorsky 58, Sikorsky 61N, Sikorsky 76A.

■ 13. Appendix F to part 135 is amended to revise item numbers 1, 5, 7, 9, 12a, 12b, 13b, 14a, 15, 16, 17, 19, 20, 21, 23, 24, 26, 37, 42, 57, 87 and 88 and adding footnotes 1 through 17 to read as follows:

### Appendix F to Part 135—Airplane Flight Recorder Specifications

The recorded values must meet the designated range, resolution, and accuracy requirements during dynamic and static conditions. All data recorded must be correlated in time to within one second.

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| * | * | * | * | * | * |
| 1. Time or Relative Time Counts [1]. | 24 Hrs, 0 to 4095 | ±0.125% Per Hour | 4 | 1 sec | UTC time preferred when available. Counter increments each 4 seconds of system operation. |
| * | * | * | * | * | * |
| 5. Normal Acceleration (Vertical) [9]. | −3g to +6g | ±1% of max range excluding datum error of ±5%. | 0.125 | 0.004g | |
| * | * | * | * | * | * |
| 7. Roll Attitude [2] | ±180° | ±2° | 1 or 0.5 0.5 airplanes operated under § 135.152(j). | 0.5° | A sampling rate of 0.5 is recommended. |
| * | * | * | * | * | * |
| 9. Thrust/Power on each engine—primary flight crew reference. | Full Range Forward | ±2% | 1 (per engine) | 0.3% of full range. | *COM041*Sufficient parameters (e.g. EPR, N1 or Torque, NP) as appropriate to the particular engine being recorded to determine power in forward and reverse thrust, including potential overspeed condition. |
| * | * | * | * | * | * |
| 12a. Pitch Control(s) position (non-fly-by-wire systems). | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | 0.5% of full range. | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5 or 0.25, as applicable. |
| 12b. Pitch Control(s) position (fly-by-wire systems) [3]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | 0.2% of full range | |
| * | * | * | * | * | * |
| 13b. Lateral Control position(s) (fly-by-wire) [4]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | | |
| 14a. Yaw Control position(s) (non-fly-by-wire) [5]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | 0.3% of full range | For airplanes that have a flight control break away capability that allows either pilot to operate the controls independently, record both control inputs. The control inputs may be sampled alternately once per second to produce the sampling interval of 0.5. |
| * | * | * | * | * | * |
| 15. Pitch Control Surface(s) Position [6]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | 0.2% of full range. | For airplanes fitted with multiple or split surfaces, a suitable combination of inputs is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25. |
| 16. Lateral Control Surface(s) Position [7]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 or 0.25 for airplanes operated under § 135.152(j). | 0.2% of full range. | A suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5 or 0.25. |

| Parameters | Range | Accuracy (sensor input) | Seconds per sampling interval | Resolution | Remarks |
|---|---|---|---|---|---|
| 17. Yaw Control Surface(s) Position [8]. | Full Range | ±2° Unless Higher Accuracy Uniquely Required. | 0.5 | 0.2% of full range. | For airplanes with multiple or split surfaces, a suitable combination of surface position sensors is acceptable in lieu of recording each surface separately. The control surfaces may be sampled alternately to produce the sampling interval of 0.5. |
| * | * | * | * | * | * |
| 19. Pitch Trim Surface Position. | Full Range | ±3° Unless Higher Accuracy Uniquely Required. | 1 | 0.6% of full range | |
| 20. Trailing Edge Flap or Cockpit Control Selection [10]. | Full Range or Each Position (discrete). | ±3° or as Pilot's Indicator. | 2 | 0.5% of full range. | Flap position and cockpit control may each be sampled alternately at 4 second intervals, to give a data point every 2 seconds. |
| 21. Leading Edge Flap or Cockpit Control Selection [11]. | Full Range or Each Discrete Position. | ±3° or as Pilot's Indicator and sufficient to determine each discrete position. | 2 | 0.5% of full range. | Left and right sides, of flap position and cockpit control may each be sampled at 4 second intervals, so as to give a data point to every 2 seconds. |
| * | * | * | * | * | * |
| 23. Ground Spoiler Position or Speed Brake Selection [12]. | Full Range or Each Position (discrete). | ±2° Unless Higher Accuracy Uniquely Required. | 1 or 0.5 for airplanes operated under § 135.152(j). | 0.5% of full range | |
| 24. Outside Air Temperature or Total Air Temperature [13]. | −50° C to +90° C | ±2° C | 2 | 0.3° C | |
| * | * | * | * | * | * |
| 26. Radio Altitude [14] | −20 ft to 2,500 ft | ±2 ft or ±3% Whichever is Greater Below 500 ft and ± 5% Above 500 ft. | 1 | 1 ft +5% above 500 ft. | For autoland/category 3 operations. Each radio altimeter should be recorded, but arranged so that at least one is recorded each second. |
| * | * | * | * | * | * |
| 37. Drift Angle [15] | As installed | As installed | 4 | 0.1° | |
| * | * | * | * | * | * |
| 42. Throttle/power lever position [16]. | Full Range | ±2% | 1 for each lever | 2% of full range | For airplanes with non-mechanically linked cockpit engine controls. |
| * | * | * | * | * | * |
| 57. Thrust comand [17] | Full Range | ±2% | 2 | 2% of full range | |
| * | * | * | * | * | * |
| 87. Ground spoiler position and speed brake selection. | Full Range or Discrete | ±5% | 0.5 | 0.3% of full range | |
| 88. All cockpit flight control input forces (control wheel, control column, rudder pedal). | Full Range Control Wheel ±70 lbs Control Column ±85 lb Rudder pedal ±165 lbs. | ±5% | 1 | 0.3% of full range. | For fly-by-wire flight control systems, where control surface position is a function of the displacement of the control input device only, it is not necessary to record this parameter. For airplanes that have a flight control break away capability that allows either pilot to operate the control independently, record both control force inputs. The control force inputs may be sampled alternately once per 2 seconds to produce the sampling interval of 1. |
| * | * | * | * | * | * |

[1] For A300 B2/B4 airplanes, resolution = 6 seconds.
[2] For A330/A340 series airplanes, resolution = 0.703°.
[3] For A318/A319/A320/A321 series airplanes, resolution = 0.275% (0.088°>0.064°). For A330/A340 series airplanes, resolution = 2.20% (0.703°>0.064°).
[4] For A318/A319/A320/A321 series airplanes, resolution = 0.22% (0.088°>0.080°). For A330/A340 series airplanes, resolution = 1.76% (0.703°>0.080°).
[5] For A330/A340 series airplanes, resolution = 1.18% (0.703°>0.120°).
[6] For A330/A340 series airplanes, resolution = 0.783% (0.352°>0.090°).
[7] For A330/A340 series airplanes, aileron resolution = 0.704% (0.352°>0.100°). For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).
[8] For A330/A340 series airplanes, resolution = 0.30% (0.176°>0.12°). For A330/A340 series airplanes, seconds per sampling interval = 1.
[9] For B–717 series airplanes, resolution = .005g. For Dassault F900C/F900EX airplanes, resolution = .007g.
[10] For A330/A340 series airplanes, resolution = 1.05% (0.250°>0.120°).
[11] For A330/A340 series airplanes, resolution = 1.05% (0.250°>0.120°). For A300 B2/B4 series airplanes, resolution = 0.92% (0.230°>0.125°).
[12] For A330/A340 series airplanes, spoiler resolution = 1.406% (0.703°>0.100°).
[13] For A330/A340 series airplanes, resolution = 0.5° C.
[14] For Dassault F900C/F900EX airplanes, Radio Altitude resolution = 1.25 ft.
[15] For A330/A340 series airplanes, resolution = 0.352 degrees.
[16] For A318/A319/A320/A321 series airplanes, resolution = 4.32%. For A330/A340 series airplanes, resolution is 3.27% of full range for throttle lever angle (TLA); for reverse thrust, reverse throttle lever angle (RLA) resolution is nonlinear over the active reverse thrust range, which is 51.54 degrees to 96.14 degrees. The resolved element is 2.8 degrees uniformly over the entire active reverse thrust range, or 2.9% of the full range value of 96.14 degrees.
[17] For A318/A319/A320/A321 series airplanes, with IAE engines, resolution = 2.58%.

Issued in Washington, DC, on July 14, 2003.

**Marion C. Blakey,**

*Administrator.*

[FR Doc. 03–18269 Filed 7–16–03; 2:33 pm]

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**Federal Register**

Vol. 68, No. 138

Friday, July 18, 2003

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| | |
|---|---|
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| Executive orders and proclamations | **741–6000** |
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| **Other Services** | |
| Electronic and on-line services (voice) | **741–6020** |
| Privacy Act Compilation | **741–6064** |
| Public Laws Update Service (numbers, dates, etc.) | **741–6043** |
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## FEDERAL REGISTER PAGES AND DATE, JULY

39005–39446 ..... 1
39447–39804 ..... 2
39805–40114 ..... 3
40115–40468 ..... 7
40469–40750 ..... 8
40751–41050 ..... 9
41041–41218 .....10
41219–41518 .....11
41519–41680 .....14
41681–41900 .....15
41901–42240 .....16
42241–42562 .....17
42563–42942 .....18

## CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

**3 CFR**

**Proclamations:**
7688 .....39793
7689 .....39795
7690 .....40115

**Administrative Orders:**
Presidential Determinations:
No. 2003–27 of June 30, 2003 .....41219

**4 CFR**

**Proposed Rules:**
27 .....41742
28 .....41742
29 .....41742

**5 CFR**

2600 .....41681

**6 CFR**

**Proposed Rules:**
25 .....41420

**7 CFR**

54 .....39805
278 .....41051
279 .....41051
652 .....40751
718 .....39447
925 .....41683
948 .....40117
989 .....41686
993 .....40754
1405 .....39447
1487 .....42563

**Proposed Rules:**
301 .....40534
373 .....40541
868 .....42644
958 .....40815
1150 .....39861
1580 .....39478
2903 .....41751
3015 .....41947
3019 .....41947
3020 .....41947

**9 CFR**

53 .....42565

**Proposed Rules:**
60 .....40541
130 .....40817

**10 CFR**

50 .....40469
72 .....42570
95 .....41221

**Proposed Rules:**
2 .....40026
20 .....40026
21 .....40026
34 .....41757
50 .....40026, 41963
51 .....40026
52 .....40026
72 .....40026, 42646
73 .....40026
140 .....40026
170 .....40026
Ch. II .....40553
Ch. III .....40553
Ch. X .....40553

**12 CFR**

201 .....41054
225 .....39807, 41901
910 .....39810
913 .....39810

**Proposed Rules:**
Ch. 7 .....39863
701 .....39866
745 .....39868
900 .....39027
932 .....39027
955 .....39027

**13 CFR**

121 .....39448

**Proposed Rules:**
120 .....40553
121 .....40820

**14 CFR**

23 .....40757
25 .....40478
39 .....39449, 39815, 40478, 40481, 40483, 40484, 40487, 40759, 41055, 41056, 41059, 41063, 41210, 41519, 41521, 41861, 41901, 41903, 41906, 42241, 42242, 42244, 42573, 42577, 42578, 42580, 42581, 42583
71 .....40761, 40762, 40763, 40764, 40765, 41691, 41692, 41693, 41694, 41695, 41696, 42246
91 .....41212
93 .....41212
97 .....41523, 41525
119 .....41214
121 .....41214, 42874, 42832
125 .....42832
129 .....42874
135 .....41214, 42832
382 .....40488

**Proposed Rules:**
23 .....42315
39 .....39483, 39485, 39870, 40573, 40821, 40823, 40827, 40829, 40831, 40834, 41760, 41762, 41967, 41968, 41970, 41972, 41973, 41977, 42317,

42647
71.....39238, 42322
119.....40206
121.....40206
125.....42323
135.....40206, 42323
145.....40206

**15 CFR**

30.....42534
50.....42585
80.....42585
922.....39005
**Proposed Rules:**
930.....40207

**16 CFR**

**Proposed Rules:**
460.....41872

**17 CFR**

30.....39006, 40498
275.....42247
279.....42247
**Proposed Rules:**
1.....40835

**18 CFR**

101.....40500
141.....40500
201.....40500
260.....40500
352.....40500
357.....40500
**Proposed Rules:**
141.....40340
260.....40340
284.....40207
357.....40340
375.....40340

**19 CFR**

101.....42586, 42587
122.....42587
**Proposed Rule:**
101.....42650

**20 CFR**

218.....39009
220.....39009
225.....39009
404.....40119
416.....40119
**Proposed Rules:**
404.....40213
416.....40213

**21 CFR**

101.....39831, 41434
510.....41065, 42250
520.....41065
522.....42250, 42589
524.....42250
556.....42589
558.....41066, 42589
862.....40125
1300.....41222
1301.....41222
1304.....41222
1305.....41222
1307.....41222
**Proposed Rules:**
101.....41507
131.....39873
348.....42324
1301.....40576

**22 CFR**

41.....40127
**Proposed Rules:**
303.....39490

**24 CFR**

**Proposed Rules:**
3282.....42327
1000.....42651

**25 CFR**

**Proposed Rules:**
Ch. I.....39038, 42651

**26 CFR**

1 .....39011, 39012, 39452, 39453, 40129, 40130, 40510, 40766, 41067, 41230, 41417, 41906, 42251, 42254, 42590
20.....40130, 42593
25.....40130, 42593
301.....40768, 41073
602 .....39012, 41067, 41230, 41906, 42254
**Proposed Rules:**
1 .....39498, 40218, 40224, 40579, 40581, 40583, 40848, 41087, 42476, 42652
31.....42329
301 .....39498, 40849, 40850, 40857, 41089, 41090

**27 CFR**

4.....39454
9.....39833
**Proposed Rules:**
4.....39500
24.....39500

**28 CFR**

2.....41527, 41696

**29 CFR**

102.....39836
4022.....41714
4044.....41714
**Proposed Rules:**
35.....41512
1625.....41542
1627.....41542
1926.....39877, 39880

**30 CFR**

75.....40132
250.....41077, 41861
913.....40138
917 .....41911, 42266, 42274
920.....42277
934.....40142
938.....40147
943.....40154
948.....40157
**Proposed Rules:**
70.....39881
75.....39881
90.....39881
250.....40585, 41090
254.....40585
917.....41980
934.....40225
946.....40227

**31 CFR**

50.....41250
348.....41266
**Proposed Rules:**
103.....39039

**32 CFR**

9.....39374
10.....39379
11.....39381
12.....39387
13.....39389
14.....39391
15.....39394
16.....39395
17.....39397

**33 CFR**

2.....42595
26 .....39353, 41913, 42595
62.....42595
64.....42595
95.....42595
100 .....40167, 42282, 42595
101.....39240, 41914
102.....39240, 41914
103.....39284, 41914
104.....39292, 41915
105.....39315, 41916
106.....39338, 41916
110.....42285
117 .....41716, 41917, 41918, 41920, 42282
120.....42595
160.....39292, 41915
161.....39353, 41913
164.....39353, 41913
165 .....39013, 39015, 39017, 39292, 39353, 39455, 40024, 40168, 40169, 40170, 40173, 40174, 40176, 40770, 40772, 41078, 41081, 41268, 41269, 41531, 41716, 41719, 41721, 41722, 41913, 41915, 41920, 41922, 42282, 42285, 42287, 42289, 42595
**Proposed Rules:**
100.....40615
110.....39503
117.....42331
147.....40229
165 .....40231, 40859, 41091, 41764, 41982, 41984

**36 CFR**

**Proposed Rules:**
219.....41864
294.....41864, 41865

**37 CFR**

1.....41532
260.....39837

**38 CFR**

3.....42602

**39 CFR**

111.....40774

**40 CFR**

51.....39842
52 .....39457, 40520, 40528, 40782, 40786, 40789, 41083, 42172
62.....40531
63.....42603
70.....40528
80.....39018
81.....40789
82.....41925, 42884
131.....40428
180 .....39428, 39435, 39460, 39462, 39846, 40178, 40791, 40803, 41271, 41535, 41927
271.....42605
300.....41273
**Proposed Rules:**
19.....39882
27.....39882
51.....39888
52 .....39041, 39506, 40233, 40617, 40861, 40864, 40865, 41987, 42174, 42653, 42657
62.....40618
70.....40617, 40871
81.....42657
136.....41988
180.....41989
271.....42662

**41 CFR**

**Proposed Rules:**
105-55.....42170
105-56.....41093
105-550.....41274
105-570.....41290
301–50.....40618

**42 CFR**

412.....41860

**43 CFR**

10.....39853

**44 CFR**

64.....39019
65.....39021
67.....39023
**Proposed Rules:**
67 .....39042, 39044, 39046

**46 CFR**

2.....39292, 41915
7.....42595
28.....42595
31.....39292, 41915
71.....39292, 41915
91.....39292, 41915
115.....39292, 41915
126.....39292, 41915
176.....39292, 41915

**47 CFR**

0.....39471
22.....42290
32.....38641
54 .....38642, 39471, 41936
64.....40184, 41942
73 .....38643, 40185, 40186, 40187, 41284, 41724, 42608, 42609
74.....41284
90.....42296
101.....42610
**Proposed Rules:**
1.....40876
54.....41996, 42333
73 .....40237, 42662, 42663, 42664, 42665, 42666
90.....42337

**48 CFR**

Ch. 10.....39854, 42717

501.....41286
538.....41286
552.....41286
**Proposed Rules:**
15.....40466
30.....40104
31.....40466
52.....40104

**49 CFR**
541.....39471
**Proposed Rules:**
192.....41768
390.....42339
391.....42339

**50 CFR**
17.....39624, 40076
223.....41942
229.....41725
300.....39024
600.....42613
648.....40808, 41945
660 .....40187, 41085, 42643
679 .....40811, 40812, 41085, 41086, 41946
**Proposed Rules:**
17 .....39507, 39892, 42666
20.....42546
229.....40888
600 .....40892, 42360, 42668, 42669, 42670
635.....41103, 41769
648.....41535, 42671
697.....39048, 42360

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

## RULES GOING INTO EFFECT JULY 18, 2003

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:

Portland International Airport, OR; livestock exportation port designation; published 5-19-03

Livestock and poultry disease control:

Low pathogenic avian influenza; indeminity payment; published 7-18-03

Plant-related quarantine, domestic:

Asian longhorned bettle; published 5-19-03

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Pacific Coast groundfish; fishing capacity reduction program; published 7-18-03

Northeastern United States fisheries—

Spiny dogfish; published 7-16-03

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollutants, hazardous; national emission standards:

Chemical recovery combustion sources at kraft, soda, sulfite, and stand-alone semichemical pulp mills

Correction; published 7-18-03

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Animal drugs, feeds, and related products:

Laidlomycin; published 7-18-03

Sponsor name and address changes—

Cross Vetpharm Group Ltd.; correction; published 7-18-03

**HOMELAND SECURITY DEPARTMENT**

**Coast Guard**

Drawbridge operations:

Connecticut; published 7-15-03

**LIBRARY OF CONGRESS**

**Copyright Office, Library of Congress**

Copyright Arbitration Royalty Panel rules and procedures:

Digital performance of sound recordings; reasonable rates and terms determination; published 6-18-03

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airworthiness directives:

Hartzell Propeller, Inc., et al.; published 7-3-03

Pratt & Whitney; published 6-13-03

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Estate and gift taxes:

Right to recover gift tax, and tax consequences; published 7-18-03

**VETERANS AFFAIRS DEPARTMENT**

Medical benefits:

Former prisoners of war; presumption of service connection for cirrhosis of the liver; published 7-18-03

## COMMENTS DUE NEXT WEEK

**AGRICULTURE DEPARTMENT**

**Agricultural Marketing Service**

Onions grown in—

Idaho and Oregon; comments due by 7-24-03; published 7-9-03 [FR 03-17277]

Soybean promotion, research, and consumer information:

Small soybean producing States and regions; assessments reporting requirements; comments due by 7-18-03; published 6-18-03 [FR 03-15318]

**AGRICULTURE DEPARTMENT**

**Animal and Plant Health Inspection Service**

Interstate transportation of animals and animal products (quarantine):

Exotic Newcastle disease; quarantine area designations—

Arizona and Nevada; comments due by 7-18-03; published 5-19-03 [FR 03-12431]

California; comments due by 7-18-03; published 5-19-03 [FR 03-12432]

Swine; inspection and interstate movement within production system; comments due by 7-22-03; published 5-23-03 [FR 03-12994]

Tuberculosis in cattle and bison—

State and area classifications; comments due by 7-25-03; published 6-25-03 [FR 03-16038]

Plant-related quarantine, domestic and foreign:

Gypsy moth; comments due by 7-22-03; published 5-23-03 [FR 03-12985]

Plant-related quarantine, foreign:

Fragrant pears from China; comments due by 7-22-03; published 5-23-03 [FR 03-12987]

Potato brown rot prevention; comments due by 7-22-03; published 5-23-03 [FR 03-12988]

Solid wood packing material; importation; comments due by 7-21-03; published 5-20-03 [FR 03-12503]

Poultry improvement:

National Poultry Plan and auxiliary provisions—

Plan participants and participating flocks; new or modified sampling and testing procedures; comments due by 7-22-03; published 5-23-03 [FR 03-12995]

**AGRICULTURE DEPARTMENT**

**Food Safety and Inspection Service**

Meat and poultry inspection:

Poultry products (ratite only); importation from Australia and New Zealand into U.S.; comments due by 7-23-03; published 6-23-03 [FR 03-15740]

**COMMERCE DEPARTMENT**

**Industry and Security Bureau**

Designated terrorists; control imposition and expansion; comments due by 7-21-03; published 6-6-03 [FR 03-14253]

**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Domestic fisheries; exempted fishing permit applications; comments due by 7-24-03; published 7-9-03 [FR 03-17380]

West Coast States and Western Pacific fisheries—

Pacific Coast groundfish; comments due by 7-21-03; published 5-22-03 [FR 03-12885]

Pacific Coast groundfish vessel monitoring system; comments due by 7-21-03; published 5-22-03 [FR 03-12884]

West Coast salmon; comments due by 7-25-03; published 7-10-03 [FR 03-17239]

**DEFENSE DEPARTMENT**

Acquisition regulations:

Information assurance; comments due by 7-22-03; published 5-23-03 [FR 03-13000]

Federal Acquisition Regulation (FAR):

Unallowable costs accounting and application of cost principles and procedures; comments due by 7-21-03; published 5-22-03 [FR 03-12892]

Freedom of Information Act; implementation:

National Security Agency/ Central Security Service Freedom of Information Act Program; comments due by 7-22-03; published 5-23-03 [FR 03-12969]

Prototype projects; transactions other than contracts, grants, or cooperative agreements; comments due by 7-21-03; published 5-20-03 [FR 03-12554]

Wendell H. Ford Aviation Investment and Reform Act for 21st Century; implementation:

Excess DOD aircraft sales to persons or entities providing oil spill response services; comments due by 7-21-03; published 5-22-03 [FR 03-12552]

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution control:

State operating permits programs—

Michigan; comments due by 7-23-03; published 6-23-03 [FR 03-15762]

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Pennsylvania; comments due by 7-24-03; published 6-24-03 [FR 03-15759]

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 7-24-03; published 6-24-03 [FR 03-15898]

Connecticut, Massachusetts, and Rhode Island; comments due by 7-21-03; published 6-20-03 [FR 03-15126]

Missouri; comments due by 7-18-03; published 6-18-03 [FR 03-15251]

Texas; comments due by 7-21-03; published 6-19-03 [FR 03-15521]

Wisconsin; comments due by 7-21-03; published 6-20-03 [FR 03-15519]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Antimicrobial formulations for food-contact surface sanitizing solutions; active and inert ingredients; comments due by 7-25-03; published 6-25-03 [FR 03-16034]

Indoxacarb; comments due by 7-21-03; published 5-21-03 [FR 03-12480]

Maneb, etc.; comments due by 7-25-03; published 6-25-03 [FR 03-15906]

Pyraflufen-ethyl; comments due by 7-21-03; published 5-21-03 [FR 03-12359]

Water programs:

Water quality standards—

South San Francisco Bay, CA; copper and nickel; Federal aquatic life water quality criteria withdrawn; comments due by 7-25-03; published 6-25-03 [FR 03-16231]

**FEDERAL COMMUNICATIONS COMMISSION**

Common carrier services:

Federal-State Joint Board on Universal Service—

Schools and libraries; universal service support mechanism; comments due by 7-21-03; published 6-20-03 [FR 03-14929]

Radio frequency devices:

Radio receivers; interference immunity performance specifications; comments due by 7-21-03; published 5-5-03 [FR 03-10951]

Ultra-wideband transmission systems; unlicensed operation; comments due by 7-21-03; published 4-22-03 [FR 03-09880]

Radio stations; table of assignments:

Indiana; comments due by 7-21-03; published 6-16-03 [FR 03-15070]

Television broadcasting:

Cable television systems—

Cable Operations and Licensing System; electronic filing by Multichannel Video Programming Distributors; comments due by 7-18-03; published 5-19-03 [FR 03-12132]

**GENERAL SERVICES ADMINISTRATION**

Federal Acquisition Regulation (FAR):

Unallowable costs accounting and application of cost principles and procedures; comments due by 7-21-03; published 5-22-03 [FR 03-12892]

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Food and Drug Administration**

Animal drugs, feeds, and related products:

Biuret, feed-grade; comments due by 7-21-03; published 5-22-03 [FR 03-12785]

Proposed rules and actions (84) published in Federal Register over 5 years ago; notice of intent to withdraw; comments due by 7-21-03; published 4-22-03 [FR 03-09865]

**HEALTH AND HUMAN SERVICES DEPARTMENT**

**Substance Abuse and Mental Health Services Administration**

Human drugs:

Opiate addiction; opioid drugs use in maintenance and detoxification treatment

List additions; comments due by 7-21-03; published 5-22-03 [FR 03-11469]

**HOMELAND SECURITY DEPARTMENT**

**Coast Guard**

Drawbridge operations:

Florida; comments due by 7-21-03; published 5-20-03 [FR 03-12496]

Organization, functions, and authority delegations:

Great Lakes Pilotage Director; comments due by 7-23-03; published 6-23-03 [FR 03-15641]

Ports and waterways safety:

Hampton Roads, VA; regulated navigation area; comments due by 7-21-03; published 5-22-03 [FR 03-12549]

Port Everglades Harbor, Fort Lauderdale, FL; regulated navigation area; comments due by 7-21-03; published 6-6-03 [FR 03-14306]

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Federal and Federally funded construction projects; open competition and government neutrality towards government contractors' labor relations; comments due by 7-21-03; published 5-22-03 [FR 03-12798]

**INTERIOR DEPARTMENT**

**Fish and Wildlife Service**

Endangered and threatened species:

California tiger salamander; comments due by 7-22-03; published 5-23-03 [FR 03-12695]

**INTERIOR DEPARTMENT**

Hearings and appeals procedures:

Public land; special rules; comments due by 7-21-03; published 5-22-03 [FR 03-12504]

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

Federal Acquisition Regulation (FAR):

Unallowable costs accounting and application of cost principles and procedures; comments due by 7-21-03; published 5-22-03 [FR 03-12892]

**NUCLEAR REGULATORY COMMISSION**

Rulemaking petitions:

ICN Worldwide Dosimetry Service; comments due by 7-21-03; published 5-5-03 [FR 03-10967]

**SECURITIES AND EXCHANGE COMMISSION**

Securities:

Registered transfer agents; recordkeeping requirements; comments due by 7-21-03; published 6-20-03 [FR 03-15648]

**STATE DEPARTMENT**

Visas; nonimmigrant documentation:

Student and Exchange Visitor Information System; comments due by 7-22-03; published 5-23-03 [FR 03-12653]

**TRANSPORTATION DEPARTMENT**

**Federal Aviation Administration**

Airmen certification:

Operation Enduring Freedom; relief for participants; comments due by 7-21-03; published 6-20-03 [FR 03-15643]

Airworthiness directives:

Aerospatiale; comments due by 7-18-03; published 6-18-03 [FR 03-15338]

Airbus; comments due by 7-18-03; published 6-18-03 [FR 03-15335]

Boeing; comments due by 7-18-03; published 6-23-03 [FR 03-15727]

Bombardier; comments due by 7-18-03; published 6-18-03 [FR 03-15326]

Eagle Aircraft (Maylasia) Sdn. Bhd.; comments due by 7-25-03; published 6-23-03 [FR 03-15726]

McDonnell Douglas; comments due by 7-21-03; published 6-4-03 [FR 03-13978]

MD Helicopters Inc.; comments due by 7-18-03; published 5-19-03 [FR 03-12401]

Turbomeca S.A.; comments due by 7-21-03; published 5-20-03 [FR 03-12541]

Airworthiness standards:

Special conditions—

Boeing Model 747SP, 747-100, 747-200B, -200C, and -200F series airplanes; comments due by 7-18-03; published 6-18-03 [FR 03-15401]

Class E airspace; comments due by 7-24-03; published 6-9-03 [FR 03-14427]

**TRANSPORTATION DEPARTMENT**

**National Highway Traffic Safety Administration**

Motor vehicle safety standards:

Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act; implementation—

Tire safety information; comments due by 7-21-03; published 6-5-03 [FR 03-14160]

**TRANSPORTATION DEPARTMENT**

**Research and Special Programs Administration**

Pipeline safety:

Hazardous liquid transportation—

Gas transmission pipelines; integrity management in high consequence areas; Technical Pipeline Safety Standards Advisory Committee meeting; comments due by 7-18-03; published 7-15-03 [FR 03-17722]

**TREASURY DEPARTMENT**

**Fiscal Service**

Privacy Act; implementation; comments due by 7-21-03; published 6-20-03 [FR 03-15638]

**TREASURY DEPARTMENT**

**Internal Revenue Service**

Income taxes:

Paid tax return preparers; electronic filing; cross-reference; comments due by 7-23-03; published 4-24-03 [FR 03-10191]

**TREASURY DEPARTMENT**

Privacy Act; implementation:; comments due by 7-21-03; published 6-20-03 [FR 03-15638]

## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

**H.R. 825/P.L. 108–46**

To redesignate the facility of the United States Postal Service located at 7401 West 100th Place in Bridgeview, Illinois, as the ''Michael J. Healy Post Office Building''. (July 14, 2003; 117 Stat. 847)

**H.R. 917/P.L. 108–47**

To designate the facility of the United States Postal Service located at 1830 South Lake Drive in Lexington, South Carolina, as the ''Floyd Spence Post Office Building''. (July 14, 2003; 117 Stat. 848)

**H.R. 925/P.L. 108–48**

To redesignate the facility of the United States Postal Service located at 1859 South Ashland Avenue in Chicago, Illinois, as the ''Cesar Chavez Post Office''. (July 14, 2003; 117 Stat. 849)

**H.R. 981/P.L. 108–49**

To designate the facility of the United States Postal Service located at 141 Erie Street in Linesville, Pennsylvania, as the ''James R. Merry Post Office''. (July 14, 2003; 117 Stat. 850)

**H.R. 985/P.L. 108–50**

To designate the facility of the United States Postal Service located at 111 West Washington Street in Bowling Green, Ohio, as the ''Delbert L. Latta Post Office Building''. (July 14, 2003; 117 Stat. 851)

**H.R. 1055/P.L. 108–51**

To designate the facility of the United States Postal Service located at 1901 West Evans Street in Florence, South Carolina, as the ''Dr. Roswell N. Beck Post Office Building''. (July 14, 2003; 117 Stat. 852)

**H.R. 1368/P.L. 108–52**

To designate the facility of the United States Postal Service located at 7554 Pacific Avenue in Stockton, California, as the ''Norman D. Shumway Post Office Building''. (July 14, 2003; 117 Stat. 853)

**H.R. 1465/P.L. 108–53**

To designate the facility of the United States Postal Service located at 4832 East Highway 27 in Iron Station, North Carolina, as the ''General Charles Gabriel Post Office''. (July 14, 2003; 117 Stat. 854)

**H.R. 1596/P.L. 108–54**

To designate the facility of the United States Postal Service located at 2318 Woodson Road in St. Louis, Missouri, as the ''Timothy Michael Gaffney Post Office Building''. (July 14, 2003; 117 Stat. 855)

**H.R. 1609/P.L. 108–55**

To redesignate the facility of the United States Postal Service located at 201 West Boston Street in Brookfield, Missouri, as the ''Admiral Donald Davis Post Office Building''. (July 14, 2003; 117 Stat. 856)

**H.R. 1740/P.L. 108–56**

To designate the facility of the United States Postal Service located at 1502 East Kiest Boulevard in Dallas, Texas, as the ''Dr. Caesar A.W. Clark, Sr. Post Office Building''. (July 14, 2003; 117 Stat. 857)

**H.R. 2030/P.L. 108–57**

To designate the facility of the United States Postal Service located at 120 Baldwin Avenue in Paia, Maui, Hawaii, as the ''Patsy Takemoto Mink Post Office Building''. (July 14, 2003; 117 Stat. 858)

**H.R. 2474/P.L. 108–58**

To authorize the Congressional Hunger Center to award Bill Emerson and Mickey Leland Hunger Fellowships for fiscal years 2003 and 2004. (July 14, 2003; 117 Stat. 859)

**S. 858/P.L. 108–59**

To extend the Abraham Lincoln Bicentennial Commission, and for other purposes. (July 14, 2003; 117 Stat. 860)

**Last List July 8, 2003**

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