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Rules and Regulations

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

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

5 CFR Part 7201

RIN 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Equal Employment Opportunity Commission

AGENCY: Equal Employment Opportunity Commission (EEOC or Commission).

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics (OGE), amends the Supplemental Standards of Conduct for Employees of the Equal Employment Opportunity Commission by adding a sentence permitting EEOC employees to represent other EEOC employees in administrative equal employment opportunity (EEO) proceedings unless there is a conflict of interest.

EFFECTIVE DATE: This rule is effective on September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, at (202) 663–4668, or Kathleen Oram, Senior Attorney, at (202) 663–4681, or TTY (202) 663–7026. This final rule issuance is also available in the following formats: large print, braille, audio tape and electronic file on computer disk. Requests for this rule in an alternative format should be made to EEOC's publications center at 1–800–669–3362.

SUPPLEMENTARY INFORMATION: On February 26, 1996, with the concurrence and co-signature of OGE, EEOC published its interim rule establishing supplemental standards of ethical conduct for employees of EEOC (61 FR 7065–7067). The Commission, with OGE concurrence and co-signature, published a final rule adopting the interim rule on July 8, 1997 (62 FR 36447). EEOC, again with OGE's concurrence and co-signature, is amending the restriction contained in 5 CFR 7201.102(c) of its supplemental standards, prohibiting certain kinds of outside employment, to permit EEOC employees to represent without compensation other EEOC employees in EEO administrative complaint proceedings. Both exceptions to the general prohibition in paragraph (c), including the existing one for behind-the-scenes assistance to family members, will still require prior approval under § 7201.103 of the supplemental regulation to ensure there are no conflicts. The change will make EEOC's supplemental regulation more consistent with the exception contained in 18 U.S.C. § 205(d)(1)(A), which permits Federal employees, if not inconsistent with the faithful performance of their duties, to represent without compensation other employees who are the subject of disciplinary, loyalty, or other personnel administration proceedings. EEOC notes that this amendment as to representation of other EEOC employees is also consistent with 29 CFR 1614.605, which generally allows an EEO complainant to choose a representative, subject to the possibility of disqualification of the representative if representation would conflict with the representative's official or collateral duties. The prohibition will remain, however, on EEOC employees representing employees of other Federal agencies in EEO proceedings, because the Commission is concerned about a possible perception that EEO office personnel or EEOC administrative judges would give EEOC employees deference in the proceedings.

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), the EEOC has determined that good cause exists for waiving the general notice of proposed rulemaking, opportunity for public comment and 30-day delayed effective date as to these revisions. Notice, comment and delayed effectiveness are being waived because these amendments concern matters of agency organization, practice and procedure. Moreover, it is in the public interest that the revisions take effect promptly.

Regulatory Flexibility Act

The EEOC has determined under the Regulatory Flexibility Act, 5 U.S.C. Chapter 6, that this rule will not have a significant economic impact on a substantial number of small entities because it only affects Commission employees.

Paperwork Reduction Act

The Paperwork Reduction Act, 44 U.S.C. chapter 35, does not apply to these final rule amendments because they do not contain any information collection requirements subject to approval by the Office of Management and Budget.

Congressional Review Act

The EEOC has determined that this rulemaking is not a rule as defined in 5 U.S.C. 804, and, thus, does not require review by Congress. This rulemaking is related to EEOC personnel.

Executive Order Nos. 12866 and 12988

Since this rule relates to EEOC personnel, it is exempt from the provisions of Executive Orders Nos. 12866 and 12988.

List of Subjects in 5 CFR Part 7201

Conflict of interests, Ethics, Executive branch standards of conduct, Government employees.

Dated: August 12, 2003.

For the Commission,

Cari L. Dominguez,

Chair.

Approved: August 22, 2003.

Amy L. Comstock,

Director, Office of Government Ethics.

■ For the reasons set forth in the preamble, the Equal Employment Opportunity Commission, with the concurrence of the Office of Government Ethics, is amending part 7201 of title 5 of the Code of Federal Regulations as follows:

PART 7201—SUPPLEMENTAL STANDARDS OF CONDUCT FOR EMPLOYEES OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

■ 1. The authority citation for part 7201 continues to read as follows:

Authority: 5 U.S.C. 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p.

215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.403(a), 2635.802 and 2635.803.

■ 2. Section 7201.102 is amended by revising paragraph (c) to read as follows:

§ 7201.102 Prohibited outside employment.

* * * * *

(c) No employee of the Equal Employment Opportunity Commission, other than a special Government employee, may engage in outside employment involving a particular matter pending at EEOC or an equal employment opportunity matter in which EEOC or the Federal government is a party. An employee may, however, with prior approval, provide uncompensated behind-the-scenes assistance to immediate family members in matters pending at EEOC or equal employment opportunity matters in which EEOC or the Federal government is a party. An employee may also, with prior approval, represent without compensation another EEOC employee in an administrative equal employment opportunity complaint against EEOC.

[FR Doc. 03–22483 Filed 9–3–03; 8:45 am]

BILLING CODE 6570–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T]

Credit by Brokers and Dealers; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Foreign Margin Stocks (Foreign List) is composed of certain foreign equity securities that qualify as *margin securities* under Regulation T. The Foreign List is published twice a year by the Board.

EFFECTIVE DATE: September 15, 2003.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Financial Analyst, Division of Banking Supervision and Regulation, (202) 452–2837, or Scott Holz, Senior Counsel, Legal Division, (202) 452–2966, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Listed below is a complete edition of the Board's Foreign List. The Foreign List was last published on February 27, 2003 (68 FR 8993), and became effective March 1, 2003.

The Foreign List is composed of foreign equity securities that qualify as margin securities under Regulation T by meeting the requirements of § 220.11(c) and (d). Additional foreign securities qualify as margin securities if they are deemed by the Securities and Exchange Commission (SEC) to have a ''ready market'' under SEC Rule 15c3–1 (17 CFR 240.15c3–1) or a ''no-action'' position issued thereunder. This includes all foreign stocks in the FTSE World Index Series.

It is unlawful for any creditor to make, or cause to be made, any representation to the effect that the inclusion of a security on the Foreign List is evidence that the Board or the SEC has in any way passed upon the merits of, or given approval to, such security or any transactions therein. Any statement in an advertisement or other similar communication containing a reference to the Board in connection with the Foreign List or the stocks thereon shall be an unlawful representation.

There are no additions to, or deletions from, the Foreign List.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Foreign List specified in § 220.11(c) and (d). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of the Foreign List as soon as possible. The Board has responded to a request by the public and allowed approximately a one-week delay before the Foreign List is effective.

List of Subjects in 12 CFR Part 220

Brokers, Credit, Margin, Margin requirements, Investments, Reporting and recordkeeping requirements, Securities.

■ Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, there is set forth below a complete edition of the Foreign List.

Japan

Akita Bank, Ltd., ¥50 par common
Aomori Bank, Ltd., ¥50 par common
Asatsu-Dk Inc., ¥50 par common
Bank of Nagoya, Ltd., ¥50 par common
Chudenko Corp., ¥50 par common
Chugoku Bank, Ltd., ¥50 par common
Daihatsu Motor Co., Ltd., ¥50 par common
Dainippon Screen Mfg. Co., Ltd., ¥50 par common
Denki Kagaku Kogyo, ¥50 par common
Eighteenth Bank, Ltd., ¥50 par common
Futaba Corp., ¥50 par common
Futaba Industrial Co., Ltd., ¥50 par common
Higo Bank, Ltd., ¥50 par common
Hitachi Software Engineering Co., Ltd., ¥50 par common
Hokkoku Bank, Ltd., ¥50 par common
Hokuetsu Paper Mills, Ltd., ¥50 par common
Iyo Bank, Ltd., ¥50 par common
Japan Airport Terminal Co., Ltd., ¥50 par common
Juroku Bank, Ltd, ¥50 par common
Kagoshima Bank, Ltd., ¥50 par common
Kamigumi Co., Ltd., ¥50 par common
Katokichi Co., Ltd., ¥50 par common
Keisei Electric Railway Co., Ltd., ¥50 par common
Keiyo Bank, Ltd., ¥50 par common
Komori Corp., ¥50 par common
Konami Co., Ltd., ¥50 par common
Michinoku Bank, Ltd., ¥50 par common
Musashino Bank, Ltd., ¥500 par common
Namco, Ltd., ¥50 par common
Nichicon Corp., ¥50 par common
Nihon Unisys, Ltd., ¥50 par common
Nishi-Nippon Bank, Ltd., ¥50 par common
Nishi-Nippon Railroad Co., Ltd., ¥50 par common
Nissan Chemical Industries, Ltd., ¥50 par common
Ogaki Kyoritsu Bank, Ltd., ¥50 par common
Q.P. Corp., ¥50 par common
Rinnai Corporation, ¥50 par common
Sagami Railway Co., Ltd., ¥50 par common
Sakata Seed Corp., ¥50 par common
Santen Pharmaceutical Co., Ltd., ¥50 par common
Shimadzu Corp., ¥50 par common
Shimamura Co., Ltd., ¥50 par common
Sumitomo Rubber Indsutries, Ltd., ¥50 par common
Taiyo Yuden Co., Ltd., ¥50 par common
Takara Standard Co., Ltd., ¥50 par common
Toho Bank, Ltd., ¥50 par common
Toho Gas Co., Ltd., ¥50 par common
Tokyo Ohka Kogyo Co., Ltd., ¥50 par common
Uni-Charm Corp., ¥50 par common
Ushio, Inc., ¥50 par common

Yamaha Motor Co., Ltd., ¥50 par common

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), August 28, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–22532 Filed 9–3–03; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–CE–33–AD; Amendment 39–13282; AD 2003–16–51]

RIN 2120–AA64

Airworthiness Directives; Schempp-Hirth Flugzeugbau GmbH Model Duo-Discus Gliders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2003–16–51, which was published in the **Federal Register** on August 20, 2003 (68 FR 50055), and applies to certain Schempp-Hirth (SCHEMPP–HIRTH) Flugzeugbau GmbH Model Duo-Discus gliders. We inadvertently omitted certain regulatory text in 14 CFR part 39. This action corrects the regulatory text.

EFFECTIVE DATE: The effective date of this AD remains August 20, 2003.

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

SUPPLEMENTARY INFORMATION:

Discussion

On August 12, 2003, FAA issued AD 2003–16–51, Amendment 39–13282 (68 FR 50055, August 20, 2003), which applies to certain SCHEMPP–HIRTH Model Duo-Discus gliders. This AD requires you to accomplish a one-time inspection of the bonding of the spar cap and spar web, and repair any defective bonding of the spar cap and spar web.

Need for the Correction

The FAA inadvertently omitted Amendment 39–13282 in the regulatory portion of the AD (in 14 CFR part 39).

The information is included in the preamble of the AD. The amendment number is needed for appropriate logbook entry for the affected airplane owners/operators if the preamble of the AD is not available.

Correction of Publication

■ Accordingly, the publication of August 20, 2003 (68 FR 50055), of Amendment 39–13282; AD 2003–16–51, is corrected as follows:

§ 39.13 [Corrected]

■ On page 50056, in § 39.13 [Amended], in the third column, add the words ''Amendment 39–13282; '' after ''GmbH:''

■ Action is taken herein to correct this reference in AD 2003–16–51 and to add this AD correction to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13).

The effective date remains August 20, 2003.

Issued in Kansas City, Missouri, on August 28, 2003.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–22494 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–15721; Airspace Docket No. 03–ACE–63]

Modification of Class E Airspace; Sullivan, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments; correction.

SUMMARY: This action corrects a direct final rule; request for comments that was published in the **Federal Register** on Monday, August 18, 2003, (68 FR 49348) [FR Doc. 03–21081.]. It corrects an error in the Sullivan Regional Airport airport reference point used in the Sullivan, MO Class E airspace area legal description.

DATES: This direct final rule is effective on 0901 UTC, December 25, 2003.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register document 03–21081, published on Monday, August 18, 2003 (68 FR 49348) modified Class E airspace at Sullivan, MO. The modification was to correct a discrepancy in the Sullivan Regional Airport airport reference point used in the Sullivan, MO Class E airspace area and to bring the legal description into compliance with FAA Order 7400.2E, Procedures for Handling Airspace Matters. However, the revised Sullivan Regional Airport airport reference point was published incorrectly.

■ Accordingly, pursuant to the authority delegated to me, the Sullivan, MO Class E airspace, as published in the **Federal Register** on Monday, August 18, 2003, (68 FR 49348), [FR Doc. 03–21081] is corrected as follows:

§ 71.1 [Corrected]

■ On page 49349, Column 1, paragraph headed ''ACE MO E5 Sullivan, MO,'' second line, change ''long. 92°09′51'' to read ''long. 91°09′51.''

Issued in Kansas City, MO on August 20, 2003.

David H. Hope,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–22466 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9089]

RIN 1545–BC39

Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations under section 1502 that govern the application of section 108 when a member of a consolidated group realizes discharge of indebtedness income. These temporary regulations affect corporations filing consolidated returns. 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 regulations are effective August 29, 2003.

FOR FURTHER INFORMATION CONTACT: Amber Renee Cook or Marie C. Milnes-Vasquez at (202) 622–7530 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Section 61(a)(12) of the Internal Revenue Code provides that gross income includes income from the discharge of indebtedness, except as provided by law. Section 108(a) provides that gross income of a C corporation does not include any amount that would otherwise be includible in gross income by reason of the discharge, in whole or in part, of indebtedness of the taxpayer if the discharge occurs in a title 11 case (section 108(a)(1)(A)), the discharge occurs when the taxpayer is insolvent, but only to the extent of the insolvency (section 108(a)(1)(B)), or the indebtedness discharged is qualified farm indebtedness (section 108(a)(1)(C)).

Although section 108 does not require certain taxpayers to include discharge of indebtedness income in gross income, it does require the reduction of tax attributes. Section 108(b)(1) provides that if a taxpayer excludes an amount from gross income under section 108(a)(1)(A), (B), or (C), the taxpayer must reduce its tax attributes by the amount excluded. Absent an election under section 108(b)(5) (described below), pursuant to section 108(b)(2), tax attributes are reduced in the following order: net operating losses and net operating loss carryovers, general business credits under section 38, minimum tax credits under section 53(b), net capital losses and capital loss carryovers, asset basis, passive activity loss and credit carryovers under section 469(b), and foreign tax credits and foreign tax credit carryovers. Section 108(b)(5) provides that the taxpayer may elect to apply any portion of excluded discharge of indebtedness income to first reduce basis in depreciable assets under the rules of section 1017. Any amount of debt discharge that remains after attribute reduction is not includible in income. *See* H.R. Rep. 96–833 at 11 (1980); S. Rep. No. 96–1035 at 12 (1980).

These provisions are designed to ''preserve the debtor's 'fresh start' after bankruptcy.'' H.R. Rep. 96–833 at 9 (1980); *see* S. Rep. No. 96–1035 at 10 (1980). In addition, they are intended to ''carry out the Congressional intent of deferring, but eventually collecting within a reasonable period, tax on ordinary income realized from debt discharge.'' H.R. Rep. 96–833 at 9 (1980); see S. Rep. No. 96–1035 at 10 (1980). By making attributes unavailable to offset income in later years, the provisions offer the debtor a temporary, rather than a permanent, deferral of tax.

Questions have arisen regarding the application of section 108 when the taxpayer with discharge of indebtedness income that is excluded from gross income is a member of a consolidated group. In particular, questions have arisen regarding the determination of the attributes that are available for reduction in a consolidated group and the method for reducing those attributes. These regulations provide guidance regarding those questions.

Explanation of Provisions

A. Application of Section 108(a)(1)(B)

As described above, pursuant to section 108(a)(1)(B), gross income of an insolvent C corporation does not include any amount that would otherwise be includible in gross income by reason of the discharge, in whole or in part, of indebtedness of the taxpayer, but only to the extent of the insolvency. The IRS and Treasury believe that computing the amount of the insolvency for purposes of section 108(a)(1)(B) with respect to only the debtor member reflects that, without an agreement that provides otherwise, the assets of members other than the debtor member will not be available to satisfy claims of the creditors of the debtor member. Therefore, these temporary regulations provide that the amount of discharge of indebtedness income excluded from gross income in the case in which the debtor is insolvent is determined based on the assets and liabilities of only the member with discharge of indebtedness income.

B. Application of Section 108(b)

1. Consolidated Approach

The IRS and Treasury Department have considered a separate entity approach and various consolidated approaches to the application of the attribute reduction rules of section 108(b) in the consolidated group context. As explained below, these regulations adopt a consolidated approach that reduces all attributes that are available to the debtor.

The IRS and Treasury Department have rejected a separate entity approach. Such an approach would reduce only the attributes attributable to the member with excluded discharge of indebtedness income. The IRS and Treasury Department have rejected this approach because it fails to take into account the fact that consolidated attributes that are attributable to other members will be available to offset income of the debtor member as long as the debtor is a member of the group. A separate entity approach could result in the permanent exclusion of discharge of indebtedness income when there are other attributes available to the debtor member.

In the view of the IRS and Treasury Department, the policies underlying section 108 require a consolidated approach that reduces all attributes that are available to the debtor. An approach that does not reduce all of such attributes is inconsistent with Congressional intent that income realized from debt discharge generally be deferred and not permanently eliminated. Furthermore, reducing all of the consolidated attributes available to the debtor member reflects the principle enunciated by the Supreme Court in *United Dominion Indus., Inc.* v. *United States,* 532 U.S. 822 (2001), that, in general, the only net operating loss of a consolidated group or its members for a consolidated return year is the consolidated net operating loss. Consistent with *United Dominion,* the tax attributes subject to reduction under section 108(b) when the debtor is a member of a consolidated group include the group's consolidated attributes in their entirety. Therefore, these temporary regulations provide for the reduction of consolidated net operating losses and all other consolidated tax attributes, including consolidated tax attributes that are attributable to members other than the debtor member.

When the debtor is a member of a consolidated group, consolidated tax attributes attributable to other members may be used to offset income of the debtor member. That ability may enable the debtor member to offset future income with the consolidated attributes attributable to other members. As a result, unless such other attributes are reduced, discharge of indebtedness income that is excluded from gross income may never result in taxable income.

Unlike consolidated attributes, the basis of assets held by members other than the debtor member is not directly available to offset income of the debtor member. In fact, the basis of assets held by members other than the debtor member may never give rise to an attribute that could be directly available to offset income of a member of the group for a consolidated return year. Therefore, as explained below, these temporary regulations provide for a reduction of basis of assets of members other than the debtor member only in limited circumstances.

2. Ordering Rule

Under these temporary regulations, the attributes attributable to the debtor member are first subject to reduction. For this purpose, attributes attributable to the debtor member include (1) consolidated attributes attributable to the debtor member, (2) attributes that arose in separate return limitation years of the debtor member, and (3) the basis of property of the debtor member. The amount of a consolidated attribute attributable to the debtor member is determined pursuant to the principles of § 1.1502–21(b). To the extent that the excluded discharge of indebtedness income exceeds the attributes attributable to the debtor member, these temporary regulations require the reduction of consolidated attributes attributable to other members and attributes attributable to members other than the debtor member that arose (or are treated as arising) in a separate return limitation year to the extent that the debtor member is a member of the separate return limitation year subgroup with respect to such attribute.

The availability of tax attributes attributable to other members of a consolidated group to reduce the future income of the debtor member creates the possibility of shifting the location of tax attributes and future tax liability. Preserving the location of tax items within the group is a fundamental policy underlying the consolidated return regulations which is reflected in a number of such regulations. *See, e.g.*, § 1.1502–13 (regarding intercompany transactions); § 1.1502–21 (regarding the use of attributes that arise in separate return limitation years). Location is particularly important when a member leaves the group and no longer shares the attributes attributable to it with, or uses the attributes attributable to, the other members. This sharing of tax attributes can shift the location of items within the group, affecting the amount of consolidated tax attributes that a member takes with it when it leaves the group.

The IRS and Treasury Department did not adopt an alternative consolidated approach that would require the reduction of consolidated attributes attributable to other members prior to the reduction of all of the attributes attributable to the debtor member. Such an approach would not preserve the location of income in the debtor member resulting from the reduction of attributes as effectively as the approach adopted in these temporary regulations. For example, a reduction of the consolidated attributes attributable to each member before the reduction of all of the attributes attributable to the debtor member could cause a shifting of the tax burden if the debtor member subsequently leaves the group. In that case, the debtor member may take with it a larger portion of the consolidated attributes than it otherwise would, while a portion of the consolidated attributes attributable to other members would be reduced. The larger portion of the consolidated attributes that the debtor member would take with it would be available to offset future income of the debtor member, while the remaining members of the group would bear a higher tax burden as a result of the unavailability of those consolidated attributes.

These temporary regulations achieve the dual objectives of subjecting the entire amount of consolidated attributes to reduction *and* preserving the location of future income that is deferred by first reducing attributes attributable to the debtor member, including consolidated attributes, in the order prescribed in section 108(b) and then reducing the remaining amount of consolidated attributes. This ordering rule reduces the potential to shift the location of attributes within the group.

3. Look-Through Rule

The adopted approach include a look-through rule that applies if the attribute of the debtor member reduced is the basis of stock of another member of the group. In these cases, corresponding adjustments must be made to the attributes attributable to the lower-tier member. To effect those corresponding adjustments, these temporary regulations treat the lower-tier member as a debtor member that has discharge of indebtedness income that is excluded from gross income in the amount of the stock basis reduction for purposes of the rules relating to the reduction of the attributes attributable to a debtor member. For this purpose, the consolidated attributes attributable to the lower-tier member (determined pursuant to the principles of § 1.1502–21(b)) as well as the lower-tier member's separate attributes (including attributes that arose in separate return limitation years and asset basis) are available for reduction. The look-through rule is consistent with the treatment of a group as a single taxpayer under a number of the consolidated return regulations, including the provisions allowing the consolidated tax attributes attributable to one member of a group to offset income of other members of the group and the investment adjustment rules that adjust the basis of subsidiary stock to reflect the income and absorbed losses of the subsidiary.

C. Corresponding Amendments

Included in these temporary regulations are amendments to certain provisions of the consolidated return regulations that reflect the attribute reduction rules that apply when the debtor is a member of a consolidated group. The following paragraphs describe these amendments.

1. The Investment Adjustment Rules

Under § 1.1502–32(b)(3)(ii)(C), discharge of indebtedness income of a subsidiary that is excluded from gross income is treated as tax-exempt income for purposes of the investment adjustment rules only to the extent it is applied to reduce attributes. For this purpose, a discharge of indebtedness is treated as applied to reduce tax attributes only to the extent the attribute reduction is taken into account as a noncapital, nondeductible expense under § 1.1502–32. The investment adjustment rules of § 1.1502–32 do not apply to affect the basis of the stock of the common parent of a group. Therefore, to the extent that discharge of indebtedness income reduces consolidated attributes that are attributable to the common parent, no positive basis adjustment is made to the stock of the subsidiary. Furthermore, because the reduction of a tax credit is not a noncapital, nondeductible expense, to the extent that the discharge of indebtedness income reduces a tax credit, no positive basis adjustment is made to the stock of the subsidiary.

The IRS and Treasury Department believe that a positive basis adjustment should be made to the basis of the stock of a debtor subsidiary even if the discharge of indebtedness income reduces an attribute that is attributable to the common parent. This position is consistent with the approach of § 1.1502–32 that income of a subsidiary that is offset by net operating losses generated by the common parent results in an increase in the basis of the subsidiary stock. In addition, the IRS and Treasury Department believe that a positive basis adjustment should be made to the basis of the stock of a debtor subsidiary even if the discharge of indebtedness income reduces a credit of any member. Accordingly, these temporary regulations treat as tax-exempt income discharge of indebtedness income that is excluded from gross income to the extent that such excluded income reduces tax attributes, including tax attributes attributable to the common parent and any other attribute the reduction of which is not treated as a noncapital, nondeductible expense, such as a credit.

2. The Excess Loss Account Rules

Under § 1.1502–19, an excess loss account attributable to subsidiary stock must be included in income when an indebtedness of that subsidiary is discharged and any part of the amount discharged is not included in gross income and is not treated as tax-exempt income under § 1.1502–32. This rule may require inclusion of an excess loss account in income in an amount that is substantially greater than the amount discharged that is not treated as tax-exempt income.

The IRS and Treasury Department believe that requiring the inclusion of the excess loss account in income only to the extent of the amount discharged that is not treated as tax-exempt income is consistent with the policies underlying section 108 and the consolidated return regulations. Accordingly, these temporary regulations modify the rules of § 1.1502–19 to provide that the excess loss account must be included in income only to the extent that any amount discharged that is excluded from gross income is not treated as tax-exempt income.

3. Rules Governing Apportionment of Net Operating Losses

The temporary regulations also include modifications to the rules of § 1.1502–21 relating to the amount of consolidated net operating losses apportioned to a subsidiary when a consolidated net operating loss is absorbed and when a subsidiary departs from the group. These modifications take into account the reduction of the net operating losses attributable to that member that occurs as a result of discharge of indebtedness.

D. Request for Comments

The IRS and Treasury Department are considering adopting rules under section 1502 (and possibly other Code sections) to address the effect of transitory transactions and other transactions designed to avoid the application of the rules concerning attribute reduction. Comments are requested regarding whether such a rule should be adopted and the appropriate scope of such a rule. Even in the absence of such a rule, such transactions may be challenged under existing law. If the IRS and Treasury Department determine such a rule is necessary to protect the policies underlying section 108 and the consolidated return regulations, the IRS and Treasury Department are prepared to promulgate such a rule with retroactive effect to discharges of indebtedness that occur after August 29, 2003.

Effective Dates

The temporary regulations related to the application of section 108(b) when a member of a consolidated group realizes discharge of indebtedness income that is excluded from gross income apply to discharges of indebtedness that occur after August 29, 2003. The amendments to the investment adjustment rules apply with respect to determinations of stock basis in consolidated return years the original return for which is due (without extensions) after August 29, 2003. The amendments to the excess loss account rules apply to dispositions of subsidiary stock after August 29, 2003. However, taxpayers may apply the amendments to the investment adjustment rules and the excess loss account rules retroactively. Finally, the amendments to the net operating loss rules apply only to taxable years the original return for which the due date (without extensions) is after August 29, 2003.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. These temporary regulations are necessary to provide taxpayers with immediate guidance regarding the application of section 108 when a member of a consolidated group has discharge of indebtedness income that is excluded from gross income. Current circumstances have made the application of section 108 in the consolidated group context an issue that needs to be addressed at this time. In addition, consolidated groups may be taking positions that are inconsistent with the policies underlying section 108 and the principle enunciated by the Supreme Court in *United Dominion Indus., Inc.* v. *United States,* 532 U.S. 822 (2001). Accordingly, good cause is found for dispensing with notice and public procedure pursuant to 5 U.S.C. 553(b)(B) and with a delayed effective date pursuant to 5 U.S.C. 553(d)(3). For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. 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 their impact on small business.

Drafting Information

Various personnel from the IRS and Treasury Department participated in the development of the regulations.

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 removing the two entries for § 1.1502–32T and adding the following entries in numerical order to read in part as follows:

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

Section 1.1502–19T also issued under 26 U.S.C. 1502. * * *

Section 1.1502–28T also issued under 26 U.S.C. 1502. * * *

Section 1.1502–32T also issued under 26 U.S.C. 1502. * * *

■ **Par. 2.** Section 1.1502–19 is amended as follows:

■ 1. Paragraph (b)(1) is revised.

■ 2. The headings for paragraphs (h)(2) and (h)(2)(i) are revised.

■ 3. Paragraph (h)(2)(ii) is redesignated as paragraph (h)(2)(iii).

■ 4. New paragraph (h)(2)(ii) is added.

The revisions and addition read as follows:

§ 1.1502–19 Excess loss accounts.

* * * * *

(b) * * * (1) [Reserved]. For further guidance, *see* § 1.1502–19T(b)(1).

* * * * *

(h) * * *

(2) *Dispositions of stock*—(i) *Dispositions of stock before effective date.* * * *

(ii) *Application of special limitation.* [Reserved]. For further guidance, *see* § 1.1502–19T(h)(2)(ii).

* * * * *

■ **Par. 3.** Section 1.1502–19T is added to read as follows:

§ 1.1502–19T Excess loss accounts (temporary).

(a) [Reserved]. For further guidance, *see* § 1.1502–19(a).

(b) *Excess loss account taken into account as income or gain*—(1) *Operating rules*—(i) *General rule.* Except as provided in paragraph (b)(1)(ii) of this section, if P is treated under § 1.1502–19 as disposing of a share of S's stock, P takes into account its excess loss account in the share as income or gain from the disposition.

(ii) *Special limitation on amount taken into account.* Notwithstanding

paragraph (b)(1)(i) of this section, if P is treated as disposing of a share of S's stock as a result of the application of § 1.1502–19(c)(1)(iii)(B), the aggregate amount of its excess loss account in the shares of S's stock that P takes into account as income or gain from the disposition shall not exceed the amount of S's indebtedness that is discharged that is neither included in gross income nor treated as tax-exempt income under § 1.1502–32T(b)(3)(ii)(C)(*1*). If more than one share of S's stock has an excess loss account, such excess loss accounts shall be taken into account pursuant to the preceding sentence, to the extent possible, in a manner that equalizes the excess loss accounts in S's shares that have an excess loss account.

(iii) *Treatment of disposition.* Except as provided in § 1.1502–19(b)(4), the disposition is treated as a sale or exchange for purposes of determining the character of the income or gain.

(b)(2) through (h)(2)(i) [Reserved]. For further guidance, *see* § 1.1502–19(b)(2) through (h)(2)(i).

(h)(2)(ii) *Application of special limitation.* If P was treated as disposing of stock of S because S was treated as worthless as a result of the application of § 1.1502–19(c)(1)(iii)(B) after August 29, 2003 and in a consolidated return year beginning on or after January 1, 1995, the amount of P's income, gain, deduction, or loss, and the stock basis reflected in that amount, are determined or redetermined with regard to paragraph (b)(1)(ii) of this section. If P was treated as disposing of stock of S because S was treated as worthless as a result of the application of § 1.1502–19(c)(1)(iii)(B) on or before August 29, 2003 and in a consolidated return year beginning on or after January 1, 1995, the group may determine or redetermine the amount of P's income, gain, deduction, or loss, and the stock basis reflected in that amount with regard to paragraph (b)(1)(ii) of this section.

(h)(2)(iii) through (h)(3) [Reserved]. For further guidance, *see* § 1.1502–19(h)(2)(iii) through (h)(3).

■ **Par. 4.** Section 1.1502–21 is amended as follows:

■ 1. Paragraphs (b)(2)(iv) and (c)(2)(vii) are revised.

■ 2. Paragraphs (h)(6) and (h)(7) are redesignated as paragraphs (h)(7) and (h)(8).

■ 3. New paragraph (h)(6) is added.

■ 4. Newly designated paragraph (h)(8) is revised.

The revision and additions read as follows:

§ 1.1502–21 Net operating losses.

* * * * *

(b) * * *

(2) * * *

(iv) [Reserved]. For further guidance, *see* § 1.1502–21T(b)(2)(iv).

* * * * *

(c) * * *

(2) * * *

(vii) [Reserved]. For further guidance, *see* § 1.1502–21T(c)(2)(vii).

* * * * *

(h) * * *

(6) [Reserved]. For further guidance, see § 1.1502–21T(h)(6).

* * * * *

(8) [Reserved]. For further guidance, see § 1.1502–21T(h)(8).

■ **Par. 5.** Section 1.1502–21T is amended as follows:

■ 1. Paragraphs (b)(1) through (b)(3)(ii)(B) are revised.

■ 2. Paragraphs (c) through (h)(7) are revised.

■ 3. Paragraph (h)(8) is added.

The revisions and addition read as follows:

§ 1.1502–21T Net operating losses (temporary).

* * * * *

(b) * * * (1) *Carryovers and carrybacks generally.* The net operating loss carryovers and carrybacks to a taxable year are determined under the principles of section 172 and this section. Thus, losses permitted to be absorbed in a consolidated return year generally are absorbed in the order of the taxable years in which they arose, and losses carried from taxable years ending on the same date, and which are available to offset consolidated taxable income for the year, generally are absorbed on a pro rata basis. In addition, the amount of any CNOL absorbed by the group in any year is apportioned among members based on the percentage of the CNOL attributable to each member as of the beginning of the year. The percentage of the CNOL attributable to a member is determined pursuant to paragraph (b)(2)(iv)(B) of this section. Additional rules provided under the Internal Revenue Code or regulations also apply. *See, e.g.*, section 382(l)(2)(B) (if losses are carried from the same taxable year, losses subject to limitation under section 382 are absorbed before losses that are not subject to limitation under section 382). *See* § 1.1502–21(c)(1)(iii), *Example 2*, for an illustration of pro rata absorption of losses subject to a SRLY limitation. See paragraph (b)(3)(v) of this section regarding the treatment of any loss that is treated as expired under § 1.1502–35T(f)(1).

(2) (i) through (iii) [Reserved]. For further guidance, see § 1.1502–21(b)(2)(i) through (iii).

(iv) *Operating rules*—(A) *Amount of CNOL attributable to a member.* The amount of a CNOL that is attributable to a member shall equal the product of the CNOL and the percentage of the CNOL attributable to such member.

(B) *Percentage of CNOL attributable to a member*—(1) *In general.* Except as provided in paragraph (b)(2)(iv)(B)(*2*) of this section, the percentage of the CNOL attributable to a member shall equal the separate net operating loss of the member for the year of the loss divided by the sum of the separate net operating losses for that year of all members having such losses. For this purpose, the separate net operating loss of a member is determined by computing the CNOL by reference to only the member's items of income, gain, deduction, and loss, including the member's losses and deductions actually absorbed by the group in the taxable year (whether or not absorbed by the member).

(*2*) *Special rule.* If during a taxable year either a member realizes discharge of indebtedness income that is excluded from gross income under section 108(a) and such amount reduces any portion of the CNOL attributable to such member pursuant to section 108 and § 1.1502–28T, or a member that had a separate net operating loss for the year of the CNOL ceases to be a member, the percentage of the CNOL attributable to each member as of the first day of the following taxable year shall be recomputed. In addition, if a portion of the CNOL attributable to a member for a taxable year is carried back to a separate return year, the percentage of the CNOL attributable to each member as of the first day of the taxable year following the taxable year of the CNOL shall be recomputed. In each case, such recomputed percentage shall equal the unabsorbed CNOL attributable to the member on the first day of the following taxable year divided by the sum of the unabsorbed CNOL attributable to all of the members on the first day of the following taxable year. For purposes of the preceding sentence, a CNOL that is reduced pursuant to section 108 and § 1.1502–28T or that is otherwise permanently disallowed or eliminated shall be treated as absorbed.

(b)(2)(v) through (b)(3)(ii)(B) [Reserved]. For further guidance, *see* § 1.1502–21(b)(2)(v) through (b)(3)(ii)(B).

* * * * *

(c)(1) through (c)(2)(vi) [Reserved]. For further guidance, *see* § 1.1502–21(c)(1) through (c)(2)(vi).

(vii) *Corporations that leave a SRLY subgroup.* If a loss member ceases to be affiliated with a SRLY subgroup, the amount of the member's remaining

SRLY loss from a specific year is determined pursuant to the principles of § 1.1502–21(b)(2)(ii)(A) and § 1.1502–21T(b)(2)(iv).

(c)(2)(viii) through (h)(5) [Reserved]. For further guidance, *see* § 1.1502–21(c)(2)(viii) through (h)(5).

(6) *Certain prior periods.* Paragraphs (b)(1), (b)(2)(iv), and (c)(2)(vii) of this section shall only apply to taxable years the original return for which the due date (without extensions) is after August 29, 2003. For taxable years the original return for which the due date (without extensions) is on or before August 29, 2003, see paragraphs (b)(1), (b)(2)(iv), and (c)(2)(vii) of § 1.1502–21 and paragraph (b)(1) of § 1.1502–21T as contained in 26 CFR part 1 revised April 1, 2003.

(7) [Reserved]. For further guidance, *see* § 1.1502–21(h)(7).

(8) *Losses treated as expired under § 1.1502–35T(f)(1).* Paragraph (b)(3)(v) of this section is effective for losses treated as expired under § 1.1502–35T(f)(1) on and after March 7, 2002, and no later than March 11, 2006.

■ **Par. 6.** Section 1.1502–28T is added to read as follows:

§ 1.1502–28T Consolidated section 108 (temporary).

(a) *In general.* This section sets forth rules for the application of section 108(a) and the reduction of tax attributes pursuant to section 108(b) when a member of the group realizes discharge of indebtedness income that is excluded from gross income under section 108(a) (excluded COD income).

(1) *Application of section 108(a).* Section 108(a)(1)(B) is applied separately to each member that realizes excluded COD income. Therefore, the limitation of section 108(a)(3) on the amount of discharge of indebtedness income that is treated as excluded COD income is determined based on the assets (including stock and securities of other members) and liabilities (including liabilities to other members) of only the member that realizes excluded COD income.

(2) *Reduction of tax attributes attributable to the debtor*—(i) *In general.* With respect to a member that realizes excluded COD income in a taxable year, the tax attributes attributable to that member (and its direct and indirect subsidiaries to the extent required by section 1017(b)(3)(D) and paragraph (a)(3) of this section), including basis of assets and losses and credits arising in separate return limitation years, shall be reduced as provided in sections 108 and 1017 and this section. Basis of subsidiary stock, however, shall not be reduced below zero.

(ii) *Consolidated tax attributes attributable to a member.* For purposes of this section, the amount of a consolidated tax attribute that is attributable to a member shall be determined pursuant to the principles of § 1.1502–21T(b)(2)(iv). In addition, if the member is a member of a separate return limitation year subgroup, the amount of a tax attribute that arose in a separate return limitation year that is attributable to that member shall also be determined pursuant to the principles of § 1.1502–21T(b)(2)(iv).

(3) *Look-through rules*—(i) *Priority of section 1017(b)(3)(D).* If a member treats stock of a subsidiary as depreciable property pursuant to section 1017(b)(3)(D), the basis of the depreciable property of such subsidiary shall be reduced pursuant to section 1017(b)(3)(D) prior to the application of paragraph (a)(3)(ii) of this section.

(ii) *Application of additional look-through rule.* If the basis of stock of a member (the lower-tier member) that is owned by another member is reduced pursuant to section 108, section 1017, and paragraph (a)(2) of this section (but not as a result of treating subsidiary stock as depreciable property pursuant to section 1017(b)(3)(D)), solely for purposes of sections 108 and 1017 and this section other than paragraphs (a)(4) and (b)(1) of this section, the lower-tier member shall be treated as realizing excluded COD income. The amount of such excluded COD income shall be the amount of such basis reduction. Accordingly, the tax attributes attributable to such lower-tier member shall be reduced as provided in sections 108 and 1017 and this section. To the extent that the excluded COD income realized by the lower-tier member pursuant to this paragraph (a)(3) does not reduce a tax attribute attributable to the lower-tier member, such excluded COD income shall not be applied to reduce tax attributes attributable to any member under paragraph (a)(4) of this section.

(4) *Reduction of certain tax attributes attributable to other members.* To the extent that, pursuant to paragraph (a)(2) of this section, the excluded COD income is not applied to reduce the tax attributes attributable to the member that realizes the excluded COD income, after the application of paragraph (a)(3) of this section, such amount shall be applied to reduce the remaining consolidated tax attributes of the group as provided in section 108 and this section. Such amount also shall be applied to reduce the tax attributes attributable to members that arose (or are treated as arising) in a separate return limitation year to the extent that the member that realizes excluded COD income is a member of the separate return limitation year subgroup with respect to such attribute. The reduction of each tax attribute pursuant to the two preceding sentences shall be made in the order prescribed in section 108 and pursuant to § 1.1502–21T(b)(1). Except to the extent that the member that realizes excluded COD income is a member of the separate return limitation year subgroup with respect to a tax attribute that arose (or is treated as arising) in a separate return limitation year, such attribute is not subject to reduction pursuant to this paragraph (a)(4). In addition, basis in assets is not subject to reduction pursuant to this paragraph (a)(4). Finally, to the extent that the realization of excluded COD income by a member pursuant to paragraph (a)(3) does not reduce a tax attribute attributable to such lower-tier member, such excess shall not be applied to reduce tax attributes attributable to any member pursuant to this paragraph (a)(4).

(b) *Special rules*—(1) *Multiple debtor members*—(i) *Reduction of tax attributes attributable to debtor members prior to reduction of consolidated tax attributes.* If in a single taxable year multiple members realize excluded COD income, paragraphs (a)(2) and (3) of this section shall apply with respect to the excluded COD income of each such member prior to the application of paragraph (a)(4) of this section.

(ii) *Reduction of higher-tier debtor's tax attributes.* If in a single taxable year multiple members realize excluded COD income and one such member is a higher-tier member of another such member, paragraphs (a)(2) and (3) of this section shall be applied with respect to the excluded COD income of the higher-tier member before such paragraphs are applied to the excluded COD income of the other such member. A member (the first member) is a higher-tier member of another member (the second member) if the first member is the common parent or investment adjustments under § 1.1502–32 or § 1.1502–32T with respect to the stock of the second member would affect investment adjustments with respect to the stock of the first member.

(iii) *Reduction of additional tax attributes.* If more than one member realizes excluded COD income that has not been applied to reduce a tax attribute attributable to such member (the remaining COD amount) and the remaining tax attributes available for reduction under paragraph (a)(4) of this section are less than the aggregate of the remaining COD amounts, after the application of paragraph (a)(2) of this

section, each such member's remaining COD amount shall be applied on a pro rata basis (based on the relative remaining COD amounts), pursuant to paragraph (a)(4) of this section, to reduce such remaining available tax attributes.

(2) *Election under section 108(b)(5).* Any member that realizes excluded COD income may make the election described in section 108(b)(5). The election is made separately for each member. Therefore, an election may be made for one member that realizes excluded COD income (either actually or pursuant to paragraph (a)(3) of this section) while another election, or no election, may be made for another member that realizes excluded COD income (either actually or pursuant to paragraph (a)(3) of this section). *See* § 1.108–4 for rules relating to the procedure for making an election under section 108(b)(5).

(3) *Limitation of section 1017(b)(2).* The limitation of section 1017(b)(2) on the reduction in basis of property shall be applied by reference to the aggregate of the basis of the property held by the member that realizes excluded COD income, not the aggregate of the basis of the property held by all of the members of the group, and the liabilities of such member, not the aggregate liabilities of all of the members of the group.

(c) *Examples.* The principles of paragraphs (a) and (b) of this section are illustrated by the following examples. Unless otherwise indicated, no election under section 108(b)(5) has been made. The examples are as follows:

Example 1. (i) *Facts.* P is the common parent of a consolidated group that includes subsidiaries S1 and S2. P owns 80 percent of the stock of S1 and 100 percent of the stock of S2. In Year 1, the P group sustained a $250 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $125 was attributable to P and $125 was attributable to S1. On Day 1 of Year 2, S2 joined the P group. As of the beginning of Year 2, S2 had a $50 net operating loss carryover from Year 1, a separate return limitation year. In Year 2, the P group sustained a $200 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $90 was attributable to P, $70 was attributable to S1, and $40 was attributable to S2. In Year 3, S2 realized $200 of excluded COD income from the discharge of non-intercompany indebtedness. After the discharge of this indebtedness, S2 had no liabilities. In that same year, the P group sustained a $50 consolidated net operating loss, of which $40 was attributable to S1 and $10 was attributable to S2 under the principles of § 1.1502–21T(b)(2)(iv). As of the beginning of Year 4, S2 had Asset A with a basis of $40 and a fair market value of $10.

(ii) *Analysis*—(A) *Reduction of tax attributes attributable to debtor.* Pursuant to paragraph (a)(2) of this section, the tax attributes attributable to S2 must first be reduced to take into account its excluded COD income in the amount of $200.

(*1*) *Reduction of net operating losses.* Pursuant to section 108(b)(2)(A), the net operating loss and the net operating loss carryovers of S2 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating loss and the net operating loss carryovers attributable to S2 under the principles of § 1.1502–21T(b)(2)(iv) are reduced first. Accordingly, the consolidated net operating loss for Year 3 is reduced by $10, the portion of the consolidated net operating loss attributable to S2, to $40. Then, again pursuant to section 108(b)(4)(B), S2's net operating loss carryover of $50 from its separate return limitation year is reduced to $0. Finally, the consolidated net operating loss carryover from Year 2 is reduced by $40, the portion of that consolidated net operating loss carryover attributable to S2, to $160.

(*2*) *Reduction of basis.* Following the reduction of the net operating loss and the net operating loss carryovers attributable to S2, S2 reduces its basis in its assets pursuant to section 1017 and § 1.1017–1. Accordingly, S2 reduces its basis in Asset A by $40, from $40 to $0.

(B) *Reduction of remaining consolidated tax attributes.* The remaining $60 of excluded COD income then reduces consolidated tax attributes pursuant to paragraph (a)(4) of this section. In particular, the remaining $40 consolidated net operating loss for Year 3 is reduced to $0. Then, the consolidated net operating loss carryover from Year 1 is reduced by $20 from $250 to $230. Pursuant to paragraph (a)(4) of this section, a pro rata amount of the consolidated net operating loss carryover from Year 1 that is attributable to each of P and S1 is treated as reduced. Therefore, $10 of the consolidated net operating loss carryover from Year 1 that is attributable to each of P and S1 is treated as reduced.

Example 2. (i) *Facts.* P is the common parent of a consolidated group that includes subsidiaries S1 and S2. P owns 100 percent of the stock of S1 and S1 owns 100 percent of the stock of S2. None of P, S1, or S2 has a separate return limitation year. In Year 1, the P group sustained a $50 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $10 was attributable to P, $20 was attributable to S1, and $20 was attributable to S2. In Year 2, the P group sustained a $70 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $30 was attributable to P, $30 was attributable to S1, and $10 was attributable to S2. In Year 3, S1 realized $170 of excluded COD income from the discharge of non-intercompany indebtedness. After the discharge of this indebtedness, S1 and S2 had no liabilities. In that same year, the P group sustained a $50 consolidated net operating loss, of which $10 was attributable to S1 and $40 was attributable to S2 under the principles of § 1.1502–21T(b)(2)(iv). As of the beginning of Year 4, S1's sole asset was the stock of S2, and S1 had a $80 basis in the S2 stock. In addition, at the beginning of Year 4, S2 had an asset with a $0 basis and a $10 value.

(ii) *Analysis*—(A) *Reduction of tax attributes attributable to debtor.* Pursuant to paragraph (a)(2) of this section, the tax attributes attributable to S1 must first be reduced to take into account its excluded COD income in the amount of $170.

(*1*) *Reduction of net operating losses.* Pursuant to section 108(b)(2)(A), the net operating loss and the net operating loss carryovers of S1 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating loss and the net operating loss carryovers attributable to S1 under the principles of § 1.1502–21T(b)(2)(iv) are reduced first. Accordingly, the consolidated net operating loss for Year 3 is reduced by $10, the portion of the consolidated net operating loss for Year 3 attributable to S1, to $40. Then, the consolidated net operating loss carryover from Year 1 is reduced by $20, the portion of that consolidated net operating loss carryover attributable to S1, to $30, and the consolidated net operating loss carryover from Year 2 is reduced by $30, the portion of that consolidated net operating loss carryover attributable to S1, to $40.

(*2*) *Reduction of basis.* Following the reduction of the net operating loss and the net operating loss carryovers attributable to S1, S1 reduces its basis in its assets pursuant to section 1017 and § 1.1017–1. Accordingly, S1 reduces its basis in the stock of S2 by $80, from $80 to $0.

(*3*) *Tiering down of stock basis reduction.* Pursuant to paragraph (a)(3) of this section, for purposes of sections 108 and 1017 and this section, S2 is treated as realizing $80 of excluded COD income. Accordingly, the consolidated net operating loss for Year 3 is reduced by an additional $40, the portion of the consolidated net operating loss for Year 3 attributable to S2, to $0. Then, the consolidated net operating loss carryover from Year 1 is reduced by $20, the portion of that consolidated net operating loss carryover attributable to S2, to $10. Then, the consolidated net operating loss carryover from Year 2 is reduced by $10, the portion of that consolidated net operating loss carryover attributable to S2, to $30. S2's remaining $10 of excluded COD income does not reduce consolidated tax attributes attributable to P or S1 under paragraph (a)(4) of this section.

(B) *Reduction of remaining consolidated tax attributes.* Finally, pursuant to paragraph (a)(4) of this section, S1's remaining $30 of excluded COD income reduces the remaining consolidated tax attributes. In particular, the remaining $10 consolidated net operating loss carryover from Year 1 is reduced by $10 to $0, and the remaining $30 consolidated net operating loss carryover from Year 2 is reduced by $20 to $10.

Example 3. (i) *Facts.* P is the common parent of a consolidated group that includes subsidiaries S1, S2, and S3. P owns 100 percent of the stock of S1, S1 owns 100 percent of the stock of S2, and S2 owns 100 percent of the stock of S3. In Year 1, the P group sustained a $150 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $50 was attributable to S2, and $100 was attributable to S3. In Year 2, the P group

sustained a $50 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $40 was attributable to S1 and $10 was attributable to S2. In Year 3, S1 realized $170 of excluded COD income from the discharge of non-intercompany indebtedness. After the discharge of this indebtedness, S1, S2, and S3 had no liabilities. In that same year, the P group sustained a $50 consolidated net operating loss, of which $10 was attributable to S1, $20 was attributable to S2, and $20 was attributable to S3 under the principles of § 1.1502–21T(b)(2)(iv). At the beginning of Year 4, S1's only asset was the stock of S2, with a basis of $120, and S2's only asset was the stock of S3 with a basis of $180 and a value of $10. None of P, S1, or S2 had a separate return limitation year.

(ii) *Analysis—Reduction of tax attributes attributable to debtor.* Pursuant to paragraph (a)(2) of this section, the tax attributes attributable to S1 must first be reduced to take into account its excluded COD income in the amount of $170.

(A) *Reduction of net operating losses.* Pursuant to section 108(b)(2)(A), the net operating loss and the net operating loss carryovers of S1 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating loss and the net operating loss carryovers attributable to S1 under the principles of § 1.1502–21T(b)(2)(iv) are reduced first. Pursuant to section 108(b)(4)(B), S1's net operating loss for the taxable year of the discharge is reduced first. Accordingly, the consolidated net operating loss for Year 3 is reduced by $10, the portion of the consolidated net operating loss attributable to S1, to $40. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 2 is reduced by $40, the portion of that consolidated net operating loss carryover attributable to S1, to $10.

(B) *Reduction of basis.* Following the reduction of the net operating loss and the net operating loss carryovers attributable to S1, S1 reduces its basis in its assets pursuant to section 1017 and § 1.1017–1. Accordingly, S1 reduces its basis in the stock of S2 by $120, from $120 to $0.

(C) *Tiering down of stock basis reduction to S2.* Pursuant to paragraph (a)(3) of this section, for purposes of sections 108 and 1017 and this section, S2 is treated as realizing $120 of excluded COD income. Pursuant to section 108(b)(2)(A), therefore, the net operating loss and net operating loss carryovers of S2 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating loss and the net operating loss carryovers attributable to S2 under the principles of § 1.1502–21T(b)(2)(iv) are reduced. Pursuant to section 108(b)(4)(B), S2's net operating loss for the taxable year of the discharge is reduced. Accordingly, the consolidated net operating loss for Year 3 is further reduced by $20, the portion of the consolidated net operating loss attributable to S2, to $20. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 1 is reduced by $50, the portion of that consolidated net operating loss carryover attributable to S2, to $100. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 2 is further reduced by $10, the portion of that consolidated net operating loss carryover attributable to S2, to $0. Following the reduction of the net operating loss and the net operating loss carryovers attributable to S2, S2 reduces its basis in its assets pursuant to section 1017 and § 1.1017–1. Accordingly, S2 reduces its basis in its S3 stock by $40 to $140.

(D) *Tiering down of stock basis reduction to S3.* Pursuant to paragraph (a)(3) of this section, for purposes of sections 108 and 1017 and this section, S3 is treated as realizing $40 of excluded COD income. Pursuant to section 108(b)(2)(A), therefore, the net operating loss and the net operating loss carryovers of S3 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating loss and the net operating loss carryovers attributable to S3 under the principles of § 1.1502–21T(b)(2)(iv) are reduced. Pursuant to section 108(b)(4)(B), S3's net operating loss for the taxable year of the discharge is reduced. Accordingly, the consolidated net operating loss for Year 3 is further reduced by $20, the portion of the consolidated net operating loss attributable to S3, to $0. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 1 is reduced by $20, the lesser of the portion of that consolidated net operating loss carryover attributable to S3 and the remaining excluded COD income, to $80.

Example 4. (i) *Facts.* P is the common parent of a consolidated group that includes subsidiaries S1, S2, and S3. P owns 100 percent of the stock of each of S1 and S2. Each of S1 and S2 owns stock of S3 that represents 50 percent of the value of the stock of S3. In Year 1, the P group sustained a $160 consolidated net operating loss. Under the principles of § 1.1502-21T(b)(2)(iv), of that amount, $10 was attributable to P, $50 was attributable to S2, and $100 was attributable to S3. In Year 2, the P group sustained a $110 consolidated net operating loss. Under the principles of § 1.1502–21T(b)(2)(iv), of that amount, $40 was attributable to S1 and $70 was attributable to S2. In Year 3, S1 realized $200 of excluded COD income from the discharge of non-intercompany indebtedness, and S2 realized $270 of excluded COD income from the discharge of non-intercompany indebtedness. After the discharge of this indebtedness, S1, S2, and S3 had no liabilities. In that same year, the P group sustained a $50 consolidated net operating loss, of which $10 was attributable to S1, $20 was attributable to S2, and $20 was attributable to S3 under the principles of § 1.1502–21T(b)(2)(iv). At the beginning of Year 4, S1's basis in its S3 stock was $60, S2's basis in its S3 stock was $120, and S3 had one asset with a basis of $200 and a value of $10. None of P, S1, S2, or S3 had a separate return limitation year.

(ii) *Analysis—Reduction of tax attributes attributable to debtors.* Pursuant to paragraph (b)(1)(i) of this section, the tax attributes attributable to each of S1 and S2 are reduced pursuant to paragraph (a)(2) of this section, and the tax attributes attributable to S3 are reduced pursuant to paragraph (a)(3) of this section so as to reflect a reduction of S1's and S2's basis in the stock of S3 prior to the application of paragraph (a)(4) to reduce additional tax attributes. Pursuant to paragraph (a)(2) of this section, the tax attributes attributable to S1 and S2 must be reduced to take into account their excluded COD income.

(A) *Reduction of net operating losses generally.* Pursuant to section 108(b)(2)(A), the net operating losses and the net operating loss carryovers of S1 and S2 are reduced. Pursuant to section 108(b)(4)(B) and paragraph (a) of this section, the net operating losses and the net operating loss carryovers attributable to S1 and S2 under the principles of § 1.1502–21T(b)(2)(iv) are reduced first.

(B) *Reduction of net operating losses attributable to S1.* Pursuant to section 108(b)(4)(B), S1's net operating loss for the taxable year of the discharge is reduced. Accordingly, the consolidated net operating loss for Year 3 is reduced by $10, the portion of the consolidated net operating loss attributable to S1, to $40. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 2 is reduced by $40, the portion of that consolidated net operating loss carryover attributable to S1, to $70.

(C) *Reduction of net operating losses attributable to S2.* Pursuant to section 108(b)(4)(B), S2's net operating loss for the taxable year of the discharge is reduced. Accordingly, the consolidated net operating loss for Year 3 is further reduced by $20, the portion of the consolidated net operating loss attributable to S2, to $20. Then, pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 1 is reduced by $50, the portion of that consolidated net operating loss carryover attributable to S2, to $110. Then, again pursuant to section 108(b)(4)(B), the consolidated net operating loss carryover from Year 2 is further reduced by $70, the portion of that consolidated net operating loss carryover attributable to S2, to $0.

(D) *Reduction of basis.* Following the reduction of the net operating losses and the net operating loss carryovers attributable to S1 and S2, S1 and S2 must reduce their basis in their assets pursuant to section 1017 and § 1.1017–1. Accordingly, S1 reduces its basis in the stock of S3 by $60, from $60 to $0, and S2 reduces its basis in the stock of S3 by $120, from $120 to $0.

(E) *Tiering down of basis reduction.* Pursuant to paragraph (a)(3) of this section, for purposes of sections 108 and 1017 and this section, S3 is treated as realizing $180 of excluded COD income. Pursuant to section 108(b)(2)(A), therefore, the net operating loss and the net operating loss carryovers of S3 are reduced, in the order indicated by section 108(b)(4)(B). Pursuant to paragraph (a)(2) of this section the consolidated net operating loss and any consolidated net operating loss carryovers that are attributable to S3 under the principles of § 1.1502–21T(b)(2)(iv) are reduced. Accordingly, the consolidated net operating loss for Year 3 is further reduced by $20, the portion of the consolidated net operating loss attributable to S3, to $0. Then, the consolidated net operating loss carryover from Year 1 is reduced by $100, the portion

of that consolidated net operating loss carryover attributable to S3, to $10. Following the reduction of the net operating loss and the net operating loss carryover attributable to S3, S3 reduces its basis in its asset pursuant to section 1017 and § 1.1017–1. Accordingly, S3 reduces its basis in its asset by $60, from $200 to $140.

(F) *Reduction of remaining consolidated tax attributes.* Finally, pursuant to paragraph (a)(4) of this section, the remaining $90 of S1's excluded COD income and the remaining $10 of S2's excluded COD income reduce the remaining consolidated tax attributes. In particular, the remaining $10 consolidated net operating loss carryover from Year 1 is reduced by $10 to $0. Because that amount is less than the aggregate amount of remaining excluded COD income, such income is applied on a pro rata basis to reduce the remaining consolidated tax attributes. Accordingly, $9 of S1's remaining excluded COD income and $1 of S2's remaining excluded COD income is applied to reduce the remaining consolidated net operating loss carryover from Year 1. Consequently, of S1's excluded COD income of $200, only $119 is applied to reduce tax attributes, and, of S2's excluded COD income of $270, only $261 is applied to reduce tax attributes.

(d) *Effective date.* This section applies to discharges of indebtedness that occur after August 29, 2003.

■ **Par. 7.** Section 1.1502–32 is amended as follows:

■ 1. Paragraphs (b)(3)(ii)(C)(*1*) and (b)(3)(iii)(A) are revised.

■ 2. Paragraph (b)(4)(vii) is added.

■ 3. Paragraph (b)(5)(ii), *Example 4,* paragraphs (a), (b), and (c), are revised.

■ 4. Paragraph (h)(7) is added.

The revisions and additions read as follows:

§ 1.1502–32 Investment adjustments.

* * * * *

(b) * * *

(3) * * *

(ii) * * *

(C) * * *

(*1*) [Reserved]. For further guidance, *see* § 1.1502–32T(b)(3)(ii)(C)(*1*).

* * * * *

(iii) * * *

(A) [Reserved]. For further guidance, *see* § 1.1502–32T(b)(3)(iii)(A).

* * * * *

(4) * * *

(vii) [Reserved]. For further guidance, *see* § 1.1502–32T(b)(4)(vii).

(5) * * *

(ii) * * *

Example 4(a), (b), and (c) [Reserved]. For further guidance, *see* § 1.1502–32T(b)(5)(ii), *Example 4*(a), (b), and (c).

* * * * *

(h) * * *

(*7*) [Reserved]. For further guidance, *see* § 1.1502–32T(h)(7).

■ **Par. 8.** Section 1.1502–32T is amended as follows:

■ 1. Paragraphs (b) through (b)(3)(iii)(B) are revised.

■ 2. Add and reserve paragraph (b)(3)(iv), and revise paragraphs (b)(4) through (b)(4)(iv).

■ 3. Add paragraph (b)(5) and revise paragraphs (c) through (h)(5)(ii).

■ 4. Paragraph (h)(7) is added.

The revisions and addition read as follows:

§ 1.1502–32T Investment adjustments (temporary).

* * * * *

(b) through (b)(3)(ii)(B) [Reserved]. For further guidance, *see* § 1.1502–32(b) through (b)(3)(ii)(B).

(C) *Discharge of indebtedness income*—(*1*) *In general.* Discharge of indebtedness income of S that is excluded from gross income under section 108 is treated as tax-exempt income only to the extent the discharge is applied to reduce tax attributes attributable to any member of the group under section 108, section 1017, or § 1.1502–28T. If S is treated as realizing discharge of indebtedness income that is excluded from gross income pursuant to § 1.1502–28T(a)(3), S shall not be treated as realizing excluded COD income for purposes of the preceding sentence.

(b)(3)(ii)(C)(*2*) through (b)(3)(ii)(D) [Reserved]. For further guidance, see § 1.1502-32(b)(3)(ii)(C)(*2*) through (b)(3)(ii)(D).

(iii) *Noncapital, nondeductible expenses*—(A) *In general.* S's noncapital, nondeductible expenses are its deductions and losses that are taken into account but permanently disallowed or eliminated under applicable law in determining its taxable income or loss, and that decrease, directly or indirectly, the basis of its assets (or an equivalent amount). For example, S's Federal taxes described in section 275 and loss not recognized under section 311(a) are noncapital, nondeductible expenses. Similarly, if a loss carryover (*e.g.*, under section 172 or 1212) attributable to S expires or is reduced under section 108(b) and § 1.1502–28T, it becomes a noncapital, nondeductible expense at the close of the last tax year to which it may be carried. However, when a tax attribute attributable to S is reduced as required pursuant to § 1.1502-28T(a)(3), the reduction of the tax attribute is not treated as a noncapital, nondeductible expense of S. Finally, if S sells and repurchases a security subject to section 1091, the disallowed loss is not a noncapital, nondeductible expense because the corresponding basis adjustments under section 1091(d) prevent the disallowance from being permanent.

(b)(3)(iii)(B) [Reserved]. For further guidance, *see* § 1.1502–32(b)(3)(iii)(B).

* * * * *

(b)(3)(iv) through (b)(4)(iv) [Reserved]. For further guidance, see § 1.1502–32(b)(3)(iv) through (b)(4)(iv).

* * * * *

(b)(5)(i) through (b)(5)(ii), *Example 3* [Reserved]. For further guidance, *see* § 1.1502–32(b)(5)(i) through (b)(5)(ii), *Example 3*.

Example 4. Discharge of indebtedness. (a) *Facts.* P forms S on January 1 of Year 1 and S borrows $200. During Year 1, S's assets decline in value and the P group has a $100 consolidated net operating loss. Of that amount, $10 is attributable to P and $90 is attributable to S under the principles of § 1.1502–21T(b)(2)(iv). None of the loss is absorbed by the group in Year 1, and S is discharged from $100 of indebtedness at the close of Year 1. P has a $0 basis in the S stock. P and S have no attributes other than the consolidated net operating loss. Under section 108(a), S's $100 of discharge of indebtedness income is excluded from gross income because of insolvency. Under section 108(b) and § 1.1502–28T, the consolidated net operating loss is reduced to $0.

(b) *Analysis.* Under § 1.1502–32(b)(3)(iii)(B), the reduction of $90 of the consolidated net operating loss attributable to S is treated as a noncapital, nondeductible expense in Year 1 because that loss is permanently disallowed by section 108(b) and § 1.1502–28T. Under paragraph (b)(3)(ii)(C)(*1*) of this section, all $100 of S's discharge of indebtedness income is treated as tax-exempt income in Year 1 because the discharge results in a $100 reduction to the consolidated net operating loss. Consequently, the loss and the cancellation of the indebtedness result in a net positive $10 adjustment to P's basis in its S stock.

(c) *Insufficient attributes.* The facts are the same as in paragraph (a) of this *Example 4,* except that S is discharged from $120 of indebtedness at the close of Year 1. Under section 108(a), S's $120 of discharge of indebtedness income is excluded from gross income because of insolvency. Under section 108(b) and § 1.1502–28T, the consolidated net operating loss is reduced to $0 at the close of Year 1. Under § 1.1502–32(b)(3)(iii)(B), the reduction of $90 of the consolidated net operating loss attributable to S is treated as a noncapital, nondeductible expense. Under paragraph (b)(3)(ii)(C)(*1*) of this section, only $100 of the discharge is treated as tax-exempt income because only that amount is applied to reduce tax attributes. The remaining $20 of discharge income excluded under section 108(a) has no effect on P's basis in S's stock.

(b)(5)(ii), *Example 4*(d) through (h)(5)(ii) [Reserved]. For further guidance, *see* § 1.1502–32(b)(5)(ii), *Example 4*(d) through (h)(5)(ii).

* * * * *

(h)(7) *Rules related to discharges of indebtedness excluded from gross income.* Paragraphs (b)(3)(ii)(C)(*1*), (b)(3)(iii)(A), and

(b)(5)(ii), *Example 4,* paragraphs (a), (b), and (c), of this section apply with respect to determinations of the basis of the stock of a subsidiary in consolidated return years the original return for which is due (without extensions) after August 29, 2003. For determinations in consolidated return years the original return for which is due (without extensions) on or before August 29, 2003, groups may apply paragraphs (b)(3)(ii)(C)(*1*), (b)(3)(iii)(A), and (b)(5)(ii), *Example 4,* paragraphs (a), (b), and (c), of this section without regard to the references to § 1.1502–28T or, alternatively, apply paragraphs (b)(3)(ii)(C)(*1*), (b)(3)(iii)(A), and (b)(5)(ii), *Example 4,* paragraphs (a), (b), and (c), of § 1.1502–32 as contained in 26 CFR part 1 edition revised as of April 1, 2003.

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

Approved: August 28, 2003.

Gregory F. Jenner,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–22453 Filed 8–29–03; 3:14 pm]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9090]

RIN 1545–BC31

Limitation on Use of the Nonaccrual-Experience Method of Accounting Under Section 448(d)(5)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document revises temporary income tax regulations to provide guidance regarding the use of a nonaccrual-experience method of accounting by taxpayers using an accrual method of accounting and performing services. The revisions reflect changes to section 448(d)(5) of the Internal Revenue Code by the Job Creation and Worker Assistance Act of 2002. The revised temporary regulations will affect taxpayers that no longer qualify to use a nonaccrual-experience method of accounting, and qualifying taxpayers that wish to adopt or change a nonaccrual-experience method of accounting. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section of this issue of the **Federal Register.**

Effective Date: These regulations are effective September 4, 2003.

Applicability Date: These regulations are applicable for taxable years ending after March 9, 2002.

FOR FURTHER INFORMATION CONTACT: Terrance McWhorter, (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1855. Responses to this collection of information are mandatory.

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 control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register.**

Books and 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.

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 448(d)(5). Section 448(d)(5) was added to the Code by section 801 of the Tax Reform Act of 1986 (Public Law 99–514, 100 Stat. 2085) and was amended by section 403 of the Job Creation and Worker Assistance Act of 2002 (Public Law 107–147, 116 Stat. 21) (the 2002 Act), effective for taxable years ending after March 9, 2002. These regulations pertain to the nonaccrual of certain amounts by taxpayers using an accrual method of accounting and performing services.

Explanation of Provisions

Background

Prior to being amended by the 2002 Act, pursuant to section 448(d)(5) taxpayers using an accrual method of accounting and performing services were not required to accrue any portion of their service-related income that, on the basis of their experience, would not be collected. Temporary regulations under section 448(d)(5) (former temporary regulations) provided rules for the nonaccrual of certain amounts by service providers, including the use of experience to estimate uncollectible amounts and the mechanics of the nonaccrual-experience method.

Section 448(d)(5) was amended by section 403 of the 2002 Act, effective for taxable years ending after March 9, 2002. Section 448(d)(5) now provides that a nonaccrual-experience method is available only for taxpayers using an accrual method who either provide services in fields described in section 448(d)(2)(A) (*i.e.,* health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting), or that meet the $5 million annual gross receipts test of section 448(c) for all prior taxable years.

The legislative history of the 2002 Act states that Congress believed that for many qualified service providers the formula contained in the former temporary regulations under section 448(d)(5) may not clearly reflect the amount of income that, based on experience, will not be collected. *See* H.R. Rep. No. 107–251. Congress noted that service providers were particularly disadvantaged by the formula contained in the former temporary regulations if significant time elapsed between the time the services were rendered and the time a final determination was made that the account would not be collected. Additionally, Congress noted that taxpayers qualified to use the nonaccrual-experience method of accounting should not be subject to a formula that required the payment of taxes on receivables that would not be collected.

The amendments to section 448(d)(5) made by the 2002 Act require the Secretary to promulgate regulations. Specifically, the Secretary is required to prescribe regulations to permit a taxpayer to use computations or formulas that, based on experience, accurately reflect the amount of income that will not be collected. Section 448(d)(5), as amended, also permits a taxpayer to adopt, or request consent of the Secretary to change to, a computation or formula that clearly reflects the taxpayer's experience. Section 448(d)(5) further requires the Secretary to approve a request to change to a computation or formula that clearly reflects the taxpayer's experience. Lastly, the legislative history to the 2002 Act states that Congress anticipated that the Secretary would consider providing

safe harbors in such regulations that may be relied upon by taxpayers.

In accordance with the amendments to section 448(d)(5) in the 2002 Act, the IRS issued Notice 2003–12 (2003–6 I.R.B. 422) to provide interim guidance under section 448(d)(5), as amended, pending the issuance of new regulations. The interim guidance provided by Notice 2003–12 included: (1) For taxpayers that no longer qualified to use a nonaccrual-experience method, procedures to change their method of accounting; (2) for taxpayers that qualified to use a nonaccrual-experience method, two safe harbor nonaccrual-experience methods that were presumed to clearly reflect the taxpayer's nonaccrual-experience; (3) for taxpayers that qualified to use a nonaccrual-experience method but wished to compute their nonaccrual-experience using a formula other than the two safe harbors provided, the requirements necessary to use an alternative formula to compute their nonaccrual-experience; and (4) for taxpayers that wished to change to a different nonaccrual-experience method, the procedures necessary to obtain automatic consent of the Commissioner to change to one of the safe harbor nonaccrual-experience methods or to an alternative nonaccrual-experience method that clearly reflected their experience.

The guidance provided in Notice 2003–12 has, for the most part, been incorporated as part of these temporary regulations. However, certain provisions in the Notice have been modified to address certain concerns raised by the commentators.

Charging of Interest

Section 448(d)(5) and the former temporary regulations provide that a nonaccrual-experience method of accounting may not be used with respect to amounts due for which interest is required to be paid or for which there is any penalty for failure to timely pay any amounts due (other than, in certain circumstances, discounts offered for early payment of an amount due). One commentator suggested that a taxpayer should not be precluded from using a nonaccrual-experience method of accounting if the taxpayer's agreement contains a provision stating that interest is required to be paid but the taxpayer rarely enforces the provision. The IRS and Treasury Department continue to believe that if a taxpayer's agreement requires interest to be paid, or provides for any penalty for failure to timely pay any amounts due, such taxpayer is precluded from using the nonaccrual-experience method of accounting, regardless of whether the taxpayer actually imposes such interest or penalty.

Safe Harbor Methods

The temporary regulations include the two safe harbor nonaccrual-experience methods that were included in Notice 2003–12. The first safe harbor method (safe harbor 1) is the method provided in former Temp. Reg. § 1.448–2T(e)(2). The second safe harbor method (safe harbor 2) is the actual experience method that may be computed using a three-year moving average beginning in the first taxable year this safe harbor method is used or, for taxpayers that do not have the information necessary to compute a three-year moving average in the first taxable year this method is used, the option of creating a three-year moving average beginning with the first taxable year that the taxpayer uses this safe harbor method. A newly formed taxpayer choosing the option of creating a three-year moving average that does not have any accounts receivable upon formation will not be able to exclude any portion of its year-end accounts receivable from income for its first taxable year because the taxpayer does not have any accounts receivable on the first day of the taxable year to track. Thus, a newly formed taxpayer that does not have any accounts receivable upon formation must begin creating its three-year moving average in its second taxable year.

Commentators requested that the IRS and Treasury Department consider other suggested alternative safe harbor methods for inclusion in the temporary regulations. The IRS and Treasury Department analyzed alternative methods and, based on this analysis, have determined that two other formulas will clearly reflect a taxpayer's nonaccrual-experience. As a result, the temporary regulations provide two additional safe harbor nonaccrual-experience methods that may be relied on by taxpayers as clearly reflecting their nonaccrual-experience.

The third safe harbor method (safe harbor 3) is a variation of the formula addressed in *Black Motor Co.* v. *Commissioner,* 41 B.T.A. 300 (1940), *aff'd,* 125 F.2d 977 (6th Cir. 1942). The nonaccrual-experience amount is computed by first determining the ratio of total bad debts charged off (adjusted for recoveries) for the current taxable year and the five preceding taxable years as compared to the total accounts receivable at the end of the current taxable year and the five preceding taxable years. This ratio is applied against the accounts receivable balance at the end of the current taxable year, and the resulting amount is then reduced by the credit charges (accounts receivable) generated and written off during the current taxable year, which results in the nonaccrual-experience amount for the current taxable year.

The fourth safe harbor method (safe harbor 4) is computed by first determining the ratio of total bad debts charged off (adjusted for recoveries) for the current taxable year and the five preceding taxable years other than the credit charges (accounts receivable) that were charged off in the same taxable year they were generated as compared to the total accounts receivable at the end of the current taxable year and the five preceding taxable years. This ratio is then applied against the accounts receivable balance at the end of the current taxable year, which results in the nonaccrual-experience amount for the current taxable year.

Commentators suggested that the IRS and Treasury Department permit the formula addressed in *Black Motor* (''Black Motor formula'') as an additional safe harbor formula in the temporary regulations. The IRS and Treasury Department have analyzed the Black Motor formula and have determined that the formula should not be provided as an additional safe harbor formula because the formula only produces an accurate reflection of a taxpayer's experience in limited circumstances. The IRS and Treasury Department believe that safe harbors 3 and 4 (discussed above), which are modifications of the Black Motor formula, remedy many of the shortcomings of the Black Motor formula and, as a result, safe harbors 3 and 4 have been included in the temporary regulations as additional safe harbor formulas.

The IRS and Treasury Department request comments on these safe-harbor nonaccrual-experience methods and suggestions on any additional safe harbor methods that will clearly reflect a taxpayer's experience. Specifically, the IRS and Treasury Department request comments on any additional modification to the Black Motor formula that will result in an accurate reflection of a taxpayer's experience.

Self-Testing of Any Alternative Method

Notice 2003–12 also allowed a taxpayer to use any alternative nonaccrual-experience method that clearly reflected the taxpayer's actual nonaccrual-experience, provided the taxpayer's alternative nonaccrual-experience method was ''self-tested'' in the first taxable year ending after March 9, 2002, in which the taxpayer uses the alternative nonaccrual-experience

method and every three taxable years thereafter. The Notice provided that if the taxpayer's total alternative nonaccrual-experience amount for the test period was less than or equal to the total adjusted nonaccrual-experience amount (actual nonaccrual-experience amount multiplied by 105%) for the test period, then the taxpayer's alternative nonaccrual-experience method would be treated as clearly reflecting its nonaccrual-experience for the test period and the taxpayer would be permitted to continue using the alternative nonaccrual-experience method, subject to self-testing again in three taxable years. However, if the taxpayer's total alternative nonaccrual-experience amount for the test period was greater than the total adjusted nonaccrual-experience amount for the test period, the Notice stated that the taxpayer's alternative nonaccrual-experience method would be treated as not clearly reflecting its nonaccrual-experience for the test period and the taxpayer was required to change its nonaccrual-experience method of accounting to a method that would clearly reflect its nonaccrual experience.

Some commentators suggested that the self-testing requirement in Notice 2003–12 should not be included in the regulations. They suggested that the self-testing requirement is inconsistent with the language and purpose of the amendments made by the 2002 Act. The commentators also suggested that it would be burdensome and impractical for many taxpayers using an alternative nonaccrual-experience method to conduct the self-test due to the limitations of their existing automated record keeping systems. Finally, one commentator suggested that if a taxpayer's alternative nonaccrual-experience method fails the self-testing requirements, then the temporary regulations should limit the taxpayer's exclusion under section 448(d)(5) to the taxpayer's adjusted nonaccrual-experience amount, rather than require the taxpayer to change its method of accounting.

The IRS and Treasury Department believe that the self-testing requirement is consistent with the 2002 Act, which provides that ''[a] taxpayer may adopt, or * * * change to, a computation or formula that clearly reflects the taxpayer's experience,'' and that ''[a] request [to change] shall be approved if such computation or formula clearly reflects the taxpayer's experience.'' Public Law 107–147, § 403(a). The IRS and Treasury Department believe that self-testing is necessary for taxpayers that do not use one of the four safe harbor methods provided to ensure that the statutory requirement that the taxpayer's formula or computation accurately reflect the taxpayer's nonaccrual experience is met. Therefore, the temporary regulations continue to permit a taxpayer to use any alternative nonaccrual-experience method, provided such method meets the self-testing requirements described in the temporary regulations. The IRS and Treasury Department welcome comments from taxpayers and practitioners specifically addressing the limitations of their record keeping systems that affect conducting self-testing, and ways in which the burden on taxpayers of self-testing might be reduced without compromising the statute's requirement that the taxpayer's method clearly reflect the taxpayer's experience.

Under the temporary regulations, taxpayers using (or desiring to use) an alternative nonaccrual-experience method must self-test the method in the first taxable year ending after March 9, 2002, that the taxpayer uses, or desires to use, the method (first-year self-test), and every three taxable years thereafter (three-year self-test). When conducting the first-year self-test, a taxpayer is permitted to test its alternative nonaccrual-experience method against any of the four safe harbor methods. If a taxpayer is permitted to use its alternative nonaccrual-experience method as a result of satisfying the first year self-test, the temporary regulations require the taxpayer to include contemporaneous documentation in its books and records stating which safe harbor method was used during the self-test that permitted the taxpayer to use its alternative nonaccrual-experience method. When conducting any three-year self-test, the taxpayer must self-test its alternative nonaccrual-experience method against the same safe harbor method used during the immediately preceding self-test. The temporary regulations also provide rules for taxpayers that want to change the safe harbor method used to test their alternative nonaccrual-experience method.

For purposes of the first-year self-test, if the alternative nonaccrual-experience amount for the first-year self-test is less than or equal to the nonaccrual-experience amount computed under the safe harbor formula selected by the taxpayer for the first-year self-test, then the taxpayer's alternative nonaccrual-experience method will be treated as clearly reflecting its nonaccrual-experience for the test period and the taxpayer may continue to use that alternative nonaccrual-experience method, subject to a requirement to self-test again after three taxable years. If the alternative nonaccrual-experience amount is greater than the nonaccrual-experience amount of the safe harbor method selected by the taxpayer for its self-test method, then the taxpayer's alternative nonaccrual-experience method will be treated as not clearly reflecting its nonaccrual-experience for such taxable year and the taxpayer will not be permitted to use that alternative nonaccrual-experience method for such taxable year. The taxpayer is permitted, however, to adopt (or change to) a safe harbor nonaccrual-experience method provided in the regulations or another alternative nonaccrual-experience method, subject to the first-year self-test requirement.

For purposes of the three-year self-test requirement, if the cumulative alternative nonaccrual-experience amount for the test period is less than or equal to the cumulative nonaccrual-experience amount (computed by using for each taxable year of the test period the safe harbor formula used, and contemporaneously documented, during the immediately preceding self-test) (cumulative safe harbor nonaccrual-experience amount), then the taxpayer's alternative nonaccrual-experience method will be treated as clearly reflecting its nonaccrual experience for the test period and the taxpayer may continue to use that alternative nonaccrual-experience method, subject to a requirement to self-test again in three taxable years. If the cumulative alternative nonaccrual-experience amount for the test period is greater than the cumulative safe harbor nonaccrual-experience amount, then the taxpayer's alternative nonaccrual-experience amount will be limited to the cumulative safe harbor nonaccrual-experience amount for the test period. Any excess of the taxpayer's cumulative alternative nonaccrual-experience amount excluded from income during the test period over the taxpayer's cumulative safe harbor nonaccrual-experience amount must be recaptured into income in the third taxable year of the three-year self-test. The taxpayer may continue to use its alternative nonaccrual-experience method, subject to the three-year self-test requirement.

The IRS and Treasury Department request comments on the first-year self-test, three-year self-test, and recapture provisions of the temporary regulations.

Special Rules

Notice 2003–12 provided that a taxpayer that did not maintain records of the data necessary to determine its actual nonaccrual-experience would be subject to being changed by the IRS on

examination to the specific charge-off method. One commentator noted that a taxpayer should not be changed by the IRS to the specific charge-off method merely because of unintentional and/or immaterial variances between the methods permitted under these regulations and the taxpayers' computations, which are often due to factors beyond the taxpayer's control. Among the factors noted were inherent delays between the time services were rendered and when actual billing occurs (which may affect the determination of the year-end balance of accounts receivable, especially when services are provided at the end of one taxable year and the billing occurs a few days later in the subsequent taxable year), and constraints of the taxpayer's computer systems that limit the taxpayer's ability to maintain the data necessary for a nonaccrual-experience method. For example, a taxpayer may be unable to determine whether a particular recovery relates to an account receivable on hand at the beginning of the taxable year. The commentator noted that a taxpayer may therefore choose to treat all recoveries as relating to an account receivable on hand at the beginning of the taxable year, which under safe harbor 2, reduces the nonaccrual-experience amount that the taxpayer would be entitled to if the taxpayer precisely allocated its recoveries. Because these factors generally will result in a taxpayer claiming less than the proper nonaccrual-experience amount the taxpayer would otherwise be entitled to, the commentator requested that the IRS not change a taxpayer to the specific charge-off method due to variances similar to those noted above.

The IRS and Treasury Department do not intend that a taxpayer be changed to the specific charge-off method due to unintentional and/or immaterial variances, especially if a taxpayer is disadvantaged by such variances. As a result, the temporary regulations require only that a taxpayer maintain records that are sufficient to establish the amount of any exclusion from gross income under section 448(d)(5) for the taxable year. This rule is consistent and in accordance with § 1.6001–1(a) (rules regarding records). However, the IRS maintains the right to change a taxpayer to the specific charge-off method if such taxpayer fails to maintain sufficient records to establish the amount of any claimed exclusion from gross income under section 448(d)(5) for the taxable year. The IRS and Treasury Department request comments on this record keeping standard.

Periodic Systems

Notice 88–51, 1988–1 C.B. 535, provides guidance on the use of a periodic system of applying the nonaccrual-experience method provided in former Temp. Reg. § 1.448–2T(e)(2). The periodic system entails establishing an account based on the aggregate amount of accounts receivable that: (1) Are eligible for the nonaccrual-experience method; and (2) the taxpayer estimates will not be collected. The account is adjusted each year to reflect the taxpayer's estimate (using its nonaccrual-experience method) of the aggregate amount of the accounts receivable outstanding at year-end that will not be collected. A corresponding adjustment is then made to gross income.

The IRS and Treasury Department intend to update Notice 88–51 to provide for the use of a periodic system by taxpayers using any nonaccrual-experience method. Pending the issuance of this guidance, a taxpayer may use the periodic system described in Notice 88–51 in conjunction with any permissible nonaccrual-experience method used by the taxpayer.

Accounting Method Change Procedures

A change from a nonaccrual-experience method by a taxpayer no longer qualified to use such a method, a change to a nonaccrual-experience method, a change from one nonaccrual-experience method to another nonaccrual-experience method, or a change from using one safe harbor method for self-testing to another safe harbor method, is a change in method of accounting to which the provisions of sections 446 and 481, and the regulations thereunder, apply. The temporary regulations provide, in most instances, automatic consent for these changes. Taxpayers making these changes should follow the procedures of Rev. Proc. 2002–9. Additionally, the temporary regulations provide automatic consent procedures for taxpayers changing to a nonaccrual-experience method to also request to change to a periodic system.

Additional Issues to be Addressed in Final Regulations

The IRS and Treasury Department intend to address additional issues in future guidance that are not addressed in these temporary regulations. Specifically, the IRS and Treasury Department request comments on the effect on the computation of a taxpayer's nonaccrual-experience as a result of a short taxable year, and an acquisition or disposition of an entity during a taxable year, including the acquisition or disposition of an entity disregarded for federal income tax purposes. The IRS and Treasury Department also request comments on whether the computation under the Actual Experience Method should be based on the prior three taxable years or, as currently provided, the current taxable year and the two immediately preceding taxable years.

Effect on Other Documents

The following publication is obsolete as of September 4, 2003:

Notice 2003–12 (2003–6 I.R.B. 422).

The following publication is modified to include in section 5.06 of the Appendix as of September 4, 2003, only the changes in method of accounting provided in § 1.448–2T(g)(2)(ii), (g)(3)(i) and (h):

Rev. Proc. 2002–9 (2002–1 C.B. 327).

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 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. For application of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact.

Drafting Information

The principal author of these regulations is Terrance McWhorter of the Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

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

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

■ **Par. 2.** Section 1.448–2T is revised as follows:

§ 1.448–2T Nonaccrual of certain amounts by service providers (temporary).

(a) *In general.* This section applies to taxpayers qualified to use a nonaccrual-experience method of accounting provided for in section 448(d)(5) with respect to amounts to be received for the performance of services. Except as otherwise provided in this section, a taxpayer is qualified to use a nonaccrual-experience method of accounting if the taxpayer uses an accrual method of accounting with respect to amounts to be received for the performance of services by the taxpayer and either—

(1) The services are in fields referred to in section 448(d)(2)(A) and as described in § 1.448–1T(e)(4) (*i.e.*, health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting); or

(2) The taxpayer meets the $5 million annual gross receipts test of section 448(c) and § 1.448–1T(f)(2) for all prior taxable years.

(b) *Nonaccrual-experience method; treatment as method of accounting.* Any taxpayer who satisfies the requirements of this section is not required to accrue any portion of amounts to be received from the performance of services that, on the basis of such person's experience, and to the extent determined under the computation or formula used by the taxpayer and allowed under this section, will not be collected. This nonaccrual of amounts to be received for the performance of services shall be treated as a method of accounting under the Code (a nonaccrual-experience method).

(c) *Method not available if interest charged on amounts due.* A nonaccrual-experience method of accounting may not be used with respect to amounts due for which interest is required to be paid or for which there is any penalty for failure to timely pay any amounts due. For this purpose, the taxpayer will be treated as charging interest or penalties for late payment if the contract or agreement expressly provides for the charging of interest or penalties for late payment, regardless of the practice of the parties. If the contract or agreement does not expressly provide for the charging of interest or penalties for late payment, the determination of whether the taxpayer charges interest or penalties for late payment will be made based on all of the facts and circumstances of the transaction, and not merely on the characterization by the parties or the treatment of the transaction under state or local law. However, the offering of a discount for early payment of an amount due will not be regarded as the charging of interest or penalties for late payment under this section, if—

(1) The full amount due is otherwise accrued as gross income by the taxpayer at the time the services are provided; and

(2) The discount for early payment is treated as an adjustment to gross income in the year of payment, if payment is received within the time required for allowance of such discount. *See* paragraph (f) *Example 1* of this section for an example of this rule.

(d) *Method not available for certain receivables*—(1) *Amounts earned and recognized through the performance of services.* A nonaccrual-experience method of accounting may be used only with respect to amounts earned by the taxpayer and otherwise recognized in income (an account receivable) through the performance of services by such taxpayer. For example, a nonaccrual-experience method may not be used with respect to amounts owed to the taxpayer by reason of the taxpayer's activities with respect to lending money, selling goods, or acquiring accounts receivable or other rights to receive payment from other persons (including persons related to the taxpayer) regardless of whether those persons earned such amounts through the provision of services.

(2) *Special rule.* Except as otherwise provided, for purposes of this section, accounts receivable do not include amounts that are not billed (*e.g.*, for charitable or pro bono services) or amounts contractually not collectible (*e.g.*, amounts in excess of a fee schedule agreed to by contract). *See* paragraph (f) *Examples 2* and *3* of this section for examples of this rule.

(e) *Use of experience to estimate uncollectible amounts*—(1) *In general.* In determining the portion of any amount due which, on the basis of experience, will not be collected, the taxpayer may use one of four safe harbor nonaccrual-experience methods of accounting provided in paragraphs (e)(2) through (e)(5) of this section. Alternatively, the taxpayer may use any other nonaccrual-experience method (''alternative nonaccrual-experience method'') that clearly reflects the taxpayer's nonaccrual-experience, subject to the requirements of paragraph (e)(6) of this section. The safe harbor nonaccrual-experience methods provided in paragraphs (e)(2) through (e)(5) of this section will be presumed to clearly reflect a taxpayer's nonaccrual-experience. For purposes of determining a taxpayer's nonaccrual-experience under any method provided in this paragraph (e), accounts receivable described in paragraphs (c) and (d) of this section are not taken into account. *See* paragraph (g) of this section for procedures to obtain automatic consent to change to one of the safe harbor nonaccrual experience methods or to an alternative nonaccrual-experience method.

(2) *Safe harbor 1: Six-year moving average method*—(i) *General rule.* A taxpayer may use a nonaccrual experience method under which the taxpayer determines the uncollectible amount (six-year moving average amount) by multiplying its accounts receivable balance at the end of the current year by a percentage (six-year moving average percentage). The six-year moving average percentage is computed by dividing—

(A) The total bad debts (with respect to accounts receivable) sustained throughout the period consisting of the taxable year and the five preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period; by

(B) The sum of the accounts receivable earned throughout the entire six (or fewer) taxable year period (*i.e.*, the total amount of sales resulting in accounts receivable). *See* paragraph (f) *Example 4* of this section for an example of this method.

(ii) *Period of less than six taxable years.* A period shorter than six taxable years generally will be appropriate only if the short period consists of consecutive taxable years and there is a change in the type of a substantial portion of the outstanding accounts receivable such that the risk of loss is substantially increased. A decline in the general economic conditions in the area, which substantially increases the risk of loss, is a relevant factor in determining whether a shorter period is appropriate. However, approval to use a shorter period will not be granted unless the taxpayer supplies specific evidence that the accounts receivable outstanding at the close of the taxable years for the shorter period requested are not comparable in nature and risk to accounts receivable outstanding at the close of the six taxable years. A substantial increase in a taxpayer's bad debt experience is not, by itself, sufficient to justify the use of a shorter period. If approval is granted to use a

shorter period, the experience for the excluded taxable years shall not be used for any subsequent year. A request for approval to exclude the experience of a prior taxable year shall be made in accordance with the applicable procedures for requesting a letter ruling and shall include a statement of the reasons such experience should be excluded. A request will not be considered unless it is sent to the Commissioner at least 30 days before the close of the first taxable year for which such approval is requested.

(iii) *Special rule for new taxpayers.* In the case of any current taxable year that is preceded by less than 5 taxable years, paragraph (e)(2)(i) of this section shall be applied by using the experience of the current year and the actual number of preceding taxable years.

(3) *Safe harbor 2: Actual experience method*—(i) *Option A: Three-year moving average.* A taxpayer may use a nonaccrual-experience method under which the taxpayer determines the uncollectible amount (actual nonaccrual-experience amount) by multiplying its year-end accounts receivable balance by a percentage (three-year moving average nonaccrual-experience percentage) reflecting its actual nonaccrual experience with respect to its accounts receivable balance at the beginning of the current taxable year and the two immediately preceding taxable years. Under this safe harbor method, a taxpayer is allowed to increase its actual nonaccrual-experience amount by 5 percent (adjusted nonaccrual-experience amount). The taxpayer's three-year moving average nonaccrual-experience percentage, actual nonaccrual-experience amount, and adjusted nonaccrual-experience amount are determined according to the following steps:

(A) *STEP 1.* Track the receivables in the taxpayer's accounts receivable balance at the beginning of the current taxable year to determine the dollar amount of the accounts receivable actually determined to be uncollectible and charged off and not recovered or determined to be collectible by the date selected by the taxpayer (determination date) for the taxable year. The determination date may not be later than the earlier of the due date, including extensions, for filing the taxpayer's federal income tax return for that taxable year or the date on which the taxpayer timely files such return for that taxable year.

(B) *STEP 2.* Repeat STEP 1 for the taxpayer's accounts receivable balance at the beginning of each of the two immediately preceding taxable years.

(C) *STEP 3.* To determine the taxpayer's three-year moving average nonaccrual-experience percentage, divide the sum of the net uncollectible amounts from STEP 1 and STEP 2 by the sum of the accounts receivable balance at the beginning of the current taxable year and the accounts receivable balance at the beginning of each of the two preceding taxable years.

(D) *STEP 4.* Multiply the percentage computed in STEP 3 by the taxpayer's accounts receivable balance at the end of the current taxable year. The product is the taxpayer's actual nonaccrual-experience amount for the current taxable year.

(E) *STEP 5.* To determine the taxpayer's adjusted nonaccrual-experience amount, multiply the actual nonaccrual-experience amount from STEP 4 by 1.05. See paragraph (f) *Example 5* of this section for an example of this method.

(ii) *Option B: Up to three-year moving average.* Alternatively, except as provided in paragraph (e)(3)(iii) of this section, in computing its adjusted nonaccrual-experience amount described in paragraph (e)(3)(i) of this section, a taxpayer may use: its current year nonaccrual-experience percentage for the first taxable year this method is used; a two-year moving average nonaccrual-experience percentage for the second taxable year this method is used; and a three-year moving average nonaccrual-experience percentage for the third, and each succeeding, taxable year this method is used. *See* paragraph (f) *Examples 6, 7,* and *8* of this section for examples of this method.

(iii) *Special rule for new taxpayers.* Any newly formed taxpayer that wants to use the safe harbor nonaccrual-experience method of accounting described in paragraph (e)(3)(ii) of this section in its first taxable year and does not have any accounts receivable upon formation will not be able to exclude any portion of its year-end accounts receivable from income for its first taxable year because the taxpayer does not have any accounts receivable on the first day of the taxable year to track. Therefore, the taxpayer must begin creating its three-year moving average in its second taxable year by tracking the accounts receivables as of the first day of its second taxable year.

(4) *Safe harbor 3: Modified Black Motor method*—(i) *In general.* A taxpayer may use a nonaccrual-experience method under which the taxpayer determines the uncollectible amount (modified Black Motor amount) by multiplying its accounts receivable balance at the end of the current taxable year by a percentage (Black Motor moving average percentage), and then reducing the resulting amount by the credit charges (accounts receivable) generated and written off during the current taxable year. The Black Motor moving average percentage is computed by dividing—

(A) The total bad debts sustained in the current taxable year and the five preceding taxable years (or, with the approval of the Commissioner, a shorter period), adjusted for recoveries of bad debts during such period; by

(B) The sum of accounts receivable at the end of the current taxable year and the five preceding (or fewer) taxable years. *See* paragraph (f) *Example 10* of this section for an example of this method.

(ii) *Period of less than six taxable years.* The rules of paragraph (e)(2)(ii) of this section (regarding periods of less than six taxable years) shall apply to taxpayers using the Modified Black Motor method.

(iii) *Special rules for new taxpayers.* In the case of any current taxable year that is preceded by less than 5 taxable years, paragraph (e)(4)(i) of this section shall be applied by using the experience of the current taxable year and the actual number of preceding taxable years.

(5) *Safe harbor 4: Modified six-year moving average method*—(i) *In general.* A taxpayer may use a nonaccrual-experience method under which the taxpayer determines the uncollectible amount (modified six-year moving average amount) by multiplying its accounts receivable balance at the end of the current year by a percentage (modified six-year moving average percentage). The modified six-year moving average percentage is computed by dividing—

(A) The total bad debts sustained in the current taxable year and the five preceding taxable years (or, with the approval of the Commissioner, a shorter period) other than the credit charges (accounts receivable) that were written off in the same taxable year they were generated, adjusted for recoveries of bad debts during such period; by

(B) The sum of accounts receivable at the end of the current taxable year and the five preceding (or fewer) taxable years. *See* paragraph (f) *Example 11* of this section for an example of this method.

(ii) *Period of less than six taxable years.* The rules of paragraph (e)(2)(ii) of this section (regarding periods of less than six taxable years) shall apply to taxpayers using the Modified six-year moving average method.

(iii) *Special rules for new taxpayers.* In the case of any current taxable year

that is preceded by less than 5 taxable years, paragraph (e)(5)(i) of this section shall be applied by using the experience of the current taxable year and the actual number of preceding taxable years.

(6) *Alternative nonaccrual-experience method*—(i) *In general.* A taxpayer may use any alternative nonaccrual-experience method that clearly reflects the taxpayer's actual nonaccrual-experience, provided the taxpayer's alternative nonaccrual-experience method meets the self-test requirements described in this paragraph (e)(6).

(ii) *Self-testing.* A taxpayer using, or desiring to use, an alternative nonaccrual-experience method must ''self-test'' its alternative nonaccrual-experience method for its first taxable year ending after March 9, 2002, for which the taxpayer uses, or desires to use, that alternative nonaccrual-experience method (first-year self-test), and every three taxable years thereafter (three-year self-test). Each self-test shall be performed by comparing the nonaccrual-experience amount under the taxpayer's alternative nonaccrual-experience method (alternative nonaccrual-experience amount) with the nonaccrual-experience amount that would have resulted from use of one safe harbor method described in paragraph (e)(2), (e)(3), (e)(4), or (e)(5) of this section selected by the taxpayer for use in conducting the self test (safe harbor comparison method), for the test period.

(iii) *Selection of safe harbor comparison method*—(A) *First-year self-test.* For purposes of conducting the first-year self-test required under paragraph (e)(6)(ii) of this section, a taxpayer may self-test its alternative nonaccrual-experience method against any safe harbor method provided in paragraphs (e)(2) through (e)(5) of this section. *See* paragraph (f) *Example 12* of this section for an example of this rule.

(B) *Three-year self-test.* For purposes of conducting any three-year self-test required under paragraph (e)(6)(ii) of this section, the taxpayer must self-test its alternative nonaccrual-experience method against the same safe harbor comparison method used for the immediately preceding self-test. For purposes of the three-year self-test, the cumulative nonaccrual-experience amount for the safe harbor comparison method is computed by using, for each taxable year of the test period, the same safe harbor comparison method used during the immediately preceding self test (cumulative safe harbor nonaccrual-experience amount). *See* paragraph (f) *Example 13* of this section for an example of this rule.

(C) *Change of safe harbor comparison method.* (*1*) A taxpayer that wants to change the safe harbor comparison method it uses for purposes of the self-testing requirement of paragraph (e)(6)(ii) of this section may do so only for the first taxable year following any three-year self-test period and in accordance with this paragraph (e)(6)(iii)(C). A change in the taxpayer's safe harbor comparison method is a change in method of accounting to which the procedures of sections 446 and 481, and the regulations thereunder, apply.

(*2*) For the taxable year a taxpayer wishes to change its safe harbor comparison method, the taxpayer must self-test its alternative nonaccrual-experience method against any safe harbor method provided in paragraphs (e)(2) through (e)(5) of this section other than the safe harbor comparison method currently used by the taxpayer and such self-test shall be conducted as if such self-test was a first-year self-test.

(*3*) If the self-test described in paragraph (e)(6)(iii)(C)(*2*) of this section results in the taxpayer's alternative nonaccrual-experience method clearly reflecting the taxpayer's nonaccrual-experience as determined under paragraph (e)(6)(iv) of this section, then the taxpayer may change its safe harbor comparison method in accordance with the procedures under paragraph (g)(3) of this section. Such change shall be made on a cut-off basis and without audit protection.

(*4*) If the self-test described in paragraph (e)(6)(iii)(C)(*2*) of this section results in the taxpayer's alternative nonaccrual-experience method not clearly reflecting the taxpayer's nonaccrual-experience as determined under paragraph (e)(6)(vi)(A) of this section, then the taxpayer cannot use the safe harbor comparison method selected and must either—

(*i*) Continue using its current safe harbor comparison method; or

(*ii*) Select another safe harbor comparison method, subject to the requirements of paragraphs (e)(6)(iii)(C)(*2*) and (*3*) of this section.

(*5*) If a taxpayer meets the requirements of this paragraph (e)(6)(iii)(C) to change its safe harbor comparison method, the new safe harbor comparison method is not used for purposes of conducting the three-year self-test required by paragraph (e)(6)(ii) of this section for the taxable year immediately preceding the taxable year the taxpayer is permitted to change its safe harbor comparison method. The taxpayer's former safe harbor comparison method is used for purposes of conducting such three-year self-test and for purposes of determining any recapture amount under paragraph (e)(6)(vi)(B) of this section.

(iv) *Treated as clearly reflecting nonaccrual-experience.* If the alternative nonaccrual-experience amount for the first-year self-test (or the cumulative nonaccrual-experience amount for the three-year self-test, as applicable) is less than or equal to the nonaccrual-experience amount determined under paragraph (e)(6)(iii)(A) of this section (first-year self-test) or the cumulative safe harbor nonaccrual-experience amount determined under paragraph (e)(6)(iii)(B) of this section (three-year self-test), as applicable, of this section for the test period, then—

(A) The taxpayer's alternative nonaccrual-experience method will be treated as clearly reflecting its nonaccrual-experience for the test period; and

(B) The taxpayer may continue to use that alternative nonaccrual-experience method, subject to a requirement to self-test again after three taxable years.

(v) *Contemporaneous documentation.* For purposes of paragraph (e)(6) of this section, a taxpayer must document in its books and records, in the taxable year any first-year or three-year self-test is performed, the safe harbor comparison method used to conduct the self-test, including appropriate documentation and computations that resulted in the determination that the taxpayer's alternative nonaccrual-experience method clearly reflected the taxpayer's nonaccrual-experience for the applicable test period.

(vi) *Special rules for alternative nonaccrual-experience method.* (A) *First-year self-test.* If, as a result of the first-year self-test requirement of paragraph (e)(6)(ii) of this section, the alternative nonaccrual-experience amount for the test period is greater than the safe harbor nonaccrual-experience amount for the test period, then—

(*1*) The taxpayer's alternative nonaccrual-experience method will be treated as not clearly reflecting its nonaccrual-experience;

(*2*) The taxpayer will not be permitted to use that alternative nonaccrual-experience method in such taxable year; and

(*3*) The taxpayer must change to (or adopt) for such taxable year either—

(*i*) A safe harbor nonaccrual-experience method described in paragraphs (e)(2) through (e)(5) of this section; or

(*ii*) Another alternative nonaccrual-experience method, subject to the first-year self-test requirement of paragraph (e)(6)(ii) of this section. *See* paragraph

(f) *Example 14* of this section for an example of this rule.

(B) *Three-year self-test.* If, as a result of the three-year self-test requirement of paragraph (e)(6)(ii) of this section, the cumulative alternative nonaccrual-experience amount for the test period is greater than the cumulative safe harbor nonaccrual-experience amount for the test period, the taxpayer's alternative nonaccrual-experience amount will be limited to the cumulative safe harbor nonaccrual-experience amount for the test period. Any excess of the taxpayer's cumulative alternative nonaccrual-experience amount over the taxpayer's cumulative safe harbor nonaccrual-experience amount excluded from income during the test period must be recaptured into income in accordance with paragraph (e)(6)(vii) of this section. The taxpayer may continue to use its alternative nonaccrual-experience method, subject to the three-year self-test requirement in paragraph (e)(6)(ii) of this section. *See* paragraph (f) *Example 15* of this section for an example of this rule.

(vii) *Recapture*—(1) *In general.* Any amount required to be recaptured pursuant to paragraph (e)(6)(vi)(B) of this section must be included in income in the third taxable year of the three-year self-test period. *See* paragraph (f) *Example 15* of this section for an example of this rule.

(7) *Special rules—(i) Application to specific accounts receivable.* The nonaccrual-experience method shall be applied with respect to each account receivable of the taxpayer that is eligible for such method. With respect to a particular account receivable, the taxpayer will determine, in the manner prescribed in paragraphs (e)(2) through (e)(6) of this section (whichever applies), the amount of such account receivable that is not expected to be collected. Such determination shall be made only once with respect to each account receivable, regardless of the term of such receivable. The estimated uncollectible amount shall not be recognized as gross income. Thus, the amount recognized as gross income shall be the amount that would otherwise be recognized as gross income with respect to the account receivable, less the amount which is not expected to be collected. A taxpayer that excludes an amount from income during a taxable year as a result of the taxpayer's use of a nonaccrual-experience method cannot deduct in any subsequent taxable year the amount excluded from income. Thus, the taxpayer cannot deduct the excluded amount in a subsequent taxable year in which the taxpayer actually determines that the amount is uncollectible and charges it off. If a taxpayer using a nonaccrual-experience method determines that an amount that was not excluded from income is uncollectible and should be charged off (*e.g.*, a calendar-year taxpayer determines on November 1st that an account receivable that was originated on May 1st of the same year is uncollectible and should be charged off) the taxpayer may deduct the amount charged off when it is charged off, but must include any subsequent recoveries in income. The reasonableness of a taxpayer's determinations that amounts are uncollectible and should be charged off may be considered on examination. *See* paragraph (f) *Example 16* of this section for an example of this rule.

(ii) *Charge-off.* For purposes of this section, amounts charged-off shall include only those amounts that would otherwise be allowable under section 166(a).

(iii) *Recoveries.* Regardless of the nonaccrual-experience method of accounting used by a taxpayer under this section, the taxpayer must take into account recoveries of amounts previously charged off. If, in a subsequent taxable year, a taxpayer recovers an amount previously excluded from income under a nonaccrual-experience method or charged off, the taxpayer must include the recovered amount in income in that subsequent taxable year. *See* paragraph (f) *Example 17* of this section for an example of this rule.

(iv) *Application of nonaccrual-experience method.* The rules of section 448(d)(5) and the regulations thereunder shall be applied separately to each taxpayer. For purposes of section 448(d)(5), the term ''taxpayer'' has the same meaning as the term ''person'' defined in section 7701(a)(1) (rather than the meaning of the term ''taxpayer'' defined in section 7701(a)(14)).

(v) *Record keeping requirements.* (A) A taxpayer using a nonaccrual-experience method shall keep such books and records as are sufficient to establish the amount of any exclusion from gross income under section 448(d)(5) for the taxable year, including books and records demonstrating—

(*1*) The nature of the taxpayer's nonaccrual-experience method;

(*2*) Whether, for any particular taxable year, the taxpayer qualifies to use its nonaccrual-experience method (including the self-testing requirements of paragraph (e)(6)(ii) of this section (if applicable));

(*3*) The taxpayer's determination that amounts are uncollectible; and

(*4*) The proper amount that is excludable under the taxpayer's nonaccrual-experience method.

(B) A taxpayer that does not maintain records of the data that are sufficient to establish the amount of any exclusion from gross income under section 448(d)(5) for the taxable year may be subject to being changed by the IRS on examination to the specific charge-off method. See § 1.6001–1 for rules regarding records.

(f) *Examples.* The following examples illustrate the provisions of this section. In each example, the taxpayer uses a calendar year for federal income tax purposes and an accrual method of accounting, does not require the payment of interest or penalties with respect to past due accounts receivable and, in the case of *Examples 5* through *8* and *12* through *15,* selects an appropriate determination date for each taxable year.

Example 1. Charging interest and/or penalties. A has two billing methods for the amounts to be received from A's provision of services described in paragraph (a)(1) of this section. Under one method, for amounts that are more than 90 days past due, A charges interest at a market rate until such amounts (together with interest) are paid. Under the other billing method, A charges no interest for amounts past due. Pursuant to paragraph (c) of this section, A may not use a nonaccrual-experience method of accounting with respect to any of the amounts billed under the method that charges interest on amounts that are more than 90 days past due. A may, however, use the nonaccrual-experience method with respect to the amounts billed under the method that does not charge interest for amounts past due.

Example 2. Contractual allowance or adjustment. B, a healthcare provider, performs a medical procedure on individual C, who has health insurance coverage with IC, an insurance company. B bills IC and C for $5,000, B's standard charge for this medical procedure. However, B has a contract with IC that obligates B to accept $3,500 as full payment for the medical procedure if the procedure is provided to a patient insured by IC. Under the contract, only $3,500 of the $5,000 billed by B is legally collectible from IC and C. The remaining $1,500 represents a contractual allowance or contractual adjustment. Thus, pursuant to paragraph (d)(2) of this section, the remaining $1,500 is not a contractually collectible amount for purposes of this section and B may not use a nonaccrual-experience method with respect to this portion of the accounts receivable.

Example 3. Charitable or pro bono services. D, a law firm, agrees to represent individual E in a legal matter and to provide services to E on a pro bono basis. D normally charges $500 for these services. Because D performed its services to E pro bono, D's services were never billed or intended to result in revenue. Thus, pursuant to paragraph (d)(2) of this section, the $500 forgone legal fee is not a

collectible amount for purposes of this section and D may not use a nonaccrual-experience method with respect to this portion of the accounts receivable.

Example 4. Safe harbor 1: Six-year moving average method. (i) F uses the six-year moving average method described in paragraph (e)(2) of this section. F's total accounts receivable and bad debt experience for the current taxable year (2002) and the five preceding taxable years are as follows:

Taxable year	Total accounts receivable	Bad debts adjusted for recoveries
1997	$30,000	$5,700
1998	40,000	7,200
1999	40,000	11,000
2000	60,000	10,200
2001	70,000	14,000
2002	80,000	16,800
Total	$330,000	$64,900

(ii) Thus, F's six-year moving average percentage is 19.67% ($64,900/$330,000). Assume that $49,300 of the total $80,000 of accounts receivable earned throughout the taxable year 2002 is outstanding as of the close of that taxable year. F's nonaccrual-experience amount using the six-year moving average safe harbor method is computed by multiplying $49,300 by the six-year moving average percentage of .1967, or $9,697. Thus, F may exclude $9,697 from gross income for 2002.

Example 5. Safe harbor 2: Actual experience method (Option A). (i) G is eligible to use a nonaccrual-experience method and wishes to adopt the actual experience method of paragraph (e)(3)(i) of this section. G has the data necessary to track the uncollectible amounts in its beginning-of-year accounts receivable for the current taxable year and the two immediately preceding taxable years. G determines that its actual accounts receivable collection experience is as follows:

Taxable year	Total A/R balance at beginning of year	Beginning A/R amount charged off by determination date (adjusted for recoveries)
2000	$1,000,000	$35,000
2001	760,000	75,000
2002	1,975,000	65,000
Total	$3,735,000	$175,000

(ii) G's ending A/R Balance on 12/31/2002 is $880,000. In 2002, G chooses to compute its nonaccrual-experience amount by using the three-year moving average under Option A of paragraph (e)(3)(i) of this section. Thus, G's three-year moving average nonaccrual-experience percentage is 4.7%, determined by dividing the sum of the amount of G's receivables in its account on January 1st of 2000, 2001, and 2002, that were determined to be uncollectible and charged off (adjusted for recoveries) on or before the corresponding determination dates, by the sum of the balances of G's accounts receivable account on January 1st of 2000, 2001, and 2002 (*i.e.*, $175,000/$3,735,000 or 4.7%). Thus, G's actual nonaccrual-experience amount for 2002 is determined by multiplying this percentage by the balance of G's accounts receivable account on December 31, 2002 (*i.e.*, $880,000 × 4.7% = $41,360). G is permitted to exclude from gross income in 2002 an amount equal to 105% of G's actual nonaccrual-experience amount, or $43,428 ($41,360 × 105%). This is G's adjusted nonaccrual-experience amount for 2002.

Example 6. Safe harbor 2: Actual experience method (Option B). The facts are the same as *Example 5*, except that G has not maintained the data necessary to use Option A of paragraph (e)(3)(i) of this section. G determines that, of its 2002 beginning-of-year receivables of $1,975,000, $65,000 were determined to be uncollectible and charged off (adjusted for recoveries) on or before September 15, 2003, the date G timely files its federal income tax return for 2002 (the determination date). G chooses to use Option B of paragraph (e)(3)(ii) of this section to compute its adjusted nonaccrual-experience amount for 2002. G's current year nonaccrual-experience percentage is 3.3%, determined by dividing the amount of G's receivables in its account on January 1, 2002, that were charged off as uncollectible (adjusted for recoveries) on or before the determination date, by the balance of G's accounts receivable account on January 1, 2002 (*i.e.*, $65,000/$1,975,000 or 3.3%). Thus, G's actual nonaccrual-experience amount for 2002 is determined by multiplying this percentage by the balance of G's accounts receivable account on December 31, 2002 (*i.e.*, $880,000 × 3.3% = $29,040). G is permitted to exclude from gross income in 2002 an amount equal to 105% of G's actual nonaccrual-experience amount, or $30,492 ($29,040 × 105%). This is G's adjusted nonaccrual-experience amount for 2002.

Example 7. (i) The facts are the same as *Example 6*. G determines that its accounts receivable collection experience for 2003 is as follows:

Taxable year	Total A/R balance at beginning of year	Beginning A/R amount charged off by determination date (adjusted for recoveries)
2002	$1,975,000	$65,000
2003	880,000	95,000
Total	$2,855,000	$160,000

(ii) G's ending A/R Balance on 12/31/2003 is $2,115,000. In 2003, G must compute its nonaccrual-experience amount using an average of its actual nonaccrual-experience for 2002 and 2003 (in accordance with Option B of paragraph (e)(3)(ii) of this section). Thus, G's two-year moving average nonaccrual-experience percentage is 5.6%, determined by dividing the sum of the amount of G's receivables in its accounts on January 1st of 2002 and 2003, that were determined to be uncollectible and charged off (adjusted for recoveries) on or before the corresponding determination dates, by the sum of the balances of G's accounts receivable account on January 1st of 2002 and 2003 (*i.e.*, $160,000/$2,855,000 or 5.6%). Thus, G's actual nonaccrual-experience amount for 2003 is determined by multiplying this percentage by the balance of G's accounts receivable account on December 31, 2003 (*i.e.*, $2,115,000 × 5.6% = $118,440). G is permitted to exclude from gross income in 2003 an amount equal to 105% of G's actual nonaccrual-experience amount, or $124,362 ($118,440 × 105%). This is G's adjusted nonaccrual-experience amount for 2003.

Example 8. (i) The facts are the same as *Example 7*. G determines that its accounts receivable collection experience for 2004 is as follows:

Taxable year	Total A/R balance at beginning of year	Beginning A/R amount charged off by determination date (adjusted for recoveries)
2002	$1,975,000	$65,000
2003	880,000	95,000
2004	2,115,000	105,000
Total	$4,970,000	$265,000

(ii) G's ending A/R Balance on 12/31/2004 is $1,600,000. In 2004, G must compute its nonaccrual-experience amount using an average of its actual nonaccrual-experience for 2002, 2003, and 2004 (in accordance with Option B of paragraph (e)(3)(ii) of this section). Thus, G's actual three-year moving average nonaccrual-experience percentage is 5.3%, determined by dividing the sum of the amount of G's receivables in its account on January 1st of 2002, 2003, and 2004, that were determined to be uncollectible and charged off (adjusted for recoveries) on or before the corresponding determination dates, by the sum of the balances of G's accounts receivable account on January 1st of 2002, 2003, and 2004 (*i.e.*, $265,000/$4,970,000 or 5.3%). Thus, G's actual nonaccrual-experience amount for 2004 is determined by multiplying this percentage by the balance of G's accounts receivable account on December 31, 2004 (*i.e.*, $1,600,000 × 5.3% = $84,800). G is permitted to exclude from gross income in 2004 an amount equal to 105% of G's actual nonaccrual-experience amount, or $89,040 ($84,800 × 105%). This is G's adjusted nonaccrual-experience amount for 2004. Thereafter, G must continue to use a three-year moving average to compute its actual nonaccrual-experience, or obtain approval of the Commissioner to change its nonaccrual-experience method of accounting.

Example 9. H has not tracked its 2002 beginning-of-year accounts receivable. Therefore, H may not use the actual experience method described in paragraph (e)(3) of this section for 2002. H may use this method for 2003 if H tracks its 2003 beginning-of-year receivables, and

otherwisecomplies with the requirements of this section.

Example 10. Safe harbor 3: Modified Black Motor method. (i) J uses the modified Black Motor method described in paragraph (e)(4) of this section. J's total accounts receivable and bad debt experience for the current taxable year (2002) and the five preceding taxable years are as follows:

Taxable year	Accounts receivable at end of taxable year	Bad debts (adjusted for recoveries)
1997	$130,000	$9,100
1998	140,000	7,000
1999	140,000	14,000
2000	160,000	14,400
2001	170,000	20,400
2002	180,000	10,800
Total	$920,000	$75,700

(ii) Thus, J's Black Motor moving average percentage is 8.228% ($75,700/$920,000). Assume that the credit charges (accounts receivable) generated and written off during the current taxable year were $3,600. J's modified Black Motor amount is $11,210, computed by multiplying J's accounts receivable at December 31, 2002 ($180,000) by the Black Motor moving average percentage of .08228 and reducing the resulting amount by $3,600 (J's credit charges (accounts receivable) generated and written off during the 2002 taxable year). Thus, J may exclude $11,210 from gross income for 2002.

Example 11. Safe harbor 4: Modified six-year moving average method. (i) The facts are the same as *Example 10*, except that J uses the modified six-year moving average method described in paragraph (e)(5) of this section. Assume further that the credit charges (accounts receivable) that were written off in the same taxable year they were generated, adjusted for recoveries of bad debts during such period are as follows:

Taxable Year	Credit charges written off in same taxable year as generated (adjusted for recoveries)
1997	$3,033
1998	2,333
1999	4,667
2000	4,800
2001	6,800
2002	3,600
Total	$25,233

(ii) Thus, J's modified six-year moving average percentage is 5.486% (($75,700—$25,233)/$920,000). J's modified six-year moving average amount is $9,875, computed by multiplying J's accounts receivable at December 31, 2002 ($180,000) by the modified six-year moving average percentage of .05486. Thus, J may exclude $9,875 from gross income for 2002.

Example 12. Selection of a safe harbor method. (i) Beginning in 2002, K is eligible to use a nonaccrual-experience method and wishes to adopt an alternative nonaccrual-experience method similar to the method described in Black Motor Co. v. Comm'r, 41 B.T.A. 300 (1940), aff'd, 125 F.2d 977 (6th Cir. 1942). Pursuant to paragraph (e)(6)(ii) of this section, K must self-test its alternative nonaccrual-experience method for the first taxable year it is used (2002), and every three taxable years thereafter for which K uses its alternative nonaccrual-experience method. Pursuant to paragraph (e)(6)(iii) of this section, K selects safe harbor 2 (actual experience method) for purposes of conducting its first year self-test. Thus, beginning in 2002, K must begin tracking its beginning-of-year accounts receivable and computing its actual nonaccrual-experience as provided in paragraph (e)(3) of this section. However, because K lacks the data to use Option A (three-year moving average) under paragraph (e)(3)(i) of this section, K selects Option B (up to three-year moving average) under paragraph (e)(3)(ii) of this section. K's actual nonaccrual-experience amount and alternative nonaccrual-experience amount for 2002 are set forth below:

Taxable year	Total A/R balance at beginning of year	Beginning A/R amount charged off by determination date (adjusted for recoveries)	Alternative nonaccrual-experience amount
2002	$350,000	$14,000	$20,700

(ii) K's ending A/R Balance on 12/31/2002 is $500,000. K's actual nonaccrual-experience percentage is 4%, determined by dividing the amount of K's receivables in its account on January 1, 2002, that were charged off as uncollectible (adjusted for recoveries) on or before the determination date, by the balance of K's accounts receivable account on January 1, 2002 (*i.e.*, $14,000/$350,000 or 4%). Thus, K's actual nonaccrual-experience amount for 2002 is determined by multiplying this percentage by the balance of K's accounts receivable account on December 31, 2002 (*i.e.*, $500,000 × 4% = $20,000). Because K's alternative nonaccrual-experience amount for 2002 ($20,700) is not greater than 105% of its actual nonaccrual-experience amount for 2002 (*i.e.*, $20,000 × 1.05 = $21,000), pursuant to paragraph (e)(6)(iv) of this section, K's alternative nonaccrual-experience method will be treated as clearly reflecting its nonaccrual-experience for the test period 2002. Pursuant to paragraph (e)(6)(iv)(B) of this section, K may continue to use its alternative nonaccrual-experience method. Additionally, pursuant to paragraph (e)(6)(iv)(B) of this section, K is required to self-test its alternative nonaccrual-experience method again in 2006, for taxable years 2003 through 2005 and, pursuant to paragraph (e)(6)(iii)(B) of this section, K must self-test its alternative nonaccrual-experience method against the actual experience method when conducting its three year self-test in 2006.

Example 13. (i) The facts are the same as *Example 12*. K's alternative nonaccrual-experience amounts for taxable years 2003–2005 are as follows:

Taxable Year	Total A/R balance at beginning of year	Beginning A/R amount charged off by determination date (adjusted for recoveries)	Actual non-accrual-experience amount	Alternative nonaccrual-experience amount
2003	$440,000	$30,000	$42,329	$43,050
2004	760,000	65,000	138,183	140,200
2005	1,965,000	65,000	101,106	110,550
Total	$3,165,000	$160,000	$281,618	$293,800

(ii) Assume that K's ending A/R balance on 12/31/05 is $2,000,000. Because K's cumulative alternative nonaccrual-experience amount for the test period ($293,800) is not greater than K's cumulative adjusted nonaccrual-experience amount (cumulative actual nonaccrual-experience amount × 105%) for the same period ($281,618 × 1.05 = $295,699), pursuant to paragraph (e)(6)(iv) of this section K's alternative nonaccrual-experience method will be treated as clearly reflecting its nonaccrual-experience for the test period. Pursuant to paragraph (e)(6)(iv)(B) of this section, K may continue to use its alternative nonaccrual-experience method. Additionally, pursuant to paragraph (e)(6)(iv)(B) of this section, K is required to self-test its alternative nonaccrual-experience method again in 2009, for taxable years 2006 through 2008 and, pursuant to paragraph (e)(6)(iii)(B) of this section, K must self-test its alternative nonaccrual-experience method against the actual experience method when conducting its three year self-test in 2009.

Example 14. The facts are the same as *Example 12,* except that K's alternative nonaccrual-experience amount for 2002 is $22,000. Because K's alternative nonaccrual-experience amount for 2002 ($22,000) is greater than 105% of its actual nonaccrual-experience amount for 2002 (*i.e.*, $20,000 × 1.05 = $21,000), pursuant to paragraph (e)(6)(vi)(A) of this section, K's alternative nonaccrual-experience method will be treated as not clearly reflecting its nonaccrual experience for 2002. Accordingly, K must either adopt a safe harbor nonaccrual-experience method described in paragraphs (e)(2) (six-year moving average method), (e)(3) (actual experience method), (e)(4) (modified Black Motor method), or (e)(5) (modified six-year moving average method) of this section, or an alternative nonaccrual-experience method under paragraph (e)(6) of this section (subject to the self-testing requirements of paragraph (e)(6)(ii) of this section).

Example 15. The facts are the same as *Example 13,* except that K's cumulative alternative nonaccrual-experience amount for 2003–2005 is $300,000. Because K's cumulative alternative nonaccrual-experience amount for the three year test period (taxable years 2003–2005) is greater than its cumulative adjusted nonaccrual-experience amount for the three year test period ($295,699), pursuant to paragraph (e)(6)(vi)(B) of this section the $4,301 excess of K's cumulative alternative nonaccrual-experience amount over K's cumulative adjusted nonaccrual-experience amount for the three year test period must be recaptured into income in 2005 in accordance with paragraph (e)(6)(vii) of this section. K may continue to use its alternative nonaccrual-experience method, subject to the three-year self-test requirement in paragraph (e)(6)(ii) of this section.

Example 16. Subsequent worthlessness of year-end receivable. The facts are the same as *Example 4.* Assume that one of the accounts receivable outstanding at the end of 2002 was for $8,000, and that in 2003, under section 166, the entire amount of this receivable becomes wholly worthless. Because F did not accrue as income $1,573 of this account receivable ($8,000 × .1967) under the nonaccrual-experience method in 2002, pursuant to paragraph (e)(7)(i) of this section F may not deduct this portion of the account receivable as a bad debt deduction under section 166 in 2003. F may deduct the remaining balance of the receivable in 2003 as a bad debt deduction under section 166 ($8,000 − $1,574 = $6,426).

Example 17. Subsequent collection of year-end receivable. The facts are the same as in *Example 4.* Assume that an account receivable of $1,700 outstanding at the end of 2002 was collected in full by F in 2003. Pursuant to paragraph (e)(7)(iii) of this section, F must recognize additional gross income in 2003 equal to the portion of this receivable that F excluded from gross income in the prior year ($1,700 × .1967 = $334).

(g) *Changes to a nonaccrual-experience method of accounting*—(1) *In general.* A change to a nonaccrual-experience method is a change in method of accounting to which the provisions of sections 446 and 481, and the regulations thereunder, apply.

(2) *Taxpayers no longer qualified under section 448 to use a nonaccrual-experience method*—(i) *First taxable year ending after March 9, 2002.* For a taxpayer who no longer qualifies under section 448(d)(5), as amended, to use a nonaccrual-experience method, consent is hereby granted to change from the nonaccrual-experience method to the specific charge-off method for its first taxable year ending after March 9, 2002. Such change shall be made in accordance with the provisions of this paragraph (g)(2). Pursuant to the consent granted by this paragraph (g)(2), a taxpayer described in this paragraph (g)(2) that is using a nonaccrual experience method must change such method of accounting to the specific charge-off method for its first taxable year ending after March 9, 2002. The net amount of the required section 481(a) adjustment is to be taken into account over a period of 4 taxable years (or, if less, the number of taxable years that the taxpayer has used the nonaccrual-experience method). The taxpayer should attach Form 3115 to its income tax return for the year of change, and write ''Change from the Nonaccrual-Experience Method under § 1.448–2T(g)'' at the top of the form. However, such a taxpayer is not required to file a Form 3115 with the national office, or pay any associated user fee.

(ii) *For taxable years subsequent to first taxable year ending after March 9, 2002.* Taxpayers who no longer qualify under section 448(d)(5), as amended, to use a nonaccrual-experience method in a taxable year subsequent to the first taxable year ending after March 9, 2002, must follow the administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in accounting method. (For further guidance, for example, *see* Rev. Proc. 2002–9, 2002–1 C.B. 327, and § 601.601(d)(2)(ii)*(b)* of this chapter.)

(3) *Taxpayers permitted to use a nonaccrual-experience method*—(i) *In general.* Except as provided in paragraphs (g)(3)(ii) (regarding scope limitations) and (g)(4) (regarding certain concurrent changes) of this section, a taxpayer that wants to change to a nonaccrual-experience method provided in this section, change from one nonaccrual-experience method to another nonaccrual-experience method provided in this section, and/or change to a periodic system (for further guidance, for example, *see* Notice 88–51, 1988–1 C.B. 535, and § 601.601(d)(2)(ii)(*b*) of this chapter), must follow the administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in accounting method (for further guidance, for example, *see* Rev. Proc. 2002–9, 2002–1 C.B. 327, and § 601.601(d)(2)(ii)(*b*) of this chapter).

(ii) *Scope limitations.* Any limitations on obtaining the automatic consent of the Commissioner do not apply to a taxpayer that wants to change to a nonaccrual-experience method of accounting provided in this section, and/or change to a periodic system (for further guidance, for example, see Notice 88–51, 1988–1 C.B. 535, and § 601.601(d)(2)(ii)(*b*) of this chapter), for either its first or second taxable year ending after March 9, 2002, provided the taxpayer's nonaccrual-experience method of accounting is not an issue under consideration for taxable years under examination at the time the Form 3115 is filed with the national office. A taxpayer's nonaccrual-experience method of accounting is an issue under consideration for the taxable years under examination if the taxpayer receives written notification (for example, by examination plan, information document request (IDR), or notification of proposed adjustments or income tax examination changes) from the examining agent(s) specifically citing the treatment of the nonaccrual-experience method of accounting as an issue under consideration.

(iii) *Form 3115 must be completed.* When filing the Form 3115, the taxpayer

must complete all applicable parts of the form and write ''Automatic Change to Nonaccrual-Experience Method'' at the top of the form.

(4) *Certain concurrent changes*—(i) *Taxpayers concurrently changing to an accrual method of accounting*—(A) *Automatic consent.* Taxpayers that want to change to a nonaccrual-experience method of accounting for the same taxable year for which they are required to change to an accrual method of accounting under section 448 and the regulations thereunder may concurrently change their method of accounting to a nonaccrual-experience method (with or without also changing to a periodic system (for further guidance, for example, see Notice 88–51, 1988–1 C.B. 535, and § 601.601(d)(2)(ii)(*b*) of this chapter)), under this paragraph (g)(4)(i) with automatic consent of the Commissioner if they otherwise qualify under this section to use a nonaccrual-experience method of accounting. Taxpayers changing to a nonaccrual-experience method under this paragraph (g)(4)(i) must comply with the provisions of § 1.448–1(h)(2). Moreover, such taxpayers must type or legibly print the following statement at the top of page 1 of Form 3115, ''Automatic Change to Nonaccrual-Experience Method and Overall Accrual Method.'' The consent of the Commissioner to change to a nonaccrual experience method is granted to taxpayers changing to such method under this paragraph (g)(4)(i).

(B) *Section 481(a) adjustment.* In the case of a taxpayer changing to a nonaccrual-experience method under this paragraph (g)(4)(i), the section 481(a) adjustment resulting from the change to a nonaccrual-experience method of accounting will be combined or netted with the net section 481(a) adjustment resulting from the change under § 1.448–1(h)(2), and the resulting net section 481(a) adjustment will be taken into account over the section 481(a) adjustment period as determined under the applicable administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's consent to a change in accounting method.

(ii) *Taxpayers concurrently changing to a permissible special method*—(A) *Prior consent.* A taxpayer required to change to an accrual method of accounting under section 448 and the regulations thereunder that, as part of such change, also wants to change to a nonaccrual experience method of accounting and a permissible special method of accounting under § 1.448–1(h)(3), may concurrently change its method of accounting to a nonaccrual-experience method of accounting (with or without also changing to a periodic system (for further guidance, for example, see Notice 88–51, 1988–1 C.B. 535, and § 601.601(d)(2)(ii)(*b*) of this chapter)), under this paragraph (g)(4)(ii) with the prior consent of the Commissioner if the taxpayer otherwise qualifies under this section to use a nonaccrual-experience method of accounting. Taxpayers changing to a nonaccrual-experience method under this paragraph (g)(4)(ii) must comply with the provisions of § 1.448–1(h)(3). Moreover, such taxpayers must type or legibly print the following statement at the top of page 1 of Form 3115, ''Change to Nonaccrual-Experience Method and Special Method of Accounting—Section 448.''

(B) *Section 481(a) adjustment.* The section 481(a) adjustment resulting from a change in method of accounting described under this paragraph (g)(4)(ii) must be taken into account in accordance with the rules provided in paragraph (g)(4)(i)(B) of this section.

(h) *Transition rules*—(1) *In general.* If a taxpayer adopted or changed to a nonaccrual-experience method of accounting in accordance with the provisions of Notice 2003–12 for any taxable year ending after March 9, 2002, and, on or before October 20, 2003, and for such taxable year the taxpayer would like to change to a different nonaccrual-experience method of accounting as provided in paragraphs (e)(2) through (e)(6) of this section, and/or change to a periodic system (for further guidance, for example, see Notice 88–51, 1988–1 C.B. 535, and § 601.601(d)(2)(ii)(*b*) of this chapter), the taxpayer must follow the administrative procedures issued under § 1.446–1(e)(3)(ii) for obtaining the Commissioner's automatic consent to a change in accounting method (for further guidance, for example, see Rev. Proc. 2002–9, 2002–1 C.B. 327, and § 601.601(d)(2)(ii)(*b*) of this chapter) and must file the original Form 3115 either—

(i) With an amended federal income tax return (or a qualified amended return under Rev. Proc. 94–69, 1994–2 C.B. 804, if applicable; hereinafter, referred to in this section as a ''qualified amended return'') on or before December 31, 2003, for the taxpayer's first taxable year ending after March 9, 2002, and any affected subsequent taxable year, and include the statement ''Filed Pursuant to § 1.448–2T(h)(1)(i)'' at the top of any amended federal income tax return (or qualified amended return);

(ii) With the taxpayer's timely filed federal income tax return for the second taxable year ending after March 9, 2002, if this return has not been filed on or before September 4, 2003; or

(iii) If the taxpayer's federal income tax return for the second taxable year ending after March 9, 2002, was filed on or before September 4, 2003, with an amended federal income tax return (or a qualified amended return) on or before December 31, 2003, for the second taxable year ending after March 9, 2002, and include the statement ''Filed Pursuant to § 1.448–2T(h)(1)(iii)'' at the top of the amended federal income tax return (or qualified amended return).

(2) *Pending Form 3115.* If a taxpayer filed a Form 3115 under the applicable administrative procedures with the national office to make a change in its method of accounting under section 448(d)(5), as amended, for a year of change for which this regulation is effective and the application or ruling request is pending with the national office on September 4, 2003, the taxpayer must notify the national office in writing prior to November 3, 2003, if the taxpayer wants to withdraw its Form 3115 under such administrative procedures. If the taxpayer notifies the national office within the time provided in this paragraph (h)(2), the taxpayer's Form 3115, and any user fee that was submitted with the Form 3115, will be returned to the taxpayer. A taxpayer whose Form 3115 is returned under this paragraph (h)(2) may file a new Form 3115 under the provisions prescribed in paragraphs (g) and (h) of this section. If the taxpayer does not notify the national office within the time provided in this paragraph (h)(2), the national office will continue to process the taxpayer's Form 3115 in accordance with the administrative procedures under which it was originally filed.

(i) [Reserved]

(j) *Audit protection.* If a taxpayer uses one of the nonaccrual-experience methods of accounting described in paragraphs (e)(3) (actual experience method), (e) (4) (modified Black Motor method), or (e)(5) (modified six-year moving average method) of this section to determine its amount excluded from gross income under section 448(d)(5), as amended, the taxpayer's use of that method will not be raised as an issue by the IRS in a taxable year that ends before September 4, 2003. If the taxpayer uses one of the nonaccrual-experience methods of accounting described in paragraphs (e)(3), (e)(4), or (e)(5) of this section, and its use of such method is an issue under consideration in examination (as defined in paragraph (g)(3)(ii) of this section), in appeals, or before the U.S. Tax Court in a taxable year that ends before September 4, 2003,

that issue will not be further pursued by the IRS.

(k) *Effective date.* This section is applicable for taxable years ending after March 9, 2002. The applicability of this section expires on or before September 5, 2006.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 4.** In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.448–2T	1545–1855
* * * * *	

Judith B. Tomaso,

Acting Deputy Commissioner for Services and Enforcement.

Approved: August 28, 2003.

Gregory Jenner,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–22458 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD13–03–029]

RIN 1625–AA00

Security and Safety Zones; Barge BEAUFORT 20, Explosive On-Load and Transit, Puget Sound, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary security and safety zones around the Barge BEAUFORT 20 during an explosive on-load and transit in the waters of Puget Sound, WA. The Coast Guard is taking this action to safeguard the public from hazards associated with the loading and transit of explosives and to safeguard the Barge BEAUFORT 20 from sabotage, other subversive acts, or accidents. Entry into these temporary security and safety zones will be prohibited unless you have permission from the Captain of the Port, Puget Sound.

DATES: This rule is effective from 6 a.m. Pacific Daylight Time on August 22, 2003 to 6 a.m. Pacific Daylight Time September 11, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD13–03–029 and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except federal holidays

FOR FURTHER INFORMATION CONTACT: LT J. R. Morgan, c/o Captain of the Port Puget Sound, 1519 Alaskan Way South, Seattle, Washington 98134, (206) 217–6230.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and (d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard vessels and persons that may be transiting in the vicinity of the Barge BEAUFORT 20 and to protect the BEAUFORT 20. Alaska Marine Lines, the barge owner, was unable to provide the Coast Guard with sufficient details regarding this explosive on-load and transit until less than 30 days prior to the date of the loading. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the explosive loading. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Background and Purpose

The Coast Guard has determined that it is necessary to establish a temporary security and safety zone around the barge BEAUFORT 20 due to the hazards associated with the handling and transit of explosives. These security and safety zones are required in order to minimize the dangers that the explosive on-load and transit may present to persons and vessels transiting in the vicinity of the BEAUFORT 20. These dangers include, but are not limited to, combustion, explosion and deflagration.

Discussion of Rule

The Coast Guard is adopting a temporary security and safety zone regulation on Puget Sound, WA, around the Barge BEAUFORT 20. The Coast Guard has determined that it is necessary to restrict access to an area within a 1500 yard radius around the Barge BEAUFORT 20 while anchored at a position approximately 3 nautical miles due East of Vendovi Island at 48 degrees, 37 minutes North by 122 degrees, 31.25 minutes West. In addition, the BEAUFORT 20 will transit from Naval Magazine Indian Island to the anchorage located east of Vendovi Island. Accordingly, it is necessary to restrict access to an area within a 200-yard radius around the Barge BEAUFORT 20 while it is underway. The Coast Guard, through this action, intends to promote the security and safety of persons and vessels in the vicinity of the BEAUFORT 20. Entry into this zone will be prohibited unless authorized by the Captain of the Port. Coast Guard personnel will enforce this security and safety zone and may be assisted by other federal, state, or local agencies.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). 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. This expectation is based on the fact that the regulated area established by the regulation would encompass a small area that should not impact commercial or recreational traffic. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

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

dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. 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. This expectation is based on the fact that the regulated area established by the regulation would encompass a small area that should not impact commercial or recreational traffic. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Assistance for Small Entities

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

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 affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

The Coast Guard's preliminary review indicates this rule is categorically excluded from further environmental documentation under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D. The environmental analysis and Categorical Exclusion Determination will be prepared and be available in the docket for inspection and copying where indicated under **ADDRESSES**. All standard environmental measures remain in effect.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. From 6 a.m. Pacific Daylight Time (PDT) on August 22, 2003, to 6 p.m. (PDT) September 11, 2003, a temporary § 165.T13–019 is added to read as follows:

§ 165.T13–019 Security and Safety Zone Regulations, Barge BEAUFORT 20, Explosive On-Load and Transit, Puget Sound, WA.

(a) *Location.* The following areas in navigable waters of the United States in Puget Sound east of 123 degrees, 30 minutes West Longitude [Datum: NAD 1983] are security and safety zones:

(1) All waters within a 1500-yard radius of the Barge BEAUFORT 20 while at anchor. The BEAUFORT 20 will anchor in Padilla Bay at approximately 48 degrees, 37 minutes North by 122 degrees, 31.25 minutes West, [Datum: NAD 1983].

(2) All waters within a 200-yard radius of the Barge BEAUFORT 20 while underway from Naval Magazine Indian Island to the anchorage located at the coordinates indicated in paragraph (a)(1) of this section.

(b) *Regulations.* In accordance with the general regulations in 33 CFR part 165, subparts C and D, this section applies to any person or vessel in the navigable waters of the United States. No person or vessel may enter or remain in the security and safety zones established by this section, unless authorized by the Captain of the Port or his designated representatives. Vessels and persons granted authorization to enter the security and safety zone shall obey all lawful orders or directions of the Captain of the Port or his designated representative. The Captain of the Port may be assisted by other federal, state, or local agencies in enforcing this section pursuant to 33 CFR 6.04–11.

(c) *Effective period.* This section applies from 6 a.m. (PDT) August 22,

2003, through 6 p.m. (PDT) on September 11, 2003.

Dated: August 20, 2003.

D. Ellis,

Captain, Coast Guard, Captain of the Port, Puget Sound.

[FR Doc. 03–22464 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 287–0410a; FRL–7548–3]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Kern County Air Pollution Control District (KCAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). The KCAPCD revisions concern the emission of particulate matter (PM–10) from agricultural burning and prescribed burning. The SJVUAPCD revision concerns the emission of nitrogen oxides (NOX) from lime kilns. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on November 3, 2003 without further notice, unless EPA receives adverse comments by October 6, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail or e-mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; *steckel.andrew@epa.gov.*

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions and TSDs at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Kern County Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm.* Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

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

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the date that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted or amended	Submitted
KCAPCD	417	Agricultural and Prescribed Burning	03/13/03 Amended	06/05/03
SJVUAPCD	4313	Lime Kilns	03/27/03 Adopted	06/05/03

On July 1, 2003, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

We approved KCAPCD Rule 417 into the SIP on August 19, 1999 (64 FR 45170), originally adopted on April 18, 1972. SJVUAPCD Rule 4313 is a new rule.

C. What Is the Purpose of the Submitted Rule or Rule Revisions?

NO_X helps produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control NO_X and particulate matter emissions.

The purpose of the revisions to KCAPCD Rule 417 is to make the following changes:

- Added are 19 new definitions.
- Added is the concept of a marginal-burn day, where limited burning would be allowed when conditions are close to those of a permissive-burn day.
- Added is 48-hour forecast, in addition to the present 72-hour outlook.
- Added are the Smoke Management Guidelines promulgated under title 17, California Code of Regulations (CCR) (September 18, 2001). These guidelines require that smoke management plans be prepared for prescribed burning of greater than 10 acres, with additional plan requirements at the 100-acre and 250-acre thresholds.
- Meteorological criteria for permissive-burn days in the Mohave Desert Air Basin are incorporated by reference from title 17, CCR, section 80311 (September 18, 2001).
- Deleted is the exemption to do Range Improvement Burning on a no-burn day if over 50% is brush-treated.

The purpose of new SJVUAPCD Rule 4313 is to regulate NO_X emissions from lime kilns.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (*see* section 110(a) of the CAA) and must not relax existing requirements (*see* sections 110(l) and 193).

Section 189(a) of the CAA requires moderate nonattainment areas with significant PM–10 sources to adopt reasonably available control measures (RACM), including reasonably available

control technology (RACT). KCAPCD is a PM–10 maintenance attainment area that was previously PM–10 moderate nonattainment. The *PM–10 Attainment Demonstration Maintenance Plan and Redesignation Request,* KCAPCD (September 5, 2003) does not rely on Rule 417 for attainment, therefore fulfilling RACM/RACT is not required.

Major NO_X sources in severe ozone nonattainment areas are required to adopt Reasonably Available Control Technology (RACT) (*see* sections 182(a)(2)(A) and 182(f)). SJVUAPCD is a severe ozone nonattainment area and must fulfill the requirements of RACT.

The following guidance documents were used for reference:

• *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.

• *General Preamble Appendix C3—Prescribed Burning Control Measures* (57 FR 18072, April 28, 1992).

• *Prescribed Burning Background Document and Technical Information Document for Best Available Control Measures* (EPA–450/2–92–003).

• *General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,* 57 FR 13498, 13540 (April 16, 1992).

• *PM–10 Attainment Demonstration Maintenance Plan and Redesignation Request,* KCAPCD (September 5, 2003).

• *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations,* U.S. EPA (May 25, 1988) (the Bluebook).

• *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the ''NO_X Supplement to the General Preamble''), U.S. EPA, 57 FR 55620 (November 25, 1992).

• *Guidance Document for Correcting Common VOC & Other Rule Deficiencies,* U.S. EPA Region IX (August 21, 2001) (the Little Bluebook).

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability, SIP relaxations, and fulfilling RACM/RACT or RACT requirements.

The TSDs have more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by October 6, 2003, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on November 3, 2003. This will incorporate these rules into the federally-enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this direct final rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 3, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality

of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 7, 2003.

Debbie Jordan,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(316) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(316) New and amended regulations for the following APCDs were submitted on June 5, 2003, by the Governor's designee.

(i) Incorporation by reference.

(A) Kern County Air Pollution Control District.

(*1*) Rule 417, originally adopted on April 18, 1972, amended on March 13, 2003.

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

(*1*) Rule 4313, adopted on March 27, 2003.

* * * * *

[FR Doc. 03–22445 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 249–0409; FRL–7546–5]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a conditional approval of revisions to the South Coast Air Quality Management District portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on May 13, 2002 and concerns oxides of nitrogen (NO_X) and oxides of sulfur (SO_X) emissions from facilities emitting 4 tons or more per year of NO_X and/or SO_X in the year 1990 or any subsequent year. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action approves local rules that regulate these emission sources and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on October 6, 2003.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, N.W., (Mail Code 6102T), Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

South Coast Air Quality Management District (''SCAQMD''), 21865 E. Copley Dr., Diamond Bar, CA 91765–4182

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm*. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Thomas C. Canaday, EPA Region IX, (415) 947–4121.

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

I. Proposed Action

On May 13, 2002 (67 FR 31998), EPA proposed a conditional approval of the following rules that were submitted for incorporation into the California SIP.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	2000	General	05/11/01	05/31/01
SCAQMD	2001	Applicability	05/11/01	05/31/01
SCAQMD	2002	Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X)	05/11/01	05/31/01
SCAQMD	2004	Requirements	05/11/01	05/31/01
SCAQMD	2005	New Source Review for RECLAIM	04/20/01	10/30/01
SCAQMD	2006	Permits	05/11/01	05/31/01
SCAQMD	2007	Trading Requirements	05/11/01	05/31/01
SCAQMD	2010	Administrative Remedies and Sanctions	05/11/01	05/31/01
SCAQMD	2011	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions.	05/11/01	05/31/01
SCAQMD	2011–2	Protocol for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions.	03/16/01	05/31/01
SCAQMD	2012	Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions.	05/11/01	05/31/01
SCAQMD	2012–2	Protocol for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions.	03/16/01	05/31/01
SCAQMD	2015	Backstop Provisions	05/11/01	05/31/01
SCAQMD	2020	RECLAIM Reserve	05/11/01	05/31/01

We proposed conditional approval because we determined that these rules improve the SIP by strengthening reporting provisions. These rules are largely consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. However, we also determined that the rules conflict with section 110 and part D of the Act due to their treatment of excess emissions which occur as a result of equipment breakdown. Rules 2000 and 2004 contain provisions which exempt, under certain circumstances, excess emissions that occur during breakdowns from being counted when a RECLAIM facility reconciles its emissions with its RECLAIM Trading Credit (''RTC'') holdings. In our EIP Guidance and our Excess Emissions Policy, EPA interprets the CAA as requiring that such emissions not be exempted.

On April 2, 2002, SCAQMD Executive Officer Barry R. Wallerstein submitted a commitment on behalf of the SCAQMD staff to adopt and submit further revisions to the RECLAIM program rules within one year after publication of today's final conditional approval by EPA of the currently submitted rule revisions. These future revisions will establish a mechanism within the RECLAIM program to mitigate all excess emissions resulting from breakdowns. RECLAIM will be revised to require monitoring and tracking of excess emissions from breakdowns and comparison of the total amount of exempted emissions to the amount of unused RTCs for that year. If total exempted breakdown emissions from all RECLAIM sources exceeds the total amount of unused RTCs program-wide in any year, RECLAIM allocations in the following year will be reduced by an amount equal to that exceedence.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Mike Costa, Our Children's Earth Foundation (OCE); letter dated July 12, 2002 and received July 12, 2002.

2. Suma Peesapati, Communities for a Better Environment (CBE); letter dated July 12, 2002 and received July 12, 2002. Attached to this July 12, 2002 letter was a previous letter from Suma Peesapati, CBE; dated October 9, 2001 that also contained comments pertaining to this rulemaking. We have responded to comments from both of these letters below.

3. Elaine Chang, South Coast Air Quality Management District; letter dated July 11, 2002 and received July 12, 2002. The comments and our responses are summarized below.

Comment #1: CBE stated that the RECLAIM program is fundamentally flawed and, as a result, has not achieved the emission reductions promised during program development. Among the problems that this commenter ascribes to RECLAIM are: (a) Initial over-allocation of credits resulting from artificially inflated baselines; (b) Inadequate safeguards against fraud and uncertainty; (c) Emissions increases from the two largest NO_X source categories.

Response #1: The RECLAIM program establishes a declining cap on emissions from medium and large stationary NO_X sources. The program is not intended to necessarily achieve reductions in every source category. The current enforceable emissions cap is significantly lower than the level of the cap at the time of program inception. Under the subject revised RECLAIM program rules, any emissions in excess of the current emissions cap are required to be mitigated by concurrent reductions in emissions from non-RECLAIM sources, or from subsequent reductions from future-year RECLAIM allocations. EPA has reviewed the submitted revisions to the RECLAIM program rules and has determined that they meet the requirements of the CAA.

Comment #2: CBE stated that SCAQMD has not complied with Rule 2015 which requires SCAQMD to conduct a thorough investigation of the high price of credits in the context of the compliance and enforcement program, and of whether the program provides appropriate incentives to comply.

Response #2: The provisions of Rule 2015 are separate enforceable requirements. Even if the SCAQMD has not complied with Rule 2015, nothing in that rule would bar EPA from approving the subject program rule revisions into the SIP. EPA has reviewed the submitted revisions to the RECLAIM program rules and has determined that they meet the requirements of the CAA.

Comment #3: CBE provided information regarding California's power crisis and commented that the crisis may not have been responsible for the spike in RECLAIM credit prices. If it was, the energy crisis is over and doesn't justify changes to the RECLAIM program. If it wasn't, the price reflects the true cost of foregoing pollution control and represents a healthy market.

Response #3: We believe the subject program rule revisions comply with the CAA and for this reason we proposed their approval. EPA's evaluation of SCAQMD's justification for the submitted rule revisions was not a criterion of our proposed approval of their submittal into the SIP. The rule revisions were evaluated according to the criteria listed in the Technical Support Document (''TSD'') prepared for the proposed conditional approval of the submitted revisions and were found to meet all of the applicable requirements of the CAA except as noted above.

Comment #4: OCE stated that EPA concludes the RECLAIM revisions are needed because the price of credits is too high. However prices have gone as low as $0.75/lb, and have remained virtually unchanged since the early 1990s.

Response #4: The SCAQMD's goal in adopting and submitting the subject rule revisions is to lower and stabilize RTC prices. Since December 2000, RTCs have sold for as much as $45,000/ton or $22.50/lb. EPA has not implied that $0.75/lb. is too high a price for RTCs. The $45,000/ton price is significantly higher than prices paid in the early 1990s and is well in excess of the $15,000/ton benchmark for triggering program reevaluation contained in the SIP-approved Rule 2015.

Comment #5: CBE stated that EPA is allowing the price of credits to drop further, thus allowing the current levels of pollution in the South Coast Air Basin to continue indefinitely.

Response #5: One intended effect of the current program rule revisions is to cause a decrease in the price of RTCs. The cap on the total amount of emissions from RECLAIM facilities has decreased steadily since program inception and will continue to do so through the year 2003. After this the cap will remain constant through the year 2010. This schedule has been unchanged since the inception of the RECLAIM program. Any temporary exceedence of the emissions cap allowed under the revised program rules will be offset by emissions reductions from non-RECLAIM sources or by reductions of future RECLAIM facility allocations.

Comment #6: CBE stated that it is illogical to allow power plants to pay mitigation fees since the price of RTCs is so low.

Response #6: As noted above, there has recently been significant volatility in the prices of RTCs. The Mitigation Fee Program is a temporary option that

power producing facilities will likely only choose to make use of if RTC prices exceed the mitigation fee. Emissions in excess of RTC holdings for which power plants pay mitigation fees will be offset by subsequent emissions reductions from non-RECLAIM sources or by reductions of future RECLAIM facility allocations at those power plants which exceeded their holdings.

Comment #7: OCE stated that the revisions to the RECLAIM program rules violate Sec. 110(l) of the CAA because exemptions provided for power producing facilities will interfere with attainment, RFP, and RACT. The mitigation fee program and exemptions given to power producers in Rules 2004 and 2010 will ''explode the emissions cap'' and interfere with attainment and RFP requirements. The proposed action and associated TSD should have explained the agency's finding that the SIP revisions did not interfere with RFP and attainment.

Response #7: There are no exemptions. Any emissions for which a facility does not possess sufficient RTCs will be offset either by concurrent emissions reductions obtained via the Air Quality Investment Program (for non-power producing facilities) or by concurrent emissions reductions or future reductions of emissions allocations via the Mitigation Fee Program (for power producing facilities). Any emissions for which concurrent offsets are unavailable will be compensated for by subsequent deductions from allocations. Thus the environment will be made whole and RECLAIM facilities will continue to have an incentive to comply with program requirements. The SCAQMD has achieved excess NO_X reductions at present so any temporal shift in RECLAIM reductions between now and 2005 will not affect RFP. Attainment is due in 2010 which is well after the Mitigation Fee Program ends so attainment will not be affected.

Comment #8: OCE stated that the revisions to the RECLAIM program rules immunize power producers from EPA and citizen suits in violation of CAA Section 110 and EPA guidance.

Response #8: While the RECLAIM requirements for power producers have been modified, citizens may still bring suit against RECLAIM facilities to enforce compliance with the revised program requirements.

Comment #9: CBE stated that the proposed SIP revisions remove the incentive for pollution control thereby frustrating RFP and delaying attainment.

Response #9: The RECLAIM cap remains unchanged from the current SIP-approved version of the program. While there may be temporary exceedences of the cap due to power plant emissions in excess of RTC holdings by such facilities, these exceedences will not interfere with RFP because they will be more than offset by surplus reductions already obtained by SCAQMD from mobile sources. Attainment will not be delayed because the MFP will end well before the attainment date.

Comment #10: OCE stated that EPA approved the program rule revisions solely on the basis that the revisions did not relax the SIP. *Hall* v. *EPA* requires EPA to do more.

Response #10: This was not the basis for our action. We performed the analyses described above pertaining to attainment, RFP, and RACT.

Comment #11: OCE stated that requirements for quarterly compliance are lifted for power producing facilities. Because pollution occurs on a daily basis, RECLAIM should continue to assure quarterly rather than annual compliance.

Response #11: The purpose of the quarterly compliance requirements is to assure that correct and timely demand signals are sent to the market and price signals are received by the facilities. Now that power producers are temporarily not allowed to buy credits from the RECLAIM market in general and their price is temporarily capped at $7.50/lb. (if they choose to participate in the MFP) the purposes of quarterly reconciliation are rendered moot for this period of time.

Comment #12: OCE stated that allocations will not be decreased until the year 2004. Sufficient reductions might not be obtained by then to offset all of the emissions of facilities utilizing the MFP.

Response #12: Allocations will be decreased if and when there is a shortfall of reductions obtained through projects funded via the MFP. This will happen beginning in the year 2003 (for year 2000 exceedences) and will end no later than the year 2005. By this point all power plant emissions will have been reconciled with RTCs, offset by reductions funded through the MFP, or deducted from facility allocations.

Comment #13: OCE stated that EPA's proposed action did not demonstrate that RECLAIM fulfills RACT requirements. Does the MFP interfere with RACT requirements by allowing facilities to exceed allocations until 2004?

Response #13: RACT-in-the-aggregate was demonstrated at the beginning of RECLAIM in 1993. Since then the emissions cap has declined significantly. RACT is required in the aggregate across all RECLAIM facilities only. There is no CAA requirement, under an EIP, that individual facilities or particular source categories meet RACT.

Comment #14: OCE stated that it is unclear what is meant by ''best available information'' which is the basis for environmental dispatch under Rule 2009. Also, Rule 2009 requires power producers to implement BARCT. What is the difference between BARCT and RACT?

Response #14: Rule 2009 was not submitted to EPA and is not part of this rulemaking. BARCT is defined under California state law and not under the CAA. This is a state-only requirement. As it happens, BARCT is more stringent than RACT.

Comment #15: OCE stated that Rule 2009 has not been submitted to EPA. Therefore the BARCT requirement for power plants will not be enforceable by citizens or EPA. Without the implementation of BARCT the MFP will fail.

Response #15: Such enforcement is not necessary to meet the requirements of the CAA. RFP is assured because of the excess NO_X reductions already obtained by the SCAQMD through mobile sources measures. Attainment will not be interfered with by the MFP since the MFP will no longer be in effect well before the attainment date. Power producing facilities may seek to offset any emissions in excess of their RTC holdings via the MFP. Their participation fees will be used by the SCAQMD to obtain offsetting reductions from non-RECLAIM sources. Any shortfall in reductions obtained will be made up for through deductions from future-year allocations for those facilities that experienced exceedences. The MFP is a temporary program that will end by 2005. All exceedences are required to be reconciled by this time irrespective of whether a power producing facility has installed BARCT.

Comment #16: OCE stated that EPA has approved ''pilot credits'' to be used in the MFP. How can credits not yet acquired meet the EIP requirements for surplus, quantifiable, enforceable, and permanent?

Response #16: EPA has not approved any credits but rather has approved credit generation rules that themselves contain protocols which will assure that credits generated thereunder will meet the EIP requirements. See 67 FR 5729, February 7, 2002.

Comment #17: OCE stated that EPA should have addressed all of the issues raised in these comments in the FRN and especially in the TSD. EPA should remove the proposed conditional

approval until these issues are fully explored and supported.

Response #17: The TSD and FRN listed the documents containing all of the criteria which were used in evaluating the submitted rules. It was not necessary or feasible to state explicitly in the FRN and TSD how each rule met each element contained in all of these documents. The explanation as to why the power plants were separated from the rest of the RECLAIM market and why they were required to put on controls is provided in the Staff Reports drafted by the SCAQMD for each of the subject rules and attached to the TSD as well as in the TSD itself. As stated in the TSD, the power producing facilities were separated from the rest of the RECLAIM market and trading was limited to isolate the rest of the market from RTC demands from the power producing facilities. The current SIP submittal does not require power producing facilities to install controls but does contain enforceable requirements that will assure that their emissions are reconciled with their RTC holdings. It should be noted that adopted state law does require these facilities to install controls.

The next two comments are summarized from letters CBE wrote to SCAQMD during development of five RTC generation rules and were attached to CBE's October 9, 2001 comment letter to EPA. Since CBE's October 9, 2001 letter is quite extensive and raises many of the same issues as its attachments, we believe the attachments were included only as background information and not intended as comments to our May 13, 2002 proposal. We also note that many of the issues in the attachments are not relevant to our proposal because they were raised in context of SCAQMD's local rulemaking. As a result, we do not believe we need to respond to the issues raised in the attachments. As a courtesy to the commenter, however, we have summarized and responded to these comments below.

Comment #18: CBE stated that the RECLAIM program has already violated California Health and Safety Code section 39616(c), which require EIPs to reduce emissions as much or more than the programs they replace. A generous estimate of actual overall reductions resulting from RECLAIM is 16% since 1993. Approving the RECLAIM amendments and associated credit rules will only exacerbate the problem. CBE also stated that the Mitigation Fee Program and the RECLAIM AQIP violate the equivalency requirement under State Law.

Response #18: On February 13, 2003, Jack P. Broadbent, Director of the Air Division for EPA Region IX, sent a letter to Catherine Witherspoon, Executive Officer of the California Air Resources Board (''CARB''), requesting assistance in responding to the above comments. Since CARB is the designated air pollution control agency for purposes of the preparation of SIPs (California Health and Safety Code section 39602) we asked CARB to advise us whether the substantive and/or procedural requirements of section 39616 apply to the promulgation of the RECLAIM revisions. Further we requested that if CARB believed that the requirements of section 39616 did apply, that CARB describe the actions taken by SCAQMD and CARB to comply with these requirements. In a letter dated April 24, 2003, from Catherine Witherspoon to Jack P. Broadbent, CARB responded to our request. CARB's April 24, 2003 letter noted that the subject rule revisions were adopted by SCAQMD and subsequently approved by CARB and submitted to EPA for incorporation into the SIP. In reviewing the SCAQMD rule revisions, CARB considered CBE's claims (which had been raised at that time) and interpreted the relevant provisions of state law. To summarize CARB's findings, they believe that the requirements of section 39616 are limited to the initial adoption of rules to implement the RECLAIM program and that review of amendments to some of the RECLAIM rules to implement necessary program adjustments are not subject to these provisions. CARB also pointed out that they reviewed the RECLAIM rule amendments substantively and are satisfied they do not undermine the SIP. For a much more detailed explanation of CARB's analysis see their April 24, 2003 letter, a copy of which can be obtained from EPA Region IX at the address listed above.

III. EPA Action

No comments were submitted that change our assessment of the rule as described in our proposed action. Therefore, as authorized in sections 110(k)(4) of the Act, EPA is finalizing a conditional approval of the submitted rules to improve the SIP. This action incorporates into the SIP both the submitted rules and the commitment to correct the identified deficiency within one year.

This conditional approval shall be treated as a disapproval if the SCAQMD fails to adopt rule revisions to correct the deficiency within the time allowed. If this rule is disapproved, sanctions will be imposed under section 179 of the Act unless EPA approves subsequent SIP revisions that corrects the rule deficiency within 18 months. These sanctions would be imposed according to 40 CFR 52.31. A final disapproval would also trigger the federal implementation plan (FIP) requirement under section 110(c). Note that the submitted rules have been adopted by the SCAQMD, and EPA's final conditional approval does not prevent the local agency from enforcing them.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

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.*)

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under sections 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed

into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, 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. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

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.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

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

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

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 6, 2003.

K. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 3, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 14, 2003.

Laura Yoshii,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(282)(i)(A)(2) and (c)(288)(i)(E) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(282) * * *

(i) * * *

(A) * * *

(*2*) Rules 2000, 2001, 2002, 2004, 2006, 2007, 2010, 2011, 2012, 2015, and 2020 adopted on May 11, 2001; and Rules 2011–2 and 2012–2 adopted on March 16, 2001.

* * * * *

(288) * * *

(i) * * *

(E) South Coast Air Quality Management District.

(*1*) Rule 2005 adopted on April 20, 2001.

* * * * *

[FR Doc. 03–22444 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[Petition IV–2002–1; FRL–7552–6]

Clean Air Act Operating Permit Program; Petition for Partial Objection and Partial Granting to State Operating Permits for TVA John Sevier Fossil Plant, Rogersville, TN and TVA Kingston Fossil Plant, Harriman, TN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to partially object and partially grant to a state operating permit.

SUMMARY: Pursuant to Clean Air Act section 505(b)(2) and 40 CFR 70.8(d), the EPA Administrator signed an order, dated July 2, 2003, partially denying and partially granting a petition to object to a state operating permit issued by the Tennessee Department of Environment and Conservation (TDEC) to the TVA John Sevier Fossil Plant located in Rogersville, Hawkins County, Tennessee and the TVA Kingston Fossil Plant located in Harriman, Roane County, Tennessee. This order constitutes final action on the petition submitted by attorney Reed Zars on behalf of the National Parks Conservation Association (Petitioner). Pursuant to section 505(b)(2) of the Clean Air Act (the Act) judicial review of this action is available to the extent the petition has been denied by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of this notice under section 307 of the Act.

ADDRESSES: Copies of the final order, the petition, and all pertinent information relating thereto are on file at the following location: EPA Region 4, Air, Pesticides and Toxics Management Division, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The final order is also available electronically at the following address:

FOR FURTHER INFORMATION CONTACT: Daphne Wilson, Air Permits Section, EPA Region 4, at (404) 562–9098 or *wilson.daphne@epa.gov.*

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review and, as appropriate, to object to operating permits proposed by state permitting authorities under Title V of the Act, 42 U.S.C. 7661–7661f. Section 505(b)(2) of the Act and 40 CFR 70.8(d) authorize any person to petition the EPA Administrator to object to a Title V operating permit within 60 days after the expiration of EPA's 45-day review period if EPA has not objected on its own initiative. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the state, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Reed Zars submitted a petition on behalf of the National Parks Conservation Association to the Administrator on November 18, 2002, requesting that EPA object to a state Title V operating permit issued by TDEC to TVA John Sevier Fossil Plant and Kingston Fossil Plant. The Petitioner maintains that the TVA permit is inconsistent with the Act because: (1) The permit condition fails to ensure compliance with the applicable opacity limits; (2) TDEC improperly shields the source from its requirement to independently certify compliance; (3) TDEC does not have the ability to make changes to the SIP without EPA approval.

On July 2, 2003, the Administrator issued an order partially denying and partially granting this petition. The order explains the reasons behind EPA's conclusion that the petitioner has demonstrated cause to reopen the permits based on the first and second issues. The order also explains the reason for denying the remaining claim.

Dated: August 25, 2003.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 03–22545 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 03–180]

Modification of the Commission's Rules; Local and State Government Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts revisions to the rules governing the Commission's Local and State Government Advisory Committee, which is composed of 15 elected and appointed officials of municipal, county, state, and tribal governments, and advises the Commission on a range of telecommunications issues for which these governments explicitly or inherently share responsibility or administration with the Commission. The revisions rename the Committee the Intergovernmental Advisory Committee to reflect the reallocation of two additional membership slots to tribal governments; limit its term of operations to two years, with an option for reauthorization at the end of the two-year period; and provide for greater diversity in the Committee's membership, including increased representation of rural interests and expertise in homeland security matters.

These modifications, and others adopted in the document, are intended to strengthen and improve the Committee's overall structure and operations and to maintain its intergovernmental nature and exemption from the requirements of the Federal Advisory Committee Act.

DATES: Effective September 4, 2003.

FOR FURTHER INFORMATION CONTACT: Jane Phillips, Intergovernmental Affairs, Consumer & Governmental Affairs Bureau, FCC, 202–418–1761.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order, FCC 03–180, adopted July 17, 2003, and released August 11, 2003. The complete text of the Order is available on the Commission's Internet site, at *http://www.fcc.gov*, and is also available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW., Washington, DC. The text may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B4202, Washington, DC 20554 (telephone 202–863–2893). To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY). This *Order* can also be downloaded in text and ASCII formats at *http://www.fcc.gov/statelocal/*.

Synopsis of the Order

1. The Order adopts revisions to the rules governing the Commission's Local and State Government Advisory Committee (Committee or LSGAC), which is composed of 15 elected and appointed officials of municipal, county, state, and tribal governments. The Committee advises the Commission on a range of telecommunications issues affecting local, state, and tribal interests. The rule changes adopted in the Order are intended to facilitate the Committee's ability to continue to provide meaningful advice to the Commission by strengthening and improving its overall structure and operations.

2. Over the past six years, the LSGAC has provided ongoing advice and information to the Commission on a broad range of telecommunications issues, for which the Commission explicitly or inherently shares responsibility or administration with local, county, state, or tribal governments. These include cable and local franchising, public rights-of-way, facilities siting, universal service, barriers to competitive entry, and public safety communications. Since its inception in 1997, the Committee has filed 31 ''Recommendations'' with the Commission.

3. Because the LSGAC is composed exclusively of state, local and tribal officials, it is not subject to the procedures set forth in the Federal Advisory Committee Act (FACA), and presently has no charter or expiration date. In keeping with the Commission's other advisory committees, which have typically been chartered for a period of two years, § 0.701 has been modified to provide for the sunset of the newly-formed Committee two years following its first scheduled meeting. The two-year limit on the Committee's term of operations also limits the duration of individual members' service on the Committee. The Chairman of the Commission may extend the Committee's term of service for an additional two years, consistent with the overall mission, goals and objectives of the Committee.

4. To preserve and enhance the effectiveness of the Committee's operations on a going-forward basis, the number of meetings held per year has been limited to minimize the burdens on Committee members and enable member-officials to attend meetings themselves, rather than sending a representative in their stead.

5. Several other revisions adopted in the Order are intended to maintain and strengthen the Committee's intergovernmental nature so as to ensure its continued qualification as an advisory committee exempt from the FACA. The Order clarifies that Committee members must be officials within the meaning of 2 U.S.C. 1534(b), the intergovernmental exemption from the FACA accorded intergovernmental communications between Federal officials and officials of state, local and tribal governments ''acting in their official capacities.'' *See* 2 U.S.C. 1534(b). The intergovernmental exemption targets communications with officials involved in the governmental process at the state, local and tribal levels, and the clarification will help to ensure that the Committee can continue to operate with the informality and flexibility that have proven so effective in the past and that inhere in its FACA-exempt status.

6. At the beginning of 2003, the Committee was composed of one state official, six municipal officials, two county officials, one local government attorney, one public utility commissioner, and one tribal official, was weighted heavily on the local side, and lacked sufficient rural representation. To address questions of balance and diversity of representation, the Order modifies the composition of the Committee to seven local, five state, and three tribal officials.

7. The Order increases tribal representation on the Committee from one to three seats to enhance the Commission's opportunities to hear directly from tribal government leaders. The Commission believes that an increase in the tribal voice is warranted if tribes are to commit their very scarce human and financial resources to Committee activities. The Committee has been renamed the ''Intergovernmental Advisory Committee'' to reflect its more diverse representation.

8. The Order also establishes guidelines for the application process that will ensure continued diversity in Committee membership. This is important if the Commission is to have access to that wide range of viewpoints and expertise which is critical to informed decisionmaking.

9. At the beginning of this year, two thirds of the LSGAC's members represented areas west of the Mississippi River. In general, the members represented large, urban metropolitan areas and counties or states containing densely populated urban centers. The Commission intends to use the Public Notice that commences the application process to solicit members from underrepresented geographic areas and from rural areas, in particular, and will seek input and guidance from organizations representing state, local and tribal interests, such as the National Association of Regulatory Utility Commissioners, the National Congress of American Indians, the National Governors Association, the National League of Cities, the U.S. Conference of Mayors, and others.

10. The Commission will also seek Committee members with specific expertise in homeland security matters, because the Commission must work closely with the communications and public safety communities to ensure the reliability and security of the nation's communications infrastructure.

11. As with all other advisory committees and joint boards, the Chairman of the Commission, or Commissioner designated by the Chairman, will oversee the new Committee's activities and serve as liaison between the Committee and the Commission. The Committee will continue to receive logistical assistance and staff support directly from the Chief, Consumer & Governmental Affairs Bureau.

Ordering Clause

12. The rule modifications adopted constitute rules of agency organization, procedure and practice. Therefore, modification of § 0.701 is not subject to the notice and comment and effective date provisions of the Administrative Procedure Act. *See* 5 U.S.C. 553(b)(3)(A), (d). Accordingly, *it is ordered* that, pursuant to sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), subpart G, § 0.701 of the Rules and Regulations of the Federal Communications Commission, 47 CFR 0.701, modified as set forth, *is adopted.* The rule, as modified, *is effective* September 4, 2003.

13. Part 0 of the Commission's rules is amended as indicated in the Rule Changes section of this summary, effective September 4, 2003.

List of Subjects in 47 CFR Part 0

Organization and functions (Government agencies).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 0 as follows:

■ 1. The authority citation for part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, 225, unless otherwise noted.

■ 2. Revise § 0.701 to read as follows:

§ 0.701 Intergovernmental Advisory Committee.

(a) *Purpose and term of operations.* The Intergovernmental Advisory Committee (IAC) is established to facilitate intergovernmental communication between municipal, county, state and tribal governments and the Federal Communications Commission. The IAC will commence operations with its first meeting convened under this section and is authorized to undertake its mission for a period of two years from that date. At his discretion, the Chairman of the Federal Communications Commission may extend the IAC's term of operations for an additional two years, for which new members will be appointed as set forth in paragraph (b) of this section. Pursuant to Section 204(b) of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1534(b), the IAC is not subject to, and is not required to follow, the procedures set forth in the Federal Advisory Committee Act. 5 U.S.C., App. 2 (1988).

(b) *Membership.* The IAC will be composed of the following 15 members (or their designated employees): Four elected municipal officials (city mayors and city council members); two elected county officials (county commissioners or council members); one elected or appointed local government attorney; one elected state executive (governor or lieutenant governor); three elected state legislators; one elected or appointed public utilities or public service commissioner; and three elected or appointed Native American tribal representatives. The Chairman of the Commission will appoint members through an application process initiated by a Public Notice, and will select a Chairman and a Vice Chairman to lead the IAC. The Chairman of the Commission will also appoint members to fill any vacancies and may replace an IAC member, at his discretion, using the appointment process. Members of the IAC are responsible for travel and other incidental expenses incurred while on IAC business and will not be reimbursed by the Commission for such expenses.

(c) *Location and frequency of meetings.* The IAC will meet in Washington, DC four times a year. Members must attend a minimum of fifty percent of the IAC's yearly meetings and may be removed by the Chairman of the IAC for failure to comply with this requirement.

(d) *Participation in IAC meetings.* Participation at IAC meetings will be limited to IAC members or employees designated by IAC members to act on their behalf. Members unable to attend an IAC meeting should notify the IAC Chairman a reasonable time in advance of the meeting and provide the name of the employee designated on their behalf. With the exception of Commission staff and individuals or groups having business before the IAC, no other persons may attend or participate in an IAC meeting.

(e) *Commission support and oversight.* The Chairman of the Commission, or Commissioner designated by the Chairman for such purpose, will serve as a liaison between the IAC and the Commission and provide general oversight for its activities. The IAC will also communicate directly with the Chief, Consumer & Governmental Affairs Bureau, concerning logistical assistance and staff support, and such other matters as are warranted.

[FR Doc. 03–22421 Filed 9–3–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 030602142–3212–02; I.D.051403C]

RIN 0648–AQ68

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 17

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP). Amendment 17 changes the Pacific Fishery Management Council's (Council's) annual groundfish management process from an annual to a biennial process. Amendment 17 is intended to ensure that the specifications and management measures process comports with a Federal Court ruling, to make the Council's development process for specifications and management measures more efficient so that more time is available for other management activities, and to streamline the NMFS regulatory process for implementing the specifications and management measures.

DATES: Effective October 6, 2003.

ADDRESSES: Copies of Amendment 17 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the website of the Office of the **Federal Register** at: *http://www/access/gpo.gov/su__docs/aces140.html*.

Background

A Notice of Availability for Amendment 17 to the FMP was

published on May 22, 2003 (68 FR 27972). NMFS requested comments on the amendment under Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) FMP amendment review provisions for a 60–day comment period, ending July 21, 2003. A proposed rule to implement Amendment 17 was published on June 13, 2003 (68 FR 35354). NMFS requested comment on the proposed rule through July 28, 2003. During the comment periods on the amendment and proposed rule, NMFS received two letters of comment, which are addressed later in the preamble to this final rule. Please see the preamble to the proposed rule for additional background on the fishery and on this rule. Further detail on Amendment 17 also appears in the EA/RIR/IRFA prepared by NMFS for this action.

NMFS approved Amendment 17 on August 20, 2003. Amendment 17 changes the Council's groundfish management process and the NMFS implementation process for specifications and management measures from an annual to a biennial process. Amendment 17 also structures Council development of specifications and management measures so that NMFS has adequate time to implement the biennial specifications and management measures through a notice-and-comment rulemaking. In the FMP, references to the annual specifications process are revised and the biennial fishing period is defined as being the new time unit for specifications and management measures implementation. The regulations to implement Amendment 17 primarily revise references to the annual specifications and management measures process in the Federal groundfish regulations at 50 CFR 660.301–360 so that they reflect the new biennial specifications and management measures process. Amendment 17 does not introduce new regulations or revisions to existing regulations that affect how the groundfish fleets conduct their fishing operations, which is the primary focus of Federal groundfish fishery regulations.

Comments and Responses

NMFS received two letters of comment on the proposed rule for Amendment 17. One letter was received from the U.S. Department of the Interior, providing general support for a more workable approach to groundfish management that provides adequate opportunity for public review and comment on changes to fishery regulations. The second letter was received from an environmental advocacy organization and contained more specific comments, which are addressed here:

Comment 1: We believe that a sentence in the proposed rule at 50 CFR 660.323(b)(1)(i) needs to be altered. That sentence, as laid out in the proposed rule reads: ''Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(i)(A) and (B) of this section.'' We believe that the sentence should read: ''Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on an inseason basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(i)(A) and (B) of this section.'' We think that the current language implies that parts of the biennial specifications could be established for the two-year period without notice and comment, which is not consistent with applicable law.

Response: The suggested change is unnecessary. The regulations say that ''routine management measures'' may be imposed or adjusted on a biennial or more frequent basis. This does not, however, mean that some measures in the biennial specifications and management measures package will be imposed without notice and comment rulemaking, just because some of the management measures will have been designated routine. The regulations at 660.323(b) state that management measures that have been designated as routine may be imposed through a single **Federal Register** document if good cause exists under the Administrative Procedure Act to waive notice and comment. Therefore, the regulations recognize the legal obligation to provide prior notice and an opportunity for public comment in order to change any regulation, while stating that in certain, limited circumstances this requirement may be waived. In addition, the regulations at 660.321 (a) state that management will be consistent with standards and procedures in the FMP. The FMP, as amended by this Amendment 17, establishes a biennial management process for establishing the specifications and management measures that specifically includes time for a notice and comment rulemaking.

Finally, it would not be accurate to say routine management measures may only be imposed or adjusted on an inseason basis, because they are also imposed or adjusted during the biennial process. During the biennial process being established by this Amendment 17, however, they will be imposed using notice and comment rulemaking.

Comment 2: We also believe that, in 50 CFR 660.323(b)(1)(i), the last phrase of the paragraph, in referencing paragraphs

§ 660.323(b)(1)(i)(A) and (B), could be read to authorize altering trip landing and frequency limits and size limits without notice and comment where the alteration might cause an exceedance of previously specified harvest levels, in order to ''extend the fishing season'' or ''minimize disruption of traditional fishing and marketing patterns.'' We recommend that NMFS add the phrase ''so long as the change in trip landing limits, trip frequency limits, or size limits would not result in total fishing mortality greater than previously specified harvest levels'' at the end of 660.323(b)(1)(i).

Response: The comment is beyond the scope of this rulemaking. The proposal this action implements is the multiyear management process, and regulatory changes are only being imposed to cover that action. The comment suggests revising language regarding the inseason adjustment process. However, the overriding direction for management measures, whether established preseason or adjusted inseason is to achieve, but not exceed, the specifications.

Classification

The Administrator, Northwest Region, NMFS, has determined that Amendment 17 is necessary for the conservation and management of the Pacific coast groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

NMFS prepared a final regulatory flexibility analysis (FRFA) describing the impact of this action on small entities. The initial regulatory flexibility analysis (IRFA) was summarized in the proposed rule on June 13, 2003 (68 FR 35354). The following is a summary of the FRFA.

Amendment 17 revises the Pacific Fishery Management Council's (Council's) annual groundfish management process so that it becomes a biennial process with time for notice and comment rulemaking to implement the biennial specifications and management measures. Amendment 17 is intended to ensure that the

specifications and management measures process responds to a court ruling in *Natural Resources Defense Council, Inc.* v. *Evans*, 316 F.3d 904 (9th Cir. 2002), to make the Council's development process for specifications and management measures more efficient in order to allow time for other management activities, and to streamline the NMFS regulatory process for implementing the specifications and management measures.

The comment period on this proposed rule (68 FR 35354, June 13, 2003) for this action ended on July 28, 2003. The agency received 2 letters of comment on the proposed rule, but none of the comments received addressed the IRFA. Comments on the proposed rule are addressed in the ''Comments and Responses'' section of this final rule.

This final rule will affect all participants in the West Coast groundfish fisheries. Approximately 2,000 vessels participate in the West Coast groundfish fisheries. Of those, about 500 vessels are registered to limited entry permits issued for either trawl, longline, or pot gear. About 1,500 vessels land groundfish against open access limits while either directly targeting groundfish or taking groundfish incidentally in fisheries directed at non-groundfish species. All but 10–20 of those vessels are considered small businesses by the Small Business Administration. There are also about 450 groundfish buyers on the West Coast, approximately 5 percent of which are responsible for about 80 percent of West Coast groundfish purchases. In the 2001 recreational fisheries, there were 106 Washington charter vessels engaged in salt water fishing outside of Puget Sound, 232 charter vessels active on the Oregon coast and 415 charter vessels active on the California coast.

This final rule does not impose any new reporting or recordkeeping requirements.

This rule is administrative in nature and is expected to have only a minimal economic impact on small entities. The action would maximize time for stock assessment scientists, Council staff, and NMFS staff to prepare documentation needed to implement specifications and management measures without disrupting the historic January 1 season start date. Under the proposed measure, vessel operators should be able to take advantage of whichever seasonal markets best fit their needs. Small vessel operators should not be forced to fish during inclement weather because of concerns about fishery closures during spring and summer months. Vessel operators afforded the privilege of fishing for both Dungeness crab and groundfish, or groundfish and shrimp, should be able to time their fishing trips based on the migratory patterns of their target species and the needs of their own marketing strategies and those of their associated processors. While implementing multi-year groundfish management will not alleviate all season-related management problems for fisheries participants, it should be a positive step toward improving the stability and certainty of seasonal groundfish allocations for participating harvesters. The improved science and management made possible with multi-year planning will help mitigate the closure cycle by stabilizing groundfish allocations and landings throughout the season.

The Council considered 4 alternatives to the proposed measure including a status quo alternative. All alternatives, with the exception of the status quo, would implement biennial specifications. Two of these alternatives considered a March 1 start date with different Council meeting schedules, and one alternative considered a May 1 start date. Given closure trends under the status quo, a March 1 start date would likely result in early allocation attainment and closures during December-February. The negative effects of this closed period would primarily be felt by vessels and processors that rely on the mid-winter flatfish fishery. Many West Coast flatfish species aggregate more closely during the winter months, lowering the bycatch rates of non-flatfish species in flatfish-directed fisheries. As with the status quo, recreational fishing tends to be slow during the winter months. Given closure trends under the status quo, a May 1 start date would likely result in early allocation attainment and closures during February-April period. This schedule would keep the fisheries open through stronger flatfish months and allow participants to switch between flatfish and Dungeness crab at will. A February-April groundfish closure could also have the negative effect of a very lean 3–month period between Dungeness crab fishing/processing season and the shrimp, salmon and albacore seasons. For some of the small boat fishers, this alternative could also mean a lack of fishing opportunity in their traditional start-up fishing months. Early spring recreational fishing opportunities could also be curtailed under this schedule.

The economic effects of changing the fishing year start date vary with each option and vary by which fishery sectors they affect. In general, the difference between the economic effects of a January 1 start date and a March 1 start date are neutral. A May 1 start date, however, would notably shift fishing effort and could result in small businesses having to reconsider their business practices and reschedule their fishing operations.

The Council will retain a 1–year specification of ABC and OY. This represents no change and will have no economic impact to vessels affected by the proposed rule. The Council also considered a two-year specification period. However, since early attainment of OY could lengthen closure periods under a 2–year specification of these targets, this alternative would be expected to have a potentially adverse economic impact on vessel profitability. With 2–year OYs, management measures would need to be more conservative at the start of the 2–year fishing period to hedge against early closures during the second year in the fishing period. The Council also considered a mixture of 1–year and 2–year specifications for different groundfish species. This approach could also have a potentially adverse economic impact on vessel profitability for vessels fishing under two-year specifications for the reasons listed above.

Compliance requirements do not go beyond general compliance requirements for operating in the Pacific Coast groundfish fishery.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: August 27, 2003.

Rebecca Lent,

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

■ For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ l. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.302, a new definition for ''Biennial fishing period'' is added and the definitions for ''Fishing year,'' and ''Reserve,'' are revised to read as follows:

§ 660.302 Definitions.

* * * * *

Biennial fishing period means a 24–month period beginning at 0001 local

time on January 1 and ending at 2400 local time on December 31 of the subsequent year.

* * * * *

Fishing year is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

* * * * *

Reserve means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

* * * * *

■ 3. In § 660.321, paragraphs (a) through (c) are revised to read as follows:

§ 660.321 Specifications and management measures.

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council.

(b) *Biennial actions.* The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks.

(c) *Routine management measures.* Management measures designated ''routine'' at § 660.323(b) may be adjusted during the fishing year after recommendation from the Council, approval by NMFS, and publication in the **Federal Register**.

* * * * *

■ 4. In § 660.323, paragraphs (a)(2)(ii)(C)(*1*), (a)(3)(i)(A)(1), (a)(3)(vi) introductory text, paragraph (b) introductory text, and paragraphs (b)(1)(i) introductory text and (b)(1)(ii) are revised to read as follows:

§ 660.323 Catch restrictions.

(a)* * *

(2)* * *

(ii)* * *

(C) *Cumulative limits.* (*1*) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in the **Federal Register**.

* * * * *

(3)* * *

(i)* * *

(A)* * *

(*1*) *Procedures.* The primary seasons for the whiting fishery north of 40°30′ N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

* * * * *

(vi) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (a)(3)(vi)(A) of this section are met. For purposes of this program, ''fishing day'' means a 24–hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative landings limits of the catcher vessels delivering to that mothership.]

* * * * *

(b) *Routine management measures.* In addition to the catch restrictions in this section, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the **Federal Register** if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. The following catch restrictions have been designated as routine:

(1) *Commercial limited entry and open access fisheries—(i) Trip landing and frequency limits, size limits, all gear.* Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, splitnose rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; and ''other fish'' as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraph (b)(1)(i)(A) and (B) of this section.

* * * * *

(ii) *Differential trip landing and frequency limits based on gear type, closed seasons.* Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks.

* * * * *

■ 5. In § 660.324, paragraphs (d) and (j) are revised to read as follows:

§ 660.324 Pacific Coast treaty Indian fisheries.

* * * * *

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

* * * * *

(j) *Black rockfish.* Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian tribes using hook and line gear will be established biennially for two subsequent one year periods for the areas between the U.S.-Canadian border and Cape Alava (48°.09′30″ N. lat.) and between Destruction Island (47°40′00″ N. lat.) and Leadbetter Point (46°38′10″ N. lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section, and not to the restrictions in other sections of this part.

* * * * *

■ 6. In § 660.332, paragraphs (a) introductory text, (b)(3), and (e) are revised to read as follows:

§ 660.332 Allocations.

(a) *General.* The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established biennially or annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

* * * * *

(b) * * *

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

* * * * *

(e) *Treaty Indian fisheries.* Certain amounts of groundfish may be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

* * * * *

■ 7. In § 660.333, paragraph (c)(2) is revised to read as follows:

§ 660.333 Limited entry fishery eligibility and registration.

* * * * *

(c) * * *

(2) The major limited entry cumulative limit periods will be announced in the **Federal Register** with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.

* * * * *

■ 8. In § 660.350, paragraph (a)(6) is revised to read as follows:

§ 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

(a) * * *

(6) *Accounting for the compensation catch.* As part of the harvest specifications process (§ 660.321), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle where it is practicable to do so.

* * * * *

[FR Doc. 03–22455 Filed 9–3–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 030612150–3214–02; I.D. 051503B]

RIN 0648–AQ94

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Regulatory Amendment

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement a regulatory amendment to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) that changes the management subareas and the allocation process for Pacific sardine. The purpose of this final rule is to establish a more effective and efficient allocation process for Pacific sardine and increase the possibility of achieving optimum yield (OY).

DATES: Effective August 29, 2003.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562–980–4036.

SUPPLEMENTARY INFORMATION: On April 28, 2003, the Pacific Fishery Management Council (Council) submitted a regulatory amendment to the FMP that proposed changing the management subareas and the allocation process for Pacific sardine. A range of options were analyzed in the Council's regulatory amendment, which included an environmental assessment, a regulatory impact review, and an initial regulatory flexibility analysis (IRFA). A proposed rule was published in the **Federal Register** on June 26, 2003 (68 FR 37995). The public comment period ended on July 28, 2003. The background on development of the amendment was explained in the proposed rule and is not repeated here.

The Council recommended a preferred option that: (1) Changes the definition of subarea A and subarea B by moving the geographic boundary between the two areas from Pt. Piedras

Blancas, CA at 35° 40′ 00″ N. lat. to Pt. Arena, CA at 39° 00′ 00″ N. lat., (2) moves the date when Pacific sardine that remain unharvested are reallocated to Subarea A and Subarea B from October 1 to September 1, (3) changes the percentage of the unharvested sardine that is reallocated to Subarea A and Subarea B from 50 percent to both subareas to 20 percent to Subarea A and 80 percent to Subarea B, and (4) reallocates all unharvested sardine that remain on December 1 coast wide. This procedure will be in effect for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline. Currently, Subarea A includes the area from Monterey, CA, north to the U.S.-Canada border. Subarea B includes the area south of Monterey, CA to the U.S.-Mexico border. Changing the boundary between the two subareas will move Monterey, CA to Subarea B, and the new geographic boundary will coincide with the boundary for the limited access and open access fisheries.

The change in the allocation system is viewed by the Council as an interim approach. The sardine resource has recovered after decades of low abundance and there is a more detailed process for allocating the resource among the fishing communities along the Pacific coast. The change will most likely avoid the need for an emergency rule to reallocate unharvested portions of the OY, which was necessary in 2002, and will have a greater possibility of achieving OY than the current allocation process. Information from resource surveys scheduled for the Pacific Northwest in 2003 and 2004 plus accumulated data on size and age of sardine from all areas of the fishery will improve the assessment model and provide better data for measuring the impacts of various allocation options for the longer-term.

Comments and Responses

Six letters were received from the fishing industry and one from the city of Monterey, CA. Two electronic mail messages were received. Most respondents opposed the proposed action. One comment was received on the IRFA and is addressed in the Response to Comment 10. Following is a summary of the comments received:

Comment 1: The proposed regulations do not comply with the Magnuson-Steven Fishery Conservation and Management Act (Magnuson-Stevens Act) because the proposed action overcapitalizes the fishery by allowing more vessels in the fishery than are Federally licensed.

Response: The final regulations comply with the Magnuson-Stevens Act. Amendment 8 to the FMP gives the reasons for having an open access area in the Pacific Northwest. Sardine will be available in the Pacific Northwest only when the biomass is around 750,000 mt or more. A high biomass allows benefits to be obtained by a larger number of harvesters. Amendment 8 cautions against investing heavily in harvesting sardine in this area because sardine exhibit wide fluctuations in abundance. The fishing season in the Pacific Northwest is also restricted by deteriorating sea conditions in the fall. The new allocation procedure is only valid through 2005. Resource surveys are being conducted in the Pacific Northwest to obtain better information on the status of Pacific sardine. At this time, there is no indication that there is overcapitalization in the Pacific northwest; however, fishing capacity in this area will be an issue when the Council begins review of alternatives for a longer term allocation procedure.

Comment 2: The Council did not take a precautionary approach when selecting its proposed action. Cooler sea surface temperatures indicate a potential shift in the ocean environment that will likely lead to a decline in sardine abundance. Action was taken without knowing the impact of harvesting the larger fish in the Pacific Northwest.

Response: Recognizing the role of temperature in sardine abundance is one of the risk averse measures utilized in the FMP. If the average sea surface temperature declines, the harvest rate will be reduced, which will yield a smaller harvest guideline, thereby protecting the resource. The size of the fish harvested involves two issues. One is that a disproportional harvest of larger fish in the Pacific Northwest may have a detrimental effect on the resource. Size and age data are collected all along the Pacific coast and, to date, there is no indication of a detrimental impact on the resource from harvesting relatively large fish in the north or relatively small fish in the south. The second issue is that the migration patterns of the resource are poorly understood; therefore, the relationship between fish harvested in the south and fish harvested in the north at any particular time is not known. Although uncertainty does exist, the model used to estimate the current biomass includes a factor to account for migration, which is based on information obtained from the historical fishery. Given the overall conservative harvest formula adopted by the Council, there does not appear to be any risk to the resource from implementing the proposed action.

Comment 3: Including Monterey in the southern California subarea risks preempting Monterey's fall harvest due to the much larger fishing industry in southern California.

Response: Monterey may be at some risk of preemption from southern California and the Pacific Northwest, but preemption is not likely at current harvest guideline levels. Under the current system, Monterey is at risk of early closure if there is strong participation from the northern fisheries, as in 2002. There is less risk to Monterey fisheries under the proposed new system because Monterey often has a strong fall fishery, which might be preempted by the summer fishery in the Pacific Northwest. The Council may address this issue when it considers a more permanent allocation process.

Comment 4: The net result of the proposed action will be to shift economic hardship from the open access area in the Pacific Northwest to the limited access area in California.

Response: Under the proposed alternative, the net gain in producer surplus above the status quo in the open access area would be $1,567,441. The net gain in the limited access area would be $288,712. Of all options considered, the proposed alternative has the largest net gain above the status quo for the limited access while still providing a net gain for the open access area. No economic hardships are anticipated from taking this action.

Comment 5: The proposed action perpetuates the coast wide overfishing of the sardine resource that has occurred from the recent expansion of the Mexican and Canadian harvest, which is not adequately accounted for in setting the harvest guideline.

Response: The Council determined that the proposed alternative is more likely to achieve OY than the status quo, and the analysis in the analytical documents supporting the conclusion. From current figures on the 2002 fishery, the total harvest by Mexico, Canada, and the United States was about 145,000 mt, close to 9,000 mt above the total allowable biological catch. There is no agreement between the United States and any other country on management; however, the harvest formula deals with this uncertainty in two ways. First, a percentage of the biomass is subtracted from the total biomass to account for harvest beyond the jurisdiction of the United States. Second, total removals from the resource in all sectors of the fishery are included in the calculation of the next

year's biomass estimate. A better way to manage the resource would be to have a management agreement with Mexico and Canada. Nevertheless, the formula in the FMP uses the best information available to account for harvests beyond U.S. jurisdiction and is designed to minimize the potential for overfishing. In 2002, the U.S. fishery left about 18,000 mt of the harvest guideline unharvested.

Comment 6: The proposed option encourages further expansion of the open access fishery, which includes more than 40 additional vessels, even though veteran California fishermen were denied limited entry permits.

Response: In 2002, 26 vessels landed sardine in the open access fishery off Oregon and Washington, of which six vessels held limited entry permits for the southern fishery. By the end of July 2003, however, sardine landings in the Pacific Northwest were about 3,000 mt below the landings through July 2002, about 75 percent of the 2002 landings. Only 18 vessels had participated. At this time, there is no indication that this regulation will lead to a substantial increase in the number of participating vessels in the Northwest. Amendment 8 assumes that since high biomass levels of Pacific sardine are transitory, the limited availability of sardine in the Pacific Northwest will tend to limit the number of participating vessels, while offering an opportunity for more northern fisheries to gain benefits when the sardine biomass is large. To date, neither the Council nor any other source of information has indicated a need to change this approach.

Comment 7: The economics of the fishery were not well addressed in California with regard to the impact of shifting the quotas to Oregon and Washington.

Response: Under the proposed option, an additional 2,200 mt is anticipated to be harvested off California. The proposed option provides the greatest increase in producer surplus for California in relation to the benefits that accrue to California from the nine options analyzed. The increase in the estimated Pacific Northwest harvest is not great enough to invite significant increases in vessels and processors in the Pacific Northwest. If the biomass and the harvest guideline increase substantially in the future, there would be pressure to increase capital investment, but larger harvest guidelines would produce this pressure even under the status quo.

Comment 8: If there is a cold water regime shift and the sardine biomass declines, this is a good reason for precaution and to avoid locking up a fixed 33 percent of the sardine quota in the open access fishery. A reduced quota will cause economic hardship on the traditional limited entry fishery.

Response: The harvest formula in the FMP is a risk averse approach to fishing mortality, and the proposed option does not allocate a fixed amount to any fishery. One-third of the harvest guideline would be initially allocated to Subarea A (Pacific Northwest); however, the unharvested portions of the harvest guideline in Subarea A and Subarea B (California) are added together and reallocated on September 1, 20 percent to Subarea A and 80 percent to Subarea B. The amount received in either area depends on performance of the individual fisheries and the limit set by the harvest guideline. The Council also intends to revisit this allocation issue in the near future. With regard to the economic impact on California fisheries, if the biomass declines, there would be economic consequences to all sardine fisheries under all options.

Comment 9: The proposed rule incorrectly assumes that southern California vessels can offset economic impact by fishing in Monterey, California, when such long distance travel is not possible for much of this fleet.

Response: The summary of the initial regulatory flexibility analysis states only that some vessels may be able to participate in more northern fisheries. However, there could be mitigation to a certain extent for some vessels by changing fishing locations to land larger, higher-priced sardines.

Comment 10: The regulatory amendment and the proposed rule do not include impacts on processors, many of which are small businesses.

Response: The impact on processors was addressed in the regulatory impact review, which included calculations of producer surplus based on data supplied by cooperating sardine processors. Some processors may be small businesses, but data are not available on processors in the way that ex-vessel revenue is available for individual vessels. In this regard, the best available data were used. No information on profitability of individual vessels was available, so ex-vessel revenue was used as a proxy for vessel profitability. The producer surplus figures are assumed to reflect profitability for processors in general, and the economic effect of the proposed action on processors is assumed to be related to ex-vessel revenue.

In considering the above comments, NMFS did not change the proposed rule.

Classification

The Administrator, Southwest Region, NMFS, determined that the FMP regulatory amendment is necessary for the conservation and management of the coastal pelagic species fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Assistant Administrator for Fisheries, NOAA (AA), finds that this final rule relieves a restriction under 5 U.S.C. 553 (c)(1), and thus is exempt from the 30 delay in the effective date requirement of 5 U.S.C. 553(d). This rule relieves a restriction because the allocation to Subarea A is likely to be reached before October 1. If the allocation is reached before October 1, the Subarea A fishery will be closed and the fishery will not be able to resume until the reallocation is completed on October 1 under the existing rule. In 2002, the Pacific Northwest fisheries landed more than 36,500 mt before October 1, and the fishery in northern California, which was included in Subarea A in 2002, landed more than 5,000 mt by October 1. The initial allocation to Subarea A in 2003 is 36,969 mt, lower than the allocation in 2002, when an emergency rule was necessary to keep the fishery open following a temporary closure. Keeping the fishery operating will increase landings by about 1,500 mt per week. At an ex-vessel price of $100/mt, this would generate $150,000 per week to fishermen and $300,000 to processors (based on 50 percent recovery rate and a sales price of $400/mt).

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

The Council prepared an IRFA which was summarized in the proposed rule published on June 26, 2003 (68 FR 37995). The Council prepared an FRFA that describes the economic impact of this action on small entities. Two specific comments were received on the IRFA, one regarding the possibility of some vessels minimizing impacts by fishing in more northern fisheries and one regarding the treatment of processors in the IRFA. Responses to these comments are contained in comments 9 and 10 in the preamble to the final rule. The following is the summary of the FRFA. The need for and objectives of this final rule are contained in the **SUPPLEMENTARY INFORMATION** of the preamble and in the proposed rule. Comments and responses regarding the economic impacts of this rule are contained in the preamble.

Approximately 140 vessels are permitted in the sardine fisheries off the U.S. West Coast; 65 vessels are

permitted in the Federal CPS limited entry fishery off California, while approximately 55 vessels are permitted in the sardine fisheries of the States. An additional 18 live bait vessels are permitted in southern California and 2 live bait vessels are permitted in Oregon and Washington. All of these vessels would be considered small businesses by the Small Business Administration. Therefore, there would be no disproportionate economic impacts resulting between small and large vessels under the proposed action. Because cost data are lacking for the harvesting operations of CPS finfish vessels, it was not possible to evaluate the economic impacts from estimated changes in sardine landings in terms of vessel profitability. Instead, economic impacts were evaluated based only on changes in sardine ex-vessel revenues compared to sardine landings under the status quo. Therefore, the difference between vessel revenues generated by 2003 proposed quotas and those generated by 2003 projected landings were used as a proxy for vessel profitability among the three regions evaluated. All projections utilized 2001 data because this was the best available data. CPS finfish vessels typically harvest a number of other species, including anchovy, mackerel, squid, and tuna. However, since data on individual vessel operations were not readily available, it was not possible to evaluate potential changes in fishing strategies by these vessels in response to different opportunities to harvest sardines under each of the allocation alternatives and what this would mean in terms of total ex-vessel revenues from all species.

Under the proposed action, sardine landings for CPS vessels for the entire West Coast are estimated to increase 9,846 metric tons (mt) from the status quo, with a corresponding increase in ex-vessel value of $1,077,540. As used by the Council, the ''status quo'' harvest levels reflect an increase of 10 percent from 2002 harvest levels. All of the coastwide harvest guideline OY would be caught by the end of the season under the proposed action. Sardine landings by vessels participating in the Oregon/Washington fishery were estimated to be 7,622 mt greater than the status quo (and more than 11,000 mt above the 2002 level), with ex-vessel revenues increasing by $873,526 relative to the status quo. Landings by CPS vessels that historically would have participated in the northern California sardine fishery would increase 2,449 mt above the status quo (and 4000 mt above the 2002 harvest level) with a corresponding rise in ex-vessel revenues of $228,035. Under the proposed action, a loss of 225 mt in landings relative to the status quo was estimated for vessels that historically fished out of southern California ports, which equates to foregone ex-vessel revenues amounting to $24,021, or approximately $370 per vessel, in lost ex-vessel revenue relative to the status quo. However, landing would still be about 4,900 mt greater than in 2002, and revenue would be almost 10 percent higher than in 2002. Twenty live bait vessels landed approximately 2,000 mt per year of mixed species from 1993 through 1997. Those landings were comprised mostly of Pacific sardine and northern anchovy. The estimated 18 live bait vessels fishing in southern California are expected to be only minimally impacted by this action similar to results for the CPS limited entry vessels fishing in that area. The two live bait vessels fishing in Oregon and Washington are not expected to be impacted by this action.

For the 65 CPS limited entry vessels that could participate in either the southern California or northern California sardine fisheries, the 225 mt reduction in harvest relative to the status quo represents a potential loss in ex-vessel revenues for the CPS vessels choosing to operate in southern California. If the 65 CPS limited entry vessels choose to fish in the traditional northern California sardine fishery, the potential gain in ex-vessel revenue for that fishery is estimated to be approximately $3,508 per vessel per year. However, this amount could be underestimated since data from the 2001 SAFE report show that only 27 CPS vessels landed in Monterey/Santa Cruz and only 13 CPS vessels landed in San Francisco.

Even though limited entry vessels based in southern California are not restricted from participating in the northern California or the open access Oregon/Washington sardine fisheries, it is unlikely that it would be profitable for all southern California vessels to do so due to additional travel time and fuel costs. However, any loss in profitability by the CPS vessels choosing to fish in southern California could be mitigated to a certain extent by moving northward to land larger, higher-priced sardines in northern California ports.

Vessels that participate in the Oregon/Washington sector of the fishery are estimated to increase ex-vessel revenues by $15,882 per vessel based on the estimated 55 state sardine permits issued. However, this figure may be underestimated since data show that, of the 35 Washington permitted vessels, only 19 vessels participated in these fisheries in 2002 with the majority of the catch accomplished by only 13 vessels.

The Council considered 3 alternatives to the proposed action in addition to the no-action alternative. All alternatives resulted in ex-vessel revenue gains of various magnitudes for the fishery as a whole. However, the proposed alternative yielded the greatest overall gain, with the least negative impacts to individual vessels from any one region while also providing the fishery with a high likelihood of achieving OY as required under the Magnuson-Stevens Act.

Alternative 1 (status quo)—With a 10-percent increase in harvest from 2002, total landings would be 101,061 mt and total ex-vessel revenues would amount to $10,587,481. Southern California vessels would realize ex-vessel revenues of $5,749,562, northern California vessels $1,039,424, and Oregon/Washington vessels $3,798,405.

Alternative 2 (start year with 66–33 allocation, subarea line to 39° N lat., September (50–50) reallocation, and December (coastwide) reallocation). Relative to 10 percent overall increase in the status quo, southern California vessels would lose 3,618 mt or $386,201 in ex-vessel revenues. Northern California vessels would gain 35 mt or $3,306, and Oregon/Washington would gain 10,108 mt or $1,158,314, for a net increase in coastwide ex-vessel revenues of $775,420.

Alternative 4 (start year with 66–33 allocation, subarea line not changed, September (50–50) reallocation, and December (coastwide) reallocation). Compared to the status quo, southern California vessels would realize no change in landings, northern California vessels would gain 274 mt or $25,518 in ex-vessel revenues, and Oregon/Washington vessels would gain 8,091 mt or $927,167. This results in an overall net increase of $952,685 in ex-vessel revenues.

Alternative 5 (start year with 66–33 allocation, subarea line to 39° N lat., September coastwide reallocation). Relative to the status quo, southern California vessels would lose 2,500 mt or $266,924 in ex-vessel revenues. Northern California vessels would gain 2,239 mt or $208,547, and Oregon/Washington vessels would gain 10,108 mt or $1,099,937, for a net increase in overall ex-vessel revenues of $1,099,937.

There are no new compliance requirements resulting from this rule. Two management subareas and the amount of the harvest guideline allocated to the subareas have been redefined, and the date unharvested

amounts of the resource are reallocated to the subareas has been changed. This action changes how the annual harvest is monitored, but imposes no compliance requirements on the fishing industry beyond those already in effect and well understood by those affected.

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: August 29, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is amended to read as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

■ 1. The authority citation for part 660 continues to read as follows:

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

■ 2. In § 660.503, paragraphs (b)(2) and (c)(1) are revised to read as follows:

§ 660.503 Management subareas.

* * * * *

(b) * * *

(2) Southern boundary—at 39°00′00″ N. lat. (Pt. Arena).

(c) * * *

(1) Northern boundary—at 39°00′00″ N. lat. (Pt. Arena); and

* * * * *

■ 3. Section 660.509 is revised to read as follows:

§ 660.509 Closure of directed fishery.

(a) The date when Pacific sardine that remains unharvested will be reallocated to Subarea A and Subarea B is September 1 for 2003 and 2004, and for 2005 if the 2005 harvest guideline is at least 90 percent of the 2003 harvest guideline.

(b) All unharvested sardine that remains on December 1 will be available for harvest coast wide.

■ 4. In § 660.511 new paragraph (f) is added to read as follows:

§ 660.511 Catch restrictions.

* * * * *

(f) The percentages of the unharvested sardine that are reallocated to Subarea A and Subarea B are 20 percent to Subarea A and 80 percent to Subarea B.

[FR Doc. 03–22548 Filed 8–29–03; 3:46 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 68, No. 171
Thursday, September 4, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 930

RIN 3206–AJ84

Employees Responsible for the Management or Use of Federal Computer Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a revision of its regulations concerning computer security awareness and training for employees who are responsible for the management or use of Federal computer systems. The purpose of the revisions is to streamline the regulations and make it clearer for expert and novice readers. This proposal will also facilitate timely access to changes in computer security training guidelines and supplementary information technology (IT) training and standards resources. Use of the National Institute for Standards and Technology (NIST) Web site accomplishes this and better supports the larger role that NIST provides in establishing computer security policy.

DATES: Comments must be received on or before October 6, 2003.

ADDRESSES: Send, deliver or fax written comments to Ms. Ellen E. Tunstall, Deputy Associate Director for Talent and Capacity Policy, U.S. Office of Personnel Management, Room 6551, 1900 E Street, NW., Washington, DC 20415–9700; e-mail *employ@opm.gov;* fax: (202) 606–2329.

FOR FURTHER INFORMATION CONTACT: LaVeen Ponds by TTY at (202) 418–3134, by fax at (202) 606–2329, phone at 202–606–1394 or e-mail at *lmponds@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing proposed regulations to revise the rules that govern the training of employees responsible for the management or use of Federal computer systems. The proposal refers the user to the National Institute of Standards and Technology (NIST) Web site, which will have the most current information on computer security awareness and training guidelines and removes text that is included on the NIST Web site, thus, streamlining the regulation where appropriate. Including the NIST Web site and removal of text such as definitions are not substantive changes. Therefore, we are using a shorter comment period of 30 days. The proposal actually provides users more timely access to the most current applicable definitions and guidelines. By including a Web site and removing text that is redundant, these regulations afford agencies the opportunity to be immediately aware of and come into timely compliance with changing computer security guidelines and requisite employee training for computer security. In light of current threats to national security through information technology systems, this immediate flexibility promotes the protection of Government computer security systems and ensures that the employees who use those systems are knowledgeable and vigilant in protecting them. This proposal will be effective immediately upon final publication.

E.O. 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with E.O. 12866.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would apply only to Federal agencies and employees.

List of Subjects in 5 CFR Part 930

Administrative practice and procedures; Computer technology; Government employees; Motor vehicles.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

Accordingly, OPM proposes to revise subpart C of part 930 of 5 CFR as follows:

PART 930—PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS)

1. Subpart C is revised to read as follows:

Subpart C—Employees Responsible for the Management or Use of Federal Computer Systems

Sec.

930.301 Computer security training program.

Authority: Computer Security Act of 1987, Public Law 100–235, January 8, 1988.

Subpart C—Employees Responsible for the Management or Use of Federal Computer Systems

§ 930.301 Computer security training program.

An Executive Agency head shall develop a plan for computer security awareness and training and

(a) Identify employees with significant security responsibilities and provide role-specific training in accordance with National Institute of Standards and Technology (NIST) guidance on computer security awareness and training available on NIST Web site, *http://csrc.nist.gov/publications/nistpubs/*, as follows:

(1) All users of information technology (IT) shall be exposed to security awareness materials at least annually. Users of IT include employees, contractors, students, guest researchers, visitors and others who may need access to IT systems and applications.

(2) Executives shall receive training in computer security basics and policy level training in security planning and management.

(3) Program and functional managers shall receive training in computer security basics; management and implementation level training in security planning and system/application security management; and management and implementation level training in system/application life cycle management, risk management, and contingency planning.

(4) Chief Information Officers (CIOs), IT security program managers, auditors and other security-oriented personnel (*e.g.*, system and network administrators, and system/application security officers) shall receive training in computer security basics; and broad training in security planning, system

and application security management, system/application life cycle management, risk management, and contingency planning.

(5) IT function management and operations personnel shall receive training in computer security basics; management and implementation level training in security planning and system/application security management; and management and implementation level training in system/application life cycle management, risk management, and contingency planning.

(b) Provide the computer awareness material/exposure outlined in NIST guidance on computer security awareness and training to all new employees within 60 days of their appointment.

(c) Provide computer security refresher training for agency employees as frequently as determined necessary by the agency, based on the sensitivity of the information that the employees use or process.

(d) Provide training whenever there is a significant change in the agency information security environment or procedures or when an employee enters a new position that requires additional role-specific training.

[FR Doc. 03–22487 Filed 9–3–03; 8:45 am]

BILLING CODE 6325–38–P

FEDERAL ELECTION COMMISSION

11 CFR Part 106

[Notice 2003–16]

Party Committee Telephone Banks

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed changes to its rules regarding the allocation of political party committee expenditures for telephone bank communications made on behalf of a presidential candidate. The proposed rules would address the proper allocation of a party committee's expenditures for such communications that refer to presidential and vice-presidential nominees when the party's other candidates are referred to generically, but not by name. The amount allocated as an expenditure on behalf of, or a contribution to, the presidential nominee would be subject to the limitations and prohibitions of the Federal Election Campaign Act of 1971. The Commission has not made any final decisions on the revisions proposed in this Notice. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before September 25, 2003. If the Commission receives sufficient requests to testify, it will hold a hearing on these proposed rules on October 1, 2003, at 9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *phone2003@fec.gov* and must include the full name, electronic mail address and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Jonathan M. Levin, Senior Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

A. Background

In the months leading up to a presidential general election, party committees, or party committees in conjunction with a principal campaign committee of a presidential nominee, may conduct a phone bank to get out the vote (''GOTV'') or otherwise promote the party and its candidates. Such phone banks may involve the reading of scripted messages that include a statement asking the person called specifically to vote, or get their family and friends out to vote, for the named presidential candidate and that then make a general promotional reference or references to the party's other candidates. An example would be: ''Please tell your family and friends to come out and vote for President John Doe and our great Party team.'' Given that no other Federal or non-Federal candidates are specifically mentioned, the question is whether the entire cost of the communication or only a portion of the cost should be attributed to the presidential candidate.

Current 11 CFR 106.1(a)(1) addresses the attribution of expenditures (including in-kind contributions, independent expenditures, and coordinated expenditures) for communications made on behalf of more than one clearly identified Federal candidate. It also addresses expenditures and disbursements on behalf of a combination of clearly identified Federal candidates and non-Federal candidates. In the case of communications other than fundraising communications, the expenditure is generally attributed to a candidate in accordance with the portion of the communication devoted to that candidate. For example, in a publication or broadcast communication, the attribution is determined by the space or time devoted to each candidate as compared to the space or time devoted to all candidates. Similarly, for a phone bank, the attribution is based on the number of questions or statements devoted to each candidate as compared to the total number of questions or statements devoted to all candidates.

Under one interpretation of section 106.1(a)(1), the disbursement for the political party phone bank described above would be 100 percent attributable to the presidential (and vice presidential) candidate because he or she would be the only candidate clearly identified. On the other hand, this section could be read to mandate an attribution of significantly less than fifty percent to the presidential candidate because the actual wording of the message emphasizes support for all the party's Federal and non-Federal candidates. To provide clear guidance as to the attribution of these types of phone banks, the Commission is proposing new 11 CFR 106.8, which is described below.

B. Proposed 11 CFR 106.8 Allocation of Political Party Committee Phone Banks That Refer to a Clearly Identified Presidential or Vice Presidential Nominee

The Commission proposes adding new section 106.8 to address phone banks conducted by national, State and local party committees on behalf of their presidential nominees. In presidential

election years, party committees conduct such phone banks to encourage voters to support the entire ticket. Although the specific mention of the presidential candidate provides something of value to the presidential candidate being promoted, it also provides the party with a benefit. In consideration of the fact that the presidential candidate is the only candidate identified, and balancing that fact with the use of the candidate's name for general party promotion purposes, the Commission seeks comment on two alternative approaches described below regarding phone bank expenses to be attributed to the presidential candidate.

Proposed 11 CFR 106.8(a) begins by stating the conditions under which the special attribution rule in proposed paragraph (b) would apply. First, the proposed rule would apply only if the provisions of 11 CFR 100.89 and 100.149 do not apply. They provide that, under specific conditions, the payment by a State and local party committee for voter registration and GOTV activities it conducts on behalf of a presidential or vice presidential nominee is exempt from the definitions of ''contribution'' and ''expenditure.'' These sections provide an avenue for State and local party committees to spend on behalf of publicly financed presidential candidates without making a coordinated expenditure or an impermissible contribution. This exemption does not include payments for ''any costs incurred in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising.'' 11 CFR 100.89(a) and 100.149(a). Phone banks are treated separately and qualify for the exemption when the phone banks are operated by volunteer workers (although the use of paid professionals to design the system, to develop calling instructions, and to train supervisors is permissible under the exemption). 11 CFR 100.89(e) and 100.149(e). Thus, the proposed rules in new 11 CFR 106.8 would not apply, and no amount would have to be attributed to the presidential candidate, if the phones are operated by volunteer workers and if the other conditions pertaining to the source of the funds used in 11 CFR 100.89 and 100.149 are satisfied.

Proposed paragraphs (a)(1) through (4) of section 106.8 would describe the communication that would be subject to the proposed rule. The communication would have to: refer to a clearly identified presidential or vice presidential nominee (proposed paragraph (a)(1)); refer to no other clearly identified candidate (proposed paragraph (a)(2)); and refer generically to the other candidates of the presidential nominee's party without clearly identifying them (proposed paragraph (a)(3)). Generic references to ''our great Republican team'' or ''our great Democratic ticket'' would satisfy the latter requirement. Moreover, under proposed paragraph (a)(4), the communication must not be used as a means to solicit contributions, donations, or any funds from any person for any Federal or non-Federal candidate, or for any political committee or political organization, or any entity disbursing funds in connection with a Federal or non-Federal election. If such a solicitation were made, it would change the nature of the communication and may require a different determination as to the attribution of the party's spending for the communication among candidates or committees.

Proposed section 106.8(b) includes two alternatives that would establish the attribution of the party committee's payments for the phone bank. Alternative A would provide that fifty percent of the disbursement must be attributed to the presidential and vice presidential nominees, and the remaining fifty percent would not be attributable to any Federal or non-Federal candidate but must be paid solely with Federal funds. Alternative B would provide that 100 percent of the disbursement must be attributed to the presidential and vice presidential nominees. The Commission seeks comment on which of these two alternatives is preferable, or on whether the percentage should be based on the actual space or time used to refer to the presidential nominee or some other factor.

If the party committee pays for the entire cost of the phone bank mentioning a publicly funded general election candidate (as opposed to the assumption of some of the cost by the presidential candidate's principal campaign committee), the payment may be, in some cases, either a coordinated expenditure under 2 U.S.C. 441a(d) or an independent expenditure under 2 U.S.C. 431(17). In the case of a non-publicly funded general election candidate, it may be either an in-kind contribution to the candidate, or a coordinated or independent expenditure.

The Commission also notes that, unlike the exempt payments in 11 CFR 100.89 and 100.149, a State party committee would be able to use coordinated expenditures (under 2 U.S.C. 441a(d)) to cover phone bank communications subject to proposed 11 CFR 106.8 only if the national party committee has made a written assignment of a specific amount of its spending authority to the State committee in an amount sufficient to cover the expenditure. *See* 11 CFR 109.33(a). The district or local party committee may spend some of the amount authorized by the national to the State committee, subject to the control of the State committee, which ensures that the entire party organization in the State stays within the assigned limit. *See* 11 CFR 109.33(b). The Commission seeks comment on whether the proposed rule should refer to this requirement or whether it is understood that this proposed rule would not exempt a State, district, or local party committee from these requirements.

Barring the unlikely event that the phone bank will involve 500 or fewer calls, a message such as, ''Please vote for President John Doe and our great Party team,'' would be a public communication that refers to a clearly identified Federal candidate and promotes that candidate. It would thus be a form of Federal election activity that must be paid for entirely with Federal funds, pursuant to 11 CFR 300.33(c)(1). *See* 11 CFR 100.24(b)(3), 100.26, and 100.28. Payments by a national party committee must be from Federal funds because such committees are prohibited from maintaining accounts that do not consist entirely of Federal funds. *See* 11 CFR 300.10(a)(1). Thus, under alternative A, the fifty percent that would not be attributed to the presidential nominee would have to be paid for entirely with Federal funds, and would not be allocable between Federal and non-Federal funds or Federal and Levin funds. Similarly, under Alternative B, the entire amount must be paid for with Federal funds.

C. Additional Comments Sought

In addition to the request for comment as to national party committee assignment of its coordinated expenditure authority, the Commission seeks comments on several aspects of the proposed rule. Specifically, comment is sought on whether this attribution should apply only to phone banks or whether it should apply to other media such as broadcast or print media. The Commission also seeks comment on whether the specific condition in 11 CFR 100.89 and 100.149—that the party expenditures not be made from contributions designated for particular Federal candidates—should be included in the

proposed rule. *See* 2 U.S.C. 431(8)(B)(xi)(3) and (9)(B)(ix)(3); 11 CFR 100.89 and 100.149. Finally, the Commission seeks comment on whether proposed 11 CFR 106 .8 should apply to candidates for the Senate and the House of Representatives as well as presidential candidates.

Certification of No Effect Pursuant to 5 U.S.C. 605(b) [Regulatory Flexibility Act]

The attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these proposals, which apply only to committees of political parties. National, State and many local party committees of the two major political parties and other political committees are not small entities under 5 U.S.C. 601 because they are not small businesses, small organizations, or small governmental jurisdictions. The proposed rules are intended to simplify the determination as to the amount of a party committee expenditure that must be attributed to a presidential candidate in the case of certain telephone bank communications and to clarify what funding is permissible. Any increase in the cost of compliance that might result from these proposed rules would not be in an amount sufficient to cause a significant economic impact.

List of Subjects in 11 CFR Part 106

Campaign funds, Political committees and parties, Political candidates.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend subchapter A of chapter 1 of title 11 of the *Code of Federal Regulations* as follows:

PART 106—ALLOCATIONS OF CANDIDATE AND COMMITTEE ACTIVITIES

1. The authority citation for part 106 would continue to read as follows:

Authority: 2 U.S.C. 438(a)(8), 441a(b), 441a(g).

2. New section 106.8 would be added to read as follows:

§ 106.8 Allocation of expenses for political party committee phone banks that refer to a clearly identified presidential or vice presidential nominee.

(a) *Scope.* Except as provided in 11 CFR 100.89 and 100.149, this section applies to a phone bank conducted by a national, State, district, or local committee or organization of a political party where—

(1) The communication refers to a clearly identified presidential or vice presidential nominee;

(2) The communication does not refer to any other clearly identified Federal or non-Federal candidate;

(3) The communication generically refers to other candidates of the presidential nominee's party without clearly identifying them; and

(4) The communication does not solicit a contribution, donation, or any other funds from any person.

Alternative A

(b) *Attribution.* Each expenditure for the phone bank described in paragraph (a) of this section (including an in-kind contribution, independent expenditure, and coordinated expenditure) shall be attributed as follows:

(1) Fifty percent of the disbursement for the phone bank is attributed to the presidential and vice presidential nominees; and

(2) The remaining fifty percent is not attributable to any other Federal or non-Federal candidate, but must be paid for entirely with Federal funds.

Alternative B

(b) *Attribution.* The entire amount of each expenditure for the phone bank described in paragraph (a) of this section (including an in-kind contribution, independent expenditure, and coordinated expenditure) shall be attributed to the presidential and vice presidential nominees.

Dated: August 29, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–22533 Filed 9–3–03; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 110, 113, 9004, and 9034

[Notice 2003–17]

Mailing Lists of Political Committees

AGENCY: Federal Election Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Election Commission requests comments on proposed additions to its rules covering the sale, rental, and exchange of political committee mailing lists. The proposed rules address when the proceeds of a political committee's rental or sale of its mailing list, or an exchange of its mailing list with another entity, would be considered a contribution to that committee subject to the limitations and prohibitions of the Federal Election Campaign Act of 1971. The proposed rules also address the personal use by a candidate of his or her authorized committee's mailing list. Finally, the proposed rules address the sale or rental of a mailing list by an authorized committee of a publicly funded presidential candidate. The Commission has not made any final decisions on any of the proposed revisions in this Notice. Further information is provided in the **SUPPLEMENTARY INFORMATION** that follows.

DATES: Comments must be received on or before September 25, 2003. If the Commission receives sufficient requests to testify, it will hold a hearing on these proposed rules on October 1, 2003, at 9:30 a.m. Commenters wishing to testify at the hearing must so indicate in their written or electronic comments.

ADDRESSES: All comments should be addressed to Ms. Mai T. Dinh, Acting Assistant General Counsel, and must be submitted in either electronic or written form. Electronic mail comments should be sent to *mailinglists@fec.gov* and must include the full name, electronic mail address and postal service address of the commenter. Electronic mail comments that do not contain the full name, electronic mail address and postal service address of the commenter will not be considered. If the electronic mail comments include an attachment, the attachment must be in the Adobe Acrobat (.pdf) or Microsoft Word (.doc) format. Faxed comments should be sent to (202) 219–3923, with printed copy follow-up to ensure legibility. Written comments and printed copies of faxed comments should be sent to the Federal Election Commission, 999 E Street, NW., Washington, DC 20463. Commenters are strongly encouraged to submit comments electronically to ensure timely receipt and consideration. The Commission will make every effort to post public comments on its Web site within ten business days of the close of the comment period. The hearing will be held in the Commission's ninth floor meeting room, 999 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Mai T. Dinh, Acting Assistant General Counsel, or Mr. Jonathan M. Levin, Senior Attorney, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: One of the principal assets of many political committees is their mailing list. Political committees develop their mailing lists to ensure a high response rate from potential contributors. Several advisory

opinions, audits, and enforcement matters have presented a number of issues concerning the rental, sale, exchange, disposition, and ownership of political committees' mailing lists.[1] Central to the analysis of these issues is whether the proceeds from these transactions are contributions to the political committees that are subject to the Federal Election Campaign Act of 1971, as amended (''FECA'' or ''the Act''), 2 U.S.C. 431, *et seq.* The Commission is beginning this rulemaking to adopt formally its historical approach to these issues, or to modify those approaches as appropriate, and to provide candidates and political committees with more comprehensive guidance on commercial transactions involving mailing lists.

I. Proposed Addition of 11 CFR 110.21 Committee Rental or Sale of Mailing Lists to Others

A. Background and Overview

The Act defines the term ''contribution'' to include ''any gift, subscription, loan, advance, or deposit of money or *anything of value* made by any person for the purpose of influencing any election for Federal office.'' 2 U.S.C. 431(8)(A)(i) (emphasis added); *see also* 11 CFR 100.52(a). The term ''anything of value'' is defined in the regulations as ''the provision of any goods or services without charge or at a charge that is less than the usual and normal charge for such goods or services.'' 11 CFR 100.52(d)(1). The ''usual and normal charge'' for goods is defined in 11 CFR 100.52(d)(2) as ''the price of those goods in the market from which they ordinarily would have been purchased at the time of the contribution.'' Under 11 CFR 100.52(d)(1), the provision of goods or services at less than the usual and normal charge is an in-kind contribution in the amount of the difference between the usual and normal charge and the amount charged the political committee. The regulations also provide, however, that the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution. 11 CFR 100.53.

Proposed 11 CFR 110.21 would state when certain transactions involving the sale or rental of a mailing list by a political committee are contributions to that committee and when they are not. Proposed paragraph (a) would list the conditions that would need to be satisfied for a mailing list rental payment to not be a contribution by the person leasing the mailing list. Proposed paragraph (b) would incorporate similar conditions for the sale of mailing lists. Proposed paragraph (c) would explain the ramifications of failing to comply with proposed paragraphs (a) or (b). Reporting would be addressed in proposed paragraph (d). Transactions between a candidate and his or her authorized committee would be covered in proposed paragraph (e).

B. 11 CFR 110.21(a)—Rental of Mailing List

Proposed 11 CFR 110.21(a) would affirmatively allow political committees to rent their mailing lists to other persons, including other political committees. Further, it states that the rental payments would not be treated as contributions if certain conditions pertaining to the rental charge and use of the mailing list are met. These conditions are explained in detail below.

1. Usual and Normal Charge

One of the key factors used by the Commission in determining whether a sale or rental of a mailing list results in a contribution is whether the amount paid is the usual and normal charge for the mailing list. *See* AO 2002–14. The usual and normal charge for a mailing list allows the Commission to determine whether the sale or rental of a political committee's mailing list is a transaction for equal value.

A mailing list that is frequently rented on the open market is likely to be listed and described in a catalogue such as the *SRDS Direct Marketing List Source.* For each of thousands of lists, the catalogue states the number of names on the list, the price per thousand names, the minimum number of names that must be ordered, fees for addressing services, the amount of the commission, and credit policies. If a political committee does not routinely rent out its mailing list, it might not be listed in such a catalogue. However, even if a mailing list does not appear in a catalogue, a reasonable rental price might be ascertainable so long as the valuator is aware of the significance of various factors in the market (*e.g.*, he or she knows how lists with comparable characteristics are valued, as well as the pricing ranges for comparable lists). The price may depend upon such factors as how recently the names were updated for accurate addresses, how responsive the individuals on the mailing list have been to other similar solicitations (particularly recent solicitations), the income level of the individuals, and the classification according to list industry sector or other subject matter. The Commission seeks comments on the ways in which mailing list rentals by political committees are similar and/or different from mailing list rentals by non-political entities.

Proposed 11 CFR 110.21(a)(1) would make ascertaining the usual and normal charge of a mailing list in advance one of the conditions that must be satisfied for the rental proceeds not to be contributions. This proposed regulation would not, however, define the factors that a committee should use to determine the usual and normal charge. Without any further specificity, the definition of ''usual and normal charge'' at 11 CFR 100.52(d)(2) and 100.111(e)(2) would apply. The Commission seeks comment on whether the rule in new 11 CFR 110.21 should specify the appropriate means for determining the usual and normal charge of a mailing list, and if so, whether this should be done by adding additional factors or in some other fashion. If the *SRDS Direct Marketing List Source* is not dispositive on the fair market value of a mailing list, are there other appropriate methodologies that can be used to determine the fair market value of a political committee's list that takes into account the unique nature of political mailing lists?

The Commission also seeks comment on whether the political committee that wishes to rent its mailing list should have the burden of establishing what the usual and normal rental charge is and, if so, whether it should be required to do so prior to renting the list. In the alternative, the Commission seeks comment on a proposed rule that would not specify who has the burden of establishing what the usual and normal charge is or when that charge must be established, but that would still require political committees to rent their mailing lists at the usual and normal charge in order to avoid receiving contributions from the lessees.

Proposed paragraph (a)(1) would also address the other services (*e.g.*, labels) provided with the mailing list in the ordinary course of business because other services appear to be priced separately. The Commission seeks comment on whether it is necessary to enumerate such services in paragraph (a)(1), or whether to assume that the usual and normal rental charge includes such services. Comment is also sought on whether services other than labels should be specifically mentioned in considering the usual and normal charge.

[1] *See* Advisory Opinions (''AO'') 2003–16, 2002–14, 1988–12, 1982–41, 1981–53, and 1081–46; Matters Under Review (''MURs'') 4382 and 4401 (Dole for President, Inc.), MUR 3371 (Americans United Committee), and MUR 1602 (Republican National Independent Expenditure Committee).

2. Rental at the Usual and Normal Charge With Commercially Reasonable Contractual Terms

Proposed paragraph (a)(2) of 11 CFR 110.21 would require that the mailing list (or list portion) be rented at the usual and normal charge for the contracted use of the list in a *bona fide* arm's length transaction with commercially reasonable contractual terms. Proposed paragraph (a)(2) would also indicate that if there is not a *bona fide* arm's length transaction, a rebuttable presumption would be raised that the exchange is not of equal value.

The Commission has relied on several signposts for ensuring that an arrangement between a political committee and another person constitutes a *bona fide* transaction, rather than serving as a vehicle for making a contribution to the committee. One of the most important of these signposts is whether the transaction represented a bargained-for exchange negotiated at arm's length. For example, the list rentals at issue in AO 2002–14 were approved on the condition that the lists be ''leased at the usual and normal charge in a *bona fide*, arm's length transaction.'' The very concept of ''fair market value,'' which is virtually identical to the concept of ''usual and normal charge'' as defined in the Commission's regulations, is defined by Black's Law Dictionary as ''[t]he price that a seller is willing to accept and a buyer is willing to pay on the open market and in an arm's length transaction.'' Black's Law Dictionary 1549 (7th ed. 1999). The Commission seeks comment on whether a lack of arm's length bargaining should result in a rebuttable presumption that the exchange is not for fair market value. *Cf. Rybak* v. *Commissioner,* 91 T.C. 524, 536–37 (U.S. Tax Court 1988) (in tax law, where transactions are frequently examined for whether they should be disregarded for lack of economic substance, ''[t]he absence of arm's length negotiations is a key indicator that a transaction lacks economic substance.'')

To provide guidance on what constitutes commercially reasonable terms, proposed paragraph (a)(2) of new 11 CFR 110.21 would list three factors, although other factors could be considered as well. These factors are intended to ensure that the rental agreement provides that the lessee uses the mailing list in a manner comparable to the use in normal commercial transactions, thereby preventing transactions where the lessee attempts to make a contribution in the guise of a rental payment.

Two factors, in proposed paragraphs (a)(2)(i) and (ii), would examine whether the rental agreement permits use within a specified time only and, if so, whether this specified time is a reasonable period of time. The inclusion of factors in proposed paragraphs (a)(2)(i), (ii) and (iv) is intended to ensure that actual use would occur and that delayed use would be based on reasonable business considerations, such as to avoid competing with a political committee solicitation to the same group of persons. The Commission seeks comment on whether it should define what is a ''reasonable'' period of time and, if so, how it should do so.

The other factor, at proposed paragraph (a)(2)(iii), would focus on the number and types of uses by the person leasing the mailing list to ensure that the rental agreement represents a *bona fide* commercial transaction consistent with industry norms and not a transaction used to provide something of value to the political committee. The use of the phrases ''usual and normal practice of the [list] industry'' and ''established procedures and past practice'' are consistent with the Commission's regulations on extensions of credit in the ordinary course of business. *See* 11 CFR 116.3(c). As to the number of uses under proposed paragraph (a)(2)(iii), the Commission seeks comments as to whether providing for more than one-time use would be commercially reasonable under industry practice. Should the rules establish a rebuttable presumption that multiple uses are not commercially reasonable?

The Commission seeks comment on the appropriateness of these factors and what other factors, if any, should be included. The Commission also seeks comment on whether the presence of a ''*bona fide* arm's length transaction'' should be required under the proposed rule, particularly if mailing lists are rented out at the usual and normal charge pursuant to commercially reasonable terms. If the Commission does require the presence of a ''*bona fide* arm's length transaction,'' should the Commission conclude that this requirement cannot be satisfied if committees of the same candidate, or party committees of the same political party, rent mailing lists from each other, or if a candidate's authorized committee rents a mailing list from an unauthorized committee such as that candidate's leadership PAC?

In addition, should proposed 11 CFR 110.21(a)(2) include a factor that considers whether a mailing list is developed over time by the political committee primarily for the political committee's own use? Conversely, should the proposed rules state that revenue generated from a mailing list that is owned by the political committee, but not developed over time by it for its own use, is not a form of fundraising, and therefore not a contribution? In AO 1991–34, the Commission stated that generally the use of a political committee's asset to generate income through ongoing business or commercial ventures is fundraising in another form. Consequently the proceeds from such ventures would be contributions. However, this advisory opinion also reiterated the Commission's statement in AO 1988–12 that if an asset such as a mailing list was developed by the political committee primarily for its own use and not as a fundraising activity, then income generated from that asset would not be contributions.

Lastly, while proposed paragraph (a)(4) would focus on the rental agreement, the proposed rule does not include provisions that would examine the conduct of the person leasing the mailing list once the rental has occurred, to verify that the person leasing the mailing list in fact uses the mailing list in accordance with the agreement. The Commission seeks comment on whether the proposed rules should include such a provision.

C. 11 CFR 110.21(b)—Committee Sale of the Mailing List

Proposed 11 CFR 110.21(b) would set forth the conditions under which the proceeds from the sale of a political committee's mailing list would not be a contribution by the purchaser to the political committee. Like proposed paragraph (a)(1), proposed paragraph (b)(1) would require that the political committee ascertain in advance the usual and normal charge for the sale of the mailing list. The political committee would also be required to sell the mailing list at that price under proposed paragraph (b). As in the case of charges for a list rental, the Commission seeks comment on whether the political committee that wishes to sell its mailing list should have the burden of establishing what the sale price is and, if so, whether it should be required to do so prior to selling the list. In the alternative, the Commission seeks comment on a proposed rule that would not specify who has the burden of establishing what the usual and normal charge is or when that sales price must be established, but that would still require political committees to sell their mailing lists at the usual and normal charge in order to avoid receiving contributions from the purchasers.

Proposed paragraph (b) would also include the condition contained in proposed paragraph (a)(2) that the sale agreement be a *bona fide* arm's length transaction on commercially reasonable terms, including terms that address the use of the list by the purchaser. The Commission again seeks comment on whether the presence of a ''*bona fide* arm's length transaction'' should be a separate requirement under the rule. Comment is also sought as to what factors are appropriate for determining the commercial reasonability of the sale of a mailing list. For the reasons discussed above, there would also be a rebuttable presumption that the exchange is not of equal value if the parties do not engage in a *bona fide* arm's length transaction.

The Commission also seeks comment on whether it is usual and customary in the commercial list marketplace for one entity to provide raw list data to another entity that updates and enhances the data and where both entities consequently have access to the list. If so, comment is sought as to whether such a transaction is a commercially reasonable exchange of equal value that would not be an in-kind contribution.

The Commission understands that outright sales of lists are not common and that the sale price of a usable list would be substantially greater than a rental price. This is particularly true for political committees because they depend upon their mailing lists for the solicitation of funds. In advisory opinions approving the sale (as opposed to rental) of mailing lists, the Commission considered one situation involving a terminating committee, and another situation involving a committee of a Federal officeholder that was selling assets to his gubernatorial campaign committee. AOs 1989–4 and 1981–53. In contrast to a terminating committee, an ongoing political committee's sale of a valuable list in an arm's length transaction, for which it would normally be paid a price much greater than the rental price, would be unusual. The Commission seeks comment on whether its understandings as to the frequency of sales and the differences between sales prices and rental charges are correct. More specifically, the Commission also seeks comment as to the likelihood of, and the circumstances surrounding, an ongoing political committee selling its mailing list (as opposed to updating its current lists).

Related to comments on actual ongoing practices with respect to mailing lists, the Commission seeks comment on whether proposed 11 CFR 110.21(b) should contain a condition that the political committee must be preparing to terminate because the sale of a mailing list by an ongoing political committee is so unusual that it would be *per se* commercially unreasonable. Should the Commission prohibit the sale of mailing lists other than in certain limited circumstances on the basis that there is no readily ascertainable market value for such lists? If not, what sources should the Commission look to in order to determine an objective value for the sale of mailing lists? Furthermore, if the Commission decides to adopt a rule that would limit the sale of a political committee's mailing list to a specified period before it files a termination report, should the Commission adopt exceptions to this special rule? For example, does a purchaser of a political committee's mailing list make a contribution to that committee if the list has not been updated recently and is of substantially depreciated value?

D. 11 CFR 110.21(c)—Rental or Sale Proceeds

Under proposed 11 CFR 110.21(c)(1), a transaction that does not comply with the conditions set forth in proposed paragraphs (a) or (b) would be fundraising, and thus would be treated as an in-kind contribution to the political committee, subject to the applicable limits and source prohibitions of the Act. The contribution amount would be the entirety of the rental or sales proceeds (not just the difference between the usual and normal charge and an amount paid that exceeds that charge). Treatment of the entire payment for a mailing list as a contribution would be consistent with 11 CFR 100.53, which states that ''the entire amount paid as the purchase price for a fundraising item sold by a political committee is a contribution.'' Nevertheless, the Commission seeks comment on including in proposed paragraph (c)(1) the opposite approach of setting the amount of the contribution as the amount paid that exceeds the usual and normal charge for the sale of the mailing list.

While proposed 11 CFR 110.21(c)(1) would address sale or rental of mailing lists at an amount that exceeds the usual and normal charge, proposed paragraph (c)(2) would retain the current rule at 11 CFR 100.52 for situations where a political committee donates or transfers its mailing list or rents or sells its mailing list at less than the usual or normal charge.

E. 11 CFR 110.21(d)—Rental or Sale to the Candidate

Proposed 11 CFR 110.21(d) would address situations where an authorized committee sells or rents its mailing list to the candidate who formed the authorized committee. The proposed rule would treat the amount paid by the candidate for the mailing list as a contribution from the candidate to the authorized committee in that amount. This provision would recognize that a transaction between these two parties is not at arm's length.

F. 11 CFR 110.21(e)—Reporting of Proceeds

Proposed 11 CFR 110.21(e) would require that proceeds from the rental or sale of a mailing list that complies with the provisions of proposed section 110.21 be reported as ''other receipts.''

G. 11 CFR 110.21(f)—Recordkeeping

Proposed 11 CFR 110.21(f) would set forth the recordkeeping requirements associated with the sale or rental of a political committee's mailing list. Proposed paragraph (f)(1) would require that political committees maintain and make available the sales or rental agreements. These agreements must be signed and dated. Proposed paragraph (f)(2) would require documentation of the usual and normal charge for a political committee's mailing list. For a mailing list that is listed in the *SRDS Direct Marketing List Source,* the political committee would need to retain a copy of the price list for its mailing list in the *SRDS Direct Marketing List Source* under propose paragraph (f)(2)(A). For a mailing list that is not listed in the *SRDS Direct Marketing List Source,* the political committee would need to obtain a written appraisal from an independent entity. The Commission seeks comment on whether a written appraisal from an independent entity is the appropriate documentation of the usual and normal charge when a mailing list is not in the *SRDS Direct Marketing List Source.* Are there other ways to document the usual and normal charge? Should the rules include more specific requirements regarding the independent entities, such as that they are in the business of appraising the fair market value of mailing lists? Do such entities exist?

H. Other Issues

1. Allocation of Rental Proceeds

The Commission notes that in some cases a political committee's mailing list may be developed with non-Federal, as well as Federal funds, and that, under the proposed rule, the entire amount received from the rental or sale of the list may be deposited in the Federal account without being subject to the amount limitations and source

prohibitions of the Act. The Commission seeks comment on whether proposed 11 CFR 110.21 should specify that only some allocable portion of the rental proceeds, rather than all of the rental proceeds, may be deposited and retained in the committee's Federal account, and that the remainder should be deposited in the non-Federal account, provided that the political committee is permitted to have a non-Federal account under 11 CFR 106.6, 106.7 or part 300.

One possible allocation rule is that the Federal account may only accept and use the portion of the proceeds that reflects the Federal portion of the committee's cost in developing the list. Another possibility is that the Federal account may only accept and use the amounts corresponding to the Federal share of administrative expenses applicable to the political committee under 11 CFR 106.6(c) or 106.7(d)(2). This approach recognizes that the list's development may have been paid for as allocable administrative expenses. If such splitting of the deposit of the rent proceeds is required, comment is also sought on whether national party committees would be allowed to retain the entire amount of proceeds from the rental of lists developed with mixed funds prior to the effective date of the Bipartisan Campaign Reform Act of 2002 (''BCRA''), Pub. L. 107–155 (Mar. 27, 2002), in view of the fact that under BCRA they only have accounts with Federal funds.

2. Scope of Proposed Mailing List Rules

The proposed new rules in 11 CFR 110.21 would apply in the same manner to both authorized and unauthorized committees, *i.e.*, party committees, multicandidate committees, and other kinds of political committees. Nevertheless, the Commission seeks comments as to whether there are material distinctions between different types of political committees that should be reflected in the new mailing list provisions.

II. Proposed 11 CFR 110.22 Committee Exchange of Mailing Lists

A. Background

The Commission has, in its advisory opinions, addressed list exchanges by political committees with other organizations and has concluded that where the exchange is for equal value, a contribution is not made to the political committee. AOs 1982–41 and 1981–46; *see also* AOs 2003–16 and 2002–14. Such exchanges allow each organization or political committee to seek new potential donors, and often allow each organization to add the names of individuals from the other mailing list to its own list where those individuals responded to that organization's solicitation. AO 1981–46 noted variations of equal exchange that went beyond ''a direct exchange of the same number of names.'' In some cases, one organization may use fewer names more times, or the exchange may involve different numbers of names where the names on one mailing list may have a different market value than the names on the other list, or other variations dependent upon the frequency of use or the value of the names.

B. 11 CFR 110.22(a)—Exchanges of Equal Value

Proposed 11 CFR 110.22 would describe the conditions under which a political committee may exchange its mailing list with another organization without receiving a contribution, donation, or other reportable receipt. Proposed paragraph (a) would follow, in some respects, the proposed rules on mailing list rental and sale regarding the period of time and number of uses of the mailing list. It would treat the exchange as neither a contribution nor a reportable receipt if: (1) The usual and normal charge for the mailing list and the services ordinarily provided in the list exchange is ascertained in advance; (2) the mailing lists involved in the exchange are of equal value, as discussed below; and (3) the actual exchange is a *bona fide* arm's length transaction with commercially reasonable terms. For the reasons discussed above, there would also be a rebuttable presumption that the exchange is not of equal value if the parties do not engage in a *bona fide* arm's length transaction. ''Equal value'' would be defined in proposed paragraph (a)(3)(i) in terms of the usual and normal rental value of each organization's or political committee's mailing list, or list portion being exchanged, as well as the agreed upon use by the organization, and the services provided. Proposed paragraph (a)(3)(ii) would also address the timing of the use of the exchanged lists, including delayed use if provided for in the agreement.

The Commission seeks comment on whether, and under what circumstances, multiple uses of a mailing list would be commercially reasonable; when delayed use would be reasonable; and whether the rule should address delayed use. Comment is also sought on how to determine the usual and normal charge, and whether the proposed rule should affirmatively mandate that the mailing lists be used in a manner consistent with the list exchange agreement. The Commission also seeks comment on whether the proposed rule should require that each party to the exchange establish the fair market value of its own list in advance in order to avoid treating the transaction as entailing an in-kind contribution. The Commission also seeks comment on whether the presence of a ''*bona fide* arm's length transaction'' should be required, particularly if it has been otherwise established that the exchange of the mailing lists is an exchange of equal value. Moreover, can the requirement of a ''*bona fide* arm's length transaction'' be satisfied even if campaign committees of the same candidate, or party committees of the same political party, rent mailing lists from each other or if a candidate's authorized committee rents a mailing list from an unauthorized committee such as a leadership PAC?

The Commission also seeks comment on whether the political committee's ability to use the names on the other organization's mailing list to solicit contributions to the Federal account is affected by whether funds from the committee's non-Federal account were used to develop the committee list. (*See* the discussion above on allocation in proposed 11 CFR 110.21.)

Another issue raised previously with respect to the sale of mailing lists may more appropriately relate to the exchange of lists. Specifically, the Commission seeks comment on whether it is usual and customary in the commercial list marketplace for one entity to provide raw list data to another entity that updates and enhances the data and where both entities consequently have access to the list. If so, comment is sought as to whether such a transaction is a commercially reasonable exchange of equal value that would not be treated as an in-kind contribution.

C. 11 CFR 110.22(b)—Exchanges of Unequal Value

Proposed 11 CFR 110.22(b) would address an exchange of mailing lists that does not comply with proposed paragraph (a). Where the value of the mailing list provided by the other person exceeds the value of the political committee's mailing list, only the excess amount is a contribution. This is in contrast to proposed 11 CFR 110.21(c), where the entire amount is a contribution. Also, while proposed 11 CFR 110.21 would treat a sale or rental of a mailing list at a charge that is greater than the usual or normal charge as a fundraising activity that is subject

to 11 CFR 100.53, proposed section 110.22(b) would treat the exchange of mailing lists of unequal value as a good or service that is provided at less than the usual and normal charge under 11 CFR 100.52(d)(1). Consequently, the difference in value between the two mailing lists exchanged would be an in-kind contribution. 11 CFR 100.52(d)(1). The Commission seeks comment on whether this characterization of the exchange of mailing lists of unequal value as an in-kind contribution is appropriate.

III. Proposed 11 CFR 113.2(d) Conversion of Committee's Mailing List to Personal Use

Both 2 U.S.C. 439a, and the Commission's regulations at 11 CFR part 113, bar candidates and other persons from converting to personal use any contributions or donations. This ban is not limited to monetary contributions. Consequently, the Commission has interpreted the personal use ban to apply to assets of the principal or authorized campaign committee, as well as the actual funds in the committee accounts. *See* AOs 1994–20, 1990–11, 1984–50, and 1981–11; *see also* 11 CFR 102.3(a)(2) and 113.2(e)(1)(ii). These assets may have been purchased through the use of funds from contributions or may have been donated to the authorized committee during the campaign. One of the principal assets of a political committee is its mailing list because it is vital to the committee's ability to solicit funds.

On some occasions, particularly after the end of his or her campaign, a candidate may wish to market the mailing list for the rental of names to other organizations and may wish to receive rental proceeds personally. These situations may raise questions as to whether the candidate has a personal ownership interest in the list. The candidate's receipt of proceeds from the rental or sale of the mailing list squarely presents the issue of whether the restrictions of 2 U.S.C. 439a apply. Proposed 11 CFR 113.2(d) would address this issue by explicitly banning the conversion to personal use of the mailing list itself, such as by barring a candidate from retaining the proceeds of a mailing list rental or sale.

In the alternative, the Commission seeks comment on whether a candidate's receipt of proceeds from the rental or sale of a mailing list, or portions thereof, could be permissible under 2 U.S.C. 439a. If permissibility were based on a candidate's ownership of a list or a share of the mailing list, how would the candidate obtain such ownership interest? Could a candidate acquire personal ownership, through purchase or other consideration, of a mailing list developed by his or her principal campaign committee? Is the candidate's signature adequate consideration for candidate ownership of the resulting mailing list? Is such ownership interest assumed on some other basis? The Commission seeks comment on whether the determination of ownership of the mailing list should be premised on who or what entity (*i.e.*, the candidate as opposed to the committee) incurred the costs for the development or purchase of the list or the portion of the list being rented or sold. The Commission also seeks comment on whether a candidate may acquire personal ownership of a list in other ways. For example, a candidate may sign a fundraising appeal for an organization other than his or her principal campaign committee and receive the use of responsive names, in compliance with Commission regulations. Should the use of the list be viewed as a property interest of the candidate's principal campaign committee, the candidate personally, or both? How significant to that determination are the terms of an agreement purporting to confer a property interest on the principal campaign committee, the candidate personally, or both?

The Commission also seeks comment on situations where the candidate owns a mailing list. If the authorized committee uses the mailing list, has it accepted a contribution from the candidate? How should the use be valued? Should the valuation be based on the sale or rental price for the mailing list? Additionally, how should this transaction be reported?

IV. Proposed 11 CFR 9004.9(d)(2)(i) and 9034.5(c)(2)(i)—Rental, Sale, and Valuation of Mailing Lists by Publicly Financed Campaigns

The proposed rules at 11 CFR 9004.9(d)(2)(i) and 9034.5(c)(2)(i) would include the mailing lists of an authorized committee of publicly financed presidential candidates as assets on the candidates' statements of net outstanding campaign obligations (''NOCO'') for the primaries and on the candidates' statements of net outstanding qualified campaign expenses (''NOQCE'') for the general election, under certain circumstances. Thus, the proposed rules would recognize a presidential campaign committee's use of its mailing list as an income producing asset and would provide that a committee may only rent or sell the mailing list if the list is included as an asset in the NOCO or NOQCE statements. However, the proposed rules at 11 CFR 9004.9(d)(2)(i) and 9034.5(c)(2)(i) would not require the publicly funded committee to include the list as an asset on the NOCO or NOQCE statements if it does not rent or sell the list.

Since 1976, the Commission has not required as a *per se* matter, the inclusion of a mailing list as an asset in NOCO and NOQCE statements, even though a political committee's mailing list is almost invariably one of the most important assets of a political committee. Some presidential campaign committees have indeed rented their lists, or portions thereof, to other political committees or organizations and therefore have received proceeds, which may show up on a NOCO or NOQCE statement as cash.

The current rules list ''capital assets'' and ''other assets'' as types of assets listed on the NOCO and NOQCE statements. Unlike ''other assets,'' capital assets have special valuation rules accounting for depreciation. A mailing list developed by a political committee is usually a unique asset developed for the special needs of the committee, and the proposed rules would add mailing lists as a special category of assets. The proposed rules would not subject mailing lists to the depreciation rules for ''capital assets.'' The proposed rules at 11 CFR 9004.9(d)(3)(i) and 9034.5(c)(3)(i) explain that the list would be considered an ''other asset;'' therefore, it would be valued at ''fair market value'' without depreciation factored in. The proposed rules would give specific guidance as to the fair market value of a mailing list (discussed below).

As indicated above, the proposed rules in 11 CFR 9004.9(d)(3)(ii) and 9034.5(c)(3)(ii) would specify that the mailing list may be rented or sold only if its fair market value is listed on the NOCO and NOQCE statements. These proposed rules also would require that any such rental or sale be in compliance with the conditions of the proposed rule at 11 CFR 110.21, which describes when a committee may rent or sell a mailing list to others without the proceeds becoming contributions. Transfer of a mailing list from a candidate's primary committee to his or her general election committee would not require the principal campaign committee to include a value for its mailing list on its NOCO statement. However, the donation or transfer of the mailing list to another entity (including the candidate's general election committee, the candidate's general election legal and accounting compliance fund (GELAC) or a leadership PAC) would be

subject to proposed 11 CFR 110.21(c)(2), which would apply 11 CFR 100.52 to such transaction. The Commission also seeks comment on whether donations or transfers that are not sales or rentals should trigger the requirement to include a value for a mailing list on the NOCO or NOQCE statements even if the donation or transfer is to the presidential candidate's GELAC or other authorized committees.

Finally, the proposed rules at 11 CFR 9004.9(d)(3)(iii) and 11 CFR 9034.5(c)(3)(iii) would explain how fair market value would be determined for purposes of the NOCO and NOQCE statements. The proposed rule would allow the presidential campaign committee renting or selling its list to have two choices. For primary candidates, the list would be valued at either: (1) the usual and normal rental revenue that the committee would receive if it rented the list to others over an 18 month period beginning on the date of ineligibility (''DOI''); or (2) the usual and normal sale price at DOI. For general election candidates, the list would be valued at either: (1) the usual and normal rental revenue over the 12-month period beginning on the date of the general election; or (2) the usual and normal sale price as of the date of the election.

Under these proposed rules, Presidential campaign committees would need to estimate the usual and normal rental revenue. This in turn would involve estimates as to how often the committee will rent out the mailing list over the applicable period, as well as the rental value of the list (*e.g.*, $X per 1,000 names). The value may depend upon the rental price of comparable mailing lists and, if comparability is not easily ascertainable, such factors as how recently the names were updated for accurate addresses, how responsive the individuals on the list have been to other similar solicitations (particularly recent solicitations), the income level of the individuals on the list, and the classification according to the list industry or other subject matter. (*See* the discussion above of proposed 11 CFR 110.21(a)(1).) Estimates of the sale price would be based on similar information. The Commission seeks comment on whether the presidential campaign committee should have the burden of establishing the usual and normal rental value and, if so, whether it must establish this value before the mailing list is rented. *See* the request for comments with respect to proposed 11 CFR 110.21.

The proposed rules would provide for a limited time period for the measurement of the rental revenue, *i.e.*, the 18-month and 12-month periods. This recognizes that these campaign committees are in the process of winding down their activities. The 18-month and 12-month periods generally fall within the winding down periods and may very well expire before the end of such periods. Please note that continued or frequent renting out of the mailing list to raise funds beyond what is necessary to pay off debts would be inconsistent with the winding down of campaign activities. The Commission seeks comment on whether mailing list rentals or sales by presidential campaigns should be limited by the amount necessary to pay off the authorized committee's debts.

In the case of either rental or sale, the NOCO and the NOQCE statement would be adjusted subsequently by the actual rental or sale price for the mailing list, similar to the practice of revising those statements to replace estimated winding down costs with actual cost figures. In the case of list rental, the final NOCO or NOQCE statement (which will most likely be filed after the expiration of the 18-month or one year period) would not reflect the anticipated rental figure. Instead, the actual rental proceeds would replace the estimated figure of the value of the mailing list. In the case of a sale, the estimated list sale amount would be replaced with the actual sale proceeds.

The Commission seeks comment on whether the value of mailing lists should be accounted for on the NOCO or NOQCE statements regardless of any subsequent use by the authorized committee. In the alternative, should they not be recognized on NOCO and NOQCE statements under any circumstances? The Commission also seeks comments on the appropriateness of the methods proposed for determining fair market value. Are the proposed 12-month and 18-month time periods for measuring rental value too long? Would they encourage activity by presidential campaign committees that is not consistent with winding down activities? In the alternative, should the time periods be different for some other reason? Should presidential campaigns be permitted to rent or sell their mailing lists regardless of whether such activity is related to winding down the campaign?

The Commission also seeks comment on whether the use of the sale price as of DOI is inappropriate if a list is not updated and is sold many months after DOI. Comment is also sought on what other valuation method should be applied to mailing lists for purposes of the NOCO and NOQCE statements.

Certification of No Effect Pursuant to 5 U.S.C. 605(b)

[Regulatory Flexibility Act]

The attached proposed rules, if promulgated, would not have a significant economic impact on a substantial number of small entities. The basis for this certification is that few, if any, small entities would be affected by these proposals, which apply only to Federal candidates, their campaign committees, party committees, and other political committees. Federal candidates, their committees, and party committees are not small entities under 5 U.S.C. 601 because they are not small businesses, small organizations, or small governmental jurisdictions. These rules are largely intended to adopt past Commission practice by clarifying the application of various provisions of the Act and presidential public financing statutes to mailing list transactions involving political committees and Federal candidates. Because the proposed rules would not significantly change current practice, those few proposals that might increase the cost of compliance by small entities would not do so in such an amount as to cause a significant economic impact.

List of Subjects

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 113

Campaign funds.

11 CFR Part 9004

Campaign funds.

11 CFR Part 9034

Campaign funds, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Federal Election Commission proposes to amend subchapters A, E, and F of chapter 1 of title 11 of the *Code of Federal Regulations* as follows:

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

1. The authority citation for part 110 would continue to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d, 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h and 441k.

2. Sections 110.21 and 110.22 would be added to read as follows:

§ 110.21 Committee rental or sale of mailing lists to others.

(a) *Rental of mailing list.* A political committee may rent a mailing list, or portions of such list, that it owns to any other person. Rental payments are not contributions if:

(1) Prior to the rental, the political committee ascertains the usual and normal rental charge for the mailing list (or the portion of the mailing list) rented, and other services provided in the ordinary course of business of the rental of such mailing lists (*e.g.*, labels); and

(2) The mailing list or the portion of the list (along with the services provided in the ordinary course of business) is rented at the usual and normal charge, as defined in 11 CFR 100.52(d)(2), for the agreed upon use of the mailing list, including the frequency and duration of the use, in a *bona fide* arm's length transaction with commercially reasonable terms. If the political committee and the person renting the list do not engage in a *bona fide* arm's length transaction, there is a rebuttable presumption that the exchange is not of equal value. To determine whether the terms of the rental agreement are commercially reasonable, the Commission will consider factors that include, but are not limited to:

(i) Whether the person leasing the mailing list is permitted to use the list within a reasonable period of time only;

(ii) Whether any delayed use by the person leasing the mailing list, provided for in the agreement, is based on reasonable business considerations;

(iii) Whether the agreed upon use by the person leasing the mailing list, including the duration of the rental or number of uses, comports with the usual and normal practice of the list industry and the lessee's established procedures and past practice; and

(iv) Whether the person leasing the mailing list actually uses the list.

(b) *Sale of mailing list.* A political committee may sell a mailing list, or portions of a mailing list, that it owns to any other person. Proceeds from the sale are not contributions if prior to the sale, the political committee ascertains the usual and normal charge for the sale of the mailing list, and sells the mailing list at the usual and normal charge, as defined in 11 CFR 100.52(d)(2), in a *bona fide* arm's length transaction with commercially reasonable terms. If the political committee and the person buying the list do not engage in a *bona fide* arm's length transaction, there is a rebuttable presumption that the exchange is not of equal value.

(c) *Rental or sale proceeds as contributions.* (1) Except as provided in paragraph (c)(2) of this section, a sale or rental of a mailing list that does not comply with the conditions set forth in paragraphs (a) or (b) of this section is a fundraising item under 11 CFR 100.53 and all proceeds from such sale or rental are contributions from the person buying or renting the mailing list to the political committee in their full amount.

(2) For the donation or transfer of mailing lists or the sale or rental of mailing lists at less than the usual and normal charge, *see* 11 CFR 100.52.

(d) *Rental or sale to the candidate.* If a candidate rents or buys a mailing list from his or her authorized committee, the amount paid by the candidate is a contribution to the authorized committee.

(e) *Reporting of proceeds.* The proceeds from the rental or sale of a mailing list that complies with the conditions set forth in paragraphs (a) or (b) of this section must be reported as ''other receipts.''

(f) *Recordkeeping.* A political committee shall maintain and make available upon request the documentation described in paragraph (f)(1) and (2) of this section.

(1) All sales and rental agreements or contracts of its mailing list(s). The agreements must be signed and dated.

(2) Documentation of the usual or normal charge for its mailing lists in the following manner:

(i) If its mailing list is included in the *SRDS Direct Marketing List Source,* a copy of the price list in the *SRDS Direct Marketing List Source;* or

(ii) If its mailing list is not included in the *SRDS Direct Marketing List Source,* a written appraisal of the mailing list from an independent entity that is not directly or indirectly associated with the political committee (including subcontractors of such entities).

§ 110.22 Committee exchange of mailing lists.

(a) *Exchange of equal value.* A political committee may exchange the use of a mailing list or portions of a mailing list with another person for a specific period of time or a specific number of uses. The exchange is not a contribution, donation, or other reportable receipt to the political committee if:

(1) The political committee ascertains in advance the usual and normal charge for the mailing lists, or the portions of the mailing lists, being exchanged and other services provided in the ordinary course of business for the exchange of the mailing lists (*e.g.*, labels); and

(2) The exchange of the mailing lists is a *bona fide* arm's length transaction with commercially reasonable terms that results in an exchange of equal value between the political committee and the other person. If the political committee and the other person in the exchange do not engage in a *bona fide* arm's length transaction, there is a rebuttable presumption that the exchange is not of equal value.

(3) An exchange of equal value takes place when:

(i) The usual and normal rental value for each mailing list, or portion of the mailing list being exchanged, and the agreed upon use for each mailing list, and the services provided in the ordinary course of business are of equal value; and

(ii) The agreement between the political committee and the other person provides that they each use the mailing list they receive within a commercially reasonable period of time. If the agreement provides for a future use by the political committee or the other person, the delay in the use of the mailing list must be based upon reasonable business considerations.

(b) *Exchange of unequal value.* An exchange of mailing lists that does not comply with the conditions set forth in paragraph (a) of this section is a contribution to the extent that the value provided by the other person exceeds the value provided by the political committee.

PART 113—USE OF CAMPAIGN ACCOUNTS FOR NON-CAMPAIGN PURPOSES (2 U.S.C. 439a)

3. The authority citation for part 113 would continue to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8), 439a, and 441a.

4. In § 113.2, paragraph (d) would be added to read as follows:

§ 113.2 Permissible non-campaign uses of funds (2 U.S.C. 439a).

* * * * *

(d) *Conversion of committee's mailing list to personal use.* The mailing list of a principal campaign committee or authorized committee of a candidate, or any proceeds from the rental or sale of any names on the mailing list, may not be converted to the personal use of the candidate or any other person.

* * * * *

PART 9004—ENTITLEMENT OF ELIGIBLE CANDIDATES TO PAYMENTS; USE OF PAYMENTS

5. The authority citation for part 9004 would continue to read as follows:

Authority: 26 U.S.C. 9004 and 9009(b).

6. In § 9004.9, new paragraph (d)(3) would be added to read as follows:

§ 9004.9 Net outstanding qualified campaign expenses

* * * * *

(d) * * *

(3) *Mailing lists.* (i) The term *other asset,* as defined in paragraph (d)(2) of this section, includes an authorized committee's mailing list if the mailing list is sold or rented under paragraph (d)(3)(ii) of this section.

(ii) An authorized committee may sell or rent its mailing list only if—

(A) The fair market value of the mailing list is included on the candidate's statement of net outstanding qualified campaign expenses; and

(B) The sale or rental of the mailing list complies with 11 CFR 110.21.

(iii) The fair market value of an authorized committee's mailing list is either:

(A) The usual and normal rental revenue that the authorized committee would receive if it rented the list to others over the 12-month period beginning on the date of the general election; or

(B) The usual and normal sale price for the list as of the date of the general election.

* * * * *

PART 9034—ENTITLEMENTS

7. The authority citation for part 9034 would continue to read as follows:

Authority: 26 U.S.C. 9034 and 9039(b).

8. In section 9034.5, new paragraph (c)(3) would be added to read as follows:

§ 9034.5 Net outstanding campaign obligations.

* * * * *

(c) * * *

(3) *Mailing lists.* (i) The term *other asset,* as defined in paragraph (c)(2) of this section, includes an authorized committee's mailing list if the mailing list is sold or rented under paragraph (c)(3)(ii) of this section.

(ii) An authorized committee may sell or rent its mailing list only if—

(A) The fair market value of the mailing list is included on the candidate's statement of net outstanding campaign obligations; and

(B) The sale or rental of the mailing list complies with 11 CFR 110.21.

(iii) The fair market value of an authorized committee's mailing list is either:

(A) The usual and normal rental revenue that the authorized committee would receive if it rented the list to others over the 18-month period beginning on the date of ineligibility; or

(B) The usual and normal sale price for the list as of the date of ineligibility.

* * * * *

Dated: August 29, 2003.

Ellen L. Weintraub,

Chair, Federal Election Commission.

[FR Doc. 03–22530 Filed 9–3–03; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–238–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200 Series Airplanes Modified by Supplemental Type Certificate ST00516AT

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 737–200 series airplanes modified by Supplemental Type Certificate ST00516AT (STC). This proposal would require removal of the in-flight entertainment (IFE) system installed per that STC. This action is necessary to eliminate the possibility that the airplane crew could be unable to remove power from the IFE system during a non-normal or emergency situation, which could result in the airplane crew's inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by October 20, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–238–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-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–238–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 the proposed rule may be obtained from Kosola and Associates, Inc., 5601 Newton Road, P.O. Box 3529, Albany, Georgia 31706. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia.

FOR FURTHER INFORMATION CONTACT: Myles Jalalian, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6073; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed 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 above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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 proposed 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 proposed 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 summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Docket Number 2002–NM–238–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–238–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Federal Aviation Administration (FAA) recently completed a review of in-flight entertainment (IFE) systems certified by supplemental type certificate (STC) and installed on transport category airplanes. The review focused on the interface between the IFE system and airplane electrical system, with the objective of determining if any unsafe conditions exist with regard to the interface. STCs issued between 1992 and 2000 were considered for the review.

The type of IFE systems considered for review were those that contain video monitors (cathode ray tubes or liquid crystal displays; either hanging above the aisle or mounted on individual seat backs or seat trays), or complex circuitry (*i.e.*, power supplies, electronic distribution boxes, extensive wire routing, relatively high power consumption, multiple layers of circuit protection, etc.). In addition, in-seat power supply systems that provide power to more than 20 percent of the total passenger seats were also considered for the review. The types of IFE systems not considered for review include systems that provide only audio signals to each passenger seat, ordinary in-flight telephone systems (*e.g.*, one telephone handset per group of seats or bulkhead-mounted telephones), systems that only have a video monitor on the forward bulkhead(s) (or a projection system) to provide passengers with basic airplane and flight information, and in-seat power supply systems that provide power to less than 20 percent of the total passenger seats.

Items considered during the review include the following:

- Can the electrical bus(es) supplying power to the IFE system be de-energized when necessary without removing power from systems that may be required for continued safe flight and landing?
- Can IFE system power be removed when required without pulling IFE system circuit breakers (*i.e.*, is there a switch (dedicated to the IFE system or a combination of loads) located in the flight deck or cabin that can be used to remove IFE power?)?
- If the IFE system requires changes to flightcrew procedures, has the airplane flight manual (AFM) been properly amended?
- If the IFE system requires changes to cabin crew procedures, have they been properly amended?
- Does the IFE system require periodic or special maintenance?

In all, we reviewed approximately 180 IFE systems approved by STC. The review results indicate that potential unsafe conditions exist on some IFE systems installed on various transport category airplanes. These conditions can be summarized as:

- Electrical bus(es) supplying power to the IFE system cannot be de-energized when necessary without removing power from systems that may be required for continued safe flight and landing.
- Power cannot be removed from the IFE system when required without pulling IFE system circuit breakers (*i.e.*, there is no switch dedicated to the IFE system or combination of systems for the purpose of removing power).
- Installation of the IFE system has affected crew (flightcrew and/or cabin crew) procedures, but the procedures have not been properly revised.

FAA's Determination

As part of our review of IFE systems, we have determined that an unsafe condition exists on all Boeing Model 737–200 series airplanes modified by STC ST00516AT. The IFE system on these airplanes is connected to an electrical bus that cannot be deactivated without also removing power from airplane systems necessary for safe flight and landing. There is no other means to remove power from the IFE system. Additionally, the airplane manufacturer's published flightcrew and cabin crew emergency procedures do not advise that power cannot be removed from the IFE system. This condition, if not corrected, could result in the airplane crew's inability to remove power from the IFE system during a non-normal or emergency situation, and consequent inability to control smoke or fumes in the airplane flight deck or cabin.

Explanation of Relevant Service Information

The FAA has reviewed and approved Kosola and Associates Service Bulletin 2002–1, dated July 16, 2003, which describes a procedure for removing the IFE system installed by STC ST00516AT. The procedure includes disconnecting the power line that leads from the IFE system control unit to the P6 panel, capping and stowing all related wiring or removing that wiring from the airplane, removing the IFE system circuit breaker from the P6 panel, and removing all components of the IFE system from the airplane. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Other Relevant Rulemaking

The FAA has previously issued several ADs that address unsafe conditions and require corrective actions similar to those that would be required by the proposed AD. These other ADs, and the airplane models and STCs to which they apply, are as follows:

Model/series	STC No.	AD reference
Airbus A340–211	ST0902AC–D	AD 2001–18–01, amendment 39–12427 (66 FR 46939, September 10, 2001).
Boeing 737–300	ST00171SE	AD 2001–14–10, amendment 39–12321 (66 FR 36455, July 12, 2001).
Boeing 737–700	ST09100AC–D, ST09104AC–D, ST09105AC–D, ST09106AC–D.	AD 2001–14–12, amendment 39–12323 (66 FR 36452, July 12, 2001).
Boeing 747–100 and –200	SA8622SW	AD 2001–14–11, amendment 39–12322 (66 FR 36453, July 12, 2001).
Boeing 747–100 and –200	ST00196SE	AD 2001–16–19, amendment 39–12388 (66 FR 43068, August 17, 2001).

Model/series	STC No.	AD reference
Boeing 747–400	SA8843SW	AD 2001–14–15, amendment 12326 (66 FR 36447, July 12, 2001).
Boeing 747SP	ST09097AC–D	AD 2001–14–14, amendment 39–12325 (66 FR 36449, July 12, 2001).
Boeing 757–200	SA1727GL	AD 2001–14–01, amendment 39–12311 (66 FR 36149, July 11, 2001).
Boeing 767–200	SA4998NM	AD 2001–16–21, amendment 39–12390 (66 FR 43072, August 17, 2001).
Boeing 767–200	SA5134NM	AD 2001–16–20, amendment 39–12389 (66 FR 43066, August 17, 2001).
Boeing 767–200	ST09022AC–D	AD 2001–14–13, amendment 39–12324 (66 FR 36450, July 12, 2001).
Boeing 767–300	SA5765NM, SA5978NM	AD 2001–16–17, amendment 39–12386 (66 FR 42937, August 16, 2001).
Boeing 767–300	SA7019NM–D	AD 2001–18–08, amendment 39–12434 (66 FR 46517, September 6, 2001).
Boeing 767–300	ST00118SE	AD 2001–14–04, amendment 39–12314 (66 FR 36699, July 13, 2001).
Boeing 767–300	ST00157SE	AD 2001–16–18, amendment 39–12387 (66 FR 43070, August 17, 2001).
McDonnell Douglas DC–9–51 and DC–9–83	SA8026NM	AD 2001–14–02, amendment 39–12312 (66 FR 36456, July 12, 2001).
McDonnell Douglas DC–10–30	SA8452SW	AD 2001–16–22, amendment 39–12391 (66 FR 43074, August 17, 2001).
McDonnell Douglas DC–10–30	ST00054SE	AD 2001–13–03, amendment 39–12313 (66 FR 36150, July 11, 2001).
Boeing 767–300	ST01869AT–D	AD 2002–26–14, amendment 39–13002 (68 FR 1525, January 13, 2003).
Boeing 767–300	STC01783AT–D	AD 2003–07–15, amendment 39–13111 (68 FR 18535, April 16, 2003).

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 (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Explanation of Cost Impact

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

There are approximately 4 Model 737–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $130, or $65 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed 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 proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this 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) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 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:

Boeing: Docket 2002–NM–238–AD.

Applicability: Model 737–200 series airplanes modified by Supplemental Type Certificate (STC) ST00516AT, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To eliminate the possibility that the airplane crew could be unable to remove power from the IFE system during a non-normal or emergency situation, which could result in the airplane crew's inability to control smoke or fumes in the airplane flight deck or cabin, accomplish the following:

Removal of IFE System

(a) Within 18 months after the effective date of this AD, remove the IFE system installed by STC ST00516AT per the procedure in Kosola and Associates Service Bulletin 2002–1, dated July 16, 2003. The procedure includes disconnecting the power line that leads from the IFE system control unit to the P6 panel, capping and stowing all related wiring or removing related wiring from the airplane, removing the IFE system circuit breaker from the P6 panel, and removing all components of the IFE system from the airplane.

Inspections Accomplished Per Previous Issue of Service Bulletin

(b) Removal of the IFE system installed by STC ST00516AT before the effective date of this AD per Kosola and Associates Service Bulletin 2002–1, dated June 5, 2002, is considered acceptable for compliance with paragraph (a) of this AD.

Parts Installation

(c) As of the effective date of this AD, no person may install an IFE system approved by STC ST00516AT on any airplane.

Alternative Methods of Compliance

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

Issued in Renton, Washington, on August 27, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–22496 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–132760–03]

RIN 1545–BC38

Guidance Under Section 1502; Application of Section 108 to Members of a Consolidated Group

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 that govern the application of section 108 when a member of a consolidated group realizes discharge of indebtedness income. The text of those regulations also serves as the text of these proposed regulations.

DATES: Written or electronic comments must be received by December 3, 2003.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–132760–03), room 5203, Internal Revenue Service, POB 7604 Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–132760–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at *http://www.irs.gov/regs*.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Amber Renee Cook or Marie C. Milnes-Vasquez at (202) 622–7530; concerning submission of comments, Treena Garrett at (202) 622–3401 (not toll-free numbers).

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 section 1502. The temporary regulations govern the application of section 108 when a member of a consolidated group realizes discharge of indebtedness income. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments.

Special Analysis

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. Further, it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations will primarily affect affiliated groups of corporations that have elected to file consolidated returns, which tend to be larger businesses. Moreover, the number of taxpayers affected and the average burden are minimal. Accordingly, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. 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 Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they may 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 hearing will be published in the **Federal Register**.

Drafting Information

Various personnel from the IRS and Treasury Department participated in the development of these regulations.

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 continues to read in part as follows:

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

Section 1.1502–28 also issued under 26 U.S.C. 1502. * * *

Par. 2. Section 1.1502–19 is amended as follows:

1. Paragraph (b)(1) is revised.

2. The headings for paragraphs (h)(2) and (h)(2)(i) are revised.

3. Paragraph (h)(2)(ii) is redesignated as paragraph (h)(2)(iii).

4. New paragraph (h)(2)(ii) is added.

The revisions and addition read as follows:

§ 1.1502–19 Excess loss accounts.

[The text of this proposed section is the same as the text of § 1.1502–19T

published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 1.1502–21 is amended as follows:

1. Paragraphs (b)(2)(iv) and (c)(2)(vii) are revised.

2. Paragraph (h)(6) is redesignated as paragraph (h)(7).

3. New paragraph (h)(6) is added.

4. New paragraph (h)(8) is added.

The revision and additions read as follows:

§ 1.1502–21 Net operating losses.

[The text of this proposed section is the same as the text of § 1.1502–21T published elsewhere in this issue of the **Federal Register**].

Par. 4. Section 1.1502–28 is added to read as follows:

§ 1.1502–28 Consolidated section 108.

[The text of this proposed section is the same as the text of § 1.1502–28T published elsewhere in this issue of the **Federal Register**].

Par. 5. Section 1.1502–32 is amended as follows:

1. Paragraphs (b)(3)(ii)(C)(*1*) and (b)(3)(iii)(A) are revised.

2. Paragraph (b)(4)(vii) is added.

3. Paragraph (b)(5)(ii), *Example 4*, paragraphs (a), (b), and (c) are revised.

4. Paragraph (h)(7) is added.

The revisions and additions read as follows:

§ 1.1502–32 Investment adjustments.

[The text of this proposed section is the same as the text of § 1.1502–32T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–22454 Filed 8–29–03; 3:14 pm]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–141402–02]

RIN 1545–BB43

Limitation on Use of the Nonaccrual-Experience Method of Accounting Under Section 448(d)(5)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the use of the nonaccrual-experience method of accounting by taxpayers using an accrual method of accounting and performing services. The text of those regulations also serves as the text of these proposed regulations. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by December 3, 2003. Outlines of topics to be discussed at the public hearing scheduled for December 10, 2003, at 10 a.m. must be received by November 19, 2003.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–141402–02), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:LPD:PR (REG–141402–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at *http://www.irs.gov/regs.* The public hearing will be held in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Terrance McWhorter, 202–622–4970; concerning submissions of comments, Treena Garrett, 202–622–3401 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by November 3, 2003. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 1.448–2T. This information is required to verify that an alternative nonaccrual-experience method of accounting selected and used by a taxpayer to compute the amount of its otherwise accruable income that will not be collected will, based on the taxpayer's experience, accurately reflect the amount of income that the taxpayer will not collect and will clearly reflect the taxpayer's experience under section 448(d)(5) of the Internal Revenue Code. The collection of information is mandatory. The likely recordkeepers are business or other for-profit institutions, and small businesses or organizations.

Estimated total annual recordkeeping burden: 24,000 hours.

The estimated annual burden per recordkeeper varies from 1 to 5 hours, depending on individual circumstances, with an estimated average of 3 hours.

Estimated number of recordkeepers: 8,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background and Explanation of Provisions

Section 448(d)(5) was added to the Code by section 801 of the Tax Reform Act of 1986 (Pub. L. 99–514, 100 Stat. 2085) and was amended by section 403 of the Job Creation and Worker Assistance Act of 2002 (Pub. L. 107–147, 116 Stat. 21) (the 2002 Act), effective for taxable years ending after

March 9, 2002. Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** revise § 1.448–2T of part 1 of title 26 of the Code of Federal Regulations. Those regulations pertain to the nonaccrual of certain amounts by taxpayers using an accrual method of accounting and performing services. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the amendments and these proposed regulations.

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 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. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that, as previously noted, the estimated burden associated with the information collection averages three hours per respondent. Moreover, for taxpayers who are eligible to use these regulations and who follow these regulations, any burden imposed on taxpayers due to the collection of information in these regulations will be outweighed by the benefit taxpayers will receive by accruing less income than otherwise would be required. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. 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.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 10, 2003, beginning at 10 a.m. in the IRS Auditorium of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, *see* the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by November 19, 2003.

A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is Terrance McWhorter, Office of Associate Chief Counsel (Income Tax and Accounting). 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 for part 1 continues to read in part as follows:

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

Par. 2. Section 1.448–2 is added as follows:

§ 1.448–2 Nonaccrual of certain amounts by service providers.

[The text of proposed § 1.448–2 is the same as the text of § 1.448–2T published elsewhere in this issue of the **Federal Register**.]

Judith B. Tomaso,

Acting Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–22459 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–116914–03]

RIN 1545–BC06

Transfer of Compensatory Options; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains a correction to a notice of proposed rulemaking by cross-reference to temporary regulations that were published in the **Federal Register** on Wednesday, July 2, 2003 (68 FR 39498), relating to the sale or other disposition of compensatory nonstatutory stock options to related persons.

FOR FURTHER INFORMATION CONTACT: Stephen Tackney at (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking by cross-reference to temporary regulations that is the subject of this correction is under section 83 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations contains an error that may prove to be misleading and is in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking by cross-reference to temporary regulations (REG–116914–03), that was the subject of FR Doc. 03–16787, is corrected as follows:

On page 39498, column 2, in the preamble under the paragraph heading ''Special Analyses'', second line, the language ''temporary regulations are not

a'' is corrected to read ''proposed regulations are not a''.

Cynthia E. Grigsby,

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

[FR Doc. 03–22552 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–131997–02]

RIN 1545–BA85

Section 42 Carryover and Stacking Rule Amendments; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to a notice of proposed rulemaking and notice of public hearing that was published in the **Federal Register** on Monday, July 7, 2003 (68 FR 40218), that amends several existing regulations concerning the low-income housing tax credit.

FOR FURTHER INFORMATION CONTACT: Lauren R. Taylor, (202) 622–3040, or Christopher J. Wilson, (808) 539–2874 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking and notice of public hearing that is the subject of this correction is under section 42 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking and notice of public hearing contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed regulations and notice of public hearing (REG–131997–02), that was the subject of FR Doc. 03–16941, is corrected as follows:

1. On page 40218, column 3, in the preamble under the paragraph heading **ADDRESSES**, third line from the bottom of the paragraph, the language ''room 2615, Internal Revenue Building, '' is corrected to read ''room 4718, Internal Revenue Building,''.

§ 1.42–12 [Corrected]

2. On page 40222, column 2, § 1.42–12(a)(2), second paragraph, line 4 from the bottom, the language, ''before these regulations are published as'' is corrected to read ''before the date these regulations are published as''.

3. On page 40222, column 2, § 1.42–12(a)(3), third paragraph, last line, the language, ''effect on and before these regulations'' is corrected to read ''effect on and before the date these regulations''.

4. On page 40223, column 2, § 1.42–14(k)(2), *Example 2,* paragraph (ii), line 12, the language, ''Pool. The $120 in credit determined by the'' is corrected to read ''Pool. The $120 in credit determined by''.

5. On page 40224, column 1, § 1.42–14(l)(1), ''Effective dates'', line 2, the language, ''Except as provided in paragraph (l)(2), is corrected to read ''Except as provided in paragraph (l)(2) of this section,''.

Cynthia E. Grigsby,

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

[FR Doc. 03–22551 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–130262–03]

RIN 1545–BC28

Guidance Under Section 1502; Stock Basis After a Group Structure Change; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking that was published in the **Federal Register** on Tuesday, July 8, 2003 (68 FR 40579), that relate to stock basis after a group structure change.

FOR FURTHER INFORMATION CONTACT: Marlene Oppenheim or Ross Poulsen at (202) 622–7770; concerning submission of comments and/or requests for a public hearing, Sonya Cruse, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 1502 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed regulations (REG–130262–03), that was the subject of FR Doc. 03–17091, is corrected as follows:

1. On page 40579, column 3, under paragraph heading **FOR FURTHER INFORMATION CONTACT:** lines 5 and 6, the language, ''public hearing, Sonya Cruse, (202) 622–7180 (not toll-free numbers).'' is corrected to read ''public hearing, Sonya Cruse, (202) 622–4693 (not toll-free numbers).''

§ 1.1502–31 [Corrected]

2. On page 40580, column 2, § 1.1502–31(b)(2), lines 10 through 13, the language, ''has, or would otherwise have, a basis determined in whole or in part by reference to the basis of the property exchanged for such stock is'' is corrected to read ''is, or would otherwise be, transferred basis property is''.

3. On page 40580, column 2, § 1.1502–31(d)(2)(ii), lines 14 through 18, the language, ''change and the basis of such stock would otherwise be determined in whole or in part by reference to the basis of the property exchanged for such stock, only and allocable part of the basis'' is corrected to read ''change and such stock would otherwise be transferred basis property, only an allocable part of the basis''.

4. On page 40581, column 2, *Example 3.*, lines 11 through 14, the language, ''basis in its acquired T stock is not determined in whole or in part by reference to the basis of the property exchanged for such stock. (Because of P's use of cash, the'' is corrected to read ''acquired T stock is not transferred basis property. (Because of P's use of cash, the''.

Cynthia E. Grigsby,

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

[FR Doc. 03–22553 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–113007–99]

RIN 1545–AU98

Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations relating to the definition of private activity bond applicable to tax-exempt bonds issued by State and local governments.

DATES: The public hearing originally scheduled for Tuesday, September 9, 2003, at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Treena Garrett of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration), (202) 622–3401 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Wednesday, May 14, 2003, (68 FR 25845), announced that a public hearing was scheduled for Tuesday, September 9, 2003, at 10 a.m. in the Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is proposed regulations under section 141 of the Internal Revenue Code. The public comment period for these proposed regulations expired on Tuesday, August 19, 2003. Outlines of oral comments were due on Tuesday, August 19, 2003.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit an outline of the topics to be addressed. As of Thursday, August 28, 2003, no one has requested to speak. Therefore, the public hearing scheduled for Tuesday, September 9, 2003, is cancelled.

Cynthia E. Grigsby,

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

[FR Doc. 03–22554 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM2003–5; Order No. 1383]

Negotiated Service Agreements

AGENCY: Postal Rate Commission.

ACTION: Proposed rule.

SUMMARY: This document provides notice that the Commission is establishing a docket to address the first in a series of anticipated rulemakings concerning negotiated service agreement dockets. This initial rulemaking concerns baseline and functionally equivalent negotiated service agreements. It provides guidance to the Postal Service and others on the procedures the Commission proposes following for certain negotiated service agreement requests. It also establishes the organizational framework for the comprehensive set of rules. Adoption of these rules, with any revisions deemed appropriate after considering comments, will facilitate expeditious consideration of negotiated service agreements.

DATES: Initial comments due September 29, 2003; reply comments due October 14, 2003.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system, which can be accessed at *http://www.PRC.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 202–789–6818.

SUPPLEMENTARY INFORMATION:

Introduction

In opinion and recommended decision, docket no. MC2002–2, (Opinion) the Commission made a commitment to initiate a series of rulemakings designed to facilitate consideration of Postal Service requests based on negotiated service agreements.[1] See Opinion paras. 1006, 2007, 4026, 4041–2, 7026, and 8023. This notice and order represents the initiation of the first such rulemaking, and will address rules applicable to consideration of Postal Service requests to recommend baseline negotiated service agreements and negotiated service agreements that are functionally equivalent to then-effective negotiated service agreements.[2] The intent of this rulemaking is to facilitate the consideration of baseline negotiated service agreements and the extension of the terms and conditions of ongoing negotiated service agreements to similarly situated mailers. As the first such rulemaking, the proposed rules also establish the organizational framework for the complete set of Commission rules in regard to requests based on negotiated service agreements.

When the Postal Service filed its request of the United States Postal Service for a recommended decision on experimental changes to implement Capital One NSA (request), September 19, 2002, the Commission did not have procedural rules specifically tailored for consideration of negotiated service agreements. The Postal Service filed its request noting potential application of the Commission's rules for requests involving experimental changes. See rules 67–67d. Although the concept of a request based on a negotiated service agreement could be considered somewhat experimental, the functional elements of the request included features that were only of a limited experimental nature. See Opinion Chapter IV. Furthermore, the Commission's rules for experimental changes connote a standard of review and procedures appropriate for consideration of an experiment, which might not be appropriate for the review of a request based on a negotiated service agreement. Considering these issues and others that arose during the proceeding, such as initial intervention by parties to the negotiated service agreement and treatment of co-proponents discussed below, it became apparent that the process could be improved if the Commission's rules were revised specifically to accommodate consideration of negotiated service agreements.

The docket no. MC2002–2 experience provided the impetus for the Commission to propose rules specifically applicable to the review of Postal Service proposals based on negotiated service agreements. The goal of this rulemaking is foremost to develop rules to assure that Commission recommendations on proposals based on negotiated service agreements satisfy the requirements of the Act. The rules must balance the development of an adequate record against the burdens on

[1] Docket No. MC2002–2, Experimental Rate and Service Changes to Implement Negotiated Service Agreement with Capital One, was the first docket in which the Commission considered and recommended a Postal Service request predicated on a Negotiated Service Agreement.

[2] A baseline negotiated service agreement is a negotiated service agreement that is not predicated on a functionally equivalent negotiated service agreement currently in effect. The term ''baseline'' is used to denote that the negotiated service agreement potentially may form the basis of a future Postal Service request to recommend a functionally equivalent negotiated service agreement. The term emphasizes the policy that functionally equivalent negotiated service agreements should be made available to qualifying similarly situated mailers.

the participants and the Commission. The rules must assure the provision of a timely review, while safeguarding due process requirements. The rules also provide for a standard of review that is appropriate for negotiated service agreements.

This rulemaking considers rules for reviewing Postal Service proposals based on baseline and functionally equivalent negotiated service agreements. The intent of the proposed rules for functionally equivalent negotiated service agreements is to reduce the procedural burden and expedite the proceeding otherwise applicable to a de novo review of a new or unique baseline negotiated service agreement.

The proposed rules do not include a definition for what qualifies as a functionally equivalent negotiated service agreement. The many possible forms and features that a negotiated service agreement can encompass make development of a universal definition of functional equivalency difficult, if not impossible. The proposed rules place the burden on proponents to explain why the newly proposed negotiated service agreement is functionally equivalent to a previously recommended negotiated service agreement.[3] The Commission will be left to decide, on a case by case basis, whether the Postal Service has met this burden. If the case for functional equivalency is not persuasive, the request will be subject to § 3001.195.

A. General Rules

Proposed § 3001.5(r)—Definitions

The proposed rules begin with a definition of the term ''negotiated service agreement.'' The definition is necessary for distinguishing the applicability of the proposed rules from rules that cover other subject areas. Several concepts are important in the definition. First, a negotiated service agreement is a contract. Second, the terms and conditions of the contract apply only to the Postal Service and the specific mailer, or mailers, named in the contract. Third, the contract controls the provision of mailer-specific rates, fees, and/or postal services. Fourth, the duration of the contract must be defined in the contract.[4] Finally, the contract must be memorialized in writing. The proposed definition of a negotiated service agreement appears in attachment A, § 3001.5(r).[5]

Proposed § 3001.51 and § 3001.61—Applicability Amendments

The proposed amendments to rules 51 and 61 specify that Postal Service requests based on negotiated service Agreements, which otherwise would be considered pursuant to subparts B or C, shall instead be considered pursuant to subpart L.

Proposed § 3001.190—Applicability

Subsection (a) establishes that the rules proposed under subpart L, ''Rules Applicable to Negotiated Service Agreements,'' are applicable to Postal Service proposals based on negotiated service agreements. This subsection also incorporates subpart A, ''Rules of General Applicability,'' into subpart L.

Subsection (b) states the general policy considerations of the Commission to justify the need for the proposed rules for negotiated service agreements. These policy considerations do not supercede any provision of the Act, but merely highlight issues that the Commission will consider important when reviewing negotiated service agreements.

This subsection also expresses the Commission's strong preference that negotiated service agreements be limited in duration to three years or less. Negotiated service agreements by their nature have features that are discriminatory, and have the potential to cause harm to the marketplace.[6] There also is a potential for harm to the Postal Service, and thereby to other mailers, where negotiated service agreements are predicated on less than complete knowledge of the mailer-specific mailing costs and characteristics.[7] Furthermore, over time, the material facts on which an agreement is based will tend to change, making uncertain the future benefits of any agreement. Imposing a maximum duration limits the time that any potential risk might be in effect, and allows a fixed time over which an analysis can be performed to quantify this risk. It also provides an opportunity to periodically analyze the pros and cons of allowing the agreement to extend into the future.

The Commission's preference to place a limit on duration is also based on the concern that the interaction between negotiated service agreements and omnibus rate cases is not understood. Overall Postal Service costs and revenues are reviewed during every omnibus rate proceeding—which typically occur every three years. The methodology for incorporating the impact of negotiated service agreements into an omnibus rate case has not been developed. Furthermore, the effect of an omnibus rate case on a negotiated service agreement is not known. There is a potential that the impact of negotiated service agreements on overall costs and revenue, information that is required when considering an omnibus rate case, could perpetually escape review if not properly incorporated. While the preference for a maximum three-year duration does not fully address these concerns, it should at least help by placing bounds on the possible effects of negotiated service agreements which must be evaluated in future omnibus rate proceedings.

The preference for a three-year maximum duration contains two explanatory notes. The proposed subpart L contemplates a procedure for rapid and repeated renewals of a previously recommended negotiated service agreement. There is no known reason that a negotiated service agreement that is shown to benefit the Postal Service, meets the statutory requirements, and does not cause any undue harm, should not be allowed to be renewed indefinitely. The proposed rule also allows for the prompt review of a functionally equivalent negotiated service agreement. The intent of the rule is that the duration of the functionally equivalent negotiated service agreement should not be dependent on the duration of the underlying negotiated

[3] Functional equivalency is broader than the literal terms and conditions of the negotiated service agreement. Just as similarly situated mailers do not necessarily have to have identical characteristics, functionally equivalent negotiated service agreements do not necessarily have to have identical terms and conditions. The Commission will have to examine the facts and surrounding circumstances of each proposal to make a functional equivalency determination. As an example of factors outside of the literal terms and conditions of the negotiated service agreement, whether the Postal Service derives a ''functionally equivalent'' benefit from the proposed agreement could bear on an argument for functional equivalency.

[4] The proposed language is interpreted to be broad enough to include allowing for triggering events that may initiate or terminate the contract, in addition to setting a fixed duration.

[5] The complete text of each proposed rule appears in attachment A. The proposed rules in attachment A should be read in parallel with the explanations provided in this notice and order.

[6] Negotiated service agreements are discriminatory in that their application is restricted to the contracting parties. The negative connotation of discrimination is presumed to be ameliorated by making similar negotiated service agreements available to similarly situated mailers. The proposed rules are designed to facilitate this process.

[7] For example, the Capital One Negotiated Service Agreement was predicated on Postal Service average costs as opposed to mailer-specific costs, and on less than complete knowledge of Capital One's likely future mailing strategies.

service agreement.[8] The benefits of a functionally equivalent negotiated service agreement could be reduced if it were required to terminate at the same time as the baseline negotiated service agreement.

Proposed § 3001.191—Filing of Formal Requests

Subsection (a) provides general instruction for filing whenever the Postal Service proposes changes to rates, fees, or the mail classification schedule based on a negotiated service agreement. The Postal Service is directed to clearly indicate whether its request is for the review of a baseline negotiated service agreement, the review of a functionally equivalent negotiated service agreement, the review of a renewal for an ongoing negotiated service agreement, or the review of a modification to an ongoing negotiated service agreement. This designation is used to trigger specific rules applicable to each type of request. After receiving the Postal Service's request, the Commission shall provide notice through the **Federal Register** of the Postal Service's request.

Subsection (b) addresses procedural issues in regard to intervention and to the treatment of the proponents of the direct case. In docket no. MC2002–2, motions were filed requesting intervention of Capital One prior to public notice of the docket, and requesting submission of testimony out of turn. This was necessary to allow Capital One to submit direct testimony simultaneous with the Postal Service's direct testimony, and to be treated as a co-proponent with the Postal Service. The rules in proposed subsection (b) eliminate this motions practice. The Postal Service is required to identify all parties to the negotiated service agreement. Identification of the parties shall serve as an automatic notice of intervention. It also shall serve as notice that the identified parties are to be treated as co-proponents with the Postal Service in the proceeding.[9]

Proposed § 3001.192—Filing of Prepared Direct Evidence

Subsection (a) requires the filing of the Postal Service's and, if it is to be filed, its co-proponent's direct evidence simultaneous with the filing of the request. This subsection eliminates the need for a co-proponent to file a motion requesting that its direct testimony be accepted out of turn.

Subsection (b) requires the Postal Service to review and affirm that any direct evidence filed by a co-proponent can be relied on in concert with the Postal Service's direct evidence. Co-proponent testimony that is not consistent with the Postal Service's direct case would in effect be rebuttal testimony, and would be inappropriate as part of a direct case. It is expected that the co-proponents present a unified case. It is also expected that the Postal Service, as the lead proponent, understands and agrees with the parameters of all testimony presented in support of the direct case.

Proposed § 3001.193—Contents of Formal Requests

Currently, when the Postal Service requests a change in rates, fees or the mail classification schedule, it must file a request that conforms with the ''contents of formal requests'' requirements delineated in § 3001.54 and/or § 3001.64. The requirements direct the Postal Service to produce a large quantity of information. The relevance of the bulk of the information tends to vary in relation to the system-wide significance of the change being proposed. Typically, with more limited proposals, the Postal Service seeks a waiver requesting relief from providing material that is not relevant or not available in regard to that particular proposal. The intent of proposed rule 193 is to tailor the content requirements of rules 54 and 64 to what is necessary to support a proposal based on a negotiated service agreement. This should provide the Postal Service with better direction on what the Commission expects, and should eliminate most of the motions practice requesting waivers for material that is either not available or not relevant.[10]

Subsection (a)(1) provides the general requirements for presentation of a direct case in support of a negotiated service agreement. This is substantively the same general requirement that the Postal Service complies with under rules 54 and 64.

Subsection (a)(2) specifies the procedure to request a waiver of a filing requirement in instances where otherwise required filing information is not available. The explanation accompanying the request for waiver will carry significant weight. The Commission expects that the Postal Service take reasonable steps to compile the necessary information, when practicable, or to take reasonable steps to develop reliable estimates of the required information. This rule recognizes that there might be instances where required information is just not available.

Subsection (a)(3) specifies the procedure to request a waiver of a filing requirement in instances where the Postal Service believes the provision of information is not required. This subsection is to be used where the requested information is considered not relevant to the proceeding, whether or not it is available.

In instances where a waiver is granted under subsection (a)(2) or (a)(3) for unavailable or not required information, subsection (a)(4) precludes future argument related to the absence of such information, except in extraordinary circumstances. Participants contending the absence of such information should bear on the merits of the proposal must demonstrate that the Postal Service was clearly unreasonable, or that there are other compelling or exceptional circumstances, that show why the absence of information that was alleged to be unavailable or not required should be used as a basis for rejection of the request.

Subsections (a)(5) and (a)(6) reserve the right of the Commission and the presiding officer to request whatever information that is deemed necessary to analyze the Postal Service's proposal in the process of issuing an opinion and recommended decision. If a participant contends that information not originally provided is now necessary to develop relevant and material analysis of the request, the burden shifts to the participant that now finds the information necessary to seek this information through discovery.

Subsection (b) requires that a copy of the negotiated service agreement be included with the request. In docket no. MC2002–2, a question arose whether the copy of the negotiated service agreement was or was not executed prior to filing. This occurred because the copy included with the request was not signed. The resolution of this issue favored by the Commission is to file an unsigned text file copy with the request, and not require the Postal Service to file an executed copy. The presumption will be that the Postal Service would not file a request without all parties in agreement to its terms and conditions, and that the parties other that the Postal Service would not support a request as co-proponents unless they agreed to

[8] For example, a functionally equivalent negotiated service agreement may be recommended for a three year duration even though the baseline negotiated service agreement has been in effect for two years.

[9] The Postal Service is recognized as the ''lead'' co-proponent. This is dictated by the Act, as a co-proponent other than the Postal Service cannot initiate a request before the Commission, nor can the Postal Service be bound to adhere to a proposal that is not in its best interest.

[10] The Postal Service as the lead proponent is required to respond to the items delineated in this section, with the Commission's understanding that some responses may actually be prepared and presented by other co-proponents.

what was filed. Furthermore, even if the agreement were signed, the agreement does not go into effect until after the Commission submits its opinion and recommended decision, and the Governors of the United States Postal Service provide their approval. Thus, the actual signatures have very little effect on the Commission's proceeding and will not be required.

The intent of the Commission is to make the actual contracts publicly available on the Commission's Web site. The Postal Service should take this into consideration while constructing its contracts by avoiding use of what might be considered proprietary information. Public disclosure is necessary to curtail any claim of discrimination or secret dealing, to make the operations of the Postal Service more transparent, and most importantly, to provide other similarly situated mailers the opportunity to seek similar negotiated service agreements. Any request for protective conditions being placed on the contract itself will have to meet a high burden before being granted.

Subsection (c) requires the Postal Service to provide a statement describing and explaining the proposed changes to the domestic mail classification schedule and any associated rate schedule. This includes the actual proposed changes to the text of the domestic mail classification schedule, and any associated rate schedule, presented in legislative format. The requirements of this rule do not differ from similar rules that the Postal Service currently complies with when filing rate, fee, or classification requests.

Subsection (d) requires the Postal Service to describe the operative components of the negotiated service agreement. For instance, the Capital One NSA contained two operative components, the declining block discount component, and the return mail/address correction component. The level of detail provided with the Capital One NSA request and associated testimony was appropriate for meeting this requirement. This subsection generally requires the Postal Service to explain how the components work. There should be a detailed explanation of the actions required by the Postal Service and the actions required by the other co-proponents in implementing the agreement. There also should be an explanation of why each action has a benefit to each party, and an explanation of any risks. This is necessary to provide a fuller understanding of the benefits and risks of proceeding with the agreement.

This subsection also requires an explanation of the reasons and bases for including particular components in the agreement. In the case of agreements based on multiple components, it is expected that there be an explanation of why the components are proposed to be grouped together, and not offered separately. There also should be a discussion of any interactions between the components, where necessary. For example, with the Capital One NSA the block discount acted as an incentive to increase mail volume and as a method of returning to Capital One a portion of the savings earned through the address correction component.

Subsection (e) requires the Postal Service to provide a financial analysis of the proposed agreement. Several concepts are important in the proposed rule. The analysis is to be performed over the duration of the agreement, and for each year that the agreement is in effect. The analysis is to use mailer-specific information, where practical. Both before implementation and after implementation financial conditions must be analyzed. Finally, the proposed rule requires an analysis of the agreement's effect on institutional cost contributions.

In the Capital One NSA case, the Commission had no established guidelines for presenting a classification and rate request premised on a negotiated service agreement. There, the Postal Service used a test-year analysis method. Test-year analysis provides probative estimates for omnibus rate cases, however, it proved ill-suited to requests based on negotiated service agreements where the Postal Service is negotiating detailed custom agreements of specified duration.

The Postal Service is expected to understand the ramifications of its contract negotiations. One of the important issues that the Postal Service should be considering when entering into a new agreement is whether it will be financially better or worse off by entering into the agreement. Positive cash flow in the test-year, especially where the test-year is chosen to be the first year of a multi-year agreement, is not necessarily indicative of cash flow in the subsequent years. The test-year approach is the best way to estimate the vast number of aspects of national economic activities. For a limited participation, limited duration contract, good business practice dictates a more focused analysis. The Postal Service presumably will not make a determination based solely on a test-year analysis, nor should the Commission have to make a recommendation based on the limited insight provided by such an analysis.

The proposed rule provides that the Postal Service use mailer-specific information in its analysis, where practical. Using mailer-specific information should result in an analysis that more accurately represents the actual before and after financial effects of the negotiated service agreement on the Postal Service. Using system average information is less likely to give a true representation of the financial effects of the agreement, especially in cases where the mailer's characteristics do not coincide with the system-wide averages.

Use of mailer-specific information becomes more important where a facet of the agreement is based on the mailer deviating from the averages. For example, part of the justification for the Capital One NSA was Capital One's higher than average return rate. This information was vital in analyzing the benefit of the agreement to the Postal Service. Even more mailer-specific information than presented by the Postal Service would have been helpful in accurately analyzing the true costs that the Postal Service incurs in handling Capital One's mail.

The rule proposes that the Postal Service provide an initial analysis of cost, volume, and revenue assuming the rates and fees in effect absent the implementation of the negotiated service agreement. A second analysis is then required that assumes the implementation of the agreement. Each component or feature of the agreement should be independently analyzed in evaluating the overall financial impact. The results of the individual analyses should then be combined to provide an indication of the overall impact of the agreement on the finances of the Postal Service. When used in conjunction with the data collection plan, discussed below, this analysis also can form the basis for tracking the performance of the agreement.

Finally, the rule proposes that the Postal Service provide an analysis of the effect of the negotiated service agreement on contribution. This analysis should verify that the Postal Service will be no worse off as a result of the agreement. It should consider the effect on contribution from mailers that are not parties to the agreement. This is necessary to evaluate concerns raised by Professor Panzar in docket no. MC2002–2. Panzar discussed a potential problem where contribution to the Postal Service received from parties to an agreement increases, but the system-wide contribution might decrease due to competitive effects in the marketplace.

Such an agreement might not benefit the Postal Service.

Subsection (f) requires the Postal Service to provide an estimate of the competitive effects of the negotiated service agreement on both the competitors of the Postal Service and on the competitors of the other co-proponents. The intent is to have a basis for analyzing the issues raised by Professor Panzar in docket no. MC2002–2. In instances where proposals are strictly cost-based, the competitive issues should take on less significance, with less of a filing burden encountered. In instances where proposals are not cost based, such as with a declining block discount proposal, the filing burden might be greater. Special studies might have to be considered to fully analyze these competitive issues.

An estimate of the impact of the agreement on mail users as a group also is required. It is important that mailers not be made worse off due to the implementation of a negotiated service agreement.

Subsection (g) requires the Postal Service to propose a data collection plan. The intent is not to burden the Postal Service with a data collection plan such as required for an experimental proposal. The intent is for a data collection plan to gather data that would typically be collected in the normal course of business, and that would be useful in making business decisions. The Postal Service should be collecting this data in any event for its own internal use and to determine the success or failure of the agreement. The Commission anticipates that the data will be necessary for consideration of future proposals. The data can be used to justify the renewal of an ongoing negotiated service agreement. It can be used to justify extending a similar agreement to a similarly situated mailer. It can be used if the Postal Service needs to propose modifications to the ongoing agreement. It also can be used, in general, to determine which characteristics of negotiated service agreements work, and which do not. This will be helpful to the Postal Service and the Commission in considering future proposals.

The proposed rule states that the data is to be reported on an annual or more frequent basis. Frequent data reports are not necessary if the data are only to be used to renew, extend to other participants, or modify existing agreements. It would only be necessary to be produced when those events occur. However, annual data reports will help the Commission gain a more real-time understanding of which types of agreements work, and which do not, such that the Commission can make more informed recommendations for future requests. More importantly, the Commission anticipates that methodologies will have to be developed for dealing with the interaction of ongoing negotiated service agreements and future omnibus rate cases. Periodic reporting of data should help in the development and implementation of those methodologies.

Subsections (h), (i), and (j) titled ''Workpapers,'' ''Certification by officials,'' and ''Rejection of requests'' parallel rule 54 subsections (o), (p), and (s) respectively, and require no further explanation.

Proposed § 3001.194—Failure To Comply

The proposed rules balance the Commission's goal of considering negotiated service agreements in a timely manner against the requirement to develop an adequate record, and to consider the due process requirements of all participants. This section places the Postal Service on notice that failure to provide information necessary for the proceeding could result in the schedule being stayed until satisfactory compliance is achieved.

B. Case Specific Rules

Proposed § 3001.195—Requests To Recommend a Baseline Negotiated Service Agreement

Subsection (a) begins by describing the applicability of § 3001.195 to Postal Service proposals based on baseline negotiated service agreements. It defines a baseline negotiated service agreement as a negotiated service agreement that is not predicated on a functionally equivalent negotiated service agreement currently in effect. This could include a new or unique negotiated service agreement that is being proposed for recommendation for the first time. It also could include a negotiated service agreement that could have been considered functionally equivalent to a previously recommended negotiated service agreement, but for the expiration of the previous negotiated service agreement. This category of negotiated service agreement is included because the rules for a functionally equivalent negotiated service agreement allow for reliance on evidence presented in the baseline docket. The passage of time after the expiration of an agreement (including the time that the agreement was in effect) potentially makes this evidence less reliable. Thus, a more comprehensive presentation is required.

In general, the Postal Service is required to respond to each element of § 3001.193 when submitting a request to consider a proposal based on a negotiated service agreement. In addition, subsection (a)(1) addresses an issue that is unique to consideration of a baseline negotiated service agreement. Subsections (a)(2) and (a)(3) stress issues that the Commission would like the Postal Service to emphasize in its request.

Subsection (a)(1) requires the Postal Service to describe why the proposal is in the form of a negotiated service agreement as opposed to a less restrictive form of classification. The Commission's preference is to recommend classifications that are open to wide participation. Because negotiated service agreements are restrictive in participation, there is a potential for unwarranted discrimination. Proposals that exhibit unwarranted discrimination would not be fair and equitable under §§ 3622(b)(1) or 3323(c)(1), and could not be recommended. The response to this subsection will be used to analyze this issue.

Subsection (a)(2) requires the Postal Service to describe the operational bases of the negotiated service agreement. This requirement emphasizes that the Commission is interested in the specific details of the operational requirements placed on each party.

Subsection (a)(3) requires the Postal Service to describe the expectations of the parties regarding performance. This requirement emphasizes that the Commission is interested in the rationale for entering into the negotiated service agreement, and the anticipated future of the agreement.

Subsection (b) establishes the scheduling requirements for the Commission to consider Postal Service proposals predicated on baseline negotiated service agreements. The proposed scheduling requirement recognizes that a negotiated service agreement can take many forms, and may include unique and novel issues. Because of this, it is difficult to predict the duration of a proceeding before initial review of the actual request. A schedule will be established in each case, to allow for prompt issuance of a decision consistent with procedural fairness.

Proposed § 3001.196—Requests To Recommend a Negotiated Service Agreement That Is Functionally Equivalent to a Previously Recommended Negotiated Service Agreement

In general, the Postal Service is required to respond to each element of § 3001.193 when submitting a request to

consider a proposal based on a negotiated service agreement. However, § 3001.196(a) allows the Postal Service to streamline the responses required by § 3001.193 where a functionally equivalent negotiated service agreement is being proposed, thereby providing the opportunity for expedition of the procedural schedule. The intent is to shift the procedural focus from consideration of the general, functional and operational aspects of the agreement, which are assumed to have been fully litigated in the previous (baseline) docket, to the mailer-specific issues pertinent to consideration of the functionally equivalent docket.

Subsection (a) begins by describing the applicability of § 3001.196 to Postal Service proposals based on functionally equivalent negotiated service agreements. The purpose of proposing rules that expedite procedures for considering functionally equivalent negotiated service agreements is to assure that similarly situated mailers are given timely consideration and not placed at an undue disadvantage when seeking to secure a negotiated service agreement with the Postal Service.

Subsections (a)(1) and (a)(2) require the Postal Service to explain the similarities and differences between the functionally equivalent and baseline agreements. The Commission anticipates using this information to determine whether the proposal is in fact functionally equivalent to the proffered baseline agreement. This determination will bear on the decision of whether or not to proceed under § 3001.196. The comparison of similarities and differences will also alert the participants to areas of the agreement that may require closer inspection.

Assuming that the Postal Service is persuasive in arguing that its proposal is in fact functionally equivalent to an ongoing baseline agreement, subsection (a)(3) allows the Postal Service to cite and rely on record evidence from a baseline docket, or any other completed docket. It should be stressed that the Postal Service is expected to utilize this subsection as the primary method for expediting the procedural schedule. It is expected that the majority of the justification for the agreement has been filed in the baseline docket, and that much of this information will be applicable to the functionally equivalent docket. This should save the Postal Service time and effort by not having to recreate a substantial amount of evidence related to the agreement. If the proposed evidence has been litigated in a previous docket, there should be less need for discovery, or to litigate evidence in the new docket. Developing the record where possible in this fashion should save time and effort and help shorten the procedural schedule.

Subsection (a)(4) requires the Postal Service to provide any special studies pertinent to the negotiated service agreement. Consistent with the intent of focusing on the mailer-specific issues related to the functionally equivalent proposal, it is anticipated that special studies will analyze mailer specific information pertinent to the new proceeding, and thus should be highly relevant.[11]

Subsection (a)(5) requires the Postal Service to identify circumstances that are unique to the new proceeding. While subsections (a)(1) and (a)(2) focus more on the agreement itself, subsection (a)(5) focuses more on the mailer, and the specific interactions between the mailer and the Postal Service. This subpart will provide information relevant to the extent that the agreement is functionally equivalent to a baseline agreement. It will also provide mailer-specific information pertinent to the Commission's analysis.

The anticipated response to the subsection can best be explained by example. Using the Capital One NSA as a baseline, assume a functionally equivalent agreement for a mailer with one half the volume, and twice the return rate. The distinctive volume and return rate would be unique circumstances, which should be identified and discussed. A second example would be a description of the way that the second mailer prepares its mail versus the methods employed by Capital One.

Subsection (a)(6) provides the Postal Service with an opportunity to propose limiting issues to be considered in the proceeding. The responses to subsections (a)(1) through (a)(5) above should have provided the framework for identifying the relevant issues. The proposal to limit issues should focus the proceeding on relevant issues, and suggest elimination of issues that have been previously determined or that are outside the scope of the proceeding. The goal is to aid in expediting the procedural schedule. However, the Postal Service should not seek to avoid presenting the financial impact of the Negotiated Service Agreement over the duration of the agreement, or discussing the fairness and equity issues necessary for the Commission's consideration. These issues are material and relevant to every proceeding.

[11] This does not preclude the disclosure of studies related to any other aspect of the agreement.

Subsection (b) requires the Postal Service to provide written notice of its request to certain participants. This is in addition to the requirement of providing notice by posting on the Commission's web site. The purpose of this is to reduce the potential for participants to allege that notice was inadequate. This purpose should be considered in light of the Commission's intent to limit the time period for intervention in functionally equivalent proceedings. Presumably, parties will be familiar with the nuances of the agreement through the baseline agreement proceeding and will need less time to consider whether or not to intervene. Limiting the intervention period will help expedite consideration of requests under this rule.

Subsections (c) and (d) establish the procedures for considering Postal Service proposals based on functionally equivalent negotiated service agreements. The schedule is expedited based on the assumption that the new proposal is functionally equivalent to a previously recommended negotiated service agreement, for which a Commission record has been developed that can be relied on in the new docket. If it is determined that the proposal does not represent a request for a functionally equivalent negotiated service agreement, § 3001.195 will become applicable.

The Commission will promptly determine, on the basis of materials submitted with the request, and argument presented at or before the initial pre-hearing conference, whether or not it is appropriate to proceed under the rules for functionally equivalent negotiated service agreements. If it is appropriate and no hearing is held, a schedule will be established which allows for a recommended decision to be issued not more than 60 days after determination is made to proceed under the functional equivalency rules. If it is appropriate and a hearing is scheduled, a schedule will be established which allows for a recommended decision to be issued not more than 120 days after determination is made to proceed under the functional equivalency rules.

Where there is no need to expand on the previous record other than to enter evidence pertinent to the specifics of the new proposal, and where no issues warrant further exploration, the issuance of the recommended decision could occur within 10 days of the determination to proceed under the rules for functionally equivalent negotiated service agreements. In such cases, the Postal Service practice of negotiating a stipulation and agreement, which typically helps narrow the issues

for consideration, should become unnecessary.

Proposed §§ 3001.197 and 3001.198—Procedural Rules

Proposed §§ 3001.197 and 3001.198 are reserved for use in future rulemakings governing specific rules for renewal and modifications of negotiated service agreements.

Comments

By this order, the Commission hereby gives notice that comments from interested persons concerning the proposed amendments to the Commission's rules are due on or before September 29, 2003. Reply comments may also be filed and are due October 14, 2003.

Representation of the General Public

In conformance with § 3624(a) of title 39, the Commission designates Shelley S. Dreifuss, director of the Commission's office of the consumer advocate, to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Dreifuss will direct the activities of Commission personnel assigned to assist her and, upon request, will supply their names for the record. Neither Ms. Dreifuss nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding.

Ordering Paragraphs

It is ordered:

1. Docket No. RM2003–5 is established to consider Commission rules applicable to Postal Service proposals requesting Commission review of baseline negotiated service agreements and negotiated service agreements that are functionally equivalent to previously recommended negotiated service agreements.

2. Interested persons may submit comments no later than September 29, 2003.

3. Reply comments also may be filed and are due October 14, 2003.

4. Shelley S. Dreifuss, director of the office of the consumer advocate, is designated to represent the interests of the general public in this docket.

5. The Secretary shall arrange for publication of this notice of proposed rulemaking in the **Federal Register**.

Issued: August 27, 2003.

Dated: August 28, 2003.

By the Commission.

Steven W. Williams,

Secretary.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

For the reasons set forth in the preamble, the Commission proposes to amend 39 CFR part 3001 as follows:

PART 3001—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b); 3603; 3622–24, 3661, 3663.

Subpart A—Rules of General Applicability

2. Amend § 3001.5 by adding new paragraph (r) to read as follows:

§ 3001.5 Definitions.

* * * * *

(r) *Negotiated Service Agreement* means a written contract, to be in effect for a defined period of time, between the Postal Service and a mailer, that provides for customer-specific rates or fees and/or postal services in accordance with the terms and conditions of the contract.

Subpart B—Rules Applicable to Requests for Changes in Rates or Fees

3. Revise § 3001.51 to read as follows:

§ 3001.51 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to § 3622 of the Act that the Commission submit a recommended decision on changes in a rate or rates of postage or in a fee or fees for postal service if the Postal Service determines that such changes would be in the public interest and in accordance with the policies of the Act. The Rules of General Applicability in Subpart A of this part are also applicable to proceedings on requests subject to this subpart. For requests of the Postal Service based on Negotiated Service Agreements, the rules applicable to negotiated service agreements, Subpart L, supersede the otherwise applicable rules of this subpart.

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

4. Revise § 3001.61 to read as follows:

§ 3001.61 Applicability.

The rules in this subpart govern the procedure with regard to requests of the Postal Service pursuant to § 3623 of the Act that the Commission submit a recommended decision on establishing or changing the mail classification schedule. The Rules of General Applicability in Subpart A of this part are also applicable to proceedings on requests subject to this subpart. For requests of the Postal Service based on Negotiated Service Agreements, the Rules Applicable to Negotiated Service Agreements, Subpart L, supersede the otherwise applicable rules of this subpart.

5. Amend Part 3001 by adding Subpart L—Rules Applicable to Negotiated Service Agreements to read as follows:

Subpart L—Rules Applicable to Negotiated Service Agreements

Sec.

3001.190 Applicability.
3001.191 Filing of formal requests.
3001.192 Filing of prepared direct evidence.
3001.193 Contents of formal requests.
3001.194 Failure to comply.
3001.195 Requests to recommend a baseline negotiated service agreement.
3001.196 Requests to recommend a negotiated service agreement that is functionally equivalent to a previously recommended negotiated service agreement.
3001.197 Requests to renew previously recommended Negotiated Service Agreements with existing participant(s). [Reserved]
3001.198 Requests to modify previously recommended Negotiated Service Agreements. [Reserved]

Subpart L—Rules Applicable to Negotiated Service Agreements

§ 3001.190 Applicability.

(a) The rules in this subpart govern requests of the Postal Service for recommended decisions pursuant to § 3622 or § 3623 that are based on Negotiated Service Agreements. The Rules of General Applicability in subpart A of this part are also applicable to proceedings on requests subject to this subpart. The requirements and procedures specified in these sections apply exclusively to requests predicated on Negotiated Service Agreements, and except where specifically noted, do not supersede any other rules applicable to Postal Service requests for recommendation of changes in rates or mail classifications.

(b) In administering this subpart, it shall be the policy of the Commission to recommend Negotiated Service Agreements that are consistent with statutory criteria, and benefit the Postal Service, without causing unreasonable harm to the marketplace. Except in extraordinary circumstances and for

good cause shown, the Commission shall not recommend Negotiated Service Agreements of more than three years duration; however, this limitation is not intended to bar the Postal Service from requesting:

(1) The renewal of the terms and conditions of a previously recommended Negotiated Service Agreement, *see* § 3001.197; or

(2) Recommendation of a Negotiated Service Agreement that is functionally equivalent to a previously recommended Negotiated Service Agreement, *see* § 3001.196.

§ 3001.191 Filing of formal requests.

(a) Whenever the Postal Service proposes to establish or change rates or fees and/or the mail classification schedule based on a Negotiated Service Agreement, the Postal Service shall file with the Commission a formal request for a recommended decision. The request shall clearly state whether it is a request for a recommended decision pursuant to:

(1) The review of a baseline Negotiated Service Agreement, *see* § 3001.195;

(2) The review of a Negotiated Service Agreement that is functionally equivalent to a previously recommended Negotiated Service Agreement, *see* § 3001.196;

(3) The renewal of the terms and conditions of a previously recommended Negotiated Service Agreement, *see* § 3001.197; or

(4) The modification of the terms and conditions of a previously recommended Negotiated Service Agreement, *see* § 3001.198. Such request shall be filed in accordance with the requirements of §§ 3001.9 through 3001.12. Within 5 days after the Postal Service has filed a formal request for a recommended decision in accordance with this subsection, the Secretary shall lodge a notice thereof with the director of the Office of **Federal Register** for publication in the **Federal Register**.

(b) The Postal Service shall clearly identify all parties to the Negotiated Service Agreement. Identification by the Postal Service shall serve as Notice of Intervention for such parties. Parties to the Negotiated Service Agreement are to be considered co-proponents, procedurally and substantively, during the Commission's review of the proposed Negotiated Service Agreement.

§ 3001.192 Filing of prepared direct evidence.

(a) Simultaneously with the filing of the formal request for a recommended decision under this subpart, the Postal Service and its co-proponents shall file all of the prepared direct evidence upon which they propose to rely in the proceeding on the record before the Commission to establish that the proposed Negotiated Service Agreement is in the public interest and is in accordance with the policies and the applicable criteria of the Act. Such prepared direct evidence shall be in the form of prepared written testimony and documentary exhibits, which shall be filed in accordance with § 3001.31.

(b) Direct evidence may be filed in support of the Negotiated Service Agreement prepared by, or for, any party to the Negotiated Service Agreement. Direct evidence in support of the Negotiated Service Agreement prepared by, or for, any party to the Negotiated Service Agreement shall not be accepted without prior Postal Service review. The Postal Service shall affirm that the Postal Service has reviewed such testimony and that such testimony may be relied upon in presentation of the Postal Service's direct case.

§ 3001.193 Contents of formal requests.

(a) *General requirements.* (1) Each formal request filed under this subpart shall include such information and data and such statements of reasons and bases as are necessary and appropriate fully to inform the Commission and the parties of the nature, scope, significance, and impact of the proposed changes or adjustments in rates, fees, and/or the mail classification schedule associated with the Negotiated Service Agreement, and to show that the changes or adjustments are in the public interest and in accordance with the policies and the applicable criteria of the Act. To the extent information is available or can be made available without undue burden, each formal request shall include the information specified in paragraphs (b) through (k) of this section. If the required information is set forth in the Postal Service's prepared direct evidence, it shall be deemed to be part of the formal request without restatement.

(2) If any information required by paragraphs (b) through (k) of this section is not available and cannot be made available without undue burden, the request shall include a request for waiver of that requirement supported by a statement explaining with particularity:

(i) The information which is not available or cannot be made available without undue burden;

(ii) The reason or reasons that each such item of information is not available and cannot be made available without undue burden;

(iii) The steps or actions which would be needed to make each such item of information available, together with an estimate of the time and expense required therefor;

(iv) Whether it is contemplated that each such item of information will be supplied in the future and, if so, at what time; and

(v) Whether sufficiently reliable estimates are available to mitigate the need for such information, and if so, the specifics of such estimates.

(3) If the Postal Service believes that any of the data or other information required to be filed under § 3001.193 should not be required in light of the character of the request, it shall move for a waiver of that requirement, stating with particularity the reasons why the character of the request and its circumstances justify a waiver of the requirement.

(4) Grant of a waiver under (a)(2) or (a)(3) will be grounds for excluding from the proceeding a contention that the absence of the information should form a basis for rejection of the request, unless the party desiring to make such contention:

(i) Demonstrates that, having regard to all the facts and circumstances of the case, it was clearly unreasonable for the Postal Service to propose the change in question without having first secured the information and submitted it in accordance with § 3001.193; or

(ii) Demonstrates other compelling and exceptional circumstances requiring that the absence of the information in question be treated as bearing on the merits of the proposal.

(5) The provisions of paragraphs (a)(2) and (a)(3) of this section for the Postal Service to include in its formal request certain alternative information in lieu of that specified by paragraphs (b) through (k) of this section are not in derogation of the Commission's and the presiding officer's authority, pursuant to §§ 3001.23 through 3001.28, respecting the provision of information at a time following receipt of the formal request.

(6) The Commission may request information in addition to that required by paragraphs (b) through (k) of this section.

(b) *Negotiated Service Agreement.* Every formal request shall include a copy of the Negotiated Service Agreement.

(c) *Rates and standards information.* Every formal request shall include a description of the proposed rates, fees, and/or classification changes, including proposed changes, in legislative format, to the text of the Domestic Mail Classification Schedule and any associated rate schedule.

(d) *Description of agreement.* Every formal request shall include a statement describing and explaining the operative components of the Negotiated Service Agreement. The statement shall include the reasons and bases for including the components in the Negotiated Service Agreement.

(e) *Financial analysis.* Every formal request shall include an analysis of the effects of the Negotiated Service Agreement on Postal Service volumes, costs and revenues. The analysis shall:

(1) Be performed over the duration of the agreement, and for each individual year that the agreement is in effect;

(2) Provide such detail that the analysis of each component of a Negotiated Service Agreement can be independently reviewed;

(3) Be prepared in sufficient detail to allow independent replication, including citation to all referenced material;

(4) Include an analysis, which sets forth the estimated mailer-specific costs, volumes, and revenues of the Postal Service for each year that the Negotiated Service Agreement is to be in effect assuming the then effective postal rates and fees absent the implementation of the Negotiated Service Agreement;

(5) Include an analysis which sets forth actual and estimated mailer-specific costs, volumes, and revenues of the Postal Service which result from implementation of the Negotiated Service Agreement;

(6) Include a discussion of the effects of the Negotiated Service Agreement on contribution to the Postal Service (including consideration of the effect on contribution from mailers who are not parties to the agreement);

(7) Utilize mailer-specific costs, and provide the basis used to determine such costs, including a discussion of material variances between mailer-specific costs and system-wide average costs; and

(8) Utilize mailer-specific volumes and elasticity factors, and provide the bases used to determine such volumes and elasticity factors. If mailer-specific costs or elasticity factors are not available, the bases of the costs or elasticity factors that are proposed shall be provided, including a discussion of the suitability of the proposed costs or elasticity factors as a proxy for mailer-specific costs or elasticity factors.

(f) *Impact analysis.* Every formal request shall include an estimate of the impact over the duration of the Negotiated Service Agreement on:

(1) Competitors of the parties to the Negotiated Service Agreement other than the Postal Service;

(2) Competitors of the Postal Service; and

(3) Mail users.

The Postal Service shall include a copy of any completed special studies that were used to make such estimates. If special studies have not been performed, the Postal Service shall state this fact and explain the alternate bases of its estimates.

(g) *Data collection plan.* Every formal request shall include a proposal for a data collection plan, which shall include a comparison of the analysis presented in § 3001.193(f)(5) with the actual results ascertained from implementation of the Negotiated Service Agreement. The results shall be reported to the Commission on an annual or more frequent basis.

(h) *Workpapers.*

(1) Whenever the Service files a formal request it shall accompany the request with seven sets of workpapers, five for use by the Commission staff and two which shall be available for use by the public at the Commission's offices.

(2) Workpapers shall contain:

(i) Detailed information underlying the data and submissions for paragraphs (b) through (k) of this section;

(ii) A description of the methods used in collecting, summarizing and expanding the data used in the various submissions;

(iii) Summaries of sample data, allocation factors and other data used for the various submissions;

(iv) The expansion ratios used (where applicable); and

(v) The results of any special studies used to modify, expand, project, or audit routinely collected data.

(3) Workpapers shall be neat and legible and shall indicate how they relate to the data and submissions supplied in response to paragraphs (b) through (k) of this section.

(4) Workpapers shall include citations sufficient to enable a reviewer to trace any number used but not derived in the associated testimony back to published documents or, if not obtained from published documents, to primary data sources. Citations shall be sufficiently detailed to enable a reviewer to identify and locate the specific data used, *e.g.*, by reference to document, page, line, column, etc. With the exception of workpapers that follow a standardized and repetitive format, the required citations themselves, or a cross-reference to a specific page, line, and column of a table of citations, shall appear on each page of each workpaper. Workpapers that follow a standardized and repetitive format shall include the citations described in this paragraph for a sufficient number of representative examples to enable a reviewer to trace numbers directly or by analogy.

(i) *Certification by officials.* (1) Every formal request shall include one or more certifications stating that the cost statements and supporting data submitted as a part of the formal request, as well as the accompanying workpapers, which purport to reflect the books of the Postal Service, accurately set forth the results shown by such books.

(2) The certificates required by paragraph (j)(1) of this section shall be signed by one or more representatives of the Postal Service authorized to make such certification. The signature of the official signing the document constitutes a representation that the official has read the document and that, to the best of his/ her knowledge, information and belief, every statement contained in the instrument is proper.

(j) *Rejection of requests.* The Commission may reject any request under this subpart that patently fails to substantially comply with any requirements of this subpart.

§ 3001.194 Failure to comply.

If the Postal Service fails to provide any information specified by this subpart, or otherwise required by the presiding officer or the Commission, the Commission, upon its own motion, or upon motion of any participant to the proceeding, may stay the proceeding until satisfactory compliance is achieved. The Commission will stay proceedings only if it finds that failure to supply adequate information interferes with the Commission's ability promptly to consider the request and to conduct its proceedings with expedition in accordance with the Act.

§ 3001.195 Requests to recommend a baseline negotiated service agreement.

(a) This section governs Postal Service requests for a recommended decision in regard to a baseline Negotiated Service Agreement, *e.g.*, a Negotiated Service Agreement that is not predicated on a functionally equivalent Negotiated Service Agreement currently in effect. The purpose of this section is to establish procedures which provide for maximum expedition of review consistent with procedural fairness, and which allows for the recommendation of a baseline Negotiated Service Agreement. The Postal Service request shall include:

(1) A written justification for requesting a Negotiated Service Agreement classification as opposed to a more generally applicable form of classification;

(2) A description of the operational bases of the Negotiated Service Agreement, including activities to be performed and facilities to be used by both the Postal Service and the mailer under the agreement; and

(3) A statement of the parties' expectations regarding performance under the Negotiated Service Agreement, including the possibility of cancellation or re-negotiation of the agreement, and the perceived potential for renewal of the agreement for an additional period.

(b) The Commission will treat requests predicated on a baseline Negotiated Service Agreement as subject to the maximum expedition consistent with procedural fairness. A schedule will be established, in each case, to allow for prompt issuance of a decision.

§ 3001.196 Requests to recommend a negotiated service agreement that is functionally equivalent to a previously recommended negotiated service agreement.

(a) This section governs Postal Service requests for a recommended decision in regard to a Negotiated Service Agreement that is proffered as functionally equivalent to a Negotiated Service Agreement previously recommended by the Commission and currently in effect. The previously recommended Negotiated Service Agreement shall be referred to as the baseline agreement. The purpose of this section is to establish procedures that provide for accelerated review of functionally equivalent Negotiated Service Agreements. The Postal Service request shall include:

(1) A detailed description of how the proposed Negotiated Service Agreement is functionally equivalent to the baseline agreement;

(2) A detailed description of how the proposed Negotiated Service Agreement is different from the baseline agreement;

(3) Identification of the record testimony from the baseline agreement docket, or any other previously concluded docket, on which the Postal Service proposes to rely, including specific citation to the locations of such testimony;

(4) Any available special studies developing information pertinent to the proposed Negotiated Service Agreement;

(5) If applicable, the identification of circumstances unique to the request; and

(6) If applicable, a proposal for limitation of issues in the proceeding, except that the following issues will be relevant to every request predicated on a functionally equivalent Negotiated Service Agreement:

(i) The financial impact of the Negotiated Service Agreement on the Postal Service over the duration of the agreement;

(ii) The fairness and equity of the Negotiated Service Agreement in regard to other users of the mail; and

(iii) The fairness and equity of the Negotiated Service Agreement in regard to the competitors of the parties to the Negotiated Service Agreement.

(b) When the Postal Service submits a request predicated on a functionally equivalent Negotiated Service Agreement, it shall provide written notice of its request, either by hand delivery or by First-Class Mail, to all participants in the Commission docket established to consider the baseline agreement.

(c) The Commission will schedule a prehearing conference for each request. Participants shall be prepared to address whether or not it is appropriate to proceed under § 3001.196 at that time. After consideration of the material presented in support of the request, and the argument presented by the participants, if any, the Commission shall promptly issue a decision on whether or not to proceed under § 3001.196. If the Commission's decision is to not proceed under § 3001.196, the docket will proceed under § 3001.195.

(d) The Commission will treat requests predicated on functionally equivalent Negotiated Service Agreements as subject to accelerated review consistent with procedural fairness. If the Commission determines that it is appropriate to proceed under § 3001.196, a schedule will be established which allows a recommended decision to be issued not more than:

(1) 60 days after the determination is made to proceed under § 3001.196, if no hearing is held; or

(2) 120 days after the determination is made to proceed under § 3001.196, if a hearing is scheduled.

§ 3001.197 Requests to renew previously recommended Negotiated Service Agreements with existing participant(s). [Reserved]

§ 3001.198 Requests to modify previously recommended Negotiated Service Agreements. [Reserved]

[FR Doc. 03–22478 Filed 9–3–03; 8:45 am]

BILLING CODE 7710–FW–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 287–0410b; FRL–7548–4]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Kern County Air Pollution Control District (KCAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). The KCAPCD revisions concern the emission of particulate matter (PM–10) from agricultural burning and prescribed burning. The SJVUAPCD revision concerns the emission of oxides of nitrogen (NOX) from lime kilns. We are proposing to approve local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by October 6, 2003.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105; *steckel.andrew@epa.gov*.

You can inspect a copy of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revisions and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B–102, 1301 Constitution Avenue, N.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Kern County Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301.

San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

A copy of the rule may also be available via the Internet at *http://www.arb.ca.gov/drdb/drdbltxt.htm*. Please be advised that this is not an EPA

website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 947–4118.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of local KCAPCD Rule 417 and SJVUAPCD Rule 4313. In the Rules section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: August 7, 2003.

Debbie Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 03–22446 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 68, No. 171
Thursday, September 4, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collection to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0011.

Form Number: AID 1010–2.

Title: Application for Assistance—American Schools and Hospitals Abroad.

Type of Submission: Renewal of Information Collection.

Purpose: USAID finances grant assistance to U.S. founders or sponsors who apply for grant assistance from ASHA on behalf of their institutions overseas. ASHA is a competitive grants program. The office of ASHA is charged with judging which applicants may be eligible for consideration and receive what amounts of funding for what purposes. To aid in such determination, the office of ASHA has established guidelines as the basis for deciding upon the eligibility of the applicants and the resolution on annual grant awards. These guidelines are published in the **Federal Register**, Doc. 79–36221.

Annual Reporting Burden:

Respondents: 85.

Total annual responses: 85

Total annual hours requested: 1,020 hours.

Dated: August 18, 2003.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 03–22461 Filed 9–3–03; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Beginning Farmer and Rancher Land Contract Guarantee Pilot Program—Notice of Funds Availability (NOFA)

AGENCY: Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: This notice announces the availability of funding to implement the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program as required by section 310 F of the Consolidated Farm and Rural Development Act (Act). This section directs the Secretary to establish a pilot program to provide guarantees of loans made by private sellers of a farm or ranch on a contract land sale basis to qualified beginning farmers or ranchers.

This notice describes the eligibility and application requirements for the pilot program and the criteria that the Farm Service Agency (FSA) will consider in evaluating requests for guarantees under the program. The notice also describes actions that FSA will take if a buyer fails to pay on the contract.

DATES: FSA will begin accepting applications on September 4, 2003. Comments on the information collection associated with this notice must be received on or before November 3, 2003, to be given full consideration.

ADDRESSES: General information and the application form may be obtained from the FSA Web site at *http://www.fsa.usda.gov* or the USDA, FSA office listed in your local telephone directory.

FOR FURTHER INFORMATION CONTACT: Kathy Zeidler, Senior Loan Officer, or Galen VanVleet, Senior Loan Officer, USDA, FSA, Farm Loan Programs Loan Making Division, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522; telephone (202) 720–5199; e-mail: *kathy_zeidler@usda.gov* or *galen.vanvleet@usda.gov.* Persons with disabilities who require alternative means for communication (Braille, large print, audio tape, *etc.*) should contact the USDA Target Center at (202) 720–2600 (voice and TDD).

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Environmental Review

The environmental impacts of this notice have been considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, *et seq.*, the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA, 7 CFR parts 799, and 1940, subpart G. FSA has completed an environmental evaluation and concluded that the notice requires no further environmental review. No extraordinary circumstances or other unforeseeable factors exist which would require preparation of an environmental assessment or environmental impact statement. A copy of the environmental evaluation is available for inspection and review upon request.

Paperwork Reduction Act

A request for emergency clearance of the information collections associated with this notice was submitted to the Office of Management and Budget (OMB) per 5 CFR 1320.13(a)(2)(iii). The Agency's information collection requirements, currently approved under OMB control numbers 0560–0154, 0560–0155, 0560–0166, 0560–0178, and 0575–0147, are not affected by this notice.

In accordance with the Paperwork Reduction Act of 1995, FSA will provide a regular submission of the information collection package to OMB at the end of the comment period announced in this notice:

Title: Beginning Farmer and Rancher Land Contract Guarantee Pilot Program.

OMB Control Number: 0560–NEW.

Type of Request: New Information Collection.

Abstract: The collection of the information required by this notice is necessary to certify that applicants for

guarantees (sellers) are eligible to receive benefits. The information will be collected from applicants and prospective buyers in paper form by Agency loan approval officials. The information will be used and evaluated by the loan approval official to determine if the buyer and the sales transaction meet the criteria established by the Agency. The information may be viewed, used, and monitored by other Agency or USDA officials, and may be released in accordance with the Privacy Act or Freedom of Information Act. The information will be collected on an as needed basis. Failure to collect this information may result in persons receiving benefits other than intended program beneficiaries.

Estimate of Burden: Public reporting for this collection of information is estimated to average .75 hours per response.

Respondents: Farms, individuals, and businesses.

Estimated number of respondents: 480.

Estimated number of responses per respondent: 2.6.

Estimated total annual burden on respondents: 857 hours.

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; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden collection on those who are to respond, including through use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. These comments should be addressed to Kathy Zeidler, Senior Loan Officer, USDA, FSA, Farm Loan Programs Loan Making Division, STOP 0522, 1400 Independence Avenue, SW., Washington, DC 20250–0522. A comment is best assured of having its full effect if OMB receives it within 60 days of publication of this notice. Comments received after that date will be considered to the extent practicable. All comments received in response to this notice, including names and addresses, will be a matter of public record. Copies of the submission may be obtained from Kathy Zeidler by calling (202) 720–5199.

General Information

During FY 2003–2007 limited funds will be available for the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program. The pilot program will be implemented in the following States: Indiana, North Dakota, Oregon, Pennsylvania, Wisconsin, and Iowa. In each of fiscal years 2003 through 2007, depending on the availability of appropriations, up to five loans made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a land contract basis will be guaranteed in each of the pilot States. The intent of the pilot program is to determine if land contracts are a viable alternative for facilitating land transfers to beginning farmers and ranchers.

To the extent possible, the underwriting criteria of FSA's guaranteed loan program have been adopted. However, the structure of the loan guarantee under the pilot program is significantly different from FSA's existing guaranteed loan program, which compensates lenders for a percentage of the total loss of principal and interest suffered. Loss claim payments under the existing guaranteed program are made following liquidation of the loan and all collateral. The Beginning Farmer and Rancher Land Contract Guarantee Pilot Program will be structured to provide the seller of the land a ''prompt payment'' guarantee of the sale to the beginning farmer or rancher (buyer). FSA will provide a 10-year guarantee of two amortized annual installments, or an amount up to the total monetary amount of two amortized annual installments, on a land contract (*e.g.*, if a buyer pays only part of an installment over several years, the Agency's guarantee will cover the remainder of the installments up to an amount equal to two amortized annual installments). The guarantee will also cover the amount of two years' taxes and insurance.

In the event that the buyer does not pay an annual installment due on the contract, or pays only part of an installment on the contract, the seller must take immediate action to enforce the terms of the contract and collect the defaulted amount from the buyer. At a minimum, the seller must make written demand on the buyer for payment of the defaulted amount. In the event that the buyer does not pay the defaulted amount within 30 days of the seller's written demand, the seller will make demand upon the Agency to pay the defaulted amount. The Agency will remit payment to the seller via the escrow agent and pursue collection of the defaulted installment amount from the buyer using all available means, including establishing repayment terms and administrative and Department of Treasury offset.

The guarantee will terminate if (1) the contract is paid in full; (2) the Agency pays two annual installments, or the total monetary amount of two installments; (3) the seller fails to seek payment of a defaulted installment from the buyer or does not otherwise enforce the terms of the contract; or (4) the seller terminates the contract. If none of these events occur, the guarantee will automatically terminate 10 years from the effective date of the guarantee.

I. Definitions

Agency is the Farm Service Agency, its employees, and any successor agency.

Annual installment is the total amortized amount of principal and interest due to the seller on a land contract every 12 months.

Beginning farmer or rancher is an individual or entity who:

(a) Has not operated a farm or ranch or who has operated a farm or ranch for not more than 10 years. This requirement also applies to all entity members;

(b) will materially and substantially participate in the operation of the farm or ranch.

(c) In the case of a loan made to an individual, individually or with the immediate family, material and substantial participation requires that the individual provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the county or State where the farm is located.

(d) In the case of a loan to an entity, all members must materially and substantially participate in the operation of the farm or ranch. Material and substantial participation requires that the members provide some amount of the management, or labor and management, necessary for day-to-day activities, such that if the members did not provide these inputs, operation of the farm or ranch would be seriously impaired;

(e) agrees to participate in any loan assessment and financial management programs required by the Agency;

(f) does not own real farm or ranch property or who, directly or through interests in family farm entities, own real farm or ranch property, the aggregate acreage of which does not exceed 30 percent of the average farm or ranch acreage of the farms or ranches in the county where the property is located. If the farm is located in more than one county, the average farm acreage of the county where the buyer's residence is located will be used in the calculation. If the buyer's residence is not located on the farm, or if the buyer is an entity, the average farm acreage of the county where the major portion of

the farm is located will be used. The average county farm or ranch acreage will be determined from the most recent Census of Agriculture;

(g) demonstrates that the available resources of the buyer and spouse (if any) are not sufficient to enable the buyer to enter or continue farming or ranching on a viable scale;

(h) in the case of an entity, all the members are related by blood or marriage and all of the stockholders in a corporation are qualified beginning farmers or ranchers.

Buyer is an individual or entity who is participating in the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program in order to purchase a farm or ranch on land contract.

Cash flow budget is a projection listing all anticipated cash inflows (including all farm income, nonfarm income and all loan advances) and all cash outflows (including all farm and nonfarm debt service and other expenses) to be incurred by the buyer during the period of the budget. A cash flow budget may be completed either for a 12-month period or a typical production cycle, as appropriate.

Entity is a cooperative, corporation, partnership, joint operation, trust, or limited liability company.

Escrow agent is a bonded commercial lending institution, registered and authorized to provide escrow collection services in the State in which the real estate is located, that handles financial transactions between the buyer and seller, *e.g.*, a bank.

Family farm is a farm which produces agricultural commodities for sale in sufficient quantities so that it is recognized in the community as a farm rather than a rural residence; provides enough agricultural income by itself, including rented land, or together with any other dependable income, to enable the buyer to pay necessary family living and farm operating expenses, maintain essential chattel and real property, and pay debts; is managed by the buyer or the buyer's entity members; has a substantial amount of the labor requirement for the farm provided by the buyer and the buyer's immediate family or the entity members and their immediate families; and may use a reasonable amount of full-time hired labor and seasonal labor during peak load periods.

Feasible plan is a cash flow budget that indicates that there is sufficient cash inflow to pay all cash outflow each year during the term of the contract.

Land contract is an installment contract drawn between a buyer and a seller for the sale of real property, in which complete fee title ownership of the property is not transferred until all payments under the contract have been made.

Participated in the business operations of a farm or ranch means that the buyer has:

(a) Been the owner, manager or operator of a farm business for the year's complete production and marketing cycle as evidenced by tax returns, FSA farm records or similar documentation;

(b) been employed as a farm manager or farm management consultant for the year's complete production and marketing cycle; or

(c) participated in the operation of a farm by virtue of being raised on a farm or worked on a farm with significant responsibility for the day-to-day decisions for the year's complete production and marketing cycle.

Pilot State is any of the six States participating in the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program. Those States are Indiana, Iowa, North Dakota, Oregon, Pennsylvania, and Wisconsin.

Seller is an individual or entity who applies for a guarantee under the Beginning Farmer and Rancher Land Contract Guarantee Pilot Program in order to sell a farm or ranch on land contract in a pilot State.

United States is the United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

II. Appeals

Buyers and sellers can appeal adverse decisions made by the Agency in accordance with 7 CFR part 11.

III. Application

(a) Sellers who contact FSA with an interest in a guarantee under the pilot program will be sent a letter outlining specific program details and benefits. To formally request a guarantee on their proposed land contract, sellers must sign and date this letter and return it to FSA. The signed and dated letter will be considered the seller's application for guarantee. FSA also may require the seller to submit other information necessary to process the guarantee.

(b) The prospective buyer must submit the following items to FSA:

(1) A completed form FSA–1980–25, ''Application for Guarantee.''

(2) A brief written description of the buyer's farm training and/or experience.

(3) Income tax or other financial records acceptable to FSA from the past three years.

(4) Three years of production history immediately preceding the year of application, or the number of years available if the applicant has been farming less than three years.

(5) A brief written description of the proposed operation.

(6) Verification of off-farm employment and other non-farm income, if any. This will be required only when the buyer is relying on off-farm income to develop a feasible plan.

(7) Projected production, income and expenses, financial statement, and plan of operation, which may be submitted on Form FSA–431–2, ''Farm and Home Plan,'' or other similar plan of operation acceptable to FSA. The buyer may request Agency assistance in completing the plan.

(8) Applicable items required in 7 CFR part 1940, subpart G or its successor regulation.

(9) A copy of the proposed land contract to be entered into with the seller.

(10) Form FSA–440–32, ''Request for Statement of Debts and Collateral,'' or similar documentation, for all debts in excess of $1000.00.

(11) A credit report fee.

(12) Entity applicants must submit additional information for each entity member. The application must contain each entity member's name, address, Social Security number, percent ownership interest in the entity, and a current balance sheet.

(13) Any other documents required by the Agency and needed to process the application.

(c) If the buyer or seller propose to use a particular escrow agent for the land contract sale, they will provide the agent's name, address, and telephone number to the Agency.

(d) All forms listed are available at any FSA office or on the FSA Web site at *http://www.fsa.usda.gov.* The Agency will not consider an application complete until all required information is received from both the seller and the prospective buyer. The Agency will assist the buyer, when necessary, in completing the required FSA forms.

IV. Eligibility

(a) Buyers must meet the following requirements to be eligible:

(1) The buyer must be a beginning farmer or rancher and must be the owner and operator of a family farm after the contract is completed. See paragraph IV. (b) for owner and operator requirements for entity buyers.

(2) The buyer must have participated in the business operations of a farm or ranch for at least three years.

(3) The buyer and anyone who will execute the Loan Payment Guarantee Agreement and Contract Modification

(Agreement) as the buyer cannot have caused the Agency a loss by receiving debt forgiveness on more than three occasions on or prior to April 4, 1996, or on any occasion after April 4, 1996, on all or a portion of any direct or guaranteed loan made under the authority of the CONACT as amended, by debt write-down or write-off; compromise, adjustment, reduction, or charge-off under the provisions of section 331 of the CONACT; discharge in bankruptcy; or through payment of a guaranteed loss claim.

(4) When the guarantee is issued, the buyer and anyone who will execute the Agreement as the buyer must not be delinquent on any Federal debt, other than a debt under the Internal Revenue Code of 1986, nor be a Federal judgment debtor on a non-tax debt.

(5) The buyer must be a citizen of the United States, United States non-citizen national, or a qualified alien under applicable Federal immigration laws. If the buyer is an entity, the majority of the entity must be owned by members meeting the citizenship test.

(6) The buyer and anyone who will execute the Agreement as the buyer must possess the legal capacity to enter into a legally binding agreement.

(7) The buyer, in past or present dealings with the Agency, must not have provided the Agency with false or misleading documents or statements.

(8) The buyer and anyone who will execute the Agreement as the buyer must not have been convicted of planting, cultivating, growing, producing, harvesting, or storing a controlled substance under Federal or State law within the last five crop years. ''Controlled substance'' is defined at 21 CFR 1308. Buyers must certify on the application that the buyer has not been convicted of such a crime within the relevant period.

(9) The buyer and anyone who will execute the Agreement as the buyer must have an acceptable credit history demonstrated by satisfactory debt repayment. A history of failures to repay past debts as they came due (including debts to the Internal Revenue Service) when the ability to repay was within their control will demonstrate an unacceptable credit history. Unacceptable credit history will not include isolated instances of late payments (which do not represent a pattern and were clearly beyond their control) or the lack of a credit history.

(10) The buyer must be unable to obtain sufficient credit elsewhere without a guarantee to finance actual needs at reasonable rates and terms.

(b) For entity buyers, the following additional eligibility criteria apply:

(1) The collective ownership interest of all entity members may exceed the family farm definition limits only if all of the entity members are related by blood or marriage, all of the entity members are or will be operators of the farm, and the majority interest holders meet the above requirements relating to citizenship, false or misleading information, credit history, and operation and ownership of the farm or ranch.

(2) Each entity member's ownership interest may not exceed the family farm definition.

(3) The entity must be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States after the guarantee is issued; and

(4) The entity members can not be entities themselves.

(5) The entity must be authorized to own and operate a farm in the State(s) in which the farm is located.

(6) If the entity members holding a majority interest are related by blood or marriage, at least one member of the entity also must operate the family farm and at least one member of the entity must own the family farm.

(7) If the entity members holding a majority interest are not related by blood or marriage, the entity members holding a majority interest must operate the family farm and entity members holding a majority interest or the entity must own the family farm.

V. Financial Feasibility

(a) The proposed operation described on Form FSA–431–2 or similar plan acceptable to FSA must project a feasible plan. The projected income and expenses of the buyer and operation used to determine a feasible plan must be based on the buyer's proven record of production and financial management. For those farmers without a proven history, a combination of any actual history and any other reliable source of information which is agreeable to the buyer and the Agency will be used. The cash flow budget analyzed to determine a feasible plan must represent the projected cash flow of the operating cycle for the farm or ranch operation.

(b) The buyer must use the best sources of information available for estimating production when developing cash flow budgets. Deviations from historical performance may be acceptable, if the deviations are the direct result of specific changes in the operation, are reasonable, adequately justified, and acceptable to the Agency. For existing farmers, actual production for the past three years will be utilized. For those farmers without a proven history, a combination of any actual history and any other reliable source of information that is agreeable to the buyer and the Agency will be used. When the production of a growing commodity can be estimated, it must be considered when projecting yields.

(c) When the buyer's production history has been so severely affected by a declared disaster that an accurate projection cannot be made, the following applies:

(1) County average yields are used for the disaster year if the buyer's disaster year yields are less than the county average yields. If county average yields are not available, State average yields are used. Adjustments can be made, provided there is factual evidence to demonstrate that the yield used in the farm plan is the most probable to be realized.

(2) To calculate a historical yield, the crop year with the lowest actual or county average yield may be excluded, provided the buyer's yields were affected by disasters at least two of the previous five consecutive years.

(d) Buyers must use price forecasts that are reasonable, defensible, and historically supportable. Sources must be documented by the buyer and be acceptable to the Agency. When a feasible plan depends on income from other sources in addition to income from owned land, the income must be dependable and likely to continue throughout the term of the guarantee.

VI. Eligible Purpose

The guarantee may only be used for financing the purchase of a farm or ranch on a land contract basis. The farm or ranch land to be purchased must be located in a pilot State. Guarantees will only be provided on new contracts. Existing contracts are not eligible for a guarantee under the pilot program.

VII. Maximum Purchase Price

(a) The purchase price of the farm or ranch to be acquired cannot exceed the lesser of:

(1) $500,000 and

(2) its current market value as determined by Agency appraisal or estimate.

(b) The buyer must provide a cash downpayment of at least five percent of the purchase price of the farm or ranch being acquired on land contract.

VIII. Maximum Payment and Term of Guarantee

The guarantee will be in effect for 10 years commencing with its stated effective date. The guarantee will cover two amortized annual installments, or an amount up to the total monetary

amount of two amortized annual installments, on the land contract. The guarantee will also cover the amount of two years of taxes and insurance. Under no circumstance will the amount outstanding to the Agency be more than the amount of two amortized annual installments, plus two years of real estate taxes and hazard insurance.

IX. Loan Rates and Terms

The interest rate charged by the seller for the 10-year term of the guarantee must be fixed at a rate not to exceed FSA's direct farm ownership (FO) loan interest rate in effect at the time the guarantee is issued, plus three percentage points (Interest rates are available in any FSA office). The seller and buyer may renegotiate the interest rate for the remaining term of the contract following expiration of the guarantee. The contract payments must be amortized for a minimum of 20 years. Balloon payments are prohibited during the 10-year term of the guarantee, and payments on the contract must be of equal amounts during the term of the guarantee.

X. Appraisal Requirements

The Agency may require an appraisal prior to, or as a condition of, approval of the guarantee. Any such appraisal will be obtained at the Agency's sole option and expense.

XI. Requesting Title Service

The buyer will obtain title clearance as provided in 7 CFR part 1927, subpart B, or its successor regulation prior to contract settlement and issuance of the guarantee.

XII. Environmental Compliance

The environmental and historic preservation requirements contained in 7 CFR part 1940, subpart G or its successor regulation must be met prior to approval of any guarantee request.

XIII. Processing and Approving Applications and Executing the Guarantee

(a) Requests for guarantee will be processed based on the date the Agency receives a complete application as defined above. Each pilot State may approve up to five loan guarantees each fiscal year of the pilot program. Approval is also subject to the availability of guaranteed FO loan funds and the participation of an approved escrow agent.

(b) After a request for guarantee is approved, all parties to the guarantee (buyer, seller, escrow agent, and the Agency) will execute the Loan Payment Guarantee Agreement and Contract Modification. This Agreement will describe the conditions of the guarantee and the process for payment of claims. It will also outline the covenants and agreements of the buyer, seller, escrow agent, and the Agency.

XIV. Escrow Agent Responsibilities

Use of a third party escrow agent approved by the Agency is required. The buyer or seller, as applicable, will provide the Agency a copy of any escrow agreement executed by the parties. The escrow agent will:

(a) handle transactions relating to the land contract between the buyer and seller;

(b) receive contract installments and remit them to the seller;

(c) notify FSA and the seller in the event of default by the buyer;

(d) remit to the seller any defaulted installment amount paid by the Agency under the guarantee;

(e) notify FSA and the seller semi-annually of the outstanding balance on the contract and the status of payment;

(f) send a notice of payment due to the buyer at least 30 days prior to the installment due date; and

(g) perform other duties as required by State law and as agreed to by the buyer and the seller.

XV. Routine Servicing and Contract Modification

(a) At the Agency's request, the buyer will supply the Agency with a current balance sheet, income statement, cash flow budget, and any additional information needed to analyze the buyer's financial condition annually.

(b) With the Agency's prior written approval, the seller and buyer may modify the land contract provided that, in addition to a feasible plan for the upcoming operating cycle, a feasible plan can be reasonably projected throughout the remaining term of the guarantee. If a contract is modified, the seller must provide the Agency and escrow agent with a copy of the revised contract.

XVI. Collection of Defaulted Installment Amounts

If the buyer fails to pay an annual amortized installment on the contract, or a portion of an installment on the contract, the escrow agent will notify the seller and the Agency in writing of the default. The seller must then take immediate action to enforce the terms of the contract and collect the defaulted amount from the buyer. At a minimum, the seller must make written demand on the buyer for payment of the defaulted amount, with a copy of the demand letter to the Agency. In the event that the buyer does not pay the defaulted amount within 30 days of the seller's written demand, the seller will make demand upon the Agency to pay the defaulted amount. The seller must make written demand upon the Agency within 90 days from the date the amount was due.

XVII. Delinquent Servicing

(a) When FSA has made a payment under this guarantee on behalf of the buyer, the amount paid will become immediately due and payable by the buyer. The unpaid balance of the amount paid on behalf of the buyer will bear interest from the date of advance by the Agency at the established Farm Loan Programs Nonprogram Credit Sales Real Property loan rate (available in any FSA office) in effect at that time. The Agency will notify the buyer of the available options for repaying the debt. At the Agency's discretion, a missed or partially missed amortized contract installment, delinquent real estate taxes, or insurance payments may be structured to be repaid consistent with the buyer's repayment ability not to exceed 7 years, or the termination date of the guarantee, whichever occurs first. Before any repayment plan can be approved, the buyer must provide the Agency with the best lien obtainable on all of the buyer's assets, including the buyer's interest in the real estate under contract. When the buyer is an entity, the best lien obtainable will be taken on all of the entity's assets, and all assets owned by the members of the entity, including their interest in the real estate under contract.

(b) Any amounts paid by the Agency on account of liabilities of the buyer will constitute a Federal debt owing to the Agency that is immediately due and payable by the buyer. If the debt is not restructured into a repayment plan or the delinquency otherwise cured, the Agency may use all remedies available to it, including offset under the Debt Collection Improvement Act of 1996, to collect the debt from the buyer.

(c) Buyers with an Agency-approved repayment plan will supply the Agency, upon request, with a current balance sheet, income statement, cash flow budget, complete copy of their Federal income tax returns, and any additional information needed to analyze the buyer's financial condition annually.

(d) If the buyer fails to perform under an Agency-approved repayment plan, the debt will be treated as a non-program loan debt, and servicing will proceed in accordance with 7 CFR 1951 section 1951.468, or its successor regulation. In such case, the Agency may use all remedies available to it,

including offset under the Debt Collection Improvement Act of 1996, to collect the debt from the buyer.

XVIII. Terminating the Guarantee

The guarantee and the Agency's obligations under it will terminate under the following circumstances:

(a) Full payment of the land contract;

(b) payment by the Agency of two annual installments on the contract, or an amount equal to two annual installments, if not repaid in full by the buyer. (An Agency-approved repayment plan will not constitute payment in full until such time as the entire amount due under the Agency-approved repayment plan is paid in full);

(c) the seller fails to seek payment of a delinquent installment from the buyer or otherwise does not enforce the terms of the land contract; or

(d) the seller terminates the land contract.

If none of these events occur, the guarantee will automatically terminate, without notice, 10 years from the effective date of the guarantee.

Signed in Washington, DC, on August 15, 2003.

James R. Little,

Administrator, Farm Service Agency.

[FR Doc. 03–22519 Filed 9–3–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Special Use Permits for Outfitter and Guide Operations on the Lower Rogue and Lower Illinois Rivers, Siskiyou National Forest, Curry County, OR

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 disclose the environmental effects of reissuing 63 special use permits for outfitter and guide operations on the lower Rogue River from Lobster Creek to the pool below Blossom Bar Rapids and the lower Illinois River from the confluence with the Rogue River to the mouth of Nancy Creek. The types of special use activities on the Rogue River include: commercial tour boats offering scenic trips and transport of guests to lodges in the Wild Section; fishing guides using both float craft and motorboats; livery services transporting people and freight or offering scenic trips; whitewater motorboat training; half-day float trips from Foster Bar to Agness; and commercial transport of lodge guests from Foster Bar to Paradise Lodge. On the Illinois River, the type of commercial activity is guided fishing. As a connected action, there is also a need to issue or reissue special use permits for the docks of the three commercial lodges in the Wild Section of the Rogue River.

DATES: Comments concerning the scope of this analysis should be received by October 3, 2003.

ADDRESSES: Send written comments to John Borton, District Ranger, Gold Beach Ranger District, Siskiyou National Forest, 29279 Ellensburg, Gold Beach, OR 97444, Fax (541) 247–3617, e-mail: *comments-pacificnorthwest-siskiyou-chetco-goldbeach@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Bill Blackwell, District Recreation, Lands and Minerals Staff, Gold Beach Ranger District, (541) 247–3600.

SUPPLEMENTARY INFORMATION: The Rogue River was designated a Wild and Scenic River by Congress in 1968. For the portion of the river where the outfitters and guides operate, the river is classified as either Recreational or Scenic from Lobster Creek to Watson Creek (approximately 24 river miles), and Wild from Watson Creek to the pool below Blossom Bar Rapids (approximately 10 river miles). The Illinois River was designated Wild and Scenic in 1984 and is classified as Recreational from its confluence with the Rogue River upstream to the mouth of Nancy Creek.

Commercial fishing guides using motorboats and tour boats offering scenic trips started in the late 1920s and early 1930s. The number of guides and trips increased in the post-World War II era. The invention of hydro-jet powered motorboats in 1958 allowed boats to navigate the river during low summer flows. As the population has increased over the years, all types of recreational float craft and motorboat use has also increased. Today, thousands of people visit the Rogue River each year. The Rogue is internationally renowned for its fishing, and commercial fishing guides provide a recreational service to people who visit the area. The scenery of the Rogue is also internationally known, and each year thousands of people enjoy the recreational experience of riding on the tour boats that travel up the river.

In 1959, the Oregon State Marine Board was given responsibility to establish and administer boating regulations in the State of Oregon. In the 1970s, due to the increased amount of boating in the Wild Section of the Rogue River, the Marine Board, in cooperation with the Bureau of Land Management and the Forest Service, introduced a permit system to help limit the amount of use in the Wild Section. In 1974, the Marine Board eliminated motorboat use from the pool below Blossom Bar Rapids upstream to Grave Creek between May 15 and November 15. In 1976, after much public comment, the Marine Board limited commercial motorboats in the Wild Section from Watson Creek to the pool below Blossom Bar Rapids between May 15 and November 15 to current permittees and at the use level that existed as of January 15, 1976.

In 1979, the Forest Service first started requiring permits for commercial motorboat activities in the Wild Section of the Rogue River. In 1981, a Forest Service permit was required for any commercial motorboat or float craft activity from Lobster Creek to Watson Creek as well as in the Wild Section. In 1984, the Marine Board decided to re-evaluate its role in the motorboat permit system and begin to solicit public comment. In 1986, the Gold Beach District Ranger wrote to the Marine Board and stated that the Forest Service would continue to administer the motorboat limits and regulations in the Wild Section as the Marine Board had done, with only minor variations. Later that year, the Marine Board decided to repeal their rules, consolidating the motorboat permit system with the Forest Service. The Forest Service continued to issue permits to the tour boats, fishing guides, livery services, and other uses for the same number of trips that had been issued previously by the Marine Board.

In 1995, the Forest Service limited the number of fishing guides in the Lobster Creek to Watson Creek area to those that were currently under permit. These permits allowed use any time of the year, but they could only be used by the permittees and there could be no employees operating under that permit. Also in 1995, the Forest Service limited the number of trips by the tour boats from Lobster Creek to Watson Creek, based on the season of year: shoulder-season (May 1 to June 15 and the day after Labor Day to October 31), main-season (June 16 to Labor Day), and off-season (November 1 to April 30).

Prior to 1999, some guides who operated under permits issued by Bureau of Land Management and jointly administered by the Bureau of Land Management and the Forest Service would guide fishing trips entirely on the National Forest portion of the river. The language in these special use permits stated the outfitter and guide use was for the Rogue River from the Applegate

River to Lobster Creek, so the National Forest section was included in the permit. In 1999, the Forest Service and Bureau of Land Management agreed that permittees operating entirely on National Forest must do so under permits issued by only the Forest Service. Permittees that could prove historical use (1974 to 1988) were issued permits for the same types of use and for the same number of trips that had been previously made. These permittees were limited to the maximum number of trips they could make, but were allowed to hire employees.

Also in 1999, Paradise Lodge was authorized to transport lodge guests via motorboat from Foster Bar to the lodge in the Wild Section. Terms and conditions of the special use permit for this activity were negotiated with the parties that appealed the decision the Forest Service had made concerning this activity through an informal resolution process.

In 2001, Riverhawks et al. filed a lawsuit in U.S. District Court alleging the U.S. Forest Service had violated the Wild and Scenic Rivers Act, the National Forest Management Act, and the National Environmental Policy Act (NEPA) by issuing special use permits and allowing motorboat use in the Wild Section of the Rogue River. The District Court ruled the Forest Service violated the procedural requirements of NEPA when reissuing the special use permits for outfitters and guides on the Rogue River, while all other claims made by the Plaintiffs were denied.

Purpose and Need for Action

There are a variety of recreational activities that have become established on the lower Rogue and lower Illinois rivers and thousands of people participate in them each year. The commercial operations that provide these recreational activities on the Rogue River include guided fishing trips, scenic tours, half-day float trips, and the transport of guests to the lodges in the Wild Section. On the lower Illinois River, the commercial activity is guided fishing. These commercial operations are required to have special use permits for these activities by Forest Service policy (Forest Service Manual 2700).

The purpose of this proposal is to provide these recreational activities on the lower Rogue and lower Illinois Rivers through outfitter and guide services as outlined by Forest Service policy. There is a need to respond to those permittees that want to continue their commercial operations and reissue their existing special use permits that expire on December 31, 2004 and April 30, 2006. As a connected action, there is also a need to issue or reissue special use permits for the docks of the three commercial lodges in the Wild Section of the Rogue River. These docks are needed for the tour boats, livery service boats, and the boats that transport commercial lodge guests to Paradise Lodge to safely load and unload passengers and their belongings.

This proposal is in accordance with the Rogue National Wild and Scenic River Management Plan (1972) and the management decisions that have been made about limiting use since the Management Plan was issued. These decisions are described in the Supplementary Information section of this document. This proposal is also in accordance with the Illinois Wild and Scenic River Management Plan (1985). These plans were incorporated into the Siskiyou National Forest Land and Resource Management Plan (1989) in their entirety. The Rogue River Management Plan states, ''One of the key reasons for including the Rogue River in the National Wild and Scenic Rivers System was to protect and enhance the recreational values which the river possesses. These values are realized in a great variety of activities. They range from an individual pitting only his knowledge and skill against the sometimes hostile forces of nature to recreation uses where the facilities and equipment are so sophisticated that the river can be enjoyed with no special knowledge and skill. Since boating, fishing and sightseeing are the main recreational uses on the river, top priority for recreation development will be given to improving the quality of those activities.'' The Siskiyou Land and Resource Management Plan states, ''Increased emphasis has been placed on the Recreation program, the focus of which will be toward meeting the needs of the recreating public and toward working with four Southern Oregon Counties to assist them in developing their Economic development goals. These goals are based on the development of the Recreation/Tourism industry.''

Proposed Action

The proposed action is to reissue 63 special use permits for outfitter and guide operations on the lower Rogue River from Lobster Creek to the pool below Blossom Bar Rapids and the lower Illinois River from the confluence with the Rogue River to the mouth of Nancy Creek with the same terms and conditions as the current permits.

This proposed action does not include and is not addressing the permit system for private recreational motorboat trips in the Wild Section, private recreational motorboat or float use below the wild Section, or motorboat trips for ingress/egress purposes to private property along the Rogue River. These issues will be addressed in the revision of the rogue Comprehensive Wild and Scenic River Management Plan in cooperation with the Bureau of Land Management.

The types of activities on the Rogue River that would be permitted include: Commercial tour boats offering scenic trips and transport of guests to lodges in the Wild Section; fishing guides using both float craft and motorboats; livery services transporting people and freight or offering scenic trips; whitewater motor boat training; half-day float trips from Foster Bar to Agness; and commercial transport of lodge guests from Foster Bar to Paradise Lodge. On the Illinois River, the type of permitted commercial activity is guided fishing. The following details the terms and conditions for each type of permit:

Commercial tour boats. There are three permits for two companies to operate tour boats providing scenic trips from Gold Beach. There are three types of trips and the permitted area is from Lobster Creek to either Snout Creek (Agness), Watson Creek (where the Wild Section begins), or to the pool below Blossom Bar Rapids (approximately 10 miles upriver in the Wild Section). The boat size is limited to 43 feet long and/or 14 feet wide for those boats going to Snout Creek and 31.5 feet long and/or 12 feet wide with a maximum capacity of 42 passengers for those boats going past Snout Creek. The following are the seasons of use and maximum number of trips allowed: (1) *Shoulder Seasons*—May 1 through June 15 and the day following Labor Day through October 31. The maximum number of trips per day is 16. The maximum number of trips upstream of Snout Creek (Agness) per day is 13. The maximum number of trips upstream of Watson Creek (Wild Section) per day is six; (2) *Main Season*—June 16 through Labor Day. The maximum number of trips per day is 28. The maximum number of trips upstream of Snout Creek (Agness) per day is 17. The maximum number of trips upstream of Watson Creek (Wild Section) per day is six; and (3) *Off Season*—November 1 through April 30. The maximum number of trips per day is four with a maximum of eight trips per day.

Fishing guides. There are a total of 59 guides permitted to operate guided fishing trips and other trips on some portion of lower Rogue River and the lower Illinois River. Of the 59, there are 46 guides authorized to conduct guided

fishing trips from Lobster Creek to Watson Creek. There is no limit to the number of days the permit can be used, but the permit is valid only for the permitee and the trips can be by either motorboats or float craft such as drift boats. There can be no employees operating under the permit. Of these 46 guides, nine guides can also operate on the lower Illinois River.

There are get guides currently operating the wild Section who originally authorized by the Oregon State Marine Board in 1976 or who bought a guide business that was authorized by the State. Their current permits autohrize use on the Rogue River from Lobster Creek to the pool below Blossom Bar Rapids with a motorboat or float craft. These guides are limited to the number of trips and user days (number of clients) they are permitted on an annual basis. These permittees can operate year-round with a maximum of 394 trips a year in the Wild Section, cumulatively. Six of the permittees can hire employees, but any trips the employees make are counted towards the total number of trips and user days the permittee is allowed. Two of the permittees operate a livery service (transporting people and freight), scenic trips (maximum 32 trips), whitewater boat training, and guided raft trips from Foster Bar to Agness (maximum 31 trips). Three of the permittees can operate on the lower Illinois River. All of these various trips count towards the total annual number of trips and user days that the permittee is authorized.

Nine fishing guides who originally operated under the jointly managed Bureau of Land Management and Forest Service permits are now operating under Forest Service permits as described in the Supplementary Information section. These guides can use both float craft and motorboats. Of these nine guides, four can guide fishing trips in the Wild Section year-around as described above. Three guides can operate in the Wild Section from November 15 to May 14 with a maximum of 57 trips a year, cumulative. Six guides can operate from Foster Bar to Watson Creek and Foster Bar downstream to Lobster Creek for a cumulative maximum of 197 trips a year and eight guides can operate from Foster Bar to Watson Creek and Foster Bar downstream to Quosatana Creek for a cumulative maximum of 285 trips a year.

Commercial transport of lodge guests. There is one permit to transport lodge guest from Foster Bar to Paradise Lodge which is located approximately 10 miles upstream of Foster Bar. A trip is defined as a round-trip from Foster Bar to the lodge and return. The maximum number of trips is 365 annually. Trips not used in the summer season can be carried over into the winter season, but trips not used in the winter season cannot be carried over into the summer season. The number of trips by season are: (1) *Summer Season*—May 1 to October 31. A maximum of two round trips per day, not to exceed 180 trips for the season, and not to exceed 15 total passengers (commercial and non-commercial combined) upstream in any one day, and not to exceed 15 total passengers (commercial and non-commercial) downstream in any one day; and (2) *Winter Season*—November 1 to April 30. No daily limit of trips, but not to exceed 185 trips for the season. There is no daily limit of passengers, but there is a limit of 18 total passengers and one operator on any one trip.

Preliminary Alternatives

In addition to the Proposed Action, the No Action alternative will be analyzed. With the No Action alternative, the special use permits would not be reissued. The development of any other alternatives will be completed following the public response to initial scoping.

Scoping Proceess

Scoping is an ongoing process throughout the planning process. A scoping letter will be mailed to those people and organizations on the Gold Beach Ranger District's mailing list that have indicated an interest in Rogue River management. A press release announcing the filing of this Notice of Intent will be sent to local newspapers and media. The public will be notified of any meetings regarding this proposal by mailings and press release sent to the local newspapers and media.

Comment Requested

This notice of intent initiates the scoping process under NEPA, which will guide the development of the draft EIS. The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment by January 2004. The comment period for the draft EIS will be 45 days from the date EPA publishes the Notice of Availability in the **Federal Register**.

At the end of this period, comments submitted to the Forest Service, including names and addresses of those who responded, will be considered part of the public record for this proposal and, as such, will be available for public review. 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 part 215. 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 if 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.

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 EISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 533 (1978). Also, environmental objections that could be raised at the draft EIS stage, but that are not raised until completion of the final EIS, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir, 1986) and *Wisconsin Heritages, Inc.,* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is 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 a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS 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.

Comments on the draft EIS will be analyzed, considered, and responded to

by the Forest Service in preparing the final EIS. The final EIS is scheduled to be completed in July 2004. The Responsible Official, John Borton, District Ranger, will review the analysis contained in the Environmental Impact Statement (EIS) to determine if the special use permits should be reissued and under what terms and conditions. The responsible official will consider comments, responses, environmental consequences discussed in the final EIS and applicable laws, regulations, and policies in making this decision and will document the decision and rationale in the Record of Decision. The decision will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: August 26, 2003.

John Borton,

District Ranger.

[FR Doc. 03–22491 Filed 9–3–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Notice of Funds Availability (NOFA) Inviting Applications for the Value-Added Agricultural Product Market Development Grant Program (VADG) (Independent Producers)

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS) announces the availability of $27.7 million in competitive grant funds for fiscal year 2003 to help independent agricultural producers enter into value-added activities. RBS hereby requests proposals from eligible independent producers, agricultural producer groups, farmer or rancher cooperatives, and majority-controlled producer-based business ventures interested in a competitively awarded grant to fund one of the following two activities: (1) Developing feasibility studies or business plans (including marketing plans or other planning activities) needed to establish a viable value-added marketing opportunity for an agricultural product; or (2) acquiring working capital to operate a value-added business venture or an alliance that will allow the producers to better compete in domestic and international markets. In order to provide program benefits to as many eligible applicants as possible, applications can only be for one or the other of these two activities, but not both. Value-added products are defined as follows: (1) A change in the physical state or form of the product (such as milling wheat into flour or making strawberries into jam); (2) the production of a product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products); (3) the physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system). As a result of the change in physical state or the manner in which the agricultural commodity or product is produced or segregated, the customer base for the commodity or product is expanded and a greater portion of revenue derived from the marketing, processing, or physical segregation is made available to the producer of the commodity or product. Value-added also includes using any agricultural product or commodity to produce renewable energy on a farm or ranch.

The maximum award per grant is $500,000. In order to maximize the distribution of program benefits, smaller grant requests under $500,000 will receive priority points. Priority is also being given to projects producing energy from biomass or demonstrating profitable use of innovative technologies.

DATES: Applications must be completed and submitted to the appropriate State USDA Rural Development office as soon as possible, but no later than 4 p.m. on October 20, 2003. Applications received after October 20, 2003, will not be considered. Late applications will not be accepted and will be returned to the applicant. Applicants must ensure that the service they use to deliver their applications can do so by the deadline. Due to recent security concerns, packages sent to the agency by mail have been delayed several days or even weeks.

ADDRESSES: Submit proposals and other required materials to your State USDA Rural Development Office. RBS is strongly encouraging the electronic submission of proposals. If proposals are electronically submitted, signed paper copies of the three required forms, SF–424 ''Application for Federal Assistance,'' SF–424A ''Budget Information—Non-Construction Programs,'' and SF–424B ''Assurances—Non-Construction Programs,'' need to be mailed or faxed to the State office. A list of Rural Development State Offices, addresses, e-mail addresses, and telephone numbers follows.

Note: Telephone numbers listed are not toll free.

U.S. Department of Agriculture Rural Development State Offices

Alabama

Chris Harmon, USDA Rural Development, Sterling Center, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3415, *chris.harmon@al.usda.gov.*

Alaska

Dean Stewart, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7722, *dstewart@rdmail.rural.usda.gov.*

Arizona

Gary Mack, USDA Rural Development, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012, (602) 280–8717, *gary.mack@az.usda.gov.*

Arkansas

Tim Smith, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3200, *tim.smith@ar.usda.gov.*

California

Karen Spatz, USDA Rural Development, 430 G Street, Agency 4169, Davis, CA 95616, (530) 792–5829, *karen.spatz@ca.usda.gov.*

Colorado

Leroy W. Cruz, USDA Rural Development, 655 Parfet Street, Lakewood, CO 80215, (720) 544–2926, *leroy.cruz@co.usda.gov.*

Delaware-Maryland

James E. Waters, USDA Rural Development, 4607 South DuPont Highway, Camden, DE 19934, (302) 697–4324, *jim.waters@de.usda.gov.*

Florida/Virgin Islands

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338–3482, *joe.mueller@fl.usda.gov.*

Georgia

J. Craig Scroggs, USDA Rural Development, 333 Phillips Drive, McDonough, GA 30253, (678) 583–0866, *craig.scroggs@ga.usda.gov.*

Hawaii

Timothy O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8313, *tim.oconnell@hi.usda.gov.*

Idaho

Dale Lish, USDA Rural Development, 9173 West Barnes Drive, Suite A1,

Boise, ID 83709, (208) 785–5840, ext. 118, *dale.lish@id.usda.gov.*

Illinois

Cathy McNeal, USDA Rural Development, 2118 West Park Court, Suite a, Champaign, IL 61821, (217) 403–6210, *cathy.mcneal@il.usda.gov.*

Indiana

Jerry Hay, USDA Rural Development, 5975 Lakeside Boulevard, Indianapolis, IN 46278, (812) 346–3411, ext. 4, *jerry.hay@in.usda.gov.*

Iowa

Jeff Jobe, USDA Rural Development, Federal Building, Room 873, 210 Walnut Street, Des Moines, IA 50309, (515) 284–5192, *Jeff.jobe@ia.usda.gov.*

Kansas

Larry Carnahan, USDA Rural Development, 115 West Forth Street, Altamont, KS 67330, (620) 784–5431, *lcarnaha@rdasun2.rurdev.usda.gov.*

Kentucky

Jeff Jones, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7300, *jeff.jones@ky.usda.gov.*

Louisiana

Judy Meche, USDA Rural Development, 3727 Government Street, Alexandria, LA 71302, (318) 473–7960, *judy.meche@la.usda.gov.*

Maine

Alan C. Daigle, USDA Rural Development, 967 Illinois Avenue, Suite 4, Bangor, ME 04402, (207) 990–9168, *alan.daigle@me.usda.gov.*

Massachusetts/Rhode Island/ Connecticut

Richard J. Burke, USDA Rural Development, 451 West Street, Suite 2, Amherst, MA 01002, (413) 253–4318, *rburke@rurdev.usda.gov.*

Michigan

Lee Bambusch, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48820, (517) 324–5216, *lee.bambusch@mi.usda.gov.*

Minnesota

Robyn J. Holdorf, USDA Rural Development, 375 Jackson Street, Suite 410, St. Paul, MN 55101–1853, (651) 602–7812, *robyn.holdorf@mn.usda.gov.*

Mississippi

Charlie Joiner, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–5457, *charlie.joiner@ms.usda.gov.*

Missouri

Nathan Chitwood, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–9320, *nathan.chitwood@mo.usda.gov.*

Montana

William W. Barr, USDA Rural Development, 900 Technology Blvd., Suite B, Bozeman, MT 59717, (406) 585–2545, *bill.barr@mt.usda.gov.*

Nebraska

Deb Yocum, USDA Rural Development, Federal Building, Room 152, 100 Centennial Mall North, Lincoln, NE 68508, (402) 223–3125, ext. 4, *debra.yocum@ne.usda.gov.*

Nevada

Dan Johnson, USDA Rural Development, 2002 Idaho Street, Elko, NV 89801, (775) 738–8468, ext. 28, *dan.johnson@nv.usda.gov.*

New Hampshire

Scott D. Johnson, USDA, Rural Development, City Center, 3rd Floor, 80 Main Street, Montpelier, VT 05602, (603) 223–6034, *scott.johnson@nh.usda.gov.*

New Jersey

Michael P. Kelsey, USDA Rural Development, 5th Floor North Tower, Suite 500, 8000 Midlantic Drive, Mount Laurel, NJ 08054, (856) 787–7751, *michael.kelsey@nj.usda.gov.*

New Mexico

Eric Vigil, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761–4952, *eric.vigil@nm.usda.gov.*

New York

Robert Pestridge, USDA Rural Development, The Galleries of Syracuse, 441 South Salina Street, Suite 357, Syracuse, NY 13202, (315) 477–6426, *robert.pestridge@ny.usda.gov.*

North Carolina

Bruce Pleaseant, USDA Rural Development State Office, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000, *bruce.pleasant@nc.usda.gov.*

North Dakota

Dennis Rodin, USDA Rural Development, Federal Building, Room 211, 220 East Rosser Avenue, Bismarck, ND 58501, (701) 530–2065, *Dennis.rodin@nd.usda.gov.*

Ohio

Deborah E. Rausch, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215, (614) 255–2425, *deborah.rausch@oh.usda.gov.*

Oklahoma

Sally Vielma, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074, (405) 742–1000, *sally.vielma@ok.usda.gov.*

Oregon

Robert F. Haase, USDA Rural Development, 625 Salmon Avenue, Suite 5, Redmond, OR 97756, (541) 926–4358, ext. 124, *bob.haase@or.usda.gov.*

Pennsylvania

Linda C. Hager, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110, (717) 237–2287, *linda.hager@pa.usda.gov.*

Puerto Rico

Mr. Luis Garcia, USDA Rural Development State Office, Munoz Rivera, Number 654, IBM Plaza, Suite 601, San Juan, Puerto Rico 00918, (787) 766–5095, ext. 239, *luis.garcia@pr.usda.gov.*

South Carolina

Ms. Debbie Turberville, USDA Rural Development State Office, Strom Thurmond Federal Building, 1835 Assembly Street, Suite 1007, Columbia, SC 29201, (843) 354–9613, *debbie.turberville@sc.usda.gov.*

South Dakota

Gary L. Korzan, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1142, *gary.korzan@sd.usda.gov.*

Tennessee

Dan Beasley, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203, (615) 783–1341, *dan.beasley@tn.usda.gov.*

Texas

Billy Curb, USDA Rural Development, Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9700, *billy.curb@tx.usda.gov.*

Utah

Richard Carrig, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84147–0350, (801) 524–4328, *richard.carrig@ut.usda.gov.*

Vermont/New Hampshire

Michael R. Dolce, USDA Rural Development, City Center, 3rd Floor, 89 Main Street, Montpelier, VT 05602, (802) 775–7014 ext. 20, *michael.dolce@vt.usda.gov.*

Virginia

Laurette Tucker, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1594, *laurette.tucker@va.usda.gov.*

Washington

John Brugger, USDA Rural Development, 1606 Perry Street, Suite E, Yakima, WA 98908, (509) 924–7350, ext. 114, *john.brugger@wa.usda.gov.*

West Virginia

Mr. John M. Comerci, USDA Rural Development, 481 Ragland Road, Beckley, WV 25801, (304) 252–8644, ext. 165, *john.comerci@wv.usda.gov.*

Wisconsin

Barbara Brewster, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7610, *barbara.brewster@wi.usda.gov.*

Wyoming

Janice Stroud, USDA Rural Development, 100 East B Street, Room 1005, Casper, WY 82601, (307) 261–6318, *janice.stroud@wy.usda.gov.*

FOR FURTHER INFORMATION CONTACT: For further information contact your USDA State Rural Development Office. You may also obtain information from the RBS Web site at: *http://www.rurdev.usda.gov/rbs/coops/vadg.htm.*

SUPPLEMENTARY INFORMATION:

Background

This solicitation is issued pursuant to section 231 of the Agriculture Risk Protection Act of 2000 (Pub. L. 106–224) as amended by section 6401 of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107–171) authorizing the establishment of the Value-Added Agricultural Product Market Development grants. The Secretary of Agriculture has delegated the program's administration to USDA's Rural Business-Cooperative Service.

The primary objective of this grant program is to help eligible independent producers of agricultural commodities, agricultural producer groups, farmer and rancher cooperatives, and majority-owned producer-based business ventures develop business plans for viable marketing opportunities and develop strategies to create marketing opportunities. Eligible agricultural producer groups, farmer and rancher cooperatives, and majority-controlled producer-based business ventures must limit their proposals to emerging markets. These grants will facilitate greater participation in emerging markets and new markets for value-added products. Grants will only be awarded if projects or ventures are determined to be economically viable and sustainable.

This grant program has a matching funds requirement. Applicants must provide matching funds at least equal to the grant. Other Federal grants cannot be used as matching funds. Grant funds and matching funds must be spent proportionately during the timeframe stated in the grant application. Grant funds will be disbursed pursuant to applicable provisions of 7 CFR parts 3015 and 3019. Matching funds must be used to support the overall purpose of the VADG program.

Definitions

Agency—The Rural Business-Cooperative Service (RBS) or its successor.

Agricultural Producer Group—Any organization that represents independent producers such as a producer trade association or a state or national commodity group. Agricultural producer groups must propose ventures that are entering into emerging markets.

Agricultural Product—Plant and animal products and their by-products to include fish and seafood products and forestry products.

Emerging Markets—A new or developing market for the applicant. That is, a market the applicant has not traditionally supplied. The venture must be focused on this new or developing market.

Farmer or Rancher Cooperative—A duly recognized farmer or rancher cooperative in good standing under State law. Farmer or rancher owned cooperatives must propose ventures that are entering into emerging markets.

Independent Producer—A producer of agricultural commodities or products including those products from aquaculture, fish harvesting, and wood lot enterprises. This can be an individual producer; or a producer owned corporation, LLC, or LLP solely owned by producers. An independent producer can also be a steering committee composed of independent agricultural producers in the process of organizing an association to operate a value-added venture. The venture must be owned and controlled by the independent producers who are supplying agricultural product to the market. An independent producer cannot produce under contract or joint ownership with any organization other than their own.

Majority-Controlled Producer-Based Business Ventures—A corporation, LLC, LLP, or other type of business structure where producers have more than 50 percent of the ownership and control of the entity. No more than 10 percent of the grant funds will be awarded to these ventures. Majority-controlled producer-based business ventures must propose ventures that are entering into emerging markets.

Matching Funds—Cash or confirmed funding commitments. Matching funds cannot be from another Federal grant. Matching funds must be at least equal to the grant amount. In-kind contributions as defined at 7 CFR part 3015, subpart G can be used as matching funds. Examples of in-kind contributions include volunteer services furnished by professional and technical personnel, donated supplies and equipment, and donated office space.

National Office—The Rural Business-Cooperative Service (RBS) office at USDA headquarters in Washington, DC.

Planning—A defined program of economic activities to determine the viability of a potential value-added venture including feasibility studies, marketing plans, business plans, and legal evaluations.

State Office—USDA Rural Development offices located in most states.

Value-Added—(1) Any agricultural commodity or product that has undergone a change in the physical state or form of the product (such as milling wheat into flour, slaughtering livestock or poultry, or making strawberries into jam). (2) The production of an agricultural commodity or product in a manner that enhances its value, as demonstrated through a business plan (such as organically produced products). (3) The physical segregation of an agricultural commodity or product in a manner that results in the enhancement of the value of that commodity or product (such as an identity preserved marketing system). As a result of the change in physical state or the manner in which the agricultural commodity or product is produced or segregated, the customer base for the commodity or product is expanded and a greater portion of revenue derived from the marketing, processing, or physical segregation is made available to the producer of the commodity or product. Value-added also includes using any agricultural

product or commodity to produce renewable energy on a farm or ranch.

Working Capital—Funds that are used to operate the venture and pay the normal expenses associated with the operation of that venture. Funds cannot be used to purchase or build facilities nor purchase or install processing equipment.

Recipient and Product Eligibility Requirements

Potential recipients of the grant must be an independent producer, agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture as defined in the ''Definitions'' section of this NOFA. If the applicant is an agricultural producer group, it must be providing assistance directly to a specifically identified group of independent producers. Grant funds cannot be used to support the organization's general operations. If the applicant is an unincorporated group (steering committee), they must form a legal entity before grant funds can be disbursed.

The project proposed must involve a value-added product as defined in the ''Definitions'' section of this NOFA.

Applications without sufficient information to determine their eligibility will not be considered.

Proposal Preparation

A proposal must contain the following:

1. *Form SF–424,* ''Application for Federal Assistance.''

2. *Form SF–424A,* ''Budget Information—Non-Construction Programs.''

3. *Form SF–424B,* ''Assurances—Non-Construction Programs.''

4. *Table of Contents.* For ease of locating information, each proposal must contain a detailed Table of Contents immediately following the required SF–424 forms. The Table of Contents should include page numbers for each component of the proposal. Pagination should begin immediately following the Table of Contents.

5. *Proposal Summary.* A summary of the Project Proposal, not to exceed one page, must include the following: title of the project, description of the project including goals and tasks to be accomplished, names of the individuals responsible for conducting and completing the tasks, and the expected timeframe for completing all tasks (which should normally not exceed one year.) The applicant must also clearly state whether the application is for a planning grant or a working capital grant. The application cannot be for both.

6. *Eligibility.* A detailed discussion, not to exceed two pages, describing how the applicant meets the definition of an independent producer, agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture as outlined in the ''Recipient Eligibility Requirements'' section of this NOFA. If the applicant is an agricultural producer group, it must specifically identify the group of independent producers on whose behalf the work will be done. In addition, the applicant must describe all organizations other than the applicant that are involved in the project. Applicants must state the percentage of the venture that will be owned and controlled by independent producers. No more than 10 percent of program funds can go to ventures that are majority-controlled producer-based business ventures as defined in the ''Definitions'' section of this NOFA. The applicant must also discuss the value-added product to be produced including the category of value-added as defined in the ''Definitions'' section of this NOFA.

7. *Proposal Narrative.* The narrative portion of the project proposal, not to exceed 35 pages (Times New Roman, 12 pt.) must include the following:

i. *Project Title.* The title of the proposed project must be brief, not to exceed 75 characters, yet represent the major thrust of the project.

ii. *Information sheet.* A separate one page information sheet which lists each of the evaluation criteria listed in this NOFA under the ''Evaluation Criteria'' section followed by the page numbers of all relevant material and documentation contained in the proposal which addresses or supports that criteria.

iii. *Goals of the Project.* A clear statement of the ultimate goal of the project must be presented. It must describe the value-added venture to be developed.

iv. *Evaluation Criteria.* Each of the evaluation criteria listed in the ''Evaluation Criteria'' section of this NOFA must be addressed specifically and individually by category. These criteria should be in narrative form with any specific supporting documentation. Financial statements used to support any evaluation criteria will not count as part of the 35 page limit.

8. *Verification of Matching Funds.* You must furnish a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. If an in-kind match is included, so state and provide verification of all commitments and how those commitments are valued. Matching funds (in-kind and cash) must be included on the SF–424 and SF–424A application forms. Applicants must certify that matching funds will be available at the same time grant funds are anticipated to be spent and that matching funds will be spent at the same rate as grant funds throughout the duration of the project. Other Federal grant funds cannot be used as matching funds.

Grant Amounts

The amount of funds available for VADG grants in FY 2003 is $27.7 million. The actual number of grants funded will depend on the quality of proposals received and the amount of funding requested. The maximum amount of Federal funds awarded for any one proposal will be $500,000. However, priority points will be given to grant requests of less than the maximum.

Number of Awards

No one applicant can receive more than one grant for any one purpose. An applicant cannot receive a grant for planning activities and a grant for working capital.

Eligible Grant and Matching Funds Uses

Grant funds may be used to pay up to 50 percent of the costs for carrying out relevant projects. Grant funds and the applicant's matching funds must be spent at approximately the same rate. The applicant's matching contribution in cash or in-kind must be in accordance with applicable provisions of 7 CFR parts 3015 and 3019.

For planning projects, grant and the recipient's matching funds may be used for, but are not limited to, hiring personnel including lawyers, accountants and other qualified consultants associated with the following purposes:

1. Conducting a feasibility analysis of a proposed value-added venture to help determine the potential success of the venture;

2. Developing a business operations plan that provides comprehensive details on the management, planning, and other operational aspects of a proposed venture;

3. Developing a business marketing plan for the proposed value-added product or products including the identification of a market window, the identification of potential buyers, a description of the distribution system, and possible promotional campaigns; or

4. Obtaining legal advice and assistance related to the proposed venture.

For working capital projects, grant and recipient's matching funds may be used to establish a working capital account to fund operations. Funds from this account can be used for, but are not limited to:

1. Hiring an attorney to provide legal advice and to draft articles of incorporation, bylaws, and other legal documents related to the proposed venture;

2. Hiring a Certified Public Accountant or other qualified individuals to design an accounting system for the proposed venture; or

3. Paying salaries, utilities, and other operating costs; financing inventories; purchasing office equipment, computers, and supplies; and financing other related activities necessary to establish alliances or business ventures that allow producers to better compete in domestic or international markets for value-added products.

Ineligible Grant Uses

Grant and matching funds cannot be used to:

1. Plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility);

2. Purchase, rent, or install fixed equipment including mobile and other processing equipment;

3. Pay for the preparation of the grant application;

4. Pay expenses not directly related to the funded venture;

5. Fund political or lobbying activities;

6. Pay costs incurred prior to receiving this grant;

7. Fund any activities prohibited by 7 CFR parts 3015 and 3019; and

8. Fund architectural or engineering design work for a specific physical facility.

9. Grant and Matching funds cannot be used to pay any expenses related to the production of any commodity or product to which value will be added.

Methods for Evaluating and Ranking Applications

State office personnel will initially review applications for eligibility, completeness, and responsiveness to this NOFA. Incomplete or non-responsive applications will be returned to the applicant and not evaluated further. If the submission deadline has not expired and time permits, ineligible applications will be returned to the applicants for possible revision. The State office will then conduct one review of all complete and eligible applications based on the selection criteria specified in the ''Evaluation Criteria'' section of this NOFA. The National office will then obtain two additional independent reviews. Points will be assigned based on the evaluation criteria. All scored applications will then be forwarded to the National Office, where the scoring will be reviewed and applications ranked. Applications will be listed in initial rank order and presented, along with funding level recommendations, to the Administrator of RBS, who will award the grants.

Evaluation Criteria

Evaluations of proposals will be based on the following criteria. Failure to address any one of the following criteria will disqualify the application. All proposals must be in compliance with this NOFA and applicable statutes.

Criteria for applications for Planning grants are:

1. *Nature of the Proposed Venture (Maximum 5 points).* Describe in detail the proposed venture. This must include the value-added activity being proposed, the technology to be used and its availability, and examples of similar ventures. Discuss how the number of end-users for the product will be increased and how more revenue derived from the venture will be available to the producer-owners of the venture. Points will be awarded based on the greatest expansion of markets and increased returns to producers.

2. *Qualifications of Those Doing the Studies (Maximum 5 points).* Describe the education and experience in performing the requested types of studies, and the success rate for those individuals. Points will be awarded based on demonstrated skills and a successful track record.

3. *Project Leadership (Maximum 5 points).* Describe the individuals who are the members of the steering committee or the individual who is leading this effort; provide information on education, business experience, financial experience, knowledge of the venture to be undertaken, and other relevant information. Points will be based on demonstrated relevant leadership skills.

4. *Commitment (Maximum 5 points).* Describe the level of producer commitment including the number of independent producers currently involved, the number of potential producers who could become involved, cash contributions and level of production from the producers. Describe the potential commitment of end-users of the value-added product to be produced including possible markets identified and potential buyers contacted. Describe the commitment from local and state development organizations, commodity associations, and local political institutions including technical assistance support and financial support. Higher producer commitment, higher end-user commitment, and higher local support will result in more points.

5. *Work Plan/Budget (Maximum 5 points).* Discuss the specific tasks to be completed using grant and matching funds. Each task must be clearly defined and described in detail. The work plan must present the order the tasks will be undertaken and the estimated time for completing each task. If a group of producers want a feasibility study conducted and a business plan drafted, the details of these two tasks must be presented and discussed. The budget must present a detailed breakdown of estimated costs associated with the project and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget. It is important that reviewers understand what is being proposed. Logical, realistic, and economically efficient plans and budgets will result in higher scores.

6. *Amount Requested.* One half (½) point will be awarded for grant requests between $450,000 and $350,001, one (1) point will be awarded for grant requests between $350,000 and $250,001, one and one half (1½) points will be awarded to grant requests between $250,000 and $150,001, two (2) points will be awarded for grant requests of $150,000 or less.

7. *Project cost per producer that are owners (Maximum 5 points).* Calculated by dividing the Federal requested funds by the total number of producers that are owners of the venture. Points will be based on the largest number of producers that are owners benefited for the least cost.

8. For those applications proposing ventures that focus on the Presidential initiative of biomass production, five percent of the total score of the above seven criteria will be added to calculate the final score. For example, if an application is proposing to do a bio-energy project and scores a total of 30 points on criteria one through seven, 1.5 additional points (30 x .05) will be added making the final score 31.5.

Administrator priority points—Up to five (5) additional points may be awarded by the Administrator of RBS to recognize innovative technologies, insure geographic distribution of grants, or encourage value-added projects in under-served areas.

Criteria for applications for Working Capital are:

1. *Business Viability (Maximum 5 points).* Describe in detail the technical and economic feasibility of the venture. This includes the organizational structure and operational aspects of the venture. Discuss how the venture will operate efficiently and be sustainable. More points will be awarded to those proposals demonstrating the venture will be efficient and sustainable.

2. *Customer Base/Increased Returns (Maximum 5 points).* Describe in detail how the customer base for the product being produced will expand because of the value-added venture. Provide documented estimates of this expansion. Describe in detail how a greater portion of the revenue derived from the venture will be returned to the producers that are owners of the venture. Provide 3 years of pro forma financial statements, including an explanation of all assumptions such as input prices, finished product prices, and other economic factors used to generate the financial statements. The financial statements must include cash flow statements, income statements, and balance sheets. Income statements and cash flow statements must be monthly for the first year, then annual for the next two years. The balance sheet should be annual for all three years. The financial statements will not count as part of the 35 page limit for the narrative section of the proposal. More points will be awarded to those proposals that demonstrate the greatest expansion of the customer base and increased returns to producers.

3. *Commitment (Maximum 5 points).* Describe in detail producer commitment to the venture including the number of independent agricultural producers who will participate in the venture and their total level of production; financial resources invested in the venture; and any contracts used between the producer that are owners and the venture. Discuss the amount of funds raised from the independent producer that are owners and the use of those funds. Also describe who will purchase the output of the venture; the amount of output to be purchased; markets that have been identified and any completed marketing studies; and any letters of intent or contracts from the potential end-users. Describe the commitment from local and state development organizations, commodity associations, and local political institutions including technical assistance support and financial support. Do not submit specific contracts, letters of intent, or other supporting documents at this time. However, be sure to cite their existence when addressing this criterion. Points will be awarded based on the greatest level of documented commitment.

4. *Management Team/Work Force (Maximum 5 points).* Describe in detail the qualifications of the individuals who will manage and operate the venture. Discuss the education and experience of the management team, especially their experience in managing similar ventures. Describe in detail the availability and quality of the labor force needed to operate the value-added venture. Points will be awarded based on the greatest demonstrated level of relevant skills and experience.

5. *Work Plan/Budget (Maximum 5 points).* Discuss the specific tasks to be completed using grant and matching funds. Each task must be clearly defined and described in detail. The work plan must present the order the tasks will be undertaken and the estimated time for completing each task. The budget must present a detailed breakdown of estimated costs associated with the project and allocate these costs to each of the tasks to be undertaken. Matching funds as well as grant funds must be accounted for in the budget. It is important that reviewers understand what is being proposed. Logical, realistic, and economically efficient plans and budgets will result in higher scores.

6. *Amount Requested.* One half (½) point will be awarded for grant requests between $450,000 and $350,001, one (1) point will be awarded for grant requests between $350,000 and $250,001, one and one half (1½) points will be awarded to grant requests between $250,000 and $150,001, two (2) points will be awarded for grant requests of $150,000 or less.

7. *Project cost per producer that are owners (Maximum 5 points).* Calculated by dividing the Federal requested funds by the total number of independent producers that are owners of the venture. Points will be based on the largest number of producers that are owners benefited for the least cost.

8. For those applications proposing ventures that focus on the Presidential initiative of biomass production, five percent of the total score of the above seven criteria will be added to calculate the final score. For example, if an application is proposing to do a bio-energy project and scores a total of 30 points on criteria one through seven, 1.5 additional points (30 x .05) will added making the final score 31.5.

Administrator priority points—Up to five (5) points may be awarded by the Administrator of RBS to recognize innovative technologies, to insure geographic distribution of grants, or to encourage value-added projects in under-served areas.

Copies of the score sheets will be posted on the VADG program's Web site.

What and Where To Submit

The Agency is strongly encouraging the electronic submission of proposals to the appropriate USDA Rural Development State Office. Electronic submissions must be in Microsoft Word, WordPerfect, Rich Text Format (RTF), or Portable Document Format (PDF). If proposals are electronically submitted, signed paper copies of the three required forms, SF–424 ''Application for Federal Assistance,'' SF–424A ''Budget Information—Non-Construction Programs,'' and SF–424B ''Assurances—Non-Construction Programs,'' need to be mailed to the state office. For strictly a paper submission, an original and two copies of the proposal, with all required forms, must be submitted in one package to the appropriate USDA Rural Development State Office. Do not submit any feasibility studies, marketing plans, or business plans at this time. Please refer to the list above for the address and e-mail of your State Office. Applications sent by facsimile will not be accepted.

When To Submit

The deadline for receipt of all applications is [Insert 45 days after publication in the **Federal Register**]. The Agency will not consider any application received after the deadline.

Grantee Requirements

Grantees will be required to do the following:

1. Sign a Value-Added Agricultural Product Market Development Grant Agreement similar to the one published at the end of this NOFA.

2. Sign required Federal grant-making forms including Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions;'' Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions;'' Form AD–1949, ''Certification Regarding a Drug-Free Workplace Requirements (Grants);'' and Form RD 400–4, ''Assurance Agreement (Civil Rights).''

3. If the grant and matching funds are to be used as working capital, submit a feasibility study and business plan demonstrating the new venture is feasible and likely to be economically sustainable. These documents are to be

submitted to the appropriate USDA Rural Development State Office. The plans must include 3 years of pro forma financial statements, including an explanation of assumptions used to generate the financial statements. The financial statements must include cash flow statements, income statements, and balance sheets. Income statements and cash flow statements must be monthly for the first year, then annual for the next two years. The balance sheet should be annual for all three years. These studies are not to be submitted with the application. No funds will be released until these documents have been received and approved.

4. If requested by the USDA Rural Development State Office, submit copies of any contracts, letters of intent, or other documents cited in addressing any of the various ''evaluation criteria''. If such a request is made, no funds will be released until those documents have been received and approved.

5. Use Standard Form 270, ''Request for Advance or Reimbursement'' to request advances and reimbursements. Requests are to be submitted on a monthly basis.

6. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the grant is awarded.

7. Submit semi-annual performance reports which compare accomplishments to the objectives; if established objectives are not met, discuss problems, delays, or other problems that may affect completion of the project; establish objectives for the next reporting period; and discuss compliance with any special conditions on the use of awarded funds.

8. Upon completion of each task outlined in the proposal, grant recipients will deliver the results of the study or activity to the appropriate state office, accompanied by all applicable supporting data. These include, but are not limited to, feasibility studies, marketing plans, business plans, articles of incorporation and bylaws, and an accounting of how working capital funds were spent. All items delivered to the state offices will be held in confidence to the extent permitted by law.

9. Maintain a financial management system that is acceptable to the Agency.

10. Collect and maintain data on race, sex, and national origin of Grantee's membership/ownership.

11. Submit a final project performance report.

Other Federal Statutes and Regulations That Apply

Several other Federal statutes and regulations apply to proposals considered for review and to grants awarded. These include but are not limited to:

7 CFR part 15, subpart A—Nondiscrimination in Federally-Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964;

7 CFR part 3015—Uniform Federal Assistance Regulations;

7 CFR part 3017—Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants);

7 CFR part 3018—New Restrictions on Lobbying;

7 CFR part 3019—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations; and

7 CFR part 3052—Audits of States, Local Governments, and Non-Profit Organizations.

Paperwork Reduction Act

The reporting requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under Control Number 0570–0039.

Dated: August 28, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

United States Department of Agriculture
Rural Business-Cooperative Service
Value-Added Agricultural Product Market Development Grant Agreement (VADG)

This Grant Agreement (Agreement) dated _____, between _____ (Grantee), and the United States of America, acting through the Rural Business-Cooperative Service of the Department of Agriculture (Grantor), for $_____ in grant funds under the VADG program, delineates the agreement of the parties.

NOW, THEREFORE, in consideration of the grant;

The parties agree that:

1. All the terms and provisions of the VADG NOFA and application submitted by the Grantee for this VADG grant, including any attachments or amendments, are incorporated and included as part of this Agreement. Any changes to these documents or this agreement must be approved in writing by the Grantor.

2. As a condition of the Agreement, the Grantee certifies that it is in compliance with and will comply in the course of the Agreement with all applicable laws, regulations, Executive Orders, and other generally applicable requirements, including those contained in 7 CFR 3015.205(b), which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein. The Grantee will comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and Executive Order 12250.

3. The provisions of 7 CFR part 3015, ''Uniform Federal Assistance Regulations'' and part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations,'' as applicable are incorporated herein and made a part hereof by reference.

FURTHER, the Grantee agrees that it will:

1. Not use grant funds or matching funds to plan, repair, rehabilitate, acquire, or construct a building or facility (including a processing facility); or to purchase, rent, or install fixed equipment.

2. Use Grant Funds and matching funds only for the purposes and activities specified in the proposal approved by the Agency including the approved budget. Any uses not provided for in the approved budget must be approved in writing by the Agency in advance of obligation by the Grantor.

3. Submit a feasibility study, business operations plans, and other studies and plans required by the Grantor if any part of the grant will be used to establish a working capital account.

4. Deliver the results of a study or activity to the Grantor upon completion of each task outlined in the proposal. These include, but are not limited to, feasibility studies, marketing plans, business operations plans, articles of incorporation and bylaws, and accounting of how working capital funds were spent. All items delivered to the Grantor will be held in confidence to the extent provided by law.

5. Request any cash advances in the minimum amount needed and timed to the actual, immediate cash requirements for carrying out the grant purpose. Standard Form 270, ''Request for Advance or Reimbursement,'' will be used for this purpose.

6. Submit a Standard Form 269, ''Financial Status Report'' and list expenditures according to agreed upon budget categories on a semi-annual basis. Reports are due by April 30 and October 30 after the grant is awarded.

7. Provide periodic reports as required by the Grantor. A financial status report and a project performance report will be required on a semi-annual basis (due April 30 and October 30). The financial status report must show how grant funds and matching funds have been used to date and project the funds needed and their purposes for the next quarter. A final report may serve as the last semi-annual report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include the following:

a. A comparison of actual accomplishments to the objectives for that period.

b. Reasons why established objectives were not met, if applicable.

c. Reasons for any problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation.

d. Objectives and timetables established for the next reporting period.

e. The final report will also address the following:

(i) What have been the most challenging or unexpected aspects of this program?

(ii) What advice you would give to other organizations planning a similar program. These should include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

(iii) If an innovative approach was used successfully, the grantee should describe their program in detail so that other organizations might consider replication in their areas.

8. Collect and maintain data on race, sex, and national origin of Grantee's membership/ownership.

9. Provide Financial Management Systems which will include:

a. Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

b. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes.

c. Accounting records supported by source documentation.

d. Grantee tracking of fund usage and records that show matching funds and grant funds are used in equal proportions. The grantee will provide verifiable documentation regarding matching fund usage, *i.e.*, bank statements or copies of funding obligations from the matching source.

10. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least 3 years after grant closing, except that the records shall be retained beyond the 3-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts.

11. Not encumber, transfer or dispose of the equipment or any part thereof, acquired wholly or in part with Grantor funds without the written consent of the Grantor.

12. Not duplicate other program purposes for which monies have been received, are committed, or are applied to from other sources (public or private).

Grantor agrees to make available to Grantee for the purpose of this Agreement funds in an amount not to exceed the Grant Funds. The funds will be reimbursed or advanced based on submission of Standard Form 270.

IN WITNESS WHEREOF, Grantee has this day authorized and caused this Agreement to be executed by—

Attest

By _____

(Grantee)

(Title) _____

United States of America

Rural Business-Cooperative Service

By _____

(Grantor) (Name) (Title)

[FR Doc. 03–22506 Filed 9–3–03; 8:45 am]

BILLING CODE 3410–XY–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: September 9, 2003: 1 p.m.–5 p.m.

PLACE: Broadcasting Board of Governors, Room 3321, 330 Independence Avenue, SW., Washington, DC 20237.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. If necessary, the Board will convene the following day to finish any other business. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau, (5 U.S.C. 552b.(c)(2) and (6)).

FOR FURTHER INFORMATION CONTACT: Persons interested in obtaining more information should contact either Brenda Hardnett or Carol Booker at (202) 401–3736.

Dated: September 2, 2003.

Carol Booker,

Legal Counsel.

[FR Doc. 03–22627 Filed 9–2–03; 8:43 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of Industry and Security.

Title: BIS Program Evaluation.

Agency Form Number: N/A.

OMB Approval Number: 0694–0125.

Type of Request: Renewal of an existing collection.

Burden: 650 hours.

Average Time Per Response: 10 minutes per response.

Number of Respondents: 3,900 respondents.

Needs and Uses: This survey capability is needed by BIS seminar instructors for seminar programs conducted throughout the year. Seminar participants will be asked to evaluate seminar content and to provide input for future programs. Their responses will provide useful and practical information that BIS can use to determine whether or not it is providing a quality program and gives BIS information useful to making recommended improvements.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, DOC Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: August 28, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–22522 Filed 9–3–03; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: 2004 Census Test, Group Quarters Validation Test.

Form Number(s): DB–351 (GQV).

Agency Approval Number: None.

Type of Request: New collection.

Burden: 207 hours.

Number of Respondents: 825.

Avg Hours Per Response: 15 minutes.

Needs and Uses: The U.S. Census Bureau requests authorization from the Office of Management and Budget to conduct the 2004 Census Test Group Quarters Validation (GQV) Operation. The Census Bureau must provide everyone in the United States the opportunity to be counted, including persons who do not live in conventional housing units. As part of its research and development work for the 2010 census, the Census Bureau has scheduled a census test in 2004, which includes a new operation, GQV. The goal of this research and development work is to develop methods to improve the enumeration of the group quarters population in the next decennial census. In order to accomplish this goal, we are developing new procedures to verify and update the existing Census 2000 GQ inventory. In addition, GQV will attempt to properly classify other places with housing units that may be difficult to classify or that require special procedures such as hotels/motels and assisted living facilities.

GQV, in conjunction with the 2004 Census Test Address Canvassing operation, and the Group Quarters Validation Followup (GQVF), is planned to address the following research question:

Can we operationalize appropriate census operations to ultimately distinguish housing units from GQs, assign the correct GQ classifications, collect information about the special place associated with each GQ, improve the assignment of GQs to the correct geography, and reduce duplication between GQs and housing units?

Properly identifying and classifying GQs and other non-traditional living quarters by using improved definitions and methods for distinguishing between GQs and housing units in census operations should improve the data quality of Census 2010 by reducing duplication and improving coverage.

Affected Public: Individuals or households.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., sections 141 & 193.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202)482–0266, Department of Commerce, room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer either by fax (202–395–7245) or e-mail (*susan_schechter@omb.eop.gov*).

Dated: August 28, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–22523 Filed 9–3–03; 8:45 am]

BILLING CODE 3510–07–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Emergency Review

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), submitted the following information collection request (ICR) to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, (PRA 95) (44 U.S.C. Chapter 35). The Corporation has requested OMB to review and approve its emergency request by September 9, 2003, for a period of six months. A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, Office of Research and Policy Development, Ms. Theresa Hill, (202) 606–5000, Ext. 261, or by e-mail at *THill@cns.gov.*

On August 18, 2003, the Corporation printed a **Federal Register** Notice (*see* 68 FR 49453) in which it requested public comments for a new information collection activity entitled ''Next Generation Grant Application Instructions.'' This Notice provided for a 60-day public comment period to end on October 17, 2003. However, it is essential to the mission of the Corporation to begin the review, selection, and award process sooner than expected in order to award these grants by the beginning of next calendar year. Since the Corporation expects to provide more technical assistance to applicants applying for these funds (than for other competitions) there is a need to begin the process early. Thus, the Corporation hereby withdraws the August 18, 2003, 60-day public comment Notice, and requests that public comments be sent to the Office of Information and Regulatory Affairs, Attn: Ms. Fumie Yokota, OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, DC, 20503, (202) 395–3147 no later than September 8, 2003.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the Corporation's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility and clarity of the information to be collected; and
- Propose 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, *e.g.,* permitting electronic submissions of responses.

Type of Review: Emergency request.

Agency: Corporation for National and Community Service.

Title: Next Generation Grant Concept Paper and Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Eligible applicants to the Corporation for funding.

Total Respondents: 40.

Frequency: Once per year.

Average Time Per Response: Ten (10) hours.

Estimated Total Burden Hours: 400 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Description: The purpose of this grant competition is to foster the next generation of national service

organizations by providing seed money to help new and start-up organizations, and established organizations proposing new projects or programs, plan and implement new service programs that have the potential of becoming national in scope. For the reasons stated above, it is essential that the grant process begin this month. Therefore, the Corporation has requested OMB's emergency review and approval by September 9, 2003.

Dated: August 28, 2003.

Amy R. Mack,

Chief of Staff, Office of Chief Executive Officer.

[FR Doc. 03–22520 Filed 9–3–03; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0114]

Federal Acquisition Regulation; Submission for OMB Review; Right of First Refusal of Employment

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0114).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning right of first refusal of employment. A request for public comments was published in the **Federal Register** at 68 FR 41566 on July 14, 2003. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 6, 2003.

ADDRESSES: Submit comments including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (MVA), Room 4035 1800 F Street, NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

Right of First Refusal of Employment is a regulation which establishes policy regarding adversely affected or separated Government employees resulting from the conversion from in-house performance to performance by contract. The policy will enable these employees to have an opportunity to work for the contractor who is awarded the contract.

The information gathered will be used by the Government to gain knowledge of which employees, adversely affected or separated as a result of the contract award, have gained employment with the contractor within 90 days after contract performance begins.

B. Annual Reporting Burden

Number of Respondents: 200.

Responses per Respondent: 1.

Total Responses: 200.

Average Burden Hours Per Response: 3.

Total Burden Hours: 600.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0114, Right of First Refusal of Employment, in all correspondence.

Dated: August 28, 2003.

Laura G. Auletta,

Director, Acquisition Policy Division.

[FR Doc. 03–22482 Filed 9–3–03; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0048]

Federal Acquisition Regulation; Information Collection; Authorized Negotiators

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0048).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning authorized negotiators. The clearance currently expires on October 31, 2003.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before November 3, 2003.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (MVA), 1800 F Streets, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Julia Wise, Acquisition Policy Division, GSA (202) 208–1168.

SUPPLEMENTARY INFORMATION:

A. Purpose

Firms offering supplies or services to the Government under negotiated

solicitations must provide the names, titles, and telephone numbers of authorized negotiators to assure that discussions are held with authorized individuals. The information collected is referred to before contract negotiations and it becomes part of the official contract file.

B. Annual Reporting Burden

Respondents: *65,660*.
Responses Per Respondent: *8*.
Total Responses: *525,280*.
Hours Per Response: *.017*.
Total Burden Hours: *8,930*.

Obtaining Copies of Proposals

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, NW., Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0048, Authorized Negotiators, in all correspondence.

Dated: August 29, 2003.

Laura G. Auletta,

Director, Acquisition Policy Division.

[FR Doc. 03–22549 Filed 9–3–03; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

Department of the Army

Preparation of an Environmental Impact Statement (EIS) for the Renewal of the Special Use Permit for Military Activities on the De Soto National Forest and the Implementation of the Master Plan at Camp Shelby, Mississippi

AGENCY: Mississippi National Guard (MSNG), National Guard Bureau (NGB), Department of the Army (DA), DoD; National Forests in Mississippi, U.S. Forest Service, U.S. Department of Agriculture.

ACTION: Notice of intent.

SUMMARY: NGB as lead agency, along with the U.S. Forest Service as a cooperating agency, will prepare an EIS for the renewal of the Special Use Permit (SUP) for Military Use of National Forest Lands at Camp Shelby, Mississippi. In addition, the EIS will address the implementation of the Master Plan for Camp Shelby.

ADDRESSES: Written comments may be forwarded to the Mississippi Army National Guard Environmental Office (MSARNG–ENV), ATTN: Brian Neely, Natural and Cultural Resources Manager, P.O. Box 5027, Jackson, MS 39296–5027.

FOR FURTHER INFORMATION CONTACT: Brian Neely, Natural and Cultural Resources Manager, at (601) 313–6128; or Colonel Robert A. Lee, Environmental Program Manager at (601) 313–6228.

SUPPLEMENTARY INFORMATION: The MSNG has historically utilized public lands for military activities under a special use permit administered by the U.S. Forest Service. The current permit is subject to renewal in December 2005. The SUP establishes the levels and types of military activities that may occur on National Forest lands. EISs completed in 1991, 1994, and 1998 evaluated current military activities at Camp Shelby. The proposed EIS will evaluate extending the SUP from 10 to 20 years and will now include an Operations and Maintenance plan with alternatives covering military activities proposed by the proponents (DA and NGB) and update previous analyses as necessary. The EIS will disclose and evaluate the environmental impacts associated with military use of National Forest lands. The U.S. Forest Service and the NGB will utilize the EIS in making decisions concerning military use of National Forest, DoD, and state lands at Camp Shelby. The U.S. Forest Service will make its decision concerning the renewal of the SUP based upon the findings of the EIS.

Significant Issues: Camp Shelby contains approximately 134,000 acres of land some of which serves as habitat for protected flora and fauna. This includes one Federally listed endangered plant species (Louisiana Quillwort), one Federally listed threatened species (Gopher Tortoise) and two Federal candidate species (Camp Shelby Burrowing Crawfish and the Black Pine Snake). Camp Shelby also includes two historic properties listed on the National Register of Historic Places, two prehistoric sites eligible for listing on the National Register of Historic Places and an additional 32 sites have been recommended for protection until phase II testing can assess the significance of these sites for inclusion on the National Register of Historic Places. Camp Shelby also contains over six historic cemeteries that are fenced and protected from any disturbance. These natural and cultural resource issues will be considered in all proposed projects that are identified in the EIS.

Alternatives: Two alternatives for military use of Camp Shelby have been identified for analysis in the EIS. The alternatives are: (1) No action, whereby military activities would be allowed to continue as presently permitted to include construction and maintenance of facilities evaluated and approved in previous environmental documents, and (2) mission requirements, whereby current activities and additional use to support mission requirements on State of Mississippi, DoD, and National Forest lands would be allowed. Future mission requirements include: combined arms area, military operations in military terrain facility, urban assault course, waste water treatment plant with associated pipeline, simulation and exercise center and Army transformation. Other alternatives may be assessed as more specific actions are developed, public concerns are raised, and issues identified.

Public scoping meetings will be held at two locations: one in Hattiesburg and one on the Mississippi Gulf Coast area. Dates, times and exact locations for these meetings will be announced through letters, public notices, display advertisements, and legal advertisements and will be released to newspapers of general circulation a minimum of 15 days prior to the meetings.

Dated: August 27, 2003.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health) OASA (I&E).

[FR Doc. 03–22475 Filed 9–3–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Prepare a Legislative Environmental Impact Statement (LEIS) for the Withdrawal of Lands at the Limestone Hills Training Area (LHTA), Near Townsend, MT

AGENCY: Department of the Army, DoD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army announces its intent to prepare an LEIS pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by Council on Environmental Quality regulations (40 CFR 1500–1508). The LEIS will analyze both the proposed withdrawal of lands supporting training exercises for the Montana Army National Guard (MTARNG) and the associated Bureau of Land Management (BLM) Headwaters Resource Management Plan Amendment. The BLM is participating as an active cooperation agency in the preparation of the LEIS.

ADDRESSES: Written comments or questions should be forwarded by mail to Ms. Sundi West, Montana Army National Guard Fort Harrison, P.O. Box

4789, Helena, MT 59604–4789; via telephone at (406) 324–3088, or via email at *Sundi.West@mt.ngb.army.mil.*

FOR FURTHER INFORMATION CONTACT: Ms. Susie Williams, U.S. Bureau of Land Management, 106 North Parkmont, Butte, MT 59701, via phone at (406) 533–7638, or via email at *Elizabeth_Williams@blm.gov*.

SUPPLEMENTARY INFORMATION: The objective of the LEIS is to provide the results of comprehensive analysis to the Secretary of Interior and the Department of the Army to develop findings and recommendations to Congress regarding the proposed land withdrawal, and to serve as a public information source. The study area for the environmental analysis will be resource-dependent and is likely to include all of Lewis and Clark County and Broadwater County for socio-economic resources, all MTARNG facilities for military mission, and the LHTA for biological and mineral resources.

The LEIS will analyze potential environmental effects of the proposed action and alternatives including a no action alternative. Under the no action alternative, the current right-of-way grant from the BLM for use of the LHTA by the MTARNG would not be renewed in 2014 for continued military purposes. Other alternatives may consist of alternatives-shared management roles of the LHTA for the MTARNG and the BLM, alternative land use options, and alternative locations. The alternatives will be developed during preparation of the Draft LEIS as a result of public input.

Significant Issues: The LHTA is a 23,100-acre parcel of land with private and state-owned in-holdings totaling approximately 2,640 acres. BLM manages 20,460 acres of the total acreage and allows the MTARNG to conduct military training on its property through a right-of-way agreement that is set to expire in 2014. The public land is also used for gazing, mining, recreation, transportation utility right-of-ways, and wildlife management. A limestone mine is currently operating within the LHTA and every federally-managed acre of the LHTA falls within one of seven grazing allotments. In addition, the MTARNG is currently engaged in clearing unexploded ordnance from a range on the LHTA that is no longer in use.

Significant issues the LEIS will analyze include the following and as well as any additional issues raised during scoping: (1) Continued ability of Graymont Western's Indian Creek Limestone Mine to extract and process ore within the LHTA; (2) allocation and management of grazing allotments; (3) public access to the LHTA; (4) noise and dust generated during training exercises and vehicular traffic; (5) impacts to Broadwater County due to possible termination of payments in lieu of taxes by the BLM if the withdrawal is granted; (6) potential impacts to wildlife in the Elkhorn Management Area; (7) consistency of land management policy and implementation; (8) potential impacts to range management and cleanup activities; (9) owner access to, and use of, inholdings; and (10) impacts to local economies and MTARNG training facilities under the no action alternative.

The Department of the Army, through the MTARNG, is initiating a public scoping process for the purpose of determining public concerns and issues to be analyzed and addressed for this action. A public scoping meeting will be held at the Broadwater School Community Library, 201 North Spruce, Townsend, Montana, and at the Chamber of Commerce of Helena; 225 Cruse Avenue, Helena, Montana. A Public open house will occur at each site from 3:00 p.m. to 5:30 p.m. prior to each scoping meeting. The dates and times of these meetings will be announced in general public media.

A brief presentation will precede a request for public information and comments. MTARNG and BLM representatives will be available at these meetings to receive information and comments from agencies and the public regarding issues of concern. It is important that federal, state and local agencies, and interested individuals take this opportunity to provide information or identify environmental concerns that should be addressed during the analysis and preparation of the LEIS. Forms for written comments will also be available to submit written comments at these meetings.

Agencies and the public are also invited and encouraged to provide written comments in addition to, or in lieu of, oral comments at the public scoping meetings. To be most helpful, scoping comments should clearly describe specific information, data, issues or topics which the commenter believes the LEIS should address. To be considered in the LEIS, comments and suggestions should be received no later than 60 days following the public scooping meeting.

Dated: August 27, 2003.

Richard E. Newsome,

Acting Deputy Assistant Secretary of the Army (Environmental, Safety and Occupational Health), OASA (I&E).

[FR Doc. 03–22474 Filed 9–3–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 3, 2003.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.,* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the

Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 28, 2003.

Stephanie Hammes,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension.

Title: Title I State Plan for Vocational Rehabilitation Services and Title VI-Part B Supplement for Supported Employment Services.

Frequency: Annually.

Affected Public: Businesses or other for-profit; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 80.

Burden Hours: 1,002,050.

Abstract: The Workforce Investment Act of 1998 (WIA) requires the submittal of a Title I State Plan for Vocational Rehabilitation Services and a Supplement to the Plan for Supported Employment Services on the same date that the State submits its State Plan under WIA. Program Funding is contingent on Department approval of the State Plan and its Supplement.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2340. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *vivian_reese@ed.gov.* Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at her e-mail address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–22524 Filed 9–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 6, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 28, 2003.

Stephanie Hammes,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

Institute of Education Sciences

Type of Review: Revision.

Title: Fast Response Survey System (FRSS) Survey on Distance Education Courses for Public Elementary and Secondary School Students.

Frequency: One time.

Affected Public: Individuals or households; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 2,200.

Burden Hours: 1,100.

Abstract: The Quick Response Information System consists of two survey system components—Fast Response Survey System for schools, districts, libraries and the Postsecondary Education Quick Information System for postsecondary institutions. This survey will go to 2,200 public school districts to determine whether students are enrolled in distance education, what courses are offered, the levels of enrollment, and the ways the courses are offered. Distance education courses are defined as credit-granting courses offered to elementary and secondary school students in the district in which the teacher and the students are in different locations.

Requests for copies of the submission for OMB review; comment request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 2341. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or to the e-mail address *Vivan.Reese@ed.gov.* Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–22525 Filed 9–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Federal Student Financial Assistance Programs—Distance Education Demonstration Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for participation in the Distance Education Demonstration Program.

SUMMARY: The Secretary of Education invites institutions of higher education (institutions), systems of institutions, and consortia of institutions to submit applications to participate in the Distance Education Demonstration Program authorized under section 486 of Title IV of the Higher Education Act of 1965, as amended (HEA). Under the Distance Education Demonstration Program, selected institutions providing distance education programs may receive waivers of specific statutory and regulatory provisions governing the student financial assistance programs authorized under Title IV of HEA.

Instructions for Submitting an Application: Elements to be included in an application are described in this notice. There is no application form for the program. Proposals should be submitted by electronic mail or in hard copy to the addresses below. Applicants are urged to submit applications only by electronic mail, to the e-mail address below. Applications should clearly designate a contact person, and the telephone number and the e-mail and street address of the contact person.

Applications submitted by electronic mail should be submitted in Microsoft Word version 7 or lower or WordPerfect version 7, 8, or 9.

Further information concerning technical assistance may be found at the end of this notice and at the Distance Education Demonstration Program Web site: *http://www.ed.gov/offices/OPE/PPI/DistED/.*

DATES: Applications must be postmarked or submitted electronically on or before October 6, 2003.

ADDRESSES: *Applications submitted electronically.* Institutions must submit applications by e-mail by 5 p.m. Eastern time on October 6, 2003 to the following address: *DistanceDemo@ed.gov.*

Applications submitted by mail: Hard copy applications must be sent to Rose Fletcher, U.S. Department of Education, 1990 K Street NW., Room 80, Washington, DC 20006.

An institution must show proof of mailing these documents by October 6, 2003. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If these documents are sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. Institutions should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. You are encouraged to use certified or at least first-class mail.

Applications delivered by hand. Hand-delivered applications must be taken to Rose Fletcher, U.S. Department of Education, 1990 K Street, NW., Room 8031, Washington, DC 20006.

Applications that are hand-delivered will be accepted between 9 a.m. and 5 p.m. daily (Eastern time), except Saturdays, Sundays, and Federal holidays. Applications must be received by 5 p.m. on October 6, 2003.

FOR FURTHER INFORMATION CONTACT: Carney McCullough or David Bergeron via telephone at (202) 502–7575 or via Internet: *DistanceDemo@ed.gov.*

Information concerning the program can also be found on the Distance Education Demonstration Program Web site: *http://www.ed.gov/offices/OPE/PPI/DistEd/.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION:

Background and Purpose of the Distance Education Demonstration Program

There has been rapid growth in the number of institutions providing courses and degree programs in various modes of ''distance education.'' For purposes of the Distance Education Demonstration Program and this notice, ''distance education'' is defined as an educational process that is characterized by the separation, in time or place, between instructor and student. This process may include courses offered principally through the use of television, audio, or computer transmission, such as open broadcast, closed circuit, cable, microwave, or satellite transmission; audio or computer conferencing; video cassettes or discs; or correspondence.

The growth in distance education has occurred in response to increasing demand from students who have little or no options to enroll in more traditional programs, including working adults, parents, people who live in rural communities, and students with disabilities. Another reason for this growth is the potential for cost control. Distance education is also attractive to institutions that are unable to make large investments in new facilities to meet increased student demand. Additionally, through consortia and other agreements among institutions that provide distance education, many students are able to take advantage of a richer selection of course offerings tailored to their individual needs than are available at the institutions where they are enrolled.

Currently, some statutory provisions defining institutional eligibility for the Title IV, HEA programs limit the circumstances in which Title IV, HEA program funds can be provided to students enrolled in distance education. For example, institutions that offer more than 50 percent of their courses via distance education or enroll more than 50 percent of their students in distance education programs (hereafter referred to as ''the 50 percent rules'') are not eligible to participate in the Title IV, HEA programs.

Other statutory and regulatory provisions are based on the patterns and structure of on-campus education and traditional academic terms. As such, they can be burdensome and difficult to apply to distance education programs. They may also limit institutions from structuring programs that may best meet the needs of distance education students, institutions, and systems and consortia of such institutions.

Enacted in 1998, as described in section 486(a) of the HEA, the purpose of the Distance Education Demonstration Program is to—

(1) Allow demonstration programs that are strictly monitored by the Department of Education (Department) to test the quality and viability of expanded distance education programs currently restricted under HEA;

(2) Provide for increased student access to higher education through distance education programs; and

(3) Help determine the—

(A) Most effective means of delivering quality education via distance education course offerings;

(B) Specific statutory and regulatory requirements which should be altered to

provide greater access to high quality distance education programs; and

(C) Appropriate level of Federal assistance for students enrolled in distance education programs.

Under the Distance Education Demonstration Program, participants may offer Title IV, HEA program funds to students enrolled in educational programs utilizing distance education delivery methods for all or a portion of their classes without being subject to certain statutory and regulatory provisions, upon granting by the Secretary of an institution's request for waiver of these provisions. The purpose of these waivers is to test new ways of administering the Federal student assistance programs and to consider how the law and regulations might be altered to allow for expansion of aid to distance students and still ensure program integrity.

The legislation creating this program authorized the Secretary to select, from among eligible applicants, up to a total of 15 institutions, systems of institutions, or consortia of institutions to begin participation in the first year of the program. (For these purposes, a system of institutions could be a group of institutions with a common governing board. An example would be a community college system or a group of private institutions owned by the same corporation. A consortium of institutions could be two or more institutions that have agreed to collaborate on a common effort such as sharing distance education courses or a two-year and four-year institution cooperating to offer a bachelor's degree completion program.) The 15 participants for the first year of the program were selected in May of 1999 and began participation on July 1, 1999.

The Secretary is authorized to select, from among eligible applicants, up to a total of 35 additional institutions, systems of institutions, or consortia of institutions to begin participation in the third year of the program. Nine institutions, systems of institutions or consortia of institutions were selected in June 2001 and began participation on July 1, 2001. Additional institutions, systems of institutions, or consortia of institutions will be selected to increase the diversity of the types of institutions in the program. The Secretary anticipates that these additional institutions, systems or consortia selected will continue to participate until June 30, 2005. Participation will be conditioned upon their meeting the requirements of the Distance Education Demonstration Program and continued participation in Title IV, HEA programs. Institutions desiring to withdraw from the Distance Education Demonstration Program may do so without jeopardy to their participation in Title IV, HEA programs but must meet all the eligibility criteria in section 102 of HEA. Also, the scope of the participation, such as the specific distance education programs included and waivers provided, may be modified as agreed upon by the Secretary and the participant, to allow for changes in the programs offered, the modes of delivery used, the size of participants' distance programs, or other changes desired by the Secretary or the participant as experience is gained in the program.

On November 1, 2002, the Department published regulations that modified 34 CFR Sections 668.2, 668.3, and 668.8 that limited institutions in the area of distance learning. These changes were based, in part, on experiences gained from the Distance Education Demonstration Program. Since that time, we have decided that it would be appropriate to accept applications to participate in this program to determine what other barriers continue to exist and to increase the diversity of the types of participants in the Distance Education Demonstration Program. To that end, we are particularly seeking applications from eligible applicants that would increase the diversity of the types of participants in the Distance Education Demonstration Program, particularly in the number of institutions that exclusively provide instruction online.

The Department works closely with accrediting agencies and States to determine how their respective roles contribute to assuring quality and integrity in distance learning. Accrediting agencies play an important role in monitoring the demonstration programs, consistent with their responsibilities. Where State requirements are relevant to distance education programs, the Department works with States to determine how their monitoring role assists in ensuring program integrity.

The participants must agree to provide data and information that will assist the Secretary in evaluating the Distance Education Demonstration Program and in reporting to Congress as required by HEA. The data and information provided by participants will assist the Secretary in determining whether statutory and regulatory changes might be needed to support the growth of quality distance education courses and programs and the appropriate level of Federal assistance for students enrolled in distance education programs, two of the purposes of the program that are specified in the statute. A copy of the form containing the data collection requirements can be found on the program Web site.

The program is also designed to examine ways to assure the integrity of Title IV, HEA programs in the context of distance education. This examination is accomplished principally through the close monitoring of participants' administration of Title IV, HEA programs.

Eligible Applicants

The following institutions are eligible to apply to participate in the Distance Education Demonstration Program:

(1) Institutions located in the United States that participate in the Title IV, HEA programs; and

(2) Institutions located in the United States that provide a two-year program that leads to an associate degree or a four-year program that leads to a baccalaureate or higher degree and would be eligible to participate in the Title IV, HEA programs but for the fact that they do not meet one or both of the 50 percent rules. Such institutions must apply to participate in Title IV, HEA programs at the same time they submit an application to the Distance Education Demonstration Program.

In addition, systems and consortia of these institutions are eligible to participate in this program. As stated earlier, the Secretary is particularly interested in including institutions that exclusively provide instruction on-line.

Statutory and Regulatory Provisions That May Be Waived

The Secretary may waive statutory and regulatory provisions. To obtain a waiver, an institution must request the waiver in its application to participate in the program and must provide reasons for the waiver. Where possible, the applicant should suggest an alternative that is designed to meet the same objectives as those achieved by the waived statutory or regulatory provision. For example, if an applicant seeks to waive the requirement that students must achieve satisfactory academic progress as defined in Department regulations, the applicant should suggest an alternative means to ensure that Federal student aid funds are provided only to students who are making progress towards a degree or certificate. An applicant need not include an alternative approach with regard to a request to waive one or both of the 50 percent rules.

Statutory Provisions

The Secretary may waive the following HEA statutory provisions:

• *Section 102(a)(3)(A).* This section makes an otherwise eligible institution ineligible if more than 50 percent of its courses are offered by correspondence and telecommunication.

• *Section 102(a)(3)(B).* This section makes an otherwise eligible institution ineligible if 50 percent or more of its students are enrolled in correspondence or telecommunications courses.

• *Section 484(l)(1).* This section defines a telecommunications student at an institution as a correspondence student if (1) the student is enrolled in certificate programs of less than one year; (2) the institution provides more certificate than degree programs; or (3) 50 percent or more of the institution's courses are offered by correspondence and telecommunications.

Regulatory Provisions

In addition to the aforementioned statutory provisions, the Secretary may waive the regulatory provisions implementing part G of HEA that inhibit the operation of quality distance education programs. Part G consists of sections 481 through 493B of HEA. These sections contain numerous provisions dealing with the Title IV, HEA programs including those that limit the amount of aid that can be provided for correspondence courses and programs. In general, the regulations implementing these provisions are contained in 34 CFR part 668.

(Under the Distance Education Demonstration Program, the Secretary is authorized to waive any regulations governing part F of Title IV, which deals with need analysis and costs of attendance. However, the Secretary is not authorized to issue regulations implementing part F; therefore, there are no regulations to waive.)

Application Proposal Requirements

Each application proposal to participate in this program shall include—

1. The name, address, and Web site address, if any, of the institution, system, or members of the consortium seeking to participate, and the name, title, mailing and e-mail addresses, and telephone number of a contact person for the institution, system, or consortium;

2. A description of the distance education programs offered or to be offered for which the institution is seeking a waiver or waivers. An institution may request a waiver or waivers for one, several, or all of its distance education courses or programs. The description should include the types of programs, degrees or certificates offered, program goals, and the methods used or proposed to be used to deliver distance education;

3. A description of the applicant's consultation with a recognized accrediting agency or agencies with respect to quality assurances for the distance education programs to be offered;

4. A description of the types of students that the distance education programs are intended to serve, (*e.g.*, adult learners, rural populations, individuals with disabilities);

5. The Title IV, HEA programs under which distance education students will receive funds;

6. The specific statutory and regulatory provisions to be waived, the scope of each waiver, and the reason for each waiver. The applicant should propose an alternative to the provision or explain why no alternative is necessary;

7. An assurance that the institution, system, or a consortium will fully cooperate with the Department's ongoing evaluations of the program; and

8. A statement of the goals of the institution, system, or consortium for participation along with the method the institution will use to evaluate achievement of the goals.

In addition to the information described above, systems and consortia must provide the following additional information—

1. A description of the system or consortium and the relationship among the members of the system or consortium, a copy of any agreement governing the relationship of institutions that are members of the system or consortium, and a list of the institutions which are members;

2. A description of the manner in which the distance education programs are or will be conducted among the system and consortium members particularly as that manner is related to the waiver request; and

3. The manner in which Title IV, HEA program funds will be administered for the students in the distance education programs. (This would include such matters as the disbursement procedures that would be followed, the definition of an academic year that would be used, how attendance would be monitored, and the satisfactory academic progress rules that would be followed.)

Selection of Participants

In selecting applicants to participate in the Distance Education Demonstration Program, the Secretary will take into account the—

1. Number and quality of applications received;

2. Department's capacity to oversee and monitor the applicant's participation;

3. Applicant's financial responsibility, administrative capability, and the program or programs being offered via distance education; and

4. Necessity of including different types of participating institutions vis-à-vis size, mission, and geographic distribution, with an emphasis on institutions that provide education exclusively through on-line instruction.

As part of the selection process, the Department will screen the applications to ensure that applicants are eligible. Then, outside reviewers will recommend the best applications given the statutory criteria. The Secretary will make final selections, based on the recommendations of the outside reviewers and the criteria listed in HEA.

Evaluations

The HEA requires the Secretary to submit reports to Congress evaluating the Distance Education Demonstration Program annually and eighteen months after the initiation of the program. As specified in HEA, the evaluations are to include the following:

1. The extent to which the institution, system or consortium has met the goals set forth in its application to the Secretary, including the measures of program quality assurance.

2. The number and types of students participating in the programs offered, including the progress of participating students toward recognized certificates or degrees and the extent to which participation in such programs increased.

3. Issues related to student financial assistance for distance education.

4. Effective technologies for delivering distance education course offerings.

5. The extent to which statutory or regulatory requirements not waived under the Distance Education Demonstration Program present difficulties for students or institutions.

To assist the Secretary in conducting such evaluations, participants in the Distance Education Demonstration Program will be required to provide information to the Secretary, such as: Course level detail regarding their offerings, the degrees or certificates awarded for successful completion, data on persistence and completion, data regarding student demographics, information regarding tuition and fees charged by the participant, program design and use of technology, information regarding the educational environment and student support, and student satisfaction surveys.

Guidance

The guidance provided below is intended to assist applicants in determining what information they may wish to include in their applications. This guidance is non-binding and does not constitute criteria for selection. Applications which do not include the information suggested in the guidance will be considered on the same basis as applications which include all or part of that information.

1. Applicants should consider describing the ways that they think their proposals will assist the Department in determining new ways of administering Federal student assistance programs that better meet the needs of distance students.

2. It is important that the accrediting and State authorizing agencies of the institution, or institutions that comprise a consortium or system, are willing to collaborate with the Department to determine how their complementary roles can best be structured to assure quality and integrity in institutions' distance education programs. To this end, applicants for this program should provide documentation that their accrediting agencies and States are willing to work with the Department to examine the respective roles of the agencies as they relate to institutions' distance education programs. In that documentation, accrediting agencies should certify that the individual distance programs that the institution includes in its application are within the scope of the institution's accreditation, and that the agency will review the program at an appropriate time. Consortiums and systems should also provide evidence that the agency or agencies which accredit the schools comprising the consortium or system are willing to work with the Department in evaluating issues relating to the quality of distance education offered by the institutions as a result of their membership in the consortium or system.

3. While the Department will evaluate applications using the statutory criteria, to the extent possible, the Department will view those criteria in the context of the delivery of student aid to distance students and the changes that are needed to facilitate that process. Because the delivery of student aid is so critical to improving access to distance education, an application should fully describe the applicant's ability to fully execute its plans for student aid delivery and specify waivers requested and substitutions and address fully the need for the waivers and substitutions.

4. Applicants should consider establishing both quantitative and qualitative objectives for their participation and include in the application a description of how they intend to measure goal attainment, including measures of program quality. The Department notes that quantitative measures are essential for understanding goal attainment.

5. A major concern of the Department is to ensure that Federal funds in the Distance Education Demonstration Program are used appropriately. An application should address how the applicant plans to document student eligibility, including documentation of student attendance.

6. Another major concern of the Department is that an applicant be committed as an institution to the success of its proposed activities. One way for an institution to demonstrate its commitment is to include with its application a letter from its chief executive officer (or comparable official) expressing support for the application and acknowledgement of the responsibilities that the institution would assume if the application were approved. Correspondingly, in the case of a consortium applicant, the submission of such a letter from the chief executive officer (or comparable official) of each of the participating institutions would demonstrate such commitment.

Technical Assistance

Interested parties are invited to consult the Distance Education Demonstration Program Web site for information about applying to participate in the Distance Education Demonstration Program and providing Federal financial aid to students enrolled in distance education programs. The Web site also contains the names and contact information for Department staff with expertise on various issues relating to the Distance Education Demonstration Program who are available to answer questions and provide technical assistance regarding eligibility and administration of Title IV, HEA student financial assistance programs.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/legislation/FedRegister.*

You also may view this document in text or PDF at the following site: *http://www.ed.gov/news.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498 or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Program Authority: 20 U.S.C. 1093.

Dated: August 29, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–22547 Filed 9–3–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of the Bonneville Purchasing Instructions (BPI) and Bonneville Financial Assistance Instructions (BFIA)

AGENCY: Bonneville Power Administration (BPA), DOE

ACTION: Notice of document availability.

SUMMARY: Copies of the Bonneville Purchasing Instructions (BPI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of its purchases of goods and services, including construction, are available in printed form for $30, or without charge at the following Internet address: *http://www.bpa.gov/Corporate/kgp/bpi/bpi.htm.* Copies of the Bonneville Financial Assistance Instructions (BFAI), which contain the policy and establish the procedures that BPA uses in the solicitation, award, and administration of financial assistance instruments (principally grants and cooperative agreements), are available in printed form for $15 each, or available without charge at the following Internet address: *http://www.bpa.gov/corporate/kgp/bfai/bfai.htm.*

ADDRESSES: Unbound copies of the BPI or BFAI may be obtained by sending a check for the proper amount to the Head of the Contracting Activity, Routing CK–1, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208–3621.

FOR FURTHER INFORMATION CONTACT: Manager, Corporate Communications, 1–800–622–4519.

SUPPLEMENTARY INFORMATION: BPA was established in 1937 as a Federal Power Marketing Agency in the Pacific Northwest. BPA operations are financed from power revenues rather than annual appropriations. BPA's purchasing operations are conducted under 16 U.S.C. 832 *et seq.* and related statutes. Pursuant to these special authorities, the BPI is promulgated as a statement of purchasing policy and as a body of interpretative regulations governing the conduct of BPA purchasing activities. It is significantly different from the Federal Acquisition Regulation, and reflects BPA's private sector approach to purchasing the goods and services that it requires. BPA's financial assistance operations are conducted under 16 U.S.C. 832 *et seq.,* and 16 U.S.C. 839 *et seq.* The BFAI express BPA's financial assistance policy. The BFAI also comprise BPA's rules governing implementation of the principles provided in the following OMB circulars:

A–21, Cost Principles for Educational Institutions.

A–87, Cost Principles for State, Local and Indian Tribal Governments.

A–102, Grants and Cooperative Agreements with State and Local Governments.

A–110, Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

A–122, Cost Principles for Non-Profit Organizations.

A–133, Audits of States, Local Governments and Non-Profit Organizations.

BPA's solicitations and contracts include notice of applicability and availability of the BPI and the BFAI, as appropriate, for the information of offerors on particular purchases or financial assistance transactions.

Issued in Portland, Oregon, on August 27, 2003.

Kenneth R. Berglund,

Manager, Contracts and Property Management.

[FR Doc. 03–22521 Filed 9–3–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EC03–127–000, et al.]

IDACORP Energy L.P., et al.; Electric Rate and Corporate Filings

August 25, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. IDACORP Energy L.P.

Sempra Energy Trading Corp.

[Docket No. EC03–127–000]

Take notice that on August 20, 2003, IDACORP Energy L.P. (IELP) and Sempra Energy Trading Corp. (SET) filed with the Federal Energy Regulatory Commission (Commission) an application pursuant to Section 203 of the Federal Power Act and 18 CFR part 33 for authority to transfer all of the wholesale power sales contracts of IELP to SET. The Applicants request that the Commission act on the application so that the transfer may be consummated before October 1, 2003

Comment Date: September 10, 2003.

2. Citizens Communication Company v. Vermont Electric Power Company, Inc.

[Docket No. EC03–128–000]

Take notice that on August 21, 2003, Citizens Communications Company (Citizens) and Vermont Electric Power Company, Inc. (VELCO) filed with the Federal Energy Regulatory Commission (Commission) a joint application pursuant to Section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Citizens will sell certain transmission facilities to VELCO.

Comment Date: September 11, 2003.

3. Butler Ridge, LLC

[Docket No.EG03–95–000]

Take notice that on August 21, 2003, Butler Ridge, LLC (the Applicant), with its principal office at c/o Midwest Wind Energy, LLC, 205 W. Monroe Street, 4th Floor, Chicago, IL 60606, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Applicant states that it is a Delaware limited liability company engaged directly and exclusively in the business of developing, owning and operating an approximately 54 MW wind generating facility located in Dodge County, Wisconsin. Applicant further states that electric energy produced by the facility will be sold exclusively at wholesale by Applicant.

Comment Date: September 15, 2003.

4. Southwest Power Pool, Inc.

[Docket No. ER03–896–001]

Take notice that on August 21, 2003, Southwest Power Pool, Inc. (SPP) submitted for filing a response to a deficiency letter issued by the Federal Energy Regulatory Commission on July 22, 2003 in the above-captioned proceeding. The proceeding involves an unexecuted service agreement between SPP and the Kansas Municipal Energy Agency.

SPP states that it served a copy of the filing on all parties on the official service list compiled by the Secretary in this proceeding.

Comment Date: September 11, 2003.

5. Central Hudson Gas & Electric Corporation

[Docket No. ER03–1227–000]

Take notice that on August 20, 2003, Central Hudson Gas & Electric Corporation (Central Hudson) tendered for filing proposed changes in its Rate Schedule FERC No. 202 which sets forth the terms and charges for substation service provided by Central Hudson to Consolidated Edison Company of New York, Inc.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 2003 as agreed to by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and the State of New York Public Service Commission.

Comment Date: September 10, 2003.

6. Avista Corporation

[Docket No. ER03–1228–000]

Take notice that on August 20, 2003, Avista Corporation (AVA) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Termination of Rate Schedule No. 185, a Service Agreement with El Paso Merchant Energy, L.P. previously filed under the Commission's Docket No. ER98–4633–000, effective August 15, 2003.

Comment Date: September 10, 2003.

7. Nevada Power Company

[Docket No. ER03–1230–000]

Take notice that on August 21, 2003, Nevada Power Company (Nevada Power), tendered for filing pursuant to Section 35 of the Federal Power Act, an executed Service Agreement for Network Integration Transmission Service Retail Access Transmission

Service (Transmission Service Agreement) between Nevada Power Company and Coral Power, L.L.C. as Scheduling Coordinator for Rouse Fashion Show Management, LLC., the End-Use Customer and an executed Network Operating Agreement between Nevada Power Company and Coral Power, L.L.C. The Transmission Service Agreement and the Network Operating Agreement are being filed in compliance with Section 29.5 of the Sierra Pacific Resources Operating Companies' Open Access Transmission Tariff.

Nevada Power Company has requested the Commission accept the Transmission Service Agreement and the Network Operating Agreement and permit service in accordance therewith effective October 1, 2003.

Comment Date: September 10, 2003.

8. Nevada Power Company

[Docket No. ER03–1231–000]

Take notice that on August 21, 2003, Nevada Power Company (Nevada Power), tendered for filing pursuant to Section 35 of the Federal Power Act, an executed Service Agreement for Network Integration Transmission Service Retail Access Transmission Service (Transmission Service Agreement) between Nevada Power Company and Coral Power, L.L.C. as Scheduling Coordinator for Rouse Fashion Show Management, LLC., the End-Use Customer and an executed Network Operating Agreement between Nevada Power Company and Coral Power, L.L.C. The Transmission Service Agreement and the Network Operating Agreement are being filed in compliance with Section 29.5 of the Sierra Pacific Resources Operating Companies' Open Access Transmission Tariff.

Nevada Power Company has requested the Commission accept the Transmission Service Agreement and the Network Operating Agreement and permit service in accordance therewith effective October 1, 2003.

Comment Date: September 11, 2003.

9. West Penn Power Company (DBA Allegheny Power)

[Docket No. ER03–1232–000]

Take notice that on August 21, 2003, West Penn Power Company, dba Allegheny Power (Applicant), filed an Addendum to its Electric Service Agreement with PPL Electric Utilities Corporation, formerly Pennsylvania Power & Light Company, to add one new delivery point. An effective date for the new delivery point of September 1, 2003 is requested.

Applicant states that copies of the filing have been provided to the customer, the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission and the West Virginia Public Service Commission.

Comment Date: September 11, 2003.

10. Duke Energy Washoe, LLC

[Docket No. ER03–1233–000]

Take notice that, on August 21, 2003, Duke Energy Washoe, LLC tendered for filing a Notice of Cancellation pursuant to 18 CFR 35.15, in order to reflect the cancellation of its market-based rate tariff, designated as FERC Electric Tariff, Original Volume No. 1, originally accepted for filing in Docket No. ER01–241–000.

Comment Date: September 11, 2003.

11. Arizona Public Service Company

[Docket No. ER03–1234–000]

Take notice that on August 21, 2003, Arizona Public Service Company (APS) tendered for filing revisions to its Long-Term Power Transactions Agreement with PacifiCorp (PAC) applicable under the APS-FERC Rate Schedule No. 182. APS requests an effective date of November 13, 2000 for the requested changes.

APS states that copies of this filing have been served on PAC, the California Public Utilities Commission, the Public Utility Commission of Oregon, the Utah Public Service Commission, the Washington Utilities and Transportation Commission, the Montana Public Service Commission, the Public Service Commission of Wyoming, the Idaho Public Utilities Commission, and the Arizona Corporation Commission.

Comment Date: September 11, 2003.

12. Citizens Communications Company

[Docket No. ER03–1235–000]

Take notice that on August 21, 2003, pursuant to section 205 of the Federal Power Act, Citizens Communications Company (Citizens) filed with the Federal Energy Regulatory Commission (Commission) proposed changes in its Open Access Transmission Tariff, Block Loading Facilities Transmission Agreement (FERC Rate Schedule No. 28), and FPC No. 10 successor agreements (FERC Rate Schedule Nos. 29, 31 and 32). The changes are proposed in connection with a joint application by Citizens and Vermont Electric Power Company, Inc. (VELCO) pursuant to section 203 of the Federal Power Act for authorization of the sale by Citizens of certain jurisdictional transmission facilities to VELCO. Citizens states that the purpose of the rate changes is to implement a stipulation that was recently entered into between and among Citizens, its major Vermont wholesale transmission customers, and the Vermont Department of Public Service.

Citizens states that copies of the filing were filed upon Citizens' jurisdictional customers, the Vermont Department of Public Service, and the Vermont Public Service Board.

Comment Date: September 11, 2003.

13. Sierra Pacific Power Company Nevada Power Company

[Docket No. ER03–1236–000]

Take notice that on August 21, 2003, Sierra Pacific Power Company and Nevada Power Company (collectively, Applicants) tendered for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act and Section 35 of the Commission's Regulations, an amendment to Section 17.7 of Sierra Pacific Resources Operating Companies FERC Electric Tariff, Third Revised Volume No. 1 (the OATT). The Applicants state that this amendment is necessary to address requests for the extension of the commencement of service over Nevada Power's newly constructed Centennial Project. The Applicants request that the amendment be made effective as of May 1, 2003, so that it will apply equally to all Transmission Customers using the Centennial Project.

Comment Date: September 11, 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 eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at

FERCOnlineSupport@ferc.gov or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. 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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–22462 Filed 9–3–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER03–421–005, et al.]

ISO New England Inc., et al.; Electric Rate and Corporate Filings

August 26, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. ISO New England Inc.

[Docket No. ER03–421–005 and ER03–563–014]

Take notice that on August 22, 2003, ISO New England Inc. (ISO) submitted a Compliance Filing in the above-captioned proceeding as directed by the Commission in its August 12, 2003 Order on Cost Information, 104 FERC § 61,199. The ISO states that copies of the filing have been served on all parties to the above-captioned proceeding.

Comment Date: September 12, 2003.

2. Midwest Independent Transmission System Operator, Inc.

[Docket No ER03–869–001]

Take notice that on August 22, 2003, Midwest Independent Transmission System Operator, Inc. (Midwest ISO the) tendered for filing an amendment to its May 23, 2003 filing in Docket No. ER03–869–000 in compliance with the Commission's deficiency letter request dated July 22, 2003.

The Midwest ISO states it has served copies of its filing on all affected customers. Midwest ISO also states that it has electronically served a copy of this filing, without attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all state commissions within the region. Midwest states that the filing has been electronically posted on the Midwest ISO's Web site at www.midwestiso.org under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: September 12, 2003.

3. Delano Energy Company, Inc.

[Docket No. ER00–891–002]

Take notice that on August 21, 2003, AES Delano, Inc. (Delano), pursuant to the Federal Energy Regulatory Commission's Order in Docket No. ER00–891–000, submitted its triennial market power update. In addition, pursuant to Section 205 of the Federal Power Act, Delano submitted its second revision to FERC Electric Rate Schedule, Original Volume No. 1, and its supplemental code of conduct reflecting changed corporate affiliations.

Comment Date: September 11, 2003.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–1048–001]

Take notice that on August 22, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO), pursuant to Section 205 of the Federal Power Act and Section 35.13 of the Commission's regulations, 18 CFR 35.13, submitted for filing a revised unexecuted Interconnection and Operating Agreement among American Transmission Company LLC and Upper Peninsula Power Company.

Midwest ISO states that a copy of this filing was served on American Transmission Company LLC and Upper Peninsula Power Company.

Comment Date: September 12, 2003.

5. Tosco Power, Inc.

[Docket No. ER03–1205–000]

Take notice that on August 12, 2003, ConocoPhillips Company (ConocoPhillips) tendered for filing a Notice of Cancellation for Tosco Power, Inc. (Tosco), of Tosco's market-based authority approved by the Commission in Docket No. ER96–2635–000 to be effective December 31, 2002. ConocoPhillips states that Tosco is no longer in existence.

Comment Date: September 8, 2003.

6. AES Delano, Inc.

[Docket No. ER03–1207–000]

Take notice that on August 12, 2003, AES Delano, Inc. submitted notification that Delano Energy Company, Inc. has changed its name to AES Delano, Inc.

Comment Date: September 8, 2003.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER03–1238–000]

Take notice that on August 22, 2003, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing an Interconnection Agreement by and between Con Edison and KeySpan-Ravenswood, LLC, dated August 1, 2003. Con Edison states that the agreement provides for the interconnection to Con Edison's transmission system of a 250 MW electric generating facility that KeySpan-Ravenswood is constructing and will operate in the Borough of Queens, New York.

Comment Date: September 12, 2003.

8. PJM Interconnection, L.L.C.

[Docket No. ER03–1239–000]

Take notice that on August 22, 2003, PJM Interconnection, L.L.C. (PJM), submitted for filing an Interconnection Service Agreement (ISA) among PJM, Prince George's County, Maryland, A Body Corporate and Politic, and Potomac Electric Power Company and a notice of cancellation of an Interim ISA that has been superseded.

PJM requests a waiver of the Commission's 60-day notice requirement to permit a July 24, 2003 effective date for the ISA.

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: September 12, 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 eLibrary (FERRIS) link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact

FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. 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. 03–22463 Filed 9–3–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7552–5]

Proposed Administrative Past Cost Settlement Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation and Liability Act; In the Matter of Ohio Drum Superfund Site, Cleveland, OH

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Ohio Drum Superfund Site (''the Site'') in Cleveland, Ohio, with five parties: DeSantis Paint Manufacturing Co., City Barrel & Drum Company, Elmer Freiberg, David Tvert, and Cuyahoga Chemical Company (''the settling parties''). The settlement requires DeSantis Paint Manufacturing Co. to pay $500.00 to the Hazardous Substance Superfund. City Barrel & Drum Company will pay $5,000.00 to the Hazardous Substance Superfund. Elmer Freiberg will pay $500.00 to the Hazardous Substance Superfund. David Tvert will pay $10,000.00 to the Hazardous Substance Superfund. Cuyahoga Chemical Company will pay $100.00 to the Hazardous Substance Superfund.

Under the terms of the settlement, the settling parties agree to pay their respective settlement amounts. In exchange for their payments, the United States covenants not to sue or take administrative action pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a), to recover costs that the United States paid in connection with the Site through February 1, 2003. In addition, the settling parties are entitled to protection from contribution actions or claims as provided by sections 113(f) and 122(h)(4) of CERCLA, 42 U.S.C. 9613(f) and 9622(h)(4), for response costs incurred by any person at the Site.

For thirty (30) days after the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at EPA's Region 5 Office at 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Cleveland Public Library, Cleveland, Ohio.

DATES: Comments must be submitted on or before October 6, 2003.

ADDRESSES: The proposed settlement is available for public inspection at EPA's Record Center, 7th floor, 77 W. Jackson Blvd., Chicago, Illinois 60604. A copy of the proposed settlement may be obtained from Peter Felitti, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 886–5114. Comments should reference the Ohio Drum Superfund Site, Cleveland, Ohio, and EPA Docket No. V–W–03–C–749, and should be addressed to Peter Felitti, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Peter Felitti, Associate Regional Counsel, U.S. EPA, Mail Code C–14J, 77 W. Jackson Blvd., Chicago, Illinois 60604, telephone (312) 886–5114.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601, *et seq.*

Dated: August 5, 2003.

William E. Muno,

Director, Superfund Division.

[FR Doc. 03–22541 Filed 9–3–03; 8:45 am]

BILLING CODE 6560–50–M

EXPORT-IMPORT BANK

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Ex-Im Bank)

SUMMARY: The Advisory Committee was established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for the inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Tuesday, September 23, 2003, at 9:30 a.m. to 12:30 p.m. The meeting will be held at Ex-Im Bank in the Main Conference Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: Agenda items include reports and discussion on the Advisory Committee's Sub-Committees on services and agriculture, status and implementation plan for 2002 Advisory Committee Recommendations and development of the 2003 Advisory Committee Report.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 17, 2003, Teri Stumpf, Room 1203, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3542 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Teri Stumpf, Room 1203, 811 Vermont Ave. NW., Washington, DC 20571, (202) 565–3502.

Peter Saba,

General Counsel.

[FR Doc. 03–22518 Filed 9–3–03; 8:45 am]

BILLING CODE 6690–01–M

EXPORT-IMPORT BANK

Notice of Open Special Meeting of the Sub-Saharan Africa Advisory Committee (SAAC) of the Export-Import Bank of the United States (Export-Import Bank)

SUMMARY: The Sub-Saharan Africa Advisory Committee was established by Pub. L. 105–121, November 26, 1997, to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion of the Bank's financial commitments in Sub-Saharan Africa under the loan, guarantee and insurance programs of the Bank. Further, the committee shall make recommendations on how the Bank can facilitate greater support by U.S. commercial banks for trade with Sub-Saharan Africa.

TIME AND PLACE: Tuesday, September 16, 9:30 a.m. to 12:30 p.m. The meeting will be held at the Export-Import Bank in

Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

AGENDA: This meeting will focus on identifying the specific recommendations by the Advisory Committee as to the continuing efforts to identify and facilitate US-African trade to be included in the 2003 report to Congress due at the end of this calendar year as well as to update the Advisory Committee on business development since the June committee meeting.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 16, 2003, Barbara Ransom, Room 1241, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 565–3525 or TDD (202) 565–3377.

FOR FURTHER INFORMATION CONTACT: For further information, contact Barbara Ransom, Room 1241, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3525.

David Chavern,

Deputy, General Counsel.

[FR Doc. 03–22517 Filed 9–3–03; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act; Notices

DATE AND TIME: Monday, September 8, 2003, at 3:30 P.M.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil action or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–22676 Filed 9–2–03; 2:45 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 940.

Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 011733–009.
Title: Common Ocean Carrier Platform Agreement.
Parties:
A.P. Moller Maersk Sealand,
P&O Nedlloyd Limited
Hamburg-Sud
Mediterranean Shipping Company S.A.
CMA CGM S.A.
Hapag Lloyd Container Linie GmbH
United Arab Shipping Company (SAG), as shareholder parties
Alianca Navegacao e Logistica Ltda.
Safmarine Container Lines N.V.
Nippon Yusen Kaisha
CP Ship Limited
Tasman Orient Line C.V.
Mitsui O.S.K. lines, Ltd., as non-shareholder parties.
Synopsis: The amendment adds Mitsui O.S.K. Lines, Ltd. as a non-shareholder party to the agreement.

Agreement No.: 011742–002.
Title: P&O Nedlloyd-Farrell/Hapag Lloyd/Zim Mediterranean Space Charter Agreement.
Parties:
P&O Nedlloyd Limited
P&O Nedlloyd B.V.
Hapag Lloyd Container Linie GmbH,
Zim Israel Navigation Co., Ltd.
Synopsis: The proposed amendment reflects changes in the structure of the service operated under the agreement and the allocation of slots on that service.

Agreement No.: 011852–001.
Title: Maritime Security Discussion Agreement.
Parties:
American President Lines, Ltd.
APL Co. PTE Ltd.
COSCO Container Lines Company, Ltd.
Evergreen Marine Corporation
Hanjin Shipping Company, Ltd.
Hapag Lloyd Container Linie GmbH
Kawasaki Kisen Kaisha Ltd.
A.P. Moller Maersk Sealand
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Yang Ming Transport Corp.
Zim Israel Navigation Co., Ltd.
Ceres Terminals, Inc.
Cooper/T. Smith Stevedoring Co., Inc.
Eagle Marine Services Ltd.
Global Terminal & Container Services, Inc.
Howland Hook Container Terminal, Inc.
Husky Terminal & Stevedoring, Inc.
International Shipping Agency
International Transportation Service, Inc.
Long Beach Container Terminal, Inc.
Maersk Pacific Ltd.
Maher Terminals, Inc.
Marine Terminals Corp.
Maryland Port Administration
Metropolitan Stevedore Co.
P&O Ports North American, Inc.
Port of Tacoma
South Carolina State Ports Authority
Stevedoring Services of America, Inc.
Trans Bay Container Terminal, Inc.
TraPac Terminals
Universal Maritime Service Corp.;
Virginia International Terminals.
Synopsis: The amendment makes technical changes relating to meetings under the agreement and adds Howland Hook Container Terminals, International Shipping Agency, and the Port of Tacoma as parties to the agreement.

Agreement No.: 011861.
Title: CMA CGM/CSCL Cross Space Charter, Sailing and Cooperative Working Agreement.
Parties:
CMA CGM S.A.
China Shipping Container Lines Co., Ltd.
Synopsis: The proposed agreement is a reciprocal vessel-sharing arrangement in the trade between U.S. East Coast ports and ports on the Mediterranean Sea and the Atlantic Coast of the Iberian Peninsula (Lisbon).

Agreement No.: 011862.
Title: CCNI/Frontier Space Charter and Sailing Agreement.
Parties:
Compania Chilena de Navegacion Interoceanica S.A.
Frontier Liner Services, Inc.
Synopsis: The proposed agreement is a reciprocal vessel-sharing arrangement in the trade between U.S. East and Gulf ports and ports in Central America, the Caribbean, and the North Coast of Colombia. The parties request expedited review.

Agreement No.: 011863.
Title: CMA CGM/P&O Nedlloyd-Hapag Lloyd Space Charter Agreement.
Parties:
CMA CGM S.A., P&O Nedlloyd

Limited
P&O Nedlloyd B.V.
Hapag Lloyd Container Linie GmbH

Synopsis: The proposed agreement is a reciprocal vessel-sharing arrangement in the trade between U.S. Atlantic and Gulf ports and ports on the Mediterranean Sea.

By Order of the Federal Maritime Commission.

Dated: August 29, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–22556 Filed 9–3–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 17271F.
Name: A.S.L. Logistics Corp.
Address: 11613 NW 51st Lane, Miami, FL 33178.
Date Revoked: August 15, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4269F.
Name: Cargo Systems Worldwide, Inc.
Address: P.O. Box 2226, San Juan, PR 00902.
Date Revoked: October 22, 2002.
Reason: Surrendered license voluntarily.

License Number: 17126F.
Name: Daily Freight Cargo, Corp.
Address: 8426 NW 70th Street, Miami, FL 33166.
Date Revoked: December 8, 2002.
Reason: Failed to maintain a valid bond.

License Number: 3864N.
Name: Fredonia, Inc. dba Fredonia Cargo Lines.
Address: 478 Pennsylvania Avenue, Suite 301, Glen Ellyn, IL 60137.
Date Revoked: July 21, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4478N.
Name: Marina Ocean Air International, LLC.
Address: 811 Grandview Drive, South San Francisco, CA 94083.
Date Revoked: July 23, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16730F.
Name: New World Import Services, Inc.
Address: 1650 NW 94th Avenue, Miami, FL 33172.
Date Revoked: August 8, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16561F.
Name: Palumbo USA Inc.
Address: 1099 Wall Street West, Suite 395, Lynhurst, NJ 07071.
Date Revoked: May 31, 2002.
Reason: Surrendered license voluntarily.

License Number: 245F.
Name: Pan-American Shipping Company.
Address: 3017 Bradbury Drive, P.O. Box 120, Meraux, LA 70075.
Date Revoked: August 8, 2003.
Reason: Failed to maintain a valid bond.

License Number: 13398N.
Name: Patriot Container Lines, Inc.
Address: 225 Prospect Street, Hartford, CT 06108.
Date Revoked: August 2, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16312N.
Name: Schroff International Transport, Inc.
Address: Bldg. C2NW A.I.O.P., Hook Creek Blvd & 145th Ave, Valley Stream, NY 11581.
Date Revoked: August 10, 2003.
Reason: Failed to maintain a valid bond.

License Number: 17320N and 17320F.
Name: Tiger Distribution Corporation.
Address: 2180 Crescent Avenue, Suite C, Anaheim, CA 92801.
Date Revoked: June 28, 2003 and July 29, 2003.
Reason: Failed to maintain valid bonds.

License Number: 9862N.
Name: United Transport Tankcontainers, Inc.
Address: 1225 North Loop West, Suite 1110, Houston, TX 77008.
Date Revoked: August 6, 2003.
Reason: Failed to maintain a vaid bond.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–22557 Filed 9–3–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/address	Date reissued
4058NF	Basic Shipping U.S.A., Inc., 39–01 Main Street, Suite 209, Flushing, NY 11354	July 13, 2003.
1995NF	La Rosa Del Monte Express Inc., 1133–35 Tiffany Street, Bronx, NY 10459	July 3, 2003.
16561N	Palumbo USA Inc., 1099 Wall Street, Suite 395, Lyndhurst, NJ 07071	May 31, 2002.
17236N	Simpson's Shipping Enterprise, 248 West Lincoln Avenue, Mt. Vernon, NY 10550	June 15, 2003.
4189F	Terrace Express, Inc., 8151 E. Bailey Way, Anaheim, CA 92808	July 21, 2003.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–22559 Filed 9–3–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel Operating Common Carrier and Ocean Freight Forwarder—Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. app. 1718 and 46 CFR 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel Operating Common Carrier Ocean Transportation Intermediary Applicants:

United Container Line, Inc., 6142 NW 115 Place, #317, Miami, FL 33178, Officer: Donald L. Smith, III, President, (Qualifying Individual).

American International Shipping Company, 10 Molteg Drive, Parlin, NJ 08859, Officer: Parveen K. Sharma, Captain, (Qualifying Individual).

Aimpacific Services, Inc., 3380 Flair Drive, Suite 236, El Monte, CA 91731, Officer: Gary Kong, Chief Operation Officer, (Qualifying Individual), Ying Xiao, President.

Hua Lian Fa Logistics, Inc., 3380 Flair Drive, Suite 236, El Monte, CA 91731, Officers: Ray Dumandan, Chief Operation Officer, (Qualifying Individual), Tao Xu, Director.

Master Global Logistics, Inc., 3807 Wilshire Blvd., Suite 1000, Los Angeles, CA 90010, Officer: Frank Leung, President, (Qualifying Individual).

Taino Express Cargo Inc., 4406 N.W. 74th Avenue, Miami, FL 33166, Officers: Jose R. Pena Espinosa, Asst. of President, (Qualifying Individual), Ivan L. Montero, President.

Online Shipping Advisers, 6029 Castana Avenue, Lakewood, CA 90712, Officer: Carlos Gonzales, Corporate Officer, (Qualifying Individual).

Concatt Enterprises LLC, 2 Linda Court, Laurence Harbor, NJ 08879, Officers: Xiaqian Zhang, President, (Qualifying Individual), Yongpeng Jin, Treasurer.

SHJ International Express LLC, 223 E. Garvey Ave., #228, Monterey Park, CA 91754, Officers: Gary Tan, Vice President of Sales, (Qualifying Individual), David Loo, President.

Welley Shipping USA, Inc., 17800 Castleton Street, Suite 495, City of Industry, CA 91748, Officers: Ouyang, Chao, Secretary, (Qualifying Individual), Zang, Jing, Vice President.

Tamarind Consolidated and Associates, Inc., dba Tamarind Consolidated, 1442 S.E. 13th Street, Fort Lauderdale, FL 33316, Officers: Fred C. Rogacki, Vice President, (Qualifying Individual), Ralph Nazario, President.

Gunter Shipping Inc., 700 Nostrand Avenue, Brooklyn, NY 11216, Officer: Joseph A. Gunter, President, (Qualifying Individual).

Non-Vessel Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicant:

Zust Bachmeier International, Inc., dba Z Lines, 6201 Rankin Road, Humble, TX 77396, Officers: George A. Abreu, President, (Qualifying Individual), Davis Martin, Vice President.

Apparel Logistics Inc., 8501 N.W. 17th Street, Suite 101, Miami, FL 33126, Officers: Leopoldo Del Calvo, Vice President, (Qualifying Individual), Manuel A. Lescano, President.

World Wide Relocation, Inc., 2550 Northwest Parkway, Elgin, IL 60123, Officer: Chris Baillie, Managing Director, (Qualifying Individual).

Ocean Freight Forwarder—Ocean Transportation Intermediary Applicant:

Sun Ocean Lines, Inc., 15823 S.W. 21st Street, Miramar, FL 33027, Officers: Michael Enriquez, President, (Qualifying Individual), Elena P. Enriquez, Vice President.

Dated: August 29, 2003.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 03–22558 Filed 9–3–03; 8:45 am]

BILLING CODE 6730–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENT OF AGRICULTURE

Announcement of Meeting of 2005 Dietary Guidelines Advisory Committee and Solicitation of Written Comments

AGENCIES: U.S. Department of Health and Human Services, Office of Public Health and Science; and U.S. Department of Agriculture, Food, Nutrition and Consumer Services (FNCS) and Research, Education and Economics (REE).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) and the Department of Agriculture (USDA) (a) provide notice of the first meeting of the Dietary Guidelines Advisory Committee, and (b) solicit written comments pertinent to review of the Dietary Guidelines for Americans.

DATES: (1) The Committee will meet on September 23 and 24, 2003, from 9 a.m.–5 p.m. (2) Written comments on the guidelines received by 5 p.m. E.D.T. on September 16, 2003 will be ensured transmission to the Committee prior to this meeting. Written comments will be accepted throughout the Committee's deliberations.

ADDRESSES: The first meeting will take place at the Hubert Humphrey Building, Room 800, 200 Independence Avenue, SW., Washington, DC. Written comments can be sent to *dietaryguidelines@osophs.dhhs.gov* or mailed to Kathryn McMurry, HHS Office of Disease Prevention and Health Promotion, Room 738–G, 200 Independence Avenue, SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: HHS Co-Executive Secretaries: Kathryn McMurry or Karyl Thomas Rattay (phone 202–690–7102), HHS Office of Disease Prevention and Health Promotion, Room 738–G, 200 Independence Avenue, SW., Washington, DC 20201. USDA Co-Executive Secretaries: Carole Davis (phone 703–305–7600), USDA Center for Nutrition Policy and Promotion, 3101 Park Center Drive, Room 1034, Alexandria, Virginia 22302, or Pamela Pehrsson (phone (301) 504–0716), USDA, Agricultural Research Service, Beltsville Agricultural Research Center-West, Building 005, Room 309A, Beltsville, Maryland 20705. Additional information is available on the Internet at *http://www.health.gov/dietaryguidelines.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: The National Nutrition Monitoring and Related Research Act of 1990 (Pub. L. 101–445, Title III) requires the Secretaries of USDA and HHS to publish the Dietary Guidelines for Americans at least every five years. The Dietary Guidelines Advisory Committee will review the 2000 edition of Nutrition and Your Health: Dietary Guidelines for Americans and advise the Secretaries as to whether, based on current scientific and medical knowledge, revision is warranted. If the Committee decides revision is necessary, it will prepare a report to recommend revisions to the Secretaries for the year 2005 edition.

Announcement of Meeting: The Committee's first meeting will be September 23 and 24, from 9 a.m.–5 p.m. The meeting will be held in Room 800, at the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC. The building is located 2 blocks from the Federal Center, SW stop on the blue and orange metro lines. Parking is limited, but is available at the corner of 6th and C St. The agenda will include (a) orientation, (b) brief scientific review and discussion related to the guidelines, and (c) formulation of plans for future work of the Committee.

Public Participation: The meeting is open to the public. Due to the need for security screening, pre-registration is required and all visitors must bring a photo I.D. To pre-register, please call

Marianne Augustine at (202) 690–7102 by 5 p.m. E.D.T., September 19, 2003. Space is limited for all sessions. Written comments from the public will be accepted; opportunities to present oral comments may be provided at future meetings. Please call Marianne Augustine by 5 p.m. E.D.T., September 12, 2003, should you require a sign language interpreter. Documents pertaining to Committee deliberations will be available for public inspection and copying in Room 738-G, 200 Independence Avenue, SW., Washington, DC 20201 on the day before the meeting and following the meeting. Please call (202) 690–7102 to schedule an appointment to view the documents.

Written Comment: By this notice, the Committee is soliciting written comments, views, information and data pertinent to review of the Dietary Guidelines for Americans. Written comments are welcome throughout the Committee's deliberations. To be considered for the first meeting, they must be received by 5 p.m. E.D.T. on September 16, 2003. Comments should be sent to *dietaryguidelines@osophs.dhhs.gov* or to Kathryn McMurry, HHS Office of Disease Prevention and Health Promotion, Room 738–G, 200 Independence Avenue, SW., Washington, DC 20201.

Dated: August 26, 2003.

Carter Blakey,

Acting Deputy Assistant Secretary for Health, U.S. Department of Health and Human Services.

Dated: August 27, 2003.

Eric J. Hentges,

Executive Director, Center for Nutrition Policy and Promotion, U.S. Department of Agriculture.

Dated: August 28, 2003.

Edward Knipling,

Acting Administrator, Agricultural Research Service, U.S. Department of Agriculture.

[FR Doc. 03–22480 Filed 9–3–03; 8:45 am]

BILLING CODE 4150–32–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to involve information concerning individuals associated with the applications, including assessments of their personal qualifications to conduct their proposed projects. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.

Date: September 25–26, 2003 (Open from 8 a.m. to 8:15 a.m. on September 25 and closed for remainder of the meeting).

Place: AHRQ Conference Center, John M. Eisenberg Bldg, Rockville, Maryland 20850.

2. *Name of Subcommittee:* Health Research Dissemination and Implementation.

Date: October 23–24, 2003 (Open from 8 a.m. to 8:15 a.m. on October 23 and closed for remainder of the meeting).

Place: AHRQ Conference Center, John M. Eisenberg Bldg, Rockville, Maryland 20850.

3. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.

Date: October 23–24, 2003 (Open from 8 a.m. to 8:15 a.m. on October 23 and closed for remainder of the meeting).

Place: AHRQ Conference Center, John M. Eisenberg Bldg, Rockville, Maryland 20850.

4. *Name of Subcommittee:* Health Systems Research.

Date: October 27–28, 2003 (Open from 8 a.m. to 8:15 a.m. on October 27 and closed for remainder of the meeting).

Place: AHRQ Conference Center, John M. Eisenberg Bldg, Rockville, Maryland 20850.

5. *Name of Subcommittee:* Health Care Technology and Decision Sciences.

Date: October 30–31, 2003 (Open from 8 a.m. to 8:15 a.m. on October 30 and closed for remainder of the meeting).

Place: AHRQ Conference Center, John M. Eisenberg Bldg, Rockville, Maryland 20850.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research Review, Education and Priority Populations, AHRQ, 540 Gaither Road, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: August 26, 2003.

Carolyn M. Clancy,

Director.

[FR Doc. 03–22476 Filed 9–3–03; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0376]

Medical Devices: Mammography Quality Standards Act of 1992 and Subsequent Mammography Quality Standards Reauthorization Act and Amendments; Inspection Fees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the new fees the agency will assess for inspections of mammography facilities starting October 1, 2003. The Mammography Quality Standards Act of 1992 (the MQSA) requires FDA to assess and collect fees from mammography facilities to cover the costs of annual inspections required by the MQSA. Because these costs have increased since the last increase on February 13, 1998, FDA is raising the fees accordingly. This document explains which facilities are subject to payment of inspection fees, provides information on the costs included in developing inspection fees, and provides information on the inspection billing and collection processes. This is only the second increase in inspection fees under the MQSA since the initial fee was established in 1995.

DATES: Effective October 1, 2003, for all inspections conducted under section 354(g) of the Public Health Service Act (PHS Act) (42 U.S.C. 263b(g)). Submit written comments by October 1, 2003.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: John L. McCrohan, Center for Devices and Radiological Health (HFZ–240), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3332, FAX: 301–594–3306.

SUPPLEMENTARY INFORMATION:

I. Background

The MQSA requires all mammography facilities, other than facilities of the Department of Veterans Affairs, to be accredited by an approved accreditation body and certified by the

Secretary of Health and Human Services, as meeting quality standards (section 354(b) and (d)(iv) of the PHS Act). The MQSA requires FDA to establish and operate the following: (1) A Federal certification and inspection program for mammography facilities, (2) regulations and standards for accreditation bodies, and (3) standards for equipment, personnel, quality assurance, and recordkeeping and reporting by mammography facilities (section 354(c), (e), (f), and (g) of the PHS Act). The MQSA requires annual facility inspections to determine compliance with the quality standards (section 354(g) of the PHS Act). Section 354(r) of the PHS Act requires FDA to assess and collect fees for inspections of mammography facilities, other than governmental entities as determined by FDA, to cover the costs of inspections.

An updated resource review has demonstrated that the recoverable costs of the MQSA inspection program have increased since 1998. In addition, the annual amount of fees collected under the current fee schedule has been well below the level authorized by Congress. Accordingly, the fees have been recalculated so that the aggregate amount of fees collected will equal the aggregate costs of the inspections conducted, as mandated by the MQSA.

Therefore, FDA is providing notice of the increased fees to be assessed starting on October 1, 2003, and additional information relating to those fees. Although the MQSA does not require FDA to solicit comments on fee assessment and collection, FDA is inviting comments from interested persons in order to have the benefit of additional views and information, as the agency continues to evaluate its fee assessment procedures.

II. Inspections Under the Mammography Quality Standards Act of 1992

Section 354(g)(1) of the PHS Act requires FDA, States as Certifier (SAC) States, or a State or local agency acting on behalf of the FDA, to conduct an annual inspection of each mammography facility. The purpose of the annual inspection is to determine facility compliance with quality standards established under the MQSA. Inspections will be conducted by inspectors who have met Federal training requirements and who are qualified by FDA.

Under ordinary circumstances, inspections will be conducted during the regular business hours of the facility or at a mutually agreed time. FDA normally will provide 5 working days advance notice of each annual inspection. If a significant deficiency is identified during an inspection, FDA will provide information on necessary corrective action and, in appropriate cases, will schedule a followup inspection after the facility has had a reasonable time to correct the deficiency. FDA normally will provide 5 working days advance notice of each followup inspection. FDA may make unannounced inspections or may provide shorter notice if prompt action is necessary to protect the public health (see section 354(g)(4) of the PHS Act).

III. Costs Included in the Fees to Be Assessed Beginning on October 1, 2003

Section 354(r) of the PHS Act requires FDA to assess and collect fees from persons who own or lease mammography facilities, or their agents, to cover the costs of inspections conducted by FDA, SAC States, or a State or local agency acting on behalf of FDA. Section 354(r) limits FDA's discretion in setting inspection fees in three ways: (1) Fees must be set so that, for a given fiscal year (FY), the aggregate amount of fees collected will equal the aggregate costs of inspections conducted; (2) a facility's liability for fees must be reasonably based on the proportion of the inspection costs that relate to the facility; and (3) governmental entities, as determined by FDA, are exempt from payment of fees.

FDA has determined that the following categories of costs are recoverable under section 354(r) of the PHS Act and has included them in the fees to be assessed beginning on October 1, 2003. These categories represent the same costs that have been assessed in fees since the beginning of the inspection program. Facilities are not being assessed for any new costs associated with inspections.

Cost categories are as follows: (1) Personnel costs of annual and followup inspections of mammography facilities, including administration and support; (2) purchase of equipment, calibration of instruments used in the inspections, and modification and maintenance of training facilities and laboratories to support the MQSA operations; (3) design, programming, and maintenance of data systems necessary to schedule and track inspections and to collect data during inspections; (4) training and qualification of inspectors (both FDA and State inspectors); (5) costs of billing facilities for fees due for annual and followup inspections and collecting facility payments; (6) tracking, coordination, and direction of inspections; and (7) overhead and support attributable to facility inspections.

Because most equipment used for inspections is durable and can be used for a period of years, it is not appropriate to recover the full costs of such expenditures in the year of purchase. To do so would result in the MQSA inspection fee varying widely from one year to the next. Instead, FDA recovers these costs over the useful life of the asset.

The recoverable portions of all fixed costs of the inspection program and appropriate variable costs are recovered in the annual inspection fee. This fee will vary depending on how many mammography units are used by a facility. All mammography facilities, except governmental entities, are subject to an inspection fee.

If the annual inspection of a facility identifies a deficiency that necessitates a followup inspection that facility will be assessed an additional fee to recover the costs of that additional inspection (unless it is a governmental entity). Facilities that do not require a followup inspection are not subject to this fee.

IV. Inspection Fees to be Assessed Beginning on October 1, 2003

FDA reviewed the past methodologies for calculating the inspection fee, which accounted for differences in facility size. The same method was adopted for calculating the fees FDA will assess beginning on October 1, 2003. A facility's inspection fee will be based on the number of mammography units used by the facility.

The total recoverable aggregate cost of the MQSA inspection program is estimated to be $14.1 million in FY 2004. This is below the $16.4 million authorized by Congress for collections in FY 2004. To recover the costs of the inspection program, the facility portion of the fee is $1,545 and each unit portion is $204. The cost of each additional unit must be added to the facility portion of the fee to determine the total inspection fee. This new fee of $1,749 for a facility with one unit compares to the current fee of $1,549 for a facility with one unit.

FDA will assess the following fees, beginning on October 1, 2003, for facility inspections, shown in table 1 of this document:

TABLE 1.—ANNUAL INSPECTION FEE BY NUMBER OF UNITS

Number of Units	Fee
1	$1,749
2	$1,953
3	$2,157
4	$2,361
5	$2,565
6	$2,769
7	$2,973
Followup Inspection Fee	$991

FDA will continue to charge separately for annual and followup inspections. FDA believes it is more appropriate and equitable for the costs of followup inspections to be borne entirely by the facilities that require such inspections. FDA has again chosen to adopt a flat fee for followup inspections over an hourly rate that would vary the fee by the length of the inspection. This approach eliminates concerns about variations among inspectors and differential treatment of facilities.The fee schedule is subject to change each year to ensure that the aggregate amount of fees collected during any year equals the aggregate amount of costs for that year's facility inspections. FDA will monitor the adequacy of the fee on an annual basis to account for any major programmatic and budget changes.

FDA continues to use a uniform, national fee structure. The methodology adopted by FDA to determine inspection fees does not pass on the costs of inspecting governmental entities to other facilities. The entire cost of inspecting governmental entities has been and will continue to be borne by appropriated funds.

V. Facilities Subject to Payment of Inspection Fees

Under the MQSA, all certified mammography facilities except governmental entities, as determined by FDA, are subject to payment of inspection fees (see section 354(r) of the PHS Act). FDA will continue to use the definition that was previously developed and applied to determine whether a facility qualifies as a governmental entity for the purpose of determining whether a facility is exempt from payment of inspection fees under section 354(r) of the PHS Act. A facility may qualify as a governmental entity in two ways. First, a facility may qualify if any Federal department, State, district, territory, possession, Federally-recognized Indian tribe, city, county, town, village, municipal corporation, or similar political organization does the following: (1) Operates the facility; (2) pays the entire salary of all onsite personnel for the facility; (3) owns, rents, or leases all of the facility's mammography equipment; and (4) has the ultimate authority to make day-to-day decisions concerning the management and operation of the facility.

Second, a facility may qualify as a governmental entity if the facility provides services under the Breast and Cervical Cancer Mortality Prevention Act of 1990 (*www.cdc.gov/cancer/nbccedp*) (FDA has verified the Web site address, but FDA is not responsible for any subsequent changes to the Web site after this document publishes in the **Federal Register**) and at least 50 percent of the mammography screening examinations provided during the preceding 12 months were funded under that statute. Facilities providing mammography services using grants under other statutes will not qualify as a government entity. FDA does not recognize, as a governmental entity, a facility providing Medicare/Medicaid services unless that facility qualifies as a governmental entity as described in the previous paragraph.

VI. Billing and Collection Procedures

Within 30 days following inspection, FDA mails a bill and a ''Governmental Entity Declaration'' form (Form 3422) to the inspected facility. Facilities who believe they meet the governmental entity criteria complete the form and return it in lieu of the inspection fee payment. The bill sets forth the type of inspection conducted (annual or follow-up), the fee to be paid, and the date payment is due (30 days after billing date). Inspection fees are billed to and collected from the party that operates the facility. If the facility is owned or controlled by an entity other than the operator, it is up to the parties to establish, through contract or otherwise, how the costs of facility inspections will be allocated.

If full payment is not received by the due date, a second bill is sent. At that time, interest begins to accrue at the prevailing rate set by the Department of the Treasury, a 6 percent late payment penalty is assessed in accordance with 45 CFR 30.13, and a $20 administrative fee is assessed for each 30-day period that a balance remains due. If payment is not received within 30 days of a third and final bill, FDA may initiate action to collect unpaid balances (with interest and penalties), including the use of collection agencies, the reporting of delinquencies to commercial credit reporting agencies, and forwarding delinquent accounts to the Department of the Treasury, Treasury Offset Program. Any questions or concerns about the billing and collection procedures may be addressed to Billing Inquiries c/o Mammography Quality Assurance Program, P.O. Box 6057, Columbia, MD 21045, 1–800–838–7715.

VII. Request for Comments

Although the MQSA does not require FDA to solicit comments on fee exemption, assessment and collection, FDA is inviting comments from interested persons in order to have the benefit of additional views.

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any

mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 26, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–22477 Filed 9–3–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[USCG–2003–14294]

El Paso Energy Bridge Gulf of Mexico, 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 El Paso Energy Bridge Gulf of Mexico, LLC (Energy Bridge GOM) Deepwater Port project. The proposed Energy Bridge GOM Deepwater Port would be located in West Cameron Area, South Addition, Block 603 (WC603) in the Central Area of the Gulf of Mexico, approximately 106 miles due south of the Louisiana coastline. 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 Energy Bridge GOM Deepwater Port project.

DATES: The public hearing will be held on Friday, October 3, 2003, 3 p.m. to 6 p.m., in New Orleans, Louisiana. The informational open house will be held on Friday, October 3, 2003, 1 p.m. to 3 p.m., in New Orleans, LA. 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–2003–14294] must reach the Docket Management Facility on or before November 17, 2003.

ADDRESSES: The public hearing and informational open house will be held at the following location: New Orleans Marriott, 555 Canal Street, New Orleans, Louisiana 70130, (504) 581–1000.

You may submit comments identified by Coast Guard docket number USCG–2003–14294 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 Energy Bridge GOM 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. Andrea Jenkins, Program Manager, Docket Operations, Department of Transportation, at (202) 366–0271.

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–2003–14294], 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–2003–14294. 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 Friday, October 3, 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 Energy Bridge GOM 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 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 a Submerged Turret Loading (STL) system that would be comprised of a submerged turret buoy; chains, lines, and anchors; a flexible riser; and a subsea manifold. A 20-inch seabed pipeline would be constructed as part of the project.

Liquified natural gas (LNG) would be transported on an El Paso Energy Bridge Vessel (EPEBV) from various sources worldwide. When the EPEBV, a conventional LNG tanker fitted with regasification equipment on board the vessel, reached the location of the Deepwater Port, it would retrieve and connect to the STL system. The submerged buoy would be raised from its subsurface location, and drawn into an opening in the hull of the vessel. After the buoy was attached to the vessel, the on-board LNG regasification process would commence. The gas would then be discharged through the buoy into the subsea flexible riser, to the manifold, and finally to the pipeline which would enable additional natural gas supplies to enter key domestic markets in the United States.

License Application Background Information

The Energy Bridge GOM Deepwater Port license application was submitted to the Secretary of Transportation on December 20, 2002. The license application calls for construction of the Energy Bridge GOM Deepwater Port in an area situated in the Central Area of the Gulf of Mexico, approximately 106 miles south of the Louisiana coastline, in West Cameron Area, South Addition, Block 603 (WC603). Additional information concerning the contents of the application can be found online at *http://dms.dot.gov* under docket number USCG–2003–14294, or in the notice of application published in the **Federal Register** at 68 FR 3299 (January 23, 2003). 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 Energy Bridge GOM 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.**

Joseph J. Angelo,

Director of Standards, Marine Safety, Security, and Environmental Protection, Coast Guard.

Raymond R. Barberisi,

Director, Office of Ports and Domestic Shipping, U.S. Maritime Administration.

[FR Doc. 03–22528 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2003–16010]

International Convention for the Prevention of Pollution From Ships, Annex IV—International Sewage Pollution Prevention Equivalency Documentation

AGENCY: Coast Guard, DHS.

ACTION: Notice of policy.

SUMMARY: The Coast Guard announces that on September 27, 2003, the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78), (revised) Annex IV will enter into force internationally. The United States is not a Party to MARPOL 73/78, Annex IV, however, U.S. flagged vessels visiting nations that are parties may need to demonstrate compliance with these MARPOL regulations on the prevention of pollution by sewage from ships. The Coast Guard plans to assist qualified U.S. flag vessels in demonstrating compliance with these MARPOL requirements by issuing a document certifying equivalent compliance with the revised Annex IV of MARPOL 73/78. Failure of a United States flagged vessel to have the appropriate certificate or a document stating shipboard equivalency to MARPOL 73/78, Annex IV could result in a port state detention abroad.

DATES: The MARPOL 73/78, Annex IV international requirements come into force September 27, 2003, for new ships built on or after September 27, 2003. For existing vessels, these MARPOL international requirements come into force September 27, 2008.

ADDRESSES: For new vessels, requests for documentation certifying equivalent compliance with the revised Annex IV of MARPOL 73/78 should be sent to the local Officer-in-Charge, Marine Inspection. This notice and documents mentioned in this notice as being available in the docket, are part of docket USCG–2003–16010 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 regarding this notice, you may call, fax, or e-mail Lieutenant Commander Brian Downey, Office of Compliance, (G–MOC–1): telephone 202–267–2735, fax 202–267–4394, e-mail *BDowney@comdt.uscg.mil.*

SUPPLEMENTARY INFORMATION: Starting September 27, 2003, certain U.S. flagged vessels visiting nations that are a party to the International Convention for the Prevention of Pollution from Ships, 1973 as modified by the Protocol of 1978 (MARPOL 73/78), Annex IV (Sewage) (''MARPOL 73/78, Annex IV'') may need to demonstrate compliance with MARPOL 73/78, (revised) Annex IV—regulations on the prevention of pollution by sewage from ships.

The Marine Environment Protection Committee (MEPC) has agreed to revisions to Annex IV. MEPC of IMO has asked Annex IV Parties to implement the revised Annex IV immediately on the entry into force of the existing Annex to avoid the creation of a dual treaty regime between the existing and the revised Annex IV.

Applicability

The MARPOL 73/78, (revised) Annex IV applies to all new vessels built on or after September 27, 2003, that are 400 Gross Tons (GT), International Tonnage Convention (ITC), or more and new vessels less than 400 GT ITC that are certified to carry more than 15 passengers. The Annex does not require existing vessels within these tonnage and passenger categories to comply until September 27, 2008. A copy of the text of the MARPOL 73/78, (revised) Annex IV, and a related MEPC circular

are available in the docket for this notice under **ADDRESSES**.

Equivalency Documentation

The U.S. Coast Guard plans to help the United States maritime industry demonstrate equivalent compliance with MARPOL 73/78, (revised) Annex IV to which the United States is not a Party. The United States considers a U.S. Coast Guard certified Marine Sanitation Device (MSD) to offer equivalent sewage pollution prevention to MSDs with an IMO Certificate of Type Test demonstrating compliance with the performance requirements of MARPOL 73/78, (revised) Annex IV. Therefore, any vessel with an installed and operational Coast Guard certified MSD which meets the criteria of 33 Code of Federal Regulations (CFR) part 159 should be eligible to receive documentation certifying equivalent compliance with the revised Annex IV of MARPOL 73/78.

Because the United States is not a party to MARPOL 73/78, Annex IV, the Coast Guard cannot issue official international convention certificates as a Flag State. To facilitate commerce and reduce confusion, however, the Coast Guard plans to issue a Flag State document to demonstrate equivalent compliance with MARPOL 73/78, (revised) Annex IV for eligible vessels.

Dated: August 28, 2003.

L. L. Hereth,

Acting Assistant Commandant for Marine Safety, Security and Environmental Protection.

[FR Doc. 03–22560 Filed 8–29–03; 3:07 pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: 30-day notice of information collection under review: Report of complaint; Form I–847.

The Department of Homeland Security, Bureau of Customs and Border Protection has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on June 26, 2003, 68 FR 38084. The notice allowed for a 60-day public comment period. No public comments were received by the BCBP on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until October 6, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Homeland Security Desk Officer, 725 17th Street, NW., Room 10235, Washington, DC 20530.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Complaint.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–847. Bureau of Customs and Border Protection.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary; Individual or households. This form is used to establish a record of complaint, and to initiate an investigation of misconduct by an officer of the DHS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 250 responses at 15 minutes (.25 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 63 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Regulations and Forms Services Division, U.S. Department of Homeland Security, Room 4034, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Ms. Terry O'Malley, Clearance Officer, United States Department of Homeland Security, 7th & D Streets, NW., Washington, DC 20530, (202) 358–3571.

Dated: August 27, 2003.

Richard A. Sloan,

Department Clearance Officer, Bureau of Immigration and Customs Enforcement, United States Department of Homeland Security.

[FR Doc. 03–22481 Filed 9–3–03; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Delaware & Lehigh National Heritage Corridor Commission Meeting

AGENCY: Department of Interior, Office of the Secretary.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware & Lehigh National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE AND TIME: Friday, September 12, 2003, Time 2 p.m. to 4 p.m.

ADDRESS: Lehigh Valley Planning Commission, 961 Marcon Blvd, Suite 310, Allentown, PA 18103.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh National Heritage Corridor and State Heritage Park. The Commission was established to assist the

Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware & Lehigh National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988 and extended through Public Law 105–355, November 13, 1998.

FOR FURTHER INFORMATION CONTACT: C. Allen Sachse, Executive Director, Delaware & Lehigh National Heritage Corridor Commission, 1 South Third Street, 8th Floor, Easton PA 18042, (610) 923–3548.

Dated: August 28, 2003.

C. Allen Sachse,

Executive Director, Delaware & Lehigh National Heritage Corridor Commission.

[FR Doc. 03–22492 Filed 9–3–03; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

[516 DM 1–15]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of proposed revised procedures.

SUMMARY: This notice proposes revised Departmental policies and procedures for compliance with the National Environmental Policy Act (NEPA), as amended, Executive Order 11514, as amended, Executive Order 12114, and the Council on Environmental Quality's Regulations. This action is necessary to update these procedures and to make them available to the public on the Department's Internet site. When adopted, these procedures will be published in Part 516 of the Departmental Manual (DM) and will be added to the Electronic Library of Interior Policies (ELIPS). ELIPS is located at: *http://elips.doi.gov/*. For comparison purposes, the 1980 chapters that are currently in force presently appear at this Web site. These proposed procedures do not change any bureau procedures (*see* **SUPPLEMENTARY INFORMATION** below).

DATES: Submit comments on or before October 6, 2003.

ADDRESSES: Comments may be mailed to: Department of the Interior; NEPA Revised Implementing Procedures; c/o The Content Analysis Team; US Forest Service; P.O. Box 221150; Salt Lake City, UT 84122. Comments may also be faxed to the Content Analysis Team at: 801–517–1015. Finally comments may be e-mailed to the team at: *DOINEPA@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Terence N. Martin, Team Leader, Natural Resources Management; Office of Environmental Policy and Compliance; 1849 C Street, NW., Washington, DC 20240. Telephone: 202–208–5465. e-mail: *terry_martin@ios.doi.gov.*

SUPPLEMENTARY INFORMATION: These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA. They update our policies and procedures in order to stay current with changing environmental laws and programs of the Federal government. It is the intent of these procedures to continue to set forth one set of broad Departmental directives and instructions to all bureaus and offices of the Department to follow in their NEPA compliance activities. In the current chapters, the Department's bureaus published appendices to Chapter 6 to further describe each bureau's NEPA compliance program. In order to more efficiently handle these appendices in the ELIPS system, it has been decided to rename them as new chapters to this DM part. Therefore, this publication expands the chapter numbering system from 516 DM 8 through 516 DM 15 to contain the old bureau appendices. These chapters have already received public review and are final. They may be viewed and downloaded from ELIPS. Comments are not being requested on these chapters. Chapters 8 through 15 may be revised in the future to further conform to the revised Chapters 1–7. If so, they will each appear for comment in the **Federal Register** at the appropriate time. In accordance with 1507.3 of the CEQ Regulations, this Department is consulting with CEQ and is hereby requesting public review and comment on the proposed procedures.

Background: On August 28, 2000, the Department published these procedures in draft form and invited the public to make comments. Several reviewers requested a time extension, and a time extension was granted through the close of business on November 13, 2000. That publication has never been made final, and all comments received to date on that publication have been read, analyzed, and considered in the revision process. Internal Departmental review and revision has continued throughout 2001 and 2002. In early 2003, the Department held four listening sessions to seek views and comments on this process. Those sessions were held in Washington, DC; Denver, CO; Portland, OR; and Anchorage, AK. Again, those comments have been taken into account in revising these chapters. The procedures have also been recirculated in the Department for further review and clearance by each bureau and assistant secretary.

Procedural Requirements: The following list of procedural requirements has been assembled and addressed to contribute to this open review process. Today's publication is a notice of draft, internal Departmental action and not a rulemaking. However, we have addressed the various procedural requirements that are generally applicable to proposed and final rulemaking to show how they would affect this notice if it were a rulemaking.

Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993) it has been determined that this action is the implementation of policy and procedures applicable only to the Department of the Interior and not a significant regulatory action. These policies and procedures would not impose a compliance burden on the general economy.

Administrative Procedures Act

This document is not subject to prior notice and opportunity to comment because it is a general statement of policy and procedure [(5 U.S.C. 553(b)(A)]. However, notice and opportunity to comment is required by the CEQ Regulations [40 CFR 1507.3(a)].

Regulatory Flexibility Act

This document is not subject to notice and comment under the Administrative Procedures Act, and, therefore, is not subject to the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This document provides the Department with policy and procedures under NEPA and does not compel any other party to conduct any action.

Small Business Regulatory Enforcement Fairness Act

These policies and procedures do not comprise a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The document will not have an annual effect on the economy of $100 million or more and is expected to have no significant economic impacts. Further, it will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions and will

impose no additional regulatory restraints in addition to those already in operation. Finally, the document does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises to compete with foreign based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), this document will not significantly or uniquely affect small governments. A Small Government Agency Plan is not required. The document does not require any additional management responsibilities. Further, this document will not produce a Federal mandate of $100 million or greater in any year, that is, it is not a significant regulatory action under the Unfunded Mandates Reform Act. These policies and procedures are not expected to have significant economic impacts nor will they impose any unfunded mandates on other Federal, State, or local government agencies to carry out specific activities.

Federalism

In accordance with Executive Order 13132, this document does not have significant Federalism effects; and, therefore, a Federalism assessment is not required. The policies and procedures will not have substantial direct effects on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No intrusion on State policy or administration is expected, roles or responsibilities of Federal or State governments will not change, and fiscal capacity will not be substantially, directly affected. Therefore, the document does not have significant effects or implications on Federalism.

Paperwork Reduction Act

This document does not require information collection as defined under the Paperwork Reduction Act. Therefore, this document does not constitute a new information collection system requiring Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

National Environmental Policy Act

The Council on Environmental Quality does not direct agencies to prepare a NEPA analysis or document before establishing agency procedures that supplement the CEQ regulations for implementing NEPA. Agency NEPA procedures are internal procedural guidance to assist agencies in the fulfillment of agency responsibilities under NEPA, but are not the agency's final determination of what level of NEPA analysis is required for a particular proposed action.

Essential Fish Habitat

We have analyzed this document in accordance with section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and determined that issuance of this document will not affect the essential fish habitat of Federally managed species; and, therefore, an essential fish habitat consultation on this document is not required.

Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175 of November 6, 2000, and 512 DM 2, we have assessed this document's impact on tribal trust resources and have determined that it does not directly affect tribal resources since it describes the Department's procedures for its compliance with NEPA.

Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211 of May 18, 2001, requires a Statement of Energy Effects for significant energy actions. Significant energy actions are actions normally published in the **Federal Register** that lead to the promulgation of a final rule or regulation and may have any adverse effects on energy supply, distribution, or use. We have explained above that this document is an internal Departmental Manual part which only affects how the Department conducts its business under the National Environmental Policy Act. This manual part is not a rulemaking; and, therefore, not subject to Executive Order 13211.

Actions to Expedite Energy-Related Projects

Executive Order 13212 of May 18, 2001, requires agencies to expedite energy-related projects by streamlining internal processes while maintaining safety, public health, and environmental protections. Today's publication is in conformance with this requirement as it promotes existing process streamlining requirements and revises the text to emphasize this concept (see Chapter 4, subpart 4.16).

Government Actions and Interference with Constitutionally Protected Property Rights

In accordance with Executive Order 12630 (March 15, 1988) and Part 318 of the Departmental Manual, the Department has reviewed today's notice to determine whether it would interfere with constitutionally protected property rights. Again, we believe that as internal instructions to bureaus on the implementation of the National Environmental Policy Act, this publication would not cause such interference.

Authority: NEPA, the National Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ Regulations 40 CFR 1507.3

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

Department of the Interior

Departmental Manual

Effective Date:
Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969
Chapter 1: Protection and Enhancement of Environmental Quality
Originating Office: Office of Environmental Policy and Compliance

516 DM 1

1.1 Purpose

This Chapter establishes the Department's policies for complying with Title I of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347) (NEPA); Section 2 of Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991; Executive Order 12114, Environmental Effects Abroad of Major Federal Actions; and the regulations of the Council on Environmental Quality (CEQ) implementing the procedural provisions of NEPA (40 CFR 1500–1508; identified in this Part 516 as the CEQ Regulations).

1.2 Policy

It is the policy of the Department:

A. To provide leadership in protecting and enhancing those aspects of the quality of the Nation's environment which relate to or may be affected by the Department's policies, goals, programs, plans, or functions in furtherance of national environmental policy;

B. To the fullest practicable extent, to encourage public involvement in the development of Departmental plans and programs through local partnerships at the beginning of the NEPA process, and to provide timely information to the public to better assist in understanding such plans and programs affecting environmental quality and those aspects of the human environment as identified in Section 101 of NEPA;

C. To interpret and administer, to the fullest extent possible, the policies,

regulations, and public laws of the United States administered by the Department in accordance with the requirements of NEPA;

D. To consider and give important weight to environmental factors, along with other societal needs, in developing proposals and making decisions in order to achieve a proper balance between the development and utilization of natural, cultural, and human resources and the protection and enhancement of environmental quality;

E. To consult, coordinate, and cooperate with other Federal agencies and, particularly, State, local, Alaska Native Corporations, and Indian tribal governments in the development and implementation of the Department's plans and programs affecting environmental quality and, in turn, to give consideration to those activities that succeed in best addressing State and local concerns;

F. To be innovative in natural resource protection and to use all practicable means, consistent with other essential considerations of national policy, to improve, coordinate, and direct its policies, plans, functions, programs, and resources in furtherance of national environmental goals;

G. To rigorously integrate systematic, interdisciplinary approaches into the design of all activities and to base decision making on adequate environmental data in order to identify reasonable alternatives to proposed actions that will avoid or minimize adverse environmental impacts;

H. Where necessary, to monitor, evaluate, and control activities to protect and enhance the quality of the environment and to base decision making on monitoring data and evaluation results; and

I. To cooperate with and assist the CEQ.

1.3 General Responsibilities

The following responsibilities reflect the Secretary's decision that the officials responsible for making program decisions are also responsible for taking the requirements of NEPA into account in those decisions and will be held accountable for that responsibility:

A. Assistant Secretary—Policy, Management and Budget (AS/PMB)

(1) Is the Department's focal point on NEPA matters and is responsible for overseeing the Department's implementation of NEPA.

(2) Serves as the Department's principal contact with the CEQ.

(3) Assigns to the Director, Office of Environmental Policy and Compliance (OEPC), the responsibilities outlined for that Office in this Part.

B. Solicitor.

Is responsible for providing legal advice in the Department's compliance with NEPA.

C. Assistant Secretaries

(1) Are responsible for compliance with NEPA, Executive Order 11514, as amended, the CEQ Regulations, and this Part for bureaus and offices under their jurisdiction.

(2) Shall ensure that, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction are interpreted and administered in accordance with the requirements of NEPA.

D. Heads of Bureaus and Offices

(1) Must comply with the provisions of NEPA, Executive Order 11514, as amended, the CEQ Regulations, and this Part.

(2) Shall interpret and administer, to the fullest extent possible, the policies, regulations, and public laws of the United States administered under their jurisdiction in accordance with the requirements of NEPA.

(3) Shall continue to review their statutory authorities, administrative regulations, policies, programs, and procedures, including those related to loans, grants, contracts, leases, licenses, or permits, in order to identify any deficiencies or inconsistencies therein which prohibit or limit full compliance with the intent, purpose, and provisions of NEPA and, in consultation with the Solicitor and the Office of Congressional and Legislative Affairs, shall take or recommend, as appropriate, corrective actions as may be necessary to bring these authorities and policies into conformance with the intent, purpose, and procedures of NEPA.

(4) Shall monitor, evaluate, and control on a continuing basis their activities as needed to protect and enhance the quality of the environment. Such activities will include both those directed to controlling pollution and enhancing the environment and those designed to accomplish other program objectives which may affect the quality of the environment. They will develop programs and measures to protect and enhance environmental quality. They will assess progress in meeting the specific objectives of such activities as they affect the quality of the environment.

(5) Shall, in furtherance of public participation practices (see 1.2B, above), ensure that consensus-based management [1] and community-based NEPA training [2] are made available and used in all NEPA compliance activities. Will ensure that the Department's collaborative efforts under this part comply with the Federal Advisory Committee Act (FACA), 5 U.S.C., Appendix.[3]

(6) Shall use tiered and transferred analyses to help avoid needless repetition. They will require decision makers to produce NEPA documents that save resources and reduce the public's perception that NEPA documents merely accomplish compliance with a process and do not add to the general knowledge of environmental impacts to natural resources.

(7) Shall use adaptive management (see 516 DM 4.16) to fully comply with 40 CFR 1505.2 which requires a monitoring and enforcement program to be adopted, where applicable, for any mitigation activity.

E. Heads of Regional, Field, or Area Offices

(1) Shall comply fully with NEPA policies and procedures.

(2) Shall use information obtained in the NEPA process, including pertinent information provided by State and local agencies, Indian tribal governments, and interest groups, to identify reasonable alternatives to proposed actions that will avoid or minimize adverse impacts to the human environment while improving overall environmental results.

(3) Shall monitor, evaluate, and control their activities on a continuing basis to further protect and enhance the quality of the environment.

1.4 Consideration of Environmental Values

A. In Departmental Management

(1) In the management of the natural, cultural, and human resources under its jurisdiction, the Department must consider and balance a wide range of economic, environmental, and societal needs at the local, regional, national, and international levels, not all of which are quantifiable in comparable terms. In considering and balancing these objectives, Departmental plans, proposals, and decisions often require recognition of complements and resolution of conflicts among interrelated uses of these natural, cultural, and human resources within technological, budgetary, and legal constraints. Various Departmental conflict resolution mechanisms are available to assist this balancing effort.

(2) Departmental project reports, program proposals, issue papers, and other decision documents must carefully analyze the various objectives, resources, and constraints, and comprehensively and objectively evaluate the advantages and disadvantages of the proposed actions and their reasonable alternatives. Where appropriate, these documents will contain or reference supporting and underlying economic, environmental, technological, and other societal analyses in language that all participants can understand and use.

(3) The underlying environmental analyses will factually, objectively, and comprehensively analyze the environmental effects of proposed actions and their reasonable alternatives. They will systematically analyze the environmental impacts of alternatives, and particularly those alternatives and measures that would reduce, mitigate or prevent adverse environmental impacts or that would enhance environmental quality. However, such an environmental analysis is not, in and of itself, a program proposal or the decision document, is not a justification of a proposal, and will not support or deprecate the overall merits of a proposal or its various alternatives.

(4) Environmental analyses shall strive to provide baseline data where possible and shall provide monitoring and evaluation tools as necessary to ensure that an activity

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[1] Consensus-based management in the NEPA context is the full inclusion of all stakeholders with some assurance for the participants that the results of their work will be given serious consideration by the decision maker in selecting a course of action. It is a logical outgrowth of public participation.

[2] Community-based training in the NEPA context is the training of local participants in the intricacies of the environmental planning and decision making effort as it relates to the local community(ies). It should de-mystify the process and inform participants how to become effectively involved.

[3] To ensure FACA compliance, each bureau and office will verify whether FACA applies, and will ensure that the FACA requirements are followed anytime the Department utilizes (*i.e.* manages and controls) or establishes a group to be consulted or to provide recommendations to a Departmental official.

is implemented as contemplated by the NEPA analysis. Baseline data gathered for these analyses may include pertinent social, economic, and environmental data.

(5) If proposed actions are planned for the same geographic area or are otherwise closely related, environmental analysis should be integrated to ensure adequate consideration of resource use interactions, to reduce resource conflicts, to establish baseline data, to monitor and evaluate changes in such data, to adapt actions or groups of actions accordingly, and to comply with NEPA and the CEQ Regulations. Proposals shall not be segmented in order to reduce the levels of environmental impacts reported in NEPA documents.

(6) When proposed actions involve approval processes of other agencies, the Department shall use its lead role to identify opportunities to consolidate those processes.

B. In Internally Initiated Proposals

Officials responsible for development or conduct of planning and decisionmaking systems within the Department shall incorporate environmental planning as an integral part of these systems in order to ensure that environmental values and impacts are fully considered, facilitate any necessary documentation of those considerations, and identify reasonable alternatives in the design and implementation of activities that minimize adverse environmental impacts. An interdisciplinary approach shall be initiated at the earliest possible time to provide for consultation among all participants for each planning or decision making endeavor. This interdisciplinary approach should, to the extent possible, have the capacity to consider innovative and creative solutions from all participants.

C. In Externally Initiated Proposals

Officials responsible for the development or conduct of loan, grant, contract, lease, license, permit, or other externally initiated activities shall require applicants, to the extent necessary and practicable, to provide environmental information, analyses, and reports as an integral part of their applications. As with internally initiated proposals, officials shall encourage applicants and other interested parties to consult with the Department and provide their comments, recommendations, and suggestions for improvement.

1.5 Consultation, Coordination, and Cooperation with Other Agencies and Organizations

A. Departmental Plans and Programs

(1) Officials responsible for planning or implementing Departmental plans and programs will develop and utilize procedures to consult, coordinate, and cooperate with relevant State, local, and Indian tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals concerning the environmental effects of these plans and programs on their jurisdictions or interests. Such efforts should, in accordance with FACA, include consensus-based management whenever possible. This is a planning process that incorporates direct community involvement into bureau activities from initial scoping to implementation of the bureau or office decision. All bureau NEPA and planning procedures will be made available to the public.

(2) Bureaus and offices will use, to the maximum extent possible, existing notification, coordination, and review mechanisms established by the Office of Management and Budget and CEQ. However, use of these mechanisms must not be a substitute for early consultation, coordination, and cooperation with others, especially State, local, and Indian tribal governments.

(3) Bureaus and offices are encouraged to expand, develop, and use new forms of notification, coordination, and review, particularly by electronic means and the Internet. Bureaus are also encouraged to stay abreast of and use new technologies in environmental data gathering and problem solving.

B. Other Departmental Activities

(1) Technical assistance, advice, data, and information useful in restoring, maintaining, and enhancing the quality of the environment will be made available to other Federal agencies; State, local, and Indian tribal governments; institutions; and other entities as appropriate.

(2) Information regarding existing or potential environmental problems and control methods developed as a part of research, development, demonstration, test, or evaluation activities will be made available to other Federal agencies; State, local, and Indian tribal governments; institutions; and other entities as appropriate.

(3) Recognizing the worldwide and long-range character of environmental problems and consistent with the foreign policy of the United States, appropriate support will be made available (in consultation with States or Tribal governments, if applicable) to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of the world environment.

C. Plans and Programs of Other Agencies and Organizations

(1) Officials responsible for protecting, conserving, developing, or managing resources under the Department's jurisdiction shall coordinate and cooperate with State, local, and Indian tribal governments; other bureaus and Federal agencies; and public and private organizations and individuals, and provide them with timely information concerning the environmental effects of these entities' plans and programs.

(2) Bureaus and offices are encouraged to participate early in the planning processes of other agencies and organizations in order to ensure full cooperation with, and understanding of, the Department's programs and interests in natural, cultural, and human resources.

(3) Bureaus and offices will use, to the fullest extent possible, existing Departmental review mechanisms to avoid unnecessary duplication of effort and to avoid confusion by other organizations.

(4) Bureaus and offices will work closely with other Federal agencies to ensure that similar or related proposed actions in the same geographic area are fully evaluated to determine if agency analyses can be integrated so that one NEPA compliance document can be used by all for their individual permitting and licensing needs.

1.6 Public Involvement

A. Bureaus and offices, in consultation with the Office of Communications, will develop and implement procedures to ensure the fullest practicable provision of timely public information and understanding of their plans and programs with environmental impacts including information on the environmental impacts of alternative courses of action. This is to include public involvement in the development of NEPA analyses and documents.

B. These procedures will include, wherever appropriate, provision for public meetings in order to obtain the views of interested parties, newsletters, and status reports of NEPA compliance activities. Public information shall include all necessary policies and procedures concerning plans and programs in a readily accessible, consistent format.

C. Bureaus and offices will also coordinate and collaborate with State and local agencies and Indian tribal governments in developing and using similar procedures for informing the public concerning their activities affecting the quality of the environment. (See also 301 DM 2.)

1.7 Mandate

A. This Part provides Department-wide instructions for complying with NEPA, Executive Orders 11514, as amended by 11991 (Protection and Enhancement of Environmental Quality) and 12114 (Environmental Effects Abroad of Major Federal Actions), and the CEQ Regulations.

B. The Department hereby adopts the CEQ Regulations implementing the procedural provisions of NEPA [Sec. 102(2)(C)] except where compliance would be inconsistent with other statutory requirements. In the case of any apparent discrepancies between these procedures and the NEPA statute; Executive Orders 11514, 11991, and 12114; or the mandatory provisions of the CEQ Regulations, the laws, executive orders, and regulations shall govern.

C. Instructions supplementing the CEQ Regulations are provided in Chapters 2–7 of this Part. Citations in brackets refer to the CEQ Regulations.

D. Instructions specific to each bureau are found in Chapters 8 through 15. This portion of the manual may expand or contract depending on the number of bureaus existing at any particular time. In addition, bureaus may prepare handbooks or other technical guidance for their personnel on how to apply this Part to principal programs. In the case of any apparent discrepancies between these procedures and bureau handbooks or technical guidance, 516 DM 2–7 shall govern.

Department of the Interior

Departmental Manual

Effective Date:

Series: Environmental Quality

Part 516: National Environmental Policy Act of 1969

Chapter 2: Initiating the NEPA Process

Originating Office: Office of Environmental Policy and Compliance

516 DM 2

2.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to initiating the NEPA process. The numbers in parentheses signify the appropriate citation in the CEQ Regulations.

2.2 Apply NEPA Early (40 CFR 1501.2)

A. Bureaus shall initiate early consultation and coordination with other bureaus and any Federal agency having jurisdiction by law or special expertise with respect to any environmental issue that should be addressed, and with appropriate Federal, State, local and Indian tribal governments authorized to develop and enforce environmental standards or to manage and protect natural resources.

B. Bureaus shall also initiate the consultation process with interested parties and organizations at the time an application is received, or when the bureau initiates action on an agency plan or project requiring NEPA compliance.

C. Bureaus shall revise or amend program regulations, requirements, and directives to ensure that private or non-Federal applicants are informed of any environmental information required to be included in their applications and of any consultation with other Federal agencies, or State, local, or Indian tribal governments required prior to making the application. A discussion and a list of these regulations, requirements, and directives are found in 516 DM 6.4 and 6.5. The specific regulations, requirements, and directives for each bureau are found in separate chapters of this Part beginning with Chapter 8.

D. It is imperative that bureaus enlist the participation of all stakeholders as early as possible (including any necessary community-based training) in order to reduce costs, prevent delays, and to promote efficiency in the NEPA process. It is the intent of these procedures to achieve early consensus on the scope of NEPA compliance and the methodologies for collecting needed baseline data. Consensus-based management [as described in 516 DM 1.5(A)(1)] should be used to facilitate this process. Further, it is the intent of these procedures to avoid the late introduction of issues and alternatives that should have been identified initially during scoping.

E. Bureaus shall engage in a rigorous interdisciplinary approach at the earliest possible time to ensure adequate identification and consideration of the wide variety of environmental factors and considerations inherent in NEPA compliance activities.

2.3 Whether To Prepare an Environmental Impact Statement (EIS) (40 CFR 1501.4)

A. Categorical Exclusions (CX) (40 CFR 1508.4)

(1) The following criteria will be used to determine actions to be categorically excluded from the NEPA process: (a) The action or group of actions would have no significant individual or cumulative effect on the quality of the human environment [NEPA; Section 102(2)(c)]; and (b) The action or group of actions would not involve unresolved conflicts concerning alternative uses of available resources [NEPA; Section 102(2)(e)].

(2) Based on the above criteria, the classes of actions listed in Appendix 1 to this Chapter are categorically excluded, Department-wide, from the NEPA process. A list of CX specific to bureau programs will be found in the bureau chapters beginning with Chapter 8. Note that 1508.18(a) excludes judicial or administrative civil or criminal enforcement actions.

(3) The CEQ Regulations at 40 CFR 1508.4 require agency procedures to provide for extraordinary circumstances in which a normally excluded action may have a significant environmental effect thus requiring additional analysis and action. The exceptions to categorical exclusions listed in Appendix 2 of this Chapter apply to extraordinary circumstances in which a normally excluded action may have a significant environmental effect. Any action that is normally categorically excluded must be subjected to sufficient environmental review to determine whether it meets any of the extraordinary circumstances, in which case, environmental documents must be prepared for the action. Bureaus are reminded and encouraged to work within existing administrative frameworks, including any existing programmatic agreements, when deciding how to apply any of the Appendix 2 extraordinary circumstances.

B. Environmental Assessment (EA) (40 CFR 1508.9)

See 516 DM 3. Decisions/actions which would normally require the preparation of an EA will be identified in each bureau chapter beginning with Chapter 8.

C. Finding of No Significant Impact (FONSI) (40 CFR 1508.13)

A FONSI will be prepared as a separate covering document based upon a review of an EA. Accordingly, the words *include(d)* in Section 1508.13 should be interpreted *as attach(ed)*4 in reference to the EA.

D. Notice of Intent (NOI) (40 CFR 1508.22.).

An NOI will be prepared as soon as practicable after a decision to prepare an EIS and shall be published in the **Federal Register**, with a copy to the OEPC and made available to the affected public in accordance with Section 1506.6. Publication of an NOI may be delayed if there is proposed to be more than three (3) months between the decision to prepare an EIS and the time preparation is actually initiated. The notice, at a minimum, identifies key personnel, sets forth a schedule, and invites early comment. Scoping requests generally announce a schedule for scoping meetings where the agencies and the public can participate in the formal scoping process. These notices are also usually published in the **Federal Register** and may contain the text of a draft scoping document. The draft scoping document may also be made available upon request to a contact usually named in the notice.

E. Environmental Impact Statement (40 CFR 1508.11)

See 516 DM 4. Decisions/actions which would normally require the preparation of an EIS will be identified in each bureau chapter beginning with Chapter 8.

F. Existing environmental analyses should be used in analyzing impacts of a proposed action to the extent possible and appropriate. CEQ Regulations encourage agencies to make the best use of existing NEPA documents and to avoid redundancy and unneeded paperwork through supplementing, incorporating by reference, or adopting previous environmental analyses. Use of existing documents carries with it a presumption that the bureaus will determine, in a deliberative manner and through agency procedures, that existing environmental analyses still adequately cover current actions.

2.4 Lead Agencies (40 CFR 1501.5)

A. The AS/PMB shall designate lead bureaus within the Department when bureaus under more than one Assistant Secretary are involved and cannot reach agreement on lead bureau status. The AS/PMB shall represent the Department in consultations with CEQ or other Federal agencies in the resolution of lead agency determinations.

B. Bureaus will inform the OEPC of any agreements to assume lead agency status. OEPC will assist in the coordination and documentation of any AS/PMB designations made in 2.4A.

C. To eliminate duplication with State and local procedures, a non-Federal agency (including Indian tribal governments) may be designated as a joint lead agency when it has a duty to comply with State or local requirements that are comparable to the NEPA requirements.

D. In general, 40 CFR 1501.5 describes the selection of lead agencies, the settlement of lead agency disputes, and the concept of joint lead. While the joint lead relationship is not precluded among several Federal agencies, the Department recommends that it be applied sparingly. Instead, the Department recommends that one Federal agency be selected as the lead with the remaining Federal, State, Indian tribal governments, and local agencies assuming the role of cooperating agency. In this manner, the other Federal, State, and local agencies can ensure themselves that the ensuing NEPA document will meet their needs for adoption and application to their related decision, if one exists. If joint lead is dictated by other law, regulation, policy, or practice, then only one Federal agency may be the official filing agency for the EIS.

E. Lead agency designations may be required by law in certain circumstances.

2.5 Cooperating Agencies (40 CFR 1501.6)

A. The OEPC will assist Bureaus in determining cooperating agencies and coordinate requests from non-Interior agencies.

B. Bureaus will inform the OEPC of any agreements to assume cooperating agency status or any declinations pursuant to Section 1501.6(c).

C. Upon the request of the lead agency, any Federal agency with jurisdiction by law shall, and any Federal agency with special expertise may, be a cooperating agency. Any non-Federal agency (State, tribal, or local) may be a cooperating agency by agreement when it has jurisdiction by law (40 CFR 1508.15) or special expertise (40 CFR 1508.26) and meets the requirements of 40 CFR 1501.6. Bureaus will consult with the Solicitor's Office in cases where such non-Federal agencies are also applicants before the Department to determine relative lead/cooperating agency responsibilities.[4]

D. Bureaus and potential cooperating agencies may determine by letter or memorandum their respective roles, assignment of issues, and commitment to keeping the NEPA process on track and within time schedules.

2.6 Scoping (40 CFR 1501.7)

A. The invitation requirement in Section 1501.7(a)(1) may be satisfied by including such an invitation in the NOI.

B. Scoping is a process which continues throughout the planning and early stages of preparation of an EIS. Bureaus are encouraged through scoping to engage the public in the early identification of concerns, potential impacts, and possible alternative actions. Scoping requires interdisciplinary considerations. Scoping is an opportunity to bring agencies and applicants together to lay the groundwork for setting time limits, expediting reviews where possible, integrating other environmental reviews, and identifying any major obstacles that could delay the process.

C. Scoping should encourage the responsible official to integrate analyses required by other environmental laws. Scoping should also be used to integrate other planning activities for separate projects that may have similar or cumulative impacts. Integrated analysis facilitates the resolution of resource conflicts and minimizes redundancy.

D. Through scoping meetings, newsletters, or other communication methods, it should be made clear that the lead agency is ultimately responsible for the scope of an EIS and that suggestions obtained during scoping (see B and C above) are considered to be advisory.

2.7 Time Limits (40 CFR 1501.8)

A. Time limits are an important consideration and, when used diligently, can contribute greatly to a more efficient NEPA process. Bureaus are encouraged to set time limits of their own and to respond favorably to applicant requests for time limits and set them consistent with the requirements of 40 CFR 1501.8. Bureaus should work with cooperating agencies and agencies with which they must consult in setting time limits and encourage their commitment in meeting the time frames established.

B. When time limits are established, they should reflect the availability of personnel and funds. Efficiency of the NEPA process is dependent on the management capabilities of the lead bureau, which is encouraged to assemble a sufficiently well qualified staff to ensure timely completion of NEPA documents.

Chapter 2; Appendix 1

Departmental Categorical Exclusions

The following actions are CXs pursuant to 516 DM 2.3A(2). However, environmental documents will be prepared for individual actions within these CX if any of the extraordinary circumstances listed in 516 DM 2, Appendix 2, apply.

1.1 Personnel actions and investigations and personnel services contracts.

1.2 Internal organizational changes and facility and office reductions and closings.

1.3 Routine financial transactions including such things as salaries and expenses, procurement contracts (in accordance with applicable procedures for sustainable or ''green'' procurement), guarantees, financial assistance, income transfers, audits, fees, bonds, and royalties.

1.4 Departmental legal activities including, but not limited to, such things as arrests, investigations, patents, claims, and legal opinions. This does not include bringing judicial or administrative civil or criminal enforcement actions which are already excluded in 40 CFR 1508.18(a).

1.5 Nondestructive data collection, inventory (including field, aerial, and satellite surveying and mapping), study, research, and monitoring activities.

1.6 Routine and continuing government business, including such things as supervision, administration, operations, maintenance, renovations, and replacement activities having limited context and intensity (*e.g.*, limited size and magnitude or short-term effects).

1.7 Management, formulation, allocation, transfer, and reprogramming of the Department's budget at all levels. (This does not exclude the preparation of environmental documents for proposals included in the budget when otherwise required.)

1.8 Legislative proposals of an administrative or technical nature (including such things as changes in authorizations for appropriations, minor boundary changes, and land title transactions) or having primarily economic, social, individual, or institutional effects; and comments and reports on referrals of legislative proposals.

1.9 Policies, directives, regulations, and guidelines that are of an administrative, financial, legal, technical, or procedural nature and whose environmental effects are too broad, speculative, or conjectural to lend themselves to meaningful analysis and will later be subject to the NEPA process, either collectively or case-by-case.

1.10 Activities which are educational, informational, advisory, or consultative to other agencies, public and private entities, visitors, individuals, or the general public.

1.11 Hazardous fuels reduction activities using prescribed fire not to exceed 4,500 acres, and mechanical methods for crushing, piling, thinning, pruning, cutting, chipping, mulching, and mowing, not to exceed 1,000 acres. Such activities: Shall be limited to areas (1) in wildland-urban interface and (2) Condition Classes 2 or 3 in Fire Regime Groups I, II, or III, outside the wildland-urban interface; Shall be identified through a collaborative framework as described in ''A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan;'' Shall be conducted consistent with agency and Departmental procedures and applicable land and resource management plans; Shall not be conducted in wilderness areas or impair the suitability of wilderness study areas for preservation as wilderness; Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and may include the sale of vegetative material if the primary purpose of the activity is hazardous fuels reduction.[5]

1.12 Post-fire rehabilitation activities not to exceed 4,200 acres (such as tree planting, fence replacement, habitat restoration, heritage site restoration, repair of roads and trails, and repair of damage to minor facilities such as campgrounds) to repair or improve lands unlikely to recover to a management approved condition from wildland fire damage, or to repair or replace minor facilities damaged by fire. Such activities: Shall be conducted consistent with agency and Departmental procedures and applicable land and resource management plans; Shall not include the use of herbicides or pesticides or the construction of new permanent roads or other new permanent infrastructure; and Shall be completed within three years following a wildland fire.[6]

Chapter 2; Appendix 2

Categorical Exclusions: Extraordinary Circumstances

Extraordinary circumstances exist for individual actions within CXs which may:

2.1 Have significant adverse effects on public health or safety.

2.2 Have adverse effects on such natural resources and unique geographic characteristics as historic or cultural

[4] CEQ guidance to agencies dated July 28, 1999, and January 30, 2002, urges agencies to more actively solicit participation of Federal, State, tribal, and local governments as cooperating agencies.

[5] Refer to the Environmental Statement Memoranda Series for additional, required guidance.

[6] Ibid.

resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; and other ecologically significant or critical areas.

2.3 Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

2.4 Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

2.5 Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

2.6 Be directly related to other actions with individually insignificant but cumulatively significant environmental effects.

2.7 Have adverse effects on properties listed, or eligible for listing, in the National Register of Historic Places.

2.8 Have adverse effects on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have adverse effects on designated Critical Habitat for these species.

2.9 Have the potential to violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

2.10 Have the potential for a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

2.11 Restrict access to and ceremonial use of Indian sacred sites by Indian religious practitioners or adversely affect the physical integrity of such sacred sites (Executive Order 13007).

2.12 Significantly contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Department of the Interior

Departmental Manual

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Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969
Chapter 3: Environmental Assessments
Originating Office: Office of Environmental Policy and Compliance

516 DM 3

3.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to EAs.

3.2 When To Prepare (40 CFR 1501.3)

A. An EA will be prepared for all actions, except those covered by a categorical exclusion, those covered sufficiently by an earlier environmental document, or those actions for which a decision has already been made to prepare an EIS. The purpose of an EA is to allow the responsible official to determine whether to prepare an EIS or a FONSI.

B. In addition, an EA may be prepared on any action at any time in order to assist in planning and decision making, to aid an agency's compliance with NEPA when no EIS is necessary, or to facilitate EIS preparation.

3.3 Public Involvement

A. The public must be provided notice of the availability of EAs (40 CFR 1506.6).

B. Bureaus and offices, when conducting the EA process, shall provide the opportunity for public participation and shall consider the public comments on the pending plan or program.

C. The scoping process may be applied to an EA (40 CFR 1501.7).

3.4 Content

A. At a minimum, an EA will include brief discussions of the proposal, the need for the proposal, alternatives [as required by Section 102(2)(E) of NEPA], the environmental impacts of the proposed action and such alternatives, and a listing of agencies and persons consulted [1508.9(b)].

B. In addition, an EA may describe a broader range of alternatives and proposed mitigation measures to facilitate planning and decision making.

C. The level of detail and depth of impact analysis should normally be limited to that needed to determine whether there would be significant environmental effects.

D. An EA will contain objective analyses that support its environmental impact conclusions. It will not conclude whether an EIS will be prepared. This conclusion will be made upon review of the EA by the responsible bureau official and documented in either a NOI or a FONSI.

E. Previous NEPA analyses should be used in a tiered analysis or transferred and used in a subsequent analysis to enhance the content of an EA whenever possible.

3.5 Format

A. An EA may be prepared in any format useful to facilitate planning, decision making, and appropriate public participation.

B. An EA may be combined with any other planning or decision making document; however, that portion which analyzes the environmental impacts of the proposal and alternatives will be clearly and separately identified and not spread throughout or interwoven into other sections of the document.

3.6 Adoption

A. An EA prepared for a proposal before the Department by another agency, entity, or person, including an applicant, may be adopted if, upon independent evaluation by the responsible official, it is found to comply with this Chapter and relevant provisions of the CEQ Regulations.

B. When appropriate and efficient, a responsible official may augment such an EA when it is essentially, but not entirely, in compliance, in order to make it so.

C. If such an EA or augmented EA is adopted, responsible officials must prepare their own NOI or FONSI that acknowledges the origin of the EA and takes full responsibility for its scope and content.

D. Adoption or augmentation of an EA shall receive the same public participation that the EA would have received if it had originated with the adopting or augmenting bureau or office.

Department of the Interior

Departmental Manual

Effective Date:
Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969
Chapter 4: Environmental Impact Statements
Originating Office: Office of Environmental Policy and Compliance

516 DM 4

4.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ regulations pertaining to EIS.

4.2 Statutory Requirements (40 CFR 1502.3)

NEPA requires that an EIS be prepared by the responsible Federal official. This official is normally the lowest-level official who has overall responsibility for formulating, reviewing, or proposing an action or, alternatively, has been delegated the authority or responsibility to develop, approve, or adopt a proposal or action. Preparation at this level will ensure that the NEPA process will be incorporated into the planning process and that the EIS will accompany the proposal through existing review processes.

4.3 Timing (40 CFR 1502.5)

A. For such actions as broad programmatic decisions, rulemakings, or resource management plans, an EIS should be commenced whenever a proposed action has been defined. These types of actions can be inherently vague and difficult to analyze until the proposed action is defined. At that point, concurrent drafting of the proposal and its accompanying EIS should be commenced.

B. The feasibility analysis (go/no-go) stage, at which time an EIS is to be prepared for proposed projects undertaken by DOI, is to be interpreted as the stage prior to the first point of major commitment to the proposal. For example, this would normally be at the authorization stage for proposals requiring Congressional authorization; the location or corridor stage for transportation, transmission, and communication projects; and the notice of sale stage for offshore mineral resources proposals [40 CFR 1502.5(a)].

C. For situations involving applications to DOI or the bureaus, an EIS need not be commenced until an application is essentially complete; *i.e.*, any required environmental information is submitted and any required advance funding is paid by the applicant [40 CFR 1502.5(b)].

4.4 Page Limits (40 CFR 1502.7)

Bureaus will ensure that the length of EISs is no greater than necessary to comply with NEPA, the CEQ regulations, and this Chapter.

4.5 Supplemental Statements (40 CFR 1502.9)

A. Supplements are required if an agency makes substantial changes in the proposed action relevant to environmental concerns or there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.

B. A bureau and/or the appropriate program Assistant Secretary will consult with the OEPC and the Office of the Solicitor prior to proposing to CEQ to prepare a supplemental statement using alternative arrangements such as issuing a final supplement without preparing an intervening draft.

C. If, after a decision has been made based on a final EIS, a described proposal is further defined or modified and if its changed effects are not significant and still within the scope of the earlier EIS, an EA, and a FONSI may be prepared for subsequent decisions rather than a supplement.

4.6 Format (40 CFR 1502.10)

A. Proposed departures from the standard format described in the CEQ regulations and this Chapter must be approved by the OEPC.

B. The section listing the preparers of the EIS will also include other sources of information, including a bibliography or list of cited references, when appropriate.

C. The section listing the distribution of the EIS will also fully describe the consultation and public involvement processes used in planning the proposal and in preparing the EIS, if this information is not discussed elsewhere in the document. The section will also describe the level to which the public contributed usable data for the document.

D. If CEQ's standard format is not used or if the EIS is combined with another planning or decision making document, the section which analyzes the environmental consequences of the proposal and its alternatives will be clearly and separately identified and not interwoven into other portions of or spread throughout the document.

4.7 Cover Sheet (40 CFR 1502.11)

The cover sheet will also indicate whether the EIS is intended to serve any other environmental review or consultation requirements pursuant to Section 1502.25.

4.8 Summary (40 CFR 1502.12)

The emphasis in the summary should be on those considerations, controversies, and issues that significantly affect the quality of the human environment.

4.9 Purpose and Need (40 CFR 1502.13)

This section shall present the purpose of and need for the agency action. The purpose and need shall be described in sufficient detail to aid in the development of an appropriate range of alternatives. Care should be taken to ensure an objective presentation and not a justification.

4.10 Alternatives Including the Proposed Action (40 CFR 1502.14)

A. The following terms are commonly used in NEPA compliance activities and are described below for clarification.

(1) *Range of Alternatives*—This term means all reasonable alternatives that will be rigorously explored and objectively evaluated as well as other alternatives that are eliminated from detailed study after providing reasons for their elimination.

(2) *Reasonable Alternatives*—This term means alternatives that are technically and economically practical or feasible and that meet the purpose and need of the proposed action.

(3) *Proposed Action*—This term means the agency activity to be undertaken. It also means a non-Federal entity's planned activity which falls under a Federal agency's authority to issue permits, licenses, grants, rights-of-way, or other common Federal regulatory instruments. The proposed action is generally the earliest known description of the action to be taken. The proposed action is not necessarily, but may become, through the NEPA process, a preferred alternative or an environmentally preferred alternative. The proposed action must be fully and clearly described in order to proceed with NEPA analysis.

(4) *Preferred Alternative*—This term means the alternative which the agency believes would best fulfill its statutory mission and responsibilities, while giving consideration to economic, environmental, technical, and other factors. It may or may not be the same as the agency's or the non-Federal entity's proposed action.

(5) *Environmentally Preferred Alternatives*—This term means alternatives that will promote the national environmental policy as expressed in NEPA's Section 101 and can be characterized as causing the least damage to the biological and physical environment and best protect, preserve, and enhance the nation's historic, cultural, and natural resources.

(6) *No Action Alternative*—This term has two interpretations. First ''no action'' means ''no change'' from a current management direction or level of management intensity. Second ''no action'' means ''no project'' in cases where a new project is proposed for construction. Regardless of the interpretation, the ''no action'' alternative is required to be analyzed in an EIS.

B. As a general rule, the following guidance will apply:

(1) For internally initiated proposals, i.e., for those cases where the Department conducts or controls the planning process, both the draft and final EIS shall identify the bureau's proposed action.

(2) For externally initiated proposals, i.e., for those cases where the Department is reacting to an application or similar request,

(a) the draft and final EIS shall identify the applicant's proposed action, and

(b) the draft EIS should also identify the bureau's preferred alternative, if one or more exists, and the final EIS should identify the bureau's preferred alternative unless another law prohibits the expression of a preference.

(3) Proposed departures from this guidance must be approved by the OEPC and the Office of the Solicitor.

C. Certain mitigation measures can be clearly integral to the proposed action and its alternatives and should be incorporated into and analyzed as a part of the proposal and appropriate alternatives. When this is done, these measures are no longer considered independently with other mitigation. Where appropriate, major mitigation measures may be identified and analyzed as separate alternatives where the environmental consequences are distinct and significant enough to warrant separate evaluation.

D. In practicing consensus-based management during the development of an EIS, bureaus should give full consideration to any alternative(s) put forth by participating communities. While there can be no guarantee that a community's proposed alternative will be taken as the agency proposed action, bureaus must be able to show that a community's work is reflected in the evaluation of the proposed action and the final decision. To be considered, the community's alternative must be fully consistent with NEPA, the CEQ Regulations, this Departmental Manual part, and all applicable Departmental and bureau written policies and guidance.

4.11 Appendix (40 CFR 1502.18)

If an EIS is intended to serve other environmental review or consultation requirements pursuant to Section 1502.25, any more detailed information needed to comply with these requirements may be included as an appendix.

4.12 Tiering (40 CFR 1502.20)

A. Tiering is a tool to prevent repetitive discussions and to focus on issues currently before the decision maker. In this process, earlier documents from which later documents are tiered, must be reliable and kept current. Tiered documents must make a finding that conditions described in earlier documents are still in effect or must revise any analyses that are out of date.

B. In some cases, transferring or combining information from previous NEPA documents can be done to reduce repetitive discussions and duplication of effort (see 4.20, below).

C. Bureaus must maintain access to such things as: sources of similar information, examples of tiered and transferred analyses, a set of procedural steps to make the most of tiered and transferred analyses, knowledge of when to use previous material, and how to used tiered and transferred analyses without sacrificing references to original sources.

4.13 Incorporation by Reference (40 CFR 1502.21)

Citations of specific topics will include the pertinent page numbers. All literature references will be listed in the bibliography.

4.14 Incomplete or Unavailable Information (40 CFR 1502.22)

The references to overall costs in this section are not limited to market costs, but include other costs to society such as social costs due to delay.

4.15 Methodology and Scientific Accuracy (40 CFR 1502.24)

Conclusions about environmental effects will be preceded by an analysis that supports

that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public.

4.16 Adaptive Management

Adaptive management is a system of management practices based on clearly identified outcomes, monitoring to determine if management actions are meeting outcomes, and, if not, facilitating management changes that will best ensure that outcomes are met or to re-evaluate the outcomes. Adaptive management recognizes that knowledge about natural resource systems is sometimes uncertain and is the preferred method of management in these cases. Bureaus are encouraged to build adaptive management practice into their proposed actions and NEPA compliance activities and train personnel in this important environmental concept.

4.17 Environmental Review and Consultation Requirements (40 CFR 1502.25)

A. A list of related environmental review and consultation requirements is available from the OEPC.

B. If the EIS is intended to serve as the vehicle to fully or partially comply with any of these requirements, the associated analyses, studies, or surveys will be identified as such and discussed in the text of the EIS and the cover sheet will so indicate. Any supporting analyses or reports will be referenced or included as an appendix and shall be sent to reviewing agencies as appropriate in accordance with applicable regulations or procedures.

C. The draft EIS should list all Federal permits, licenses, or approvals that must be obtained to implement the proposal. To the fullest extent possible, the environmental analyses for these related permits, licenses, and approvals shall be integrated and performed concurrently. Bureaus shall ensure that they have a process in place to make integrated analyses a standard part of their NEPA compliance efforts.

4.18 Inviting Comments (40 CFR 1503.1)

A. Comments from State agencies will be requested through procedures established by the Governor pursuant to Executive Order 12372, and may be requested from local agencies through these procedures to the extent that they include the affected local jurisdictions.

B. When the proposed action may affect the environment of Indian trust or restricted land or other Indian trust resources, trust assets, or tribal health and safety, comments will be requested from the Indian tribal government unless the Indian tribal government has designated an alternate review process.

C. The comments of other Departmental bureaus and offices must also be requested. In order to do this, the preparing bureau must furnish copies of the environmental document to the other bureaus in quantities sufficient to allow simultaneous review. Bureaus may be removed from this circulation following consultation with, and concurrence of, a bureau.

4.19 Response to Comments (40 CFR 1503.4)

A. Preparation of a final EIS need not be delayed in those cases where a Federal agency, external to DOI and from which comments are required to be obtained [40 CFR 1503.1(a)(1)], does not comment within the prescribed time period. Informal attempts will be made to determine the status of any such comments and every reasonable attempt should be made to include the comments and a response in the final EIS.

B. When other commenters are late, their comments should be included in the final EIS to the extent practicable.

C. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 6.3, bureaus will consult with the OEPC when they propose to prepare an abbreviated final EIS [40 CFR 1503.4(c)].

4.20 Elimination of Duplication with State and Local Procedures (40 CFR 1506.2)

Bureaus will incorporate in their appropriate program regulations provisions for the preparation of an EIS by a State agency to the extent authorized in Section 102(2)(D) of NEPA. Eligible programs are listed in Appendix 1 to this Chapter.

4.21 Combining Documents (40 CFR 1506.4). See 516 DM 4.6D.

4.22 Departmental Responsibility (40 CFR 1506.5)

A. Bureaus are responsible for preparation of their environmental documents and independent evaluation of environmental documents prepared by others for a bureau.

B. A contractor may be used to prepare any environmental document in accordance with the standards of 40 CFR 1506.5(c).

4.23 Public Involvement (40 CFR 1506.6)

See 516 DM 1.2, 1.3, 1.6, and 301 DM 2.

4.24 Further Guidance (40 CFR 1506.7)

The OEPC may provide further guidance concerning NEPA pursuant to its organizational responsibilities (110 DM 22) and through supplemental directives (381 DM 4.5B). Current guidance is located in the Environmental Memoranda Series periodically updated by OEPC and available on the OEPC Web site.

4.25 Proposals for Legislation (40 CFR 1506.8)

The Office of Congressional and Legislative Affairs, in consultation with the OEPC, shall:

A. Identify in the annual submittal to OMB of the Department's proposed legislative program any requirements for, and the status of, any environmental documents.

B. When required, ensure that a legislative EIS is included as a part of the formal transmittal of a legislative proposal to the Congress.

4.26 Time Periods (40 CFR 1506.10)

A. The minimum review period for a draft EIS will be forty-five (45) days from the date of publication by the Environmental Protection Agency (EPA) of the notice of availability.

B. For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 6.3, the OEPC will be responsible for consulting with the EPA and/or CEQ about any proposed reductions in time periods or any extensions of time periods proposed by the bureaus.

Chapter 4, Appendix 1

Programs of Grants to States and/or Tribes in Which Agencies Having Statewide Jurisdiction May Prepare EISs

1.1 Fish and Wildlife Service

A. Anadromous Fish Conservation (11.405).[7]

B. Fish Restoration (15.605).

C. Wildlife Restoration (15.611).

D. Endangered Species Conservation (15.615).

1.2 National Park Service

A. Historic Preservation Grants-in-Aid (15.904).

B. Outdoor Recreation-Acquisition Development and Planning (15.916).

1.3 Office of Surface Mining

A. Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (15.250).

B. Abandoned Mine Land Reclamation Program (15.252).

1.4 Office of Insular Affairs

A. Economic and Political Development of the Territories and the Trust Territory of the Pacific Islands (15.875).

Department of the Interior

Departmental Manual

Effective Date:
Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969
Chapter 5: Relationship to Decision Making
Originating Office: Office of Environmental Policy and Compliance

516 DM 5

5.1 Purpose

This Chapter provides supplementary instructions for implementing those portions of the CEQ Regulations pertaining to decision making.

5.2 Predecision Referrals to CEQ (40 CFR 1504.3)

A. Upon receipt of advice that another Federal agency intends to refer a Departmental matter to CEQ, the lead bureau will immediately meet with that Federal agency to attempt to resolve the issues raised and expeditiously notify its Assistant Secretary and the OEPC.

B. Upon any referral of a Departmental matter to CEQ by another Federal agency, the OEPC will be responsible for coordinating the Department's role with CEQ. The lead bureau will be responsible for developing and presenting the Department's position at CEQ including preparation of briefing papers and visual aids.

[7] Citations in parentheses refer to the Catalog of Federal Domestic Assistance. Citations are current as of 2003. The catalog may be viewed at: *http://cfda.gov/*.

5.3 Decision Making Procedures (40 CFR 1505.1)

A. Procedures for decisions by the Secretary/Deputy Secretary are specified in 301 DM 1. Assistant Secretaries should follow a similar process when an environmental document accompanies a proposal for their decision.

B. Bureaus will incorporate in their decision making procedures and NEPA handbooks provisions for consideration of environmental factors and relevant environmental documents. The major decision points for principal programs likely to have significant environmental effects will be identified in the bureau chapters on ''Managing the NEPA Process'' beginning with Chapter 8 of this Part.

C. Relevant environmental documents, including supplements, will be included as part of the record in formal rulemaking or adjudicatory proceedings.

D. Relevant environmental documents, comments, and responses will accompany proposals through existing review processes so that Departmental officials use them in making decisions.

E. The decision maker will consider the environmental impacts of the alternatives described in any relevant environmental document and the range of these alternatives must encompass the alternatives considered by the decision maker.

F. To the extent practicable, the decision maker will consider other substantive and legal obligations beyond the immediate context of the proposed action.

5.4 Record of Decision (40 CFR 1505.2)

A. Any decision documents prepared pursuant to 301 DM 1 for proposals involving an EIS shall incorporate all appropriate provisions of Section 1505.2(b) and (c).

B. If a decision document incorporating these provisions is made available to the public following a decision, it will serve the purpose of a record of decision.

5.5 Implementing the Decision (40 CFR 1505.3)

The terms ''monitoring'' and ''conditions'' will be interpreted as being related to factors affecting the quality of the natural and human environment.

5.6 Limitations on Actions (40 CFR 1506.1)

A bureau will immediately notify its Assistant Secretary, the Solicitor, and the OEPC of any situations described in Section 1506.1(b).

5.7 Timing of Actions (40 CFR 1506.10)

For those EISs requiring the approval of the AS/PMB pursuant to 516 DM 6.3, the responsible official will consult with the OEPC before making any request for reducing the time period before a decision or action.

5.8 Emergencies (40 CFR 1506.11)

In the event of an emergency situation, a bureau will immediately take any necessary action to prevent or reduce risks to public health or safety or serious resource losses. If the agency action has significant environmental impacts, a bureau will immediately consult with its Assistant Secretary, the Solicitor, OEPC, and (together with OEPC) CEQ about compliance with NEPA. Upon learning of the emergency situation, the OEPC will immediately notify CEQ. During follow-up activities OEPC and the bureau will jointly be responsible for consulting with CEQ. Paragraph 1506.11 applies only to the emergency and not to any related recovery actions after the emergency has passed. If the agency action does not have significant environmental impacts, a bureau will consult with OPEC to consider any appropriate action.

Department of the Interior

Departmental Manual

Effective Date:
Series: Environmental Quality
Part 516: National Environmental Policy Act of 1969
Chapter 6: Managing the NEPA Process
Originating Office: Office of Environmental Policy and Compliance

516 DM 6

6.1 Purpose

This Chapter provides supplementary instructions for implementing those provisions of the CEQ Regulations pertaining to procedures for implementing and managing the NEPA process.

6.2 Organization for Environmental Quality

A. *Office of Environmental Policy and Compliance.* The Director, OEPC, reporting to the AS/PMB, is responsible for providing advice and assistance to the Department on matters pertaining to environmental quality and for overseeing and coordinating the Department's compliance with NEPA. (See also 110 DM 22.)

B. *Bureaus and Offices.* Heads of bureaus and offices will designate organizational elements or individuals, as appropriate, at headquarters and regional levels to be responsible for overseeing matters pertaining to the environmental effects of the bureau's plans and programs. The individuals assigned these responsibilities should have management experience or potential, understand the bureau's planning and decision making processes, and be well trained in environmental matters, including the Department's policies and procedures so that their advice has significance in the bureau's planning and decisions. These organizational elements will be identified in Chapters 8–15, which contain all bureau NEPA requirements.

6.3 Approval of EISs

A. A program Assistant Secretary is authorized to approve an EIS in those cases where the responsibility for the decision for which the EIS has been prepared rests with the Assistant Secretary or below. The Assistant Secretary may further assign the authority to approve the EIS if he or she chooses. The AS/PMB will make certain that each program Assistant Secretary has adequate safeguards to ensure that the EISs comply with NEPA, the CEQ Regulations, and the Departmental Manual.

B. The AS/PMB is authorized to approve an EIS in those cases where the decision for which the EIS has been prepared will occur at a level in the Department above an individual program Assistant Secretary.

6.4 List of Specific Compliance Responsibilities

A. Bureaus and offices shall:

(1) Prepare NEPA handbooks providing guidance on how to implement NEPA in principal program areas.

(2) Prepare program regulations or directives for applicants.

(3) Propose and apply categorical exclusions.

(4) Prepare and approve EAs.

(5) Decide whether to prepare an EIS.

(6) Prepare and publish NOIs and FONSIs.

(7) Prepare and, when assigned, approve EISs.

B. Assistant Secretaries shall:

(1) Approve bureau handbooks.

(2) Approve regulations or directives for applicants.

(3) Approve proposed categorical exclusions.

(4) Approve EISs pursuant to 516 DM 6.3.

C. The AS/PMB shall:

(1) Concur with regulations or directives for applicants.

(2) Concur with proposed categorical exclusions.

(3) Approve EISs pursuant to 516 DM 6.3.

6.5 Bureau Requirements

A. Requirements specific to bureaus appear as separate chapters beginning with Chapter 8 of this Part and include the following:

(1) Identification of officials and organizational elements responsible for NEPA compliance.

(2) List of program regulations or directives which provide information to applicants.

(3) Identification of major decision points in principal programs for which an EIS is normally prepared.

(4) List of categorical exclusions.

B. Bureau requirements are found in the following chapters for the current bureaus:

(1) Fish and Wildlife Service (Chapter 8; formerly Appendix 1).

(2) Geological Survey (Chapter 9; formerly Appendix 2).

(3) Bureau of Indian Affairs (Chapter 10; formerly Appendix 4).

(4) Bureau of Land Management (Chapter 11; formerly Appendix 5).

(5) National Park Service (Chapter 12; formerly Appendix 7).

(6) Office of Surface Mining (Chapter 13; formerly Appendix 8).

(7) Bureau of Reclamation (Chapter 14; formerly Appendix 9).

(8) Minerals Management Service (Chapter 15; formerly Appendix 10).

C. The Office of the Secretary and other Departmental Offices do not have separate chapters but must comply with this Part and will consult with the OEPC about compliance activities.

6.6 Information About the NEPA Process

The OEPC will periodically publish a Departmental list of bureau contacts where information about the NEPA process and the status of EISs may be obtained. This list will be available on OEPC's Web site.

Department of the Interior

Departmental Manual

Effective Date:
Series: Environmental Quality.
Part 516: National Environmental Policy Act of 1969.
Chapter 7: Review of Environmental Impact Statements and Project Proposals Prepared by Other Federal Agencies.
Originating Office: Office of Environmental Policy and Compliance.

516 DM 7

7.1 Purpose

A. These procedures implement the policy and directives of Section 102(2)(C) of the National Environmental Policy Act of 1969 (PL 91–190, 83 Stat. 852, January 1, 1970, NEPA); Section 2(f) of Executive Order No. 11514 (March 5, 1970); the CEQ Regulations (43 FR 55990, November 28, 1978; CEQ); Bulletin No. 72–6 of the Office of Management and Budget (September 14, 1971); and provide guidance to bureaus and offices of the Department in the review of EISs prepared by and for other Federal agencies.

B. In accordance with 112 DM 4.2F, these procedures further govern the Department's environmental review of non-Interior proposals such as regulations, applications, plans, reports, and other environmental documents which affect the interests of the Department. Such proposals are prepared, circulated, and reviewed under a wide variety of statutes and regulations. These procedures ensure that the Department responds to these review requests with coordinated comments and recommendations under Interior's various authorities.

7.2 Policy

The Department considers it a priority to provide competent and timely review comments on EISs and other environmental or project review documents prepared by other Federal agencies for their major actions which significantly affect the quality of the human environment. All such documents are hereinafter referred to as ''environmental review documents.'' The term ''environmental review document'' as used in this chapter is separate from and broader than the term ''environmental document'' found in 40 CFR 1508.10 of the CEQ Regulations. These reviews are predicated on the Department's jurisdiction by law or special expertise with respect to the environmental impact involved and shall provide constructive comments to other Federal agencies to assist them in meeting their environmental responsibilities.

7.3 Responsibilities

A. The AS/PMB

Shall be the Department's contact point for the receipt of requests for reviews of environmental review documents prepared by or for other Federal agencies. This authority shall be carried out through the Director, OEPC.

B. The Director, Office of Environmental Policy and Compliance

(1) Shall determine whether such review requests are to be answered by a Secretarial Officer, the Director, OEPC, or by a Regional Environmental Officer, and determine which bureaus and/or offices shall perform such reviews;

(2) Shall prepare, or where appropriate, shall designate a lead bureau responsible for preparing the Department's review comments. The lead bureau may be a bureau, Secretarial office, other Departmental office, or task force and shall be that organizational entity with the most significant jurisdiction or environmental expertise in regard to the requested review;

(3) Shall establish review schedules and target dates for responding to review requests and monitor their compliance;

(4) Shall review, sign, and transmit the Department's review comments to the requesting agency;

(5) Shall consult with the requesting agency on the Department's review comments on an ''as needed'' basis to ensure resolution of the Department's concerns; and

(6) Shall consult with the Office of Congressional and Legislative Affairs and the Solicitor when environmental reviews pertain to legislative or legal matters, respectively.

C. The Office of Congressional and Legislative Affairs

Shall ensure that requests for reviews of environmental review documents prepared by other Federal agencies that accompany or pertain to legislative proposals are immediately referred to the AS/PMB.

D. Regional Environmental Officers

When designated by the Director, OEPC, shall review, sign, and transmit the Department's review comments to the requesting agency.

E. Assistant Secretaries and Heads of Bureaus and Offices

(1) Shall designate officials and organizational elements responsible for the coordination and conduct of environmental reviews and report this information to the Director, OEPC;

(2) Shall provide the Director, OEPC, with appropriate information and material concerning their delegated jurisdiction and special expertise in order to assist in assigning review responsibilities;

(3) Shall conduct reviews based upon their areas of jurisdiction or special expertise and provide comments to the designated lead bureau or office assigned responsibilities for preparing Departmental comments;

(4) When designated lead bureau by the Director, OEPC, shall prepare and forward the Department's review comments as instructed;

(5) Shall ensure that review schedules for discharging assigned responsibilities are met and promptly inform other concerned offices if established target dates cannot be met and when they will be met;

(6) Shall provide a single, unified bureau response to the lead bureau, as directed;

(7) Shall ensure that the policies of 516 DM 7.2 regarding competency and timeliness are carried out; and

(8) Shall provide the necessary authority to those designated in E.1 above to carry out all the requirements of 516 DM 7.

7.4 Types of Reviews

A. Descriptions of Proposed Actions

(1) Federal agencies and applicants for Federal assistance may circulate descriptions of proposed actions for the purpose of soliciting information concerning environmental impacts in order to determine whether to prepare EISs. Such descriptions of proposed actions are not substitutes for EISs.

(2) Requests for reviews of descriptions of proposed actions are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

B. Environmental Assessments or Reports

(1) EAs or reports are not substitutes for EISs. These assessments or reports may be prepared by Federal agencies, their consultants, or applicants for Federal assistance. They are prepared either to provide information in order to determine whether an EIS should be prepared, or to provide input into an EIS. If they are separately circulated, it is generally for the purpose of soliciting additional information concerning environmental impacts.

(2) Requests for reviews of EAs or reports are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. If a bureau requests and OEPC agrees, a control number may be assigned with appropriate instructions. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

C. Findings of No Significant Impact

(1) Findings of No Significant Impact are prepared by Federal agencies to document that there is no need to prepare an EIS. A FONSI is a statement for the record by the proponent Federal agency that it has reviewed the environmental impact of its proposed action (in an EA), that it determines that the action will not significantly affect the quality of the human environment, and that an EIS is not required. Such findings are not normally circulated.

(2) Findings of No Significant Impact are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices, with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues.

D. Notices of Intent and Scoping Requests

(1) Notices of intent and scoping requests mark the beginning of the formal review process. Notices of intent are published in the **Federal Register** and announce that an agency plans to prepare an environmental review document under NEPA. Often the NOI and notice of scoping meetings and/or

requests are combined into one **Federal Register** notice.

(2) Reviews of notices of intent and scoping requests are processed through the OEPC with instructions to bureaus to comment directly to the requesting agency. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

E. Preliminary, Proposed, or Working Draft Environmental Impact Statements

(1) Preliminary, proposed, or working draft EISs are sometimes prepared and circulated by Federal agencies and applicants for Federal assistance for consultative purposes.

(2) Requests for reviews of these types of draft EISs are not required to be processed through the OEPC. Review comments may be handled independently by bureaus and offices with the Regional Environmental Officer or Director, OEPC, being advised of significant or highly controversial issues. Review comments are for the purpose of providing informal technical assistance to the requesting agency and should state that they do not represent the views and comments of the Department.

F. Draft Environmental Impact Statements

(1) Draft EISs are prepared by Federal agencies under the provisions of Section 102(2)(C) of NEPA and provisions of the CEQ Regulations. They are filed with the EPA and officially circulated to other Federal, State, and local agencies [see 40 CFR 1503.1(a)] for review based upon their jurisdiction by law or special environmental expertise.

(2) All requests from other Federal agencies for review of draft EISs shall be made through the Director, OEPC. Review comments shall be handled in accordance with the provisions of this chapter and guidance memoranda may be issued and updated by the OEPC.

G. Final Environmental Impact Statements

(1) Final EISs are prepared by Federal agencies following receipt and consideration of review comments. They are filed with the EPA and are circulated to the public for an administrative waiting period of thirty days and sometimes for comment.

(2) The Director, OEPC, shall review final EISs to determine whether they reflect adequate consideration of the Department's comments. Bureaus and offices shall not comment independently on final EISs, but shall inform the Director, OEPC, of their views. Any review comments shall be handled in accordance with the instructions of the OEPC.

H. License and Permit Applications

(1) The Department receives draft and final environmental review documents associated with applications for other Federal licenses and permits. This activity largely involves the regulatory program of the Corps of Engineers and the hydroelectric and natural gas pipeline licensing programs of the Federal Energy Regulatory Commission.

(2) Environmental review of applications is generally handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

(3) While review of NEPA compliance documents associated with Corps of Engineers permit applications is managed in accordance with this Chapter, review of Corps of Engineers permit applications is managed in accordance with 503 DM 1. Reviewers are referred to that Manual Part and to 7.5C.(3) below for the processing of concurrent reviews.

I. Project Plans and Reports Without Associated Environmental Review Documents

(1) The Department receives draft and final project plans and reports under various authorities which do not have environmental review documents circulated with them. This may be because NEPA compliance has been completed, will be completed on a slightly different schedule, NEPA does not apply, or other reasons.

(2) Environmental review of these documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

J. Federal Regulations

(1) The Department circulates and controls the review of advance notices of proposed rulemaking, proposed rulemaking, and final rulemaking which are environmental in nature and may impact the Department's natural resources and programs.

(2) Environmental review of these documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

K. Documents Prepared Pursuant to Other Environmental Statutes

(1) The Department receives draft and final project plans prepared pursuant to other environmental statutes [*e.g.*, Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Resource Conservation and Recovery Act (RCRA), and the Oil Pollution Act (OPA)], which may not have environmental review documents circulated with them.

(2) Environmental review of these documents is handled consistently with the policies and provisions of this part, and in accordance with further guidance from the Director, OEPC. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

L. Section 4(f) Documents

(1) Under Section 4(f) of the Department of Transportation Act, the Secretary of Transportation may approve a transportation program or project requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if there is no prudent and feasible alternative to using that land and the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

(2) Environmental review of Section 4(f) documents is handled in the same manner as for draft and final EISs. Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

7.5 Content of Comments on Environmental Review Documents

A. *Departmental Comments*

(1) Departmental comments on environmental review documents prepared by other Federal agencies shall be based upon the Department's jurisdiction by law or special expertise with respect to the environmental impact of the proposed action or alternatives to the action. The adequacy of the document in regard to applicable statutes is the responsibility of the agency that prepared the document and any comments on its adequacy shall be limited to the Department's jurisdiction or environmental expertise.

(2) Reviews shall be conducted in sufficient detail to ensure that both potentially beneficial and adverse environmental effects of the proposed action and alternatives, including cumulative and secondary effects, are adequately identified. Wherever possible, and within the Department's competence and resources, other agencies will be advised on ways to avoid or minimize adverse impacts of the proposed action and alternatives, and on alternatives to the proposed action that may have been overlooked or inadequately treated.

(3) Review comments should not capsulate or restate the environmental review document, but should provide clear, concise, substantive, fully justified, and complete comments on the stated or unstated environmental impacts of the proposed action and, if appropriate, on alternatives to the action. Comments, either positive or negative, shall be objective and constructive.

(4) Departmental review comments shall be organized as follows:

(a) *Control Number*—

The Departmental review control number shall be typed in the upper left hand corner below the Departmental seal on the letterhead page of the comments.

(b) *Introduction*—

The introductory paragraph shall reference the other Federal agency's review request, including the date, the type of review requested, the subject of the review; and, where appropriate, the geographic location of the subject and the other agency's control number.

(c) *General Comments, if any*—

This section will include those comments of a general nature and those which occur throughout the review which ought to be consolidated in order to avoid needless repetition.

(d) *Detailed Comments*—

The format of this section shall follow the organization of the other agency's environmental review document. These comments shall not approve, disapprove, support, or object to proposed actions of other Federal agencies, but shall constructively and objectively comment on the environmental impact of the proposed action, and on the adequacy of the statement in describing the environmental impacts of the action, the alternatives (if appropriate), and the impacts of the alternatives. Comments shall specify any corrections, additions, or other changes required to make the statement adequate.

(e) *Summary Comments, if any*—

In general, the Department will not take a position on the proposed action of another Federal agency, but will limit its comments to those above. However, in those cases where the Department has jurisdiction by statute, executive order, memorandum of agreement, or other authority, the Department may comment on the proposed action. These comments shall be provided in this section and may take the form of support for, concurrence with, concern over, or objection to the proposed action and/or the alternatives.

B. Bureau and Office Comments

Bureau and office reviews of EISs prepared by other Federal agencies are considered informal inputs to the Department's comments and their content will generally conform to paragraph 7.5A of this chapter with the substitution of the bureau's or office's delegated jurisdiction or special environmental expertise for that of the Department.

C. Relationship to Other Concurrent Reviews

(1) Where the Department, because of other authority or agreement, is concurrently requested to review a proposal as well as its EIS, the Department's comments on the proposal shall be separately identified and placed in front of the comments on the EIS. A summary of the Department's position, if any, on the proposal and its environmental impact shall be separately identified and follow the review comments on the EIS.

(2) Where another Federal agency elects to combine other related reviews into the review of the EIS by including additional or more specific information into the statement, the introduction to the Department's review comments will acknowledge the additional review request and the review comments will be incorporated into appropriate parts of the combined statement review. A summary of the Department's position, if any, on the environmental impacts of the proposal and any alternatives shall be separately identified and follow the detailed review comments on the combined statement.

(3) In some cases, the concurrent review is not an integral part of the environmental compliance review but is being processed within the same general time period as the environmental review. If there is also an environmental review being processed by the OEPC, there is potential for two sets of conflicting comments to reach the requesting agency. Bureaus must recognize that this possibility exists and must check with the Regional Environmental Officer to determine the status of any environmental review prior to forwarding the concurrent review comments to the requesting agency. Any conflicts must be resolved before the separate comments may be filed. One review may be held up pending completion of the concurrent review and consideration of filing a single comment letter. A time extension may be necessary and must be obtained if a review is to be held up pending completion of a concurrent review.

(4) The Department's intervention in another agency's adjudicatory process is also a concurrent review. Such reviews are governed by 452 DM 2 which must be consulted in applicable cases. The most common cases involve the Department's review of hydroelectric and natural gas applications of the Federal Energy Regulatory Commission. In these cases, it is recommended that bureaus consult frequently with the appropriate attorney of record in the Office of the Solicitor.

7.6 Availability of Review Comments

A. Prior to the public availability of another Federal agency's final EIS, the Department shall not independently release to the public its comments on that agency's draft EIS. In accordance with Section 1506.6(f) of the CEQ Regulations, the agency that prepared the statement is responsible for making the comments available to the public, and requests for copies of the Department's comments shall be referred to that agency. Exceptions to this procedure shall be made by the OEPC and the Office of the Solicitor.

B. The availability of various internal Departmental memoranda, such as the review comments of bureaus, offices, task forces, and individuals, which are used as inputs to the Department's review comments is governed by the Freedom of Information Act (5 U.S.C. Section 552) and the Departmental procedures established by 43 CFR 2. Upon receipt of such requests and in addition to following the procedures above in A., the responsible bureau or office shall notify and consult their bureau Freedom of Information Act Officer and the OEPC to coordinate any responses.

7.7 Procedures for Processing Environmental Reviews

A. General Procedures

(1) All requests for reviews of environmental review documents prepared by or for other Federal agencies shall be received and controlled by the Director, OEPC.

(2) If a bureau or office, whether at headquarters or field level, receives an environmental review document for review directly from outside of the Department, it should ascertain whether the document is a preliminary, proposed, or working draft circulated for technical assistance or input in order to prepare a draft document or whether the document is in fact a draft environmental review document being circulated for official review.

(a) If the document is a preliminary, proposed, or working draft, the bureau or office should handle independently and provide whatever technical assistance possible, within the limits of their resources, to the requesting agency. The response should clearly indicate the type of assistance being provided and state that it does not represent the Department's review of the document. Each bureau or office should provide the Regional Environmental Officer and the Director, OEPC, copies of any comments involving significant or controversial issues.

(b) If the document is a draft or final environmental review document circulated for official review, the bureau or office should inform the requesting agency of the Department's procedures in subparagraph (1) above and promptly refer the request and the document to the Director, OEPC, for processing.

(3) All bureaus and offices processing and reviewing environmental review documents of other Federal agencies will do so within the time limits specified by the Director, OEPC. From thirty (30) to forty-five (45) days are normally available for responding to other Federal agency review requests. Whenever possible the Director, OEPC, shall seek a forty-five (45) day review period. Further extensions shall be handled in accordance with paragraph 7.7B (3) of this chapter.

(4) The Department's review comments on other Federal agencies' environmental review documents shall reflect the full and balanced interests of the Department in the protection and enhancement of the environment. Lead bureaus shall be responsible for resolving any intra-Departmental differences in bureau or office review comments submitted to them. The OEPC is available for guidance and assistance in this regard. In cases where agreement cannot be reached, the matter shall be referred through channels to the AS/PMB with attempts to resolve the disagreement at each intervening management level. The OEPC will assist in facilitating this process.

B. Processing Environmental Reviews

(1) The OEPC shall secure and distribute sufficient copies of environmental review documents for Departmental review. Bureaus and offices should keep the OEPC informed as to their needs for review copies, which shall be kept to a minimum, and shall develop internal procedures to efficiently and expeditiously distribute environmental review documents to reviewing offices.

(2) Reviewing bureaus and offices which cannot meet the review schedule shall so inform the lead bureau and shall provide the date that the review will be delivered. The lead bureau shall inform the OEPC in cases of headquarters-level response, or the Regional Environmental Officer in cases of field-level response, if it cannot meet the schedule, why it cannot, and when it will. The OEPC or the Regional Environmental Officer shall be responsible for informing the other Federal agency of any changes in the review schedule.

(3) Reviewing offices shall route their review comments through channels to the lead bureau, with a copy to the OEPC. When, in cases, of headquarters-level response, review comments cannot reach the lead bureau within the established review schedule, reviewing bureaus and offices shall

send a copy marked ''Advance Copy'' directly to the lead bureau. Review comments shall also be sent to the lead bureau by electronic means to facilitate meeting the requesting agency's deadline.

(4) In cases of headquarters-level response:

(a) The lead bureau shall route the completed comments through channels to the OEPC in both paper copy and electronic word processor format. Copies shall be prepared and attached for all bureaus and offices from whom review comments were requested, for the OEPC, and for the Regional Environmental Officer when the review pertains to a project within a regional jurisdiction. In addition, original copies of all review comments received or documentation that none were provided shall accompany the Department's comments through the clearance process and shall be retained by the OEPC.

(b) The OEPC shall review, secure any necessary additional surnames, surname, and either sign the Department's comments or transmit the Department's comments to another appropriate Secretarial Officer for signature. Upon signature, the OEPC shall transmit the comments to the requesting agency.

(5) In cases of field-level response:

(a) The lead bureau shall provide the completed comments to the appropriate Regional Environmental Officer in both paper-copy and electronic word processor format. In addition, original copies of all review comments received or documentation that none were provided shall be attached to the paper copy.

(b) The Regional Environmental Officer shall review, sign, and transmit the Department's comments to the agency requesting the review. In addition they shall reproduce and send the Department's comments to the regional bureau reviewers. The entire completed package including the bureau review comments shall be sent to the OEPC for recording and filing.

(c) If the Regional Environmental Officer determines that the review involves policy matters of Secretarial significance, they shall not sign and transmit the comments as provided in subparagraph (b) above, but shall forward the review to the OEPC in headquarters for final disposition.

C. Referrals of Environmentally Unsatisfactory Proposals to the Council on Environmental Quality

(1) Referral to CEQ is a formal process provided for in the CEQ Regulations (40 CFR 1504). It is used sparingly and only when all other administrative processes have been exhausted in attempting to resolve issues between the project proponent and one or more other Federal agencies. These issues must meet certain criteria (40 CFR 1504.2), and practice has shown that these issues generally involve resource concerns of national importance to the Department.

(2) A bureau or office intending to recommend referral of a proposal to CEQ must, at the earliest possible time, advise the proponent Federal agency that it considers the proposal to be a possible candidate for referral. If not expressed at an earlier time, this advice must be outlined in the Department's comments on the draft EIS.

(3) CEQ referral is a high level activity that must be conducted in an extremely short time frame. A referring bureau or office has 25 days after the final EIS has been made available to the EPA, commenting agencies, and the public in which to file the referral unless an extension is granted per 40 CFR 1504.3(b). The referral documents must be signed by the Secretary of the Interior.

(4) Additional review guidance may be made available as necessary to efficiently manage this activity. Bureau reviewers should consult with the OEPC for the most current review guidance.

[FR Doc. 03–22489 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–RG–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by October 6, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Howard N. Kem, Deer Island, OR,

PRT–076153

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa for the purpose of survival of the species.

Applicant: Idaho Department of Fish and Game, Couerd'Alene, ID,

PRT–075486

The applicant requests a permit to export preserved larval white sturgeon (*Acipenser transmontanus*) to the University of New Brunswick, NB, Canada for the purpose of scientific research.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The application(s) was/were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Georgia Southern University, Statesboro, GA,

PRT–066878

The applicant request a permit to collect biological samples and conduct behavioral observations, *e.g.*, feeding, and stimuli responses on manatees, (*Trichechus manatus latirostris*) for the purpose of scientific research to better understand species dynamics. The applicant requests authority to conduct these activities on variable numbers of captive held and free ranging animals. This notification covers activities to be conducted by the applicant over a five-year period.

Applicant: University of Florida/College of Veterinary Medicine, Gainsville, FL,

PRT–067116

The applicant request a permit to collect biological samples from manatees, (*Trichechus manatus latirostris*) for the purpose of scientific research to develop veterinary medical understandings and base-line information for diagnostic purposes. The applicant requests authority to conduct these activities on variable numbers of live and dead free ranging and captive held animals. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Steven K. Raquet, Russiaville, IN,

PRT–075607

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

Applicant: Jesus Mourra, San Antonio, TX,

PRT–076061

The applicant requests a permit to import two polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Dated: August 22, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–22499 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for marine mammals and/or endangered species.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permit(s) subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the Endangered Species Act of 1973, as amended.

ENDANGERED SPECIES

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
073242	Gary M. Story	68 FR 39960; July 3, 2003	August 14, 2003.
073523	Mance Michael Park	68 FR 39960; July 3, 2003	August 14, 2003.
073579	Ronald D. Stoller	68 FR 41167; July 10, 2003	August 14, 2003.
073581	Darrel D. Stoller	68 FR 41167; July 10, 2003	August 14, 2003.

MARINE MAMMALS

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
072921	Marlowe Kottke	68 FR 40291; July 7, 2003	August 20, 2003.

Dated: August 22, 2003.

Charles S. Hamilton,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–22500 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish And Wildlife Service

Notice of Availability of Documents associated With Proceedings Pursuant To Remand Involving the Incidental Take Permit Issued to Waterman's Realty Co./Winchester Creek Limited Partnership for the Home Port on Winchester Creek Habitat Conservation Plan

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Waterman's Realty Company/Winchester Creek Limited Partnership was issued an Incidental Take Permit (ITP), permit number TE006310, on May 13, 1999, for incidental take of the Delmarva fox squirrel. The U.S. Fish and Wildlife Service (Service) announces that it has completed the process required to implement the remand ordered by the United States Court of Appeals for the District of Columbia Circuit and that a final decision document is available. The Service has determined that no changes to the Home Port incidental take permit are required as a result of the updated analysis presented in the decision document.

ADDRESSES: Persons wishing to review the Service's final decision document may obtain a copy at *http://*

www.fws.gov/r5cbfo or by written or telephone request to John Wolflin, U.S. Fish and Wildlife Service, 177 Admiral Cochrane Drive, Annapolis, Maryland 21401, 410–573–4573.

FOR FURTHER INFORMATION CONTACT: John Wolflin at the above Service Office, Annapolis, Maryland.

SUPPLEMENTARY INFORMATION: On May 13, 1999, the Service issued an ITP for incidental ''take'' of the Delmarva fox squirrel. The ITP was issued pursuant to Section 10 of the Endangered Species Act (ESA), § 10(a)(2)(B), 16 U.S.C. 1539(a)(2)(B), and its implementing regulations at 50 CFR 17.22(b)(1).

On September 7, 1999, a neighbor to the proposed development (Gerber) and Defenders of Wildlife filed suit in Federal district court alleging violations of the National Environmental Policy Act, the ESA and the Administrative Procedure Act related to issuance of the ITP for the Home Port on Winchester Creek Habitat Conservation Plan.

The District Court for the District of Columbia granted summary judgment on all counts in favor of the Service on May 15, 2001. *See Gerber* v. *Babbitt*, 146 F.Supp.2d 1 (D. D.C. 2001). On appeal, the U.S. Court of Appeals for the D.C. Circuit remanded the matter to the District Court with instructions to remand to the agency to address two issues. *See id.* at 184. Specifically, the Court of Appeals held that the Service should have made a map of the mitigation area available during the public comment period and should have made an independent finding as to whether a possible project change identified in the record (the ''Reduced Take Alternative'') was practicable.

Pursuant to the remand, the Service conducted an independent analysis which was reflected in the draft document entitled ''Draft—Assessment of Practicability of the Reduced Take Alternative on Remand.'' That document, in addition to the map, were made available for a 60-day public comment period starting May 9, 2003, (see 68 Fed. Reg. 25058). The Service received two comment letters, one from Mr. Gerber and one from Defenders of Wildlife. The Service has reviewed and considered those comments and has prepared a final decision document entitled ''U.S. Fish and Wildlife Service's Decision Regarding the Incidental Take Permit (TE006310) to Maureen D. Waterman Following Remand'' which includes the Service's responses to the comments received and is now available for public review at the address listed above.

Author

The primary author of this notice is Glenn Smith, Assistant Coordinator, Division of Endangered Species, Northeast Region, U.S. Fish and Wildlife Service.

Authority: The authority for this action is Section 10 of the Endangered Species Act (ESA), § 10(a)(2)(B), 16 U.S.C. 1539(a)(2)(B), and its implementing regulations at 50 CFR 17.22(b)(1).

Dated: August 28, 2003.

Richard O. Bennett,

Acting Regional Director, Region 5, Fish and Wildlife Service.

[FR Doc. 03–22608 Filed 9–2–03; 10:53 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Privacy Act of 1974, As Amended; Revision of a System of Records

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed revisions to an existing system of records.

SUMMARY: The Department of the Interior (DOI) is issuing public notice of its intent to revise a system of records in its current inventory, Permits System—Interior, FWS–21, subject to the Privacy Act of 1974. This action is necessary to meet the requirements of the Privacy Act to publish a notice in the **Federal Register** of amended systems of records. A notice on this system of records was previously published in the **Federal Register** on December 6, 1983, (48 FR 54719). The agency is updating information on the system and adding new information on categories of records, purposes, routine uses, and procedures.

DATES: Comments on this revised system of records must be received on or before October 14, 2003.

ADDRESSES: Address all comments on this revised system of records to U.S. Fish and Wildlife Service, Privacy Act Officer, Mail Stop 222, Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203, or by email at *Johnny_Hunt@fws.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Johnny R. Hunt, Service Privacy Act Officer, U.S. Fish and Wildlife Service, telephone: (703) 358–1730, or fax: (703) 358–2269.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service's (FWS) permit programs collect information to establish and verify an applicant's eligibility for a permit to conduct certain activities with wildlife and plants under various Federal wildlife laws and treaties. These include the Bald and Golden Eagle Protection Act, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Endangered Species Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Lacey Act, and Wild Bird Conservation Act. Information includes name, address, date of birth, Social Security Number, occupation, home and work phone numbers, facsimile number, and email address. The system no longer includes height, weight, or color of hair and eyes of applicants for applications received after 1997. The system also contains information on locations, types, and purposes of the proposed activity, qualifications of the applicant (such as education and experience), and tribal affiliation for eagle permits for Native American religious purposes. Other documents reflect the general administrative processing and review of an application, and the monitoring of activities under the issued permit. We propose to add new information on locations of records, categories of records, authority under the Wild Bird Conservation Act, purposes, procedures, current system managers, and record source categories, and we clarify when records would be released to the Department of Justice. We also propose to modify routine uses to include subject matter experts that provide advice on the issuance of permits; Federal, State, local or foreign wildlife and plant agencies for the exchange of permitting information; registrants involved in the breeding of endangered or threatened species under Captive-bred Wildlife registrations; appropriate authorities and others who need to know who is permitted to receive and rehabilitate sick, orphaned, and injured migratory birds; appropriate agencies when we need to monitor activities conducted under a permit or evaluate regulated trade and use; a congressional office in response to an inquiry an individual has made; the General Accounting Office or Congress when the information is required for the evaluation of the permit programs; and contractors, experts or consultations to accomplish a FWS function related to this system. The expanded routine uses do not require new information to be collected.

The Privacy Act (5 U.S.C. 552a(e)(11)) requires that the public be provided a 30-day period in which to comment on the intended use of the information in the system of records. The Office of Management and Budget (OMB), in Circular A–130, requires an additional

10-day period (for a total of 40 days) in which to make these comments. Any persons interested in commenting on this proposed system notice may do so by submitting comments in writing as indicated under **ADDRESSES.** Comments received within 40 days of publication will be considered. The system will be effective as proposed at the end of the comment period, unless comments are received that would require a contrary determination. We will publish a revised notice if we make changes based on our review of comments received.

Dated: August 29, 2003.

John D. Kraus,

Chief, Division of Policy and Directives Management, U.S. Fish and Wildlife Service.

INTERIOR/FWS–21

SYSTEM NAME:

Permits System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

The records are stored at the following offices of the U.S. Fish and Wildlife Service (FWS):

(1) For the Endangered Species Program:

(a) Regional Endangered Species Offices (*see* 50 CFR 2.2 for addresses) and

(b) Division of Consultation, HCPs, Recovery and State Grants and the Division of Conservation and Classification, Endangered Species Program, U.S. Fish and Wildlife Service, Mail Stop 420 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

(2) Division of Management Authority, U.S. Fish and Wildlife Service, Mail Stop 700 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

(3) Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Mail Stop MBSP–4107 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203, and Regional Migratory Bird Offices (*see* 50 CFR 2.2 for addresses).

(4) Office of Law Enforcement, U.S. Fish and Wildlife Service, Mail Stop LE–3000 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203; Regional Law Enforcement Offices (*see* 50 CFR 10.22 for addresses); designated ports of entry (*see* 50 CFR 14.12 for locations); and some border or special port offices (*see* 50 CFR 14.16 and 14.19 for locations).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on applicants who seek permits to conduct certain activities that affect wildlife and plants protected and/or regulated under the following Federal laws or treaties: Bald and Golden Eagle Protection Act, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Endangered Species Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Lacey Act, and Wild Bird Conservation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the name, address, date of birth, Social Security Number, occupation, home and work phone numbers, facsimile number, and email address of someone who applies for a permit. For eagle permits for Native American religious purposes, the records contain tribal affiliation and, at the applicant's discretion, religious ceremony. The records also contain the qualifications of the applicant (such as, education and experience), the locations, types, and purposes of the proposed activity, and reports of activities conducted under an issued permit. They include documents that reflect the general administrative processing of the application and permit; public review required by certain laws, including comments received; our consultation with subject matter experts, including but not limited to experts within the FWS and in State, Federal, local, and foreign agencies, for the purpose of obtaining scientific, management, and legal advice; and our evaluation of information to make a decision on an application for a permit, and to monitor activities that occur under a permit. Although the system contains records on corporations and other business entities including Tax Identification Number, only records containing personal information on individuals are subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d); Migratory Bird Treaty Act (16 U.S.C. 703–712); Marine Mammal Protection Act (16 U.S.C. 1361–1407); Endangered Species Act (16 U.S.C. 1531–1544); Wild Bird Conservation Act (16 U.S.C. 4901–4916); and Lacey Act (18 U.S.C. 42), and Title 50, parts 10, 13, 14, 15, 16, 17, 18, 21, 22, and 23 of the Code of Federal Regulations.

PURPOSE(S):

The purposes are to establish and verify an applicant's eligibility for a permit to conduct activities which affect wildlife and plants protected under a number of Federal wildlife laws and treaties; produce reports to monitor the use and trade in protected wildlife and plants; and assess the impact of permitted activities on the conservation and management of species and their habitats.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The FWS is the primary user of the system, and the primary uses of the records will be:

(1) To establish and verify an applicant's eligibility for a permit to conduct activities with protected wildlife and plants under a number of conservation laws and treaties.

(2) To provide the public and permittees with permit-related information.

(3) To monitor activities conducted under a permit.

(4) To analyze data and produce reports to monitor the use and trade in protected wildlife and plants.

(5) To assess the impact of permitted activities on the conservation and management of protected species and their habitats.

(6) To evaluate the effectiveness of the permit programs.

(7) To meet reporting requirements of the Department of the Interior (DOI) and FWS.

(8) To generate budget estimates and track performance.

Disclosures outside the DOI may be made under the routine uses listed below without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected.

(1) To subject matter experts, including but not limited to experts in State, Federal, local, and foreign agencies, for the purpose of obtaining scientific, management, and legal advice relevant to making a decision on an application for a permit.

(2) To the public as a result of publishing **Federal Register** notices announcing the receipt of permit applications for public comment or notice of the decision on a permit application.

(3) To Federal, State, local, or foreign wildlife and plant agencies for the exchange of information on permits granted or denied to assure compliance with all applicable permitting requirements.

(4) To Captive-bred Wildlife registrants under the Endangered Species Act for the exchange of captive-born, non-native endangered and

threatened species, and to share information on new developments and techniques of captive breeding of these protected species.

(5) To Federal, State, and local authorities who need to know who is permitted to receive and rehabilitate sick, orphaned, and injured birds under the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act; federally permitted rehabilitators; individuals seeking a permitted rehabilitator with whom to place a sick, injured, or orphaned bird in need of care; and licensed veterinarians who receive, treat, or diagnose sick, orphaned, and injured birds;

(6) To the Department of Justice (DOJ), or a court, adjudicative, or other administrative body or to a party in litigation before a court or adjudicative or administrative body, when:

(a) One of the following is a party to the proceeding or has an interest in the proceeding:

(i) The DOI or any component of the DOI;

(ii) Any DOI employee acting in his or her official capacity;

(iii) Any DOI employee acting in his or her individual capacity where the DOI or DOJ has agreed to represent the employee; or

(iv) The United States, when DOI determines that DOI is likely to be affected by the proceeding; and

(b) The DOI deems the disclosure to be:

(i) Relevant and necessary to the proceedings; and

(ii) Compatible with the purpose for which we compiled the information.

(7) To the appropriate Federal, State, tribal, local, or foreign governmental agency that is responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, order, or license, when we become aware of an indication of a violation or potential violation of the statute, rule, regulation, order, or license, or when we need to monitor activities conducted under a permit or evaluate regulated wildlife and plant trade and use.

(8) To a congressional office in response to an inquiry to the office by the individual to whom the record pertains.

(9) To the General Accounting Office or Congress when the information is required for the evaluation of the permit programs.

(10) To a contractor, expert, or consultant employed by the FWS when necessary to accomplish a FWS function related to this system of records.

(11) To provide addresses obtained from the Internal Revenue Service to debt collection agencies for purposes of locating a debtor to collect or compromise a Federal claim against the debtor, or to consumer reporting agencies to prepare a commercial credit report for use by the DOI.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)12, disclosures may be made from this system to consumer reporting agencies as they are defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in file folders, on microfiche, in electronic form in computer systems, and in reports and computer printouts. Paper records are stored in file cabinets, rooms, and offices. Electronic records are stored on a computer server and disks or tapes.

RETRIEVABILITY:

Paper and microfiche records are retrieved by name of applicant or by permit file number. Electronic records may be searched on or reported by any data field. Retrieval is dependent upon the report or purpose of usage and whether a need to know exists. Records are retrieved for several purposes, such as processing a permit application, verifying an individual has a permit to conduct an activity with a protected species, and tracking whether permit reports have been submitted.

SAFEGUARDS:

Access to records in the system is limited to authorized personnel whose official duties require such access, under requirements found in the Code of Federal Regulations (43 CFR 2.51). Paper and microfiche records are maintained in locked metal file cabinets and/or in secured rooms. Electronic records are password-protected, backed up daily, and maintained with safeguards meeting the security requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

Records are maintained in accordance with the FWS record schedule.

SYSTEM MANAGER(S) AND ADDRESS(ES):

(1) Chief, Division of Consultation, HCPs, Recovery and State Grants, and Chief, Division of Conservation and Classification, Endangered Species Program, U.S. Fish and Wildlife Service, Mail Stop 420 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

(2) Chief, Division of Management Authority, U.S. Fish and Wildlife Service, Mail Stop 700 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

(3) Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Mail Stop 4107 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

(4) Chief, Office of Law Enforcement, U.S. Fish and Wildlife Service, Mail Stop LE–3000 Arlington Square Building, 4401 North Fairfax Drive, Arlington, Virginia 22203.

NOTIFICATION PROCEDURES:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to them, from the appropriate System Manager identified above. We require the request be in writing, be signed by the requester, and include the requester's full name and address, Social Security Number, and permit file number, if applicable. (*See* 40 CFR 2.60 for procedures on making inquiries.)

RECORD ACCESS PROCEDURES:

For copies of your records, write to the pertinent System Manager at the location above. The request envelope and letter should be clearly marked ''PRIVACY ACT REQUEST FOR ACCESS.'' A request for access must meet the content requirements of 43 CFR 2.63(b)(4)).

CONTESTING RECORD PROCEDURES:

Use the same procedures as ''Records Access Procedures'' section above. (*See* 43 CFR 2.71.)

RECORD SOURCE CATEGORIES:

Records come from individuals who apply for permits to conduct certain activities with protected wildlife and plants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

The Privacy Act at 5 U.S.C. 552a(j)(2) provides general exemption authority for some systems or records. Under that authority, the FWS adopted a regulation [43 CFR 2.79(b)]. Under that regulation, the system is exempt from the following subsections of the Privacy Act (as found in 5 U.S.C. 552a): subsections (d)(1) and (g)(1)(B). For more information, see **Federal Register** publication 40 FR 37217 published on August 26, 1975.

[FR Doc. 03–22535 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1430–ET; AA–26417]

Public Land Order No. 7581; Extension of Public Land Order No. 6458; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order extends the withdrawal created by Public Land Order No. 6458 for an additional 20-year period. This extension is necessary to continue the protection of the Sitka Magnetic Observatory Site.

EFFECTIVE DATE: September 6, 2003.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, Bureau of Land Management, Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. The withdrawal created by Paragraph 4 of Public Land Order No. 6458 (48 FR 40232, September 6, 1983), which withdrew 117.13 acres of public land from surface entry and mining to protect the Sitka Magnetic Observatory Site, is hereby extended for an additional 20-year period.

2. This withdrawal will expire on September 5, 2023, unless as a result of a review conducted prior to the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f)(1994), the Secretary determines that the withdrawal shall be extended.

Dated: August 14, 2003.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–22505 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[DES 03–50]

Transfer of Title to Facilities, Works, and Lands of the Gila Project, Wellton-Mohawk Division to the Wellton-Mohawk Irrigation and Drainage District, Yuma County, AR (Wellton-Mohawk Title Transfer)

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability, Draft Environmental Impact Statement, Wellton-Mohawk title transfer.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, the Bureau of Reclamation (Reclamation) has prepared a Draft Environmental Impact Statement (DEIS) to evaluate the potential effects of the proposed Wellton-Mohawk Title Transfer. The title transfer will transfer ownership and divest Reclamation of the responsibility for the operation, maintenance, management, regulation of, and liability for the project facilities and appurtenant lands to the entity that has demonstrated its ability to manage the project, the Wellton-Mohawk Irrigation and Drainage District (District). This title transfer will consolidate management responsibility with the District, thereby allowing the District to have greater authority in the management of growth and land based issues in the Wellton-Mohawk Valley, protect against encroachment on agriculture, and consolidate ownership of lands, facilities, and the Gila River Flood Channel.

DATES: The public review period shall close on October 29, 2003. Written comments on the DEIS must be received at the address listed under the **ADDRESSES** section.

Public hearings will also be held to accept oral and written comments on the DEIS at:

- Wellton, Arizona, on Wednesday, October 1, 2003, from 7 to 9 p.m.
- Yuma, Arizona, on Thursday, October 2, 2003, from 7 to 9 p.m.

The public hearing facilities are accessible to those who are physically-challenged. Please contact Ms. Nancy Blake by telephone at (602) 258–0234 or by facsimile at (602) 258–2352 for accessibility accommodations, including sign language interpreters or other auxiliary aids. Requests should be made by September 17, 2003, to allow sufficient time to arrange for accommodation.

ADDRESSES: Written comments on the DEIS should be submitted to Ms. Margot Selig, Lower Colorado Regional Office, Bureau of Reclamation, PO Box 61470, BCOO–4451, Boulder City, NV 89006–1470, or via facsimile to (702) 293–8042.

The public hearings will be held at:

- Antelope Union High School, 9168 South Avenue 36E, Wellton, Arizona
- Ramada Inn Chilton and Conference Center—Inca Room, 300 East 32nd Street, Yuma, Arizona

See the **SUPPLEMENTARY INFORMATION** section below for locations where copies of the DEIS are available for public review and inspection.

FOR FURTHER INFORMATION CONTACT: Ms. Margot Selig, Lower Colorado Regional Title Transfer Coordinator, Bureau of Reclamation, (702) 293–8192. Those wishing to obtain a copy of the DEIS in the form of a printed document or on compact disk (CD–ROM with Adobe Acrobat Reader included), or a summary of the DEIS may contact Ms. Selig.

SUPPLEMENTARY INFORMATION:

Public Disclosure

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There may be other circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public disclosure in their entirety.

Hearing Process Information

Requests to make oral comments at the public hearings may be made at each hearing. Comments will be recorded by a court reporter. Speakers will be called in the order of their requests. In the interest of available time, each speaker will be asked to limit oral comments to 5 minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the public hearing or identified as hearing comments and mailed to be received by Ms. Selig no later than September 29, 2003.

Background

The DEIS will be used in the decision-making process pursuant to the Wellton-Mohawk Transfer Act of June 2000 (Pub. L. 106–221), whereby the Secretary of the Interior was authorized to transfer title to the Wellton-Mohawk Division of the Gila Project works, facilities and certain federally-owned lands from the United States to the District. The District is a political subdivision of the State of Arizona constituted to own lands and facilities and to contract with Reclamation for diversion of Colorado River water for delivery to its landowners. Reclamation and the District signed a Memorandum of Agreement (MOA) in July 1998,

amended May 11, 2001, which defines the methods and principles of this title transfer process.

Two alternatives are evaluated in the DEIS: (1) the No Action Alternative, under which facilities of the Wellton-Mohawk Division of the Gila Project and lands within or adjacent to the Gila Project would remain in Federal ownership, and (2) the Proposed Action/Preferred Alternative under which Reclamation would transfer title to the facilities of the Wellton-Mohawk Division of the Gila Project and lands within or adjacent to the Gila Project to the District.

Review and Inspection of the DEIS

Copies of the DEIS are available for public review at the following locations:

- Wellton-Mohawk Irrigation and Drainage District, 30570 Wellton-Mohawk Drive, Wellton, AZ, telephone: (928) 785–3351
- Dateland School Branch Library, Avenue 64 East, Dateland, AZ, telephone: (928) 454–2243
- Foothills Branch Library, 11279 South Glenwood Avenue, Yuma, AZ, telephone: (928) 342–1640
- Roll Branch Library, 5151 South Avenue 39 East, Roll, AZ, telephone: (928) 785–3701
- Wellton Branch Library, 10425 Williams Street, Wellton, AZ, telephone: (928) 785–9575
- Yuma County Main Library, 350 South 3rd Avenue, Yuma, AZ, telephone: (928) 782–1871

Internet

The DEIS is also available on the Internet at *http://www.usbr.gov/lc/yuma/* and *http://www.bookmanedmonston.com.*

Dated: August 12, 2003.

Lorri Gray,

Assistant Regional Director, Lower Colorado Region.

[FR Doc. 03–22510 Filed 9–3–03; 8:45 am]

BILLING CODE 4310–MN–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–753–756 (Review)]

Cut-to-Length Carbon Steel Plate From China, Russia, South Africa, and Ukraine

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act), that termination of the suspended investigations on cut-to-length carbon steel plate from China, Russia, and Ukraine would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that termination of the suspended investigation on the subject product from South Africa would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[2]

Background

The Commission instituted these reviews on September 3, 2002 (67 FR 56311) and determined on December 9, 2002 that it would conduct full reviews (67 FR 77803, December 19, 2002). Notice of the scheduling of the Commission's reviews and of a public hearing 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** on March 21, 2003 (68 FR 13950). The hearing was held in Washington, DC, on July 8, 2003, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission will transmit its determinations in these reviews to the Secretary of Commerce on August 29, 2003. The views of the Commission are contained in USITC Publication 3626 (September 2003), entitled Cut-to-length Carbon Steel Plate from China, Russia, South Africa, and Ukraine: Investigations Nos. 731–TA–753–756 (Review).

Issued: August 29, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 03–22538 Filed 9–3–03; 8:45 am]

BILLING CODE 7020–02–P

[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 Stephen Koplan dissenting. Commissioner Charlotte Lane did not participate in these reviews.

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–432 (Final) and 731–TA–1024–1028 (Final)]

Prestressed Concrete Steel Wire Strand From Brazil, India, Korea, Mexico, and Thailand

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–432 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigations Nos. 731–TA–1024–1028 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports from India of prestressed concrete steel wire strand (PC strand) and less-than-fair-value imports from Brazil, India, Korea, Mexico, and Thailand of PC strand, provided for in subheading 7312.10.30 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: July 16, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as follows: ''PC strand is steel strand produced from wire of non-stainless, non-galvanized steel, which is suitable for use in prestressed concrete (both pretensioned and post-tensioned) applications. The product definition encompasses covered and uncovered strand and all types, grades, and diameters of PC strand. The merchandise under investigation is currently classifiable under subheadings 7312.10.3010 and 7312.10.3012 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.''

the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background—The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in India of PC strand, and that imports of PC strand from Brazil, India, Korea, Mexico, and Thailand are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on January 31, 2003, by American Spring Wire Corp., Bedford Heights, OH; Insteel Wire Products Co., Mt. Airy, NC; and Sumiden Wire Products Corp., Stockton, CA.

Participation in the investigations and public service list—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on November 17, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on December 2, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before November 24, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on November 26, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is November 24, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is December 9, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before December 9, 2003. On December 26, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 30, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: August 28, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–22504 Filed 9–3–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7 notice is hereby given that on August 11, 2003, a proposed consent decree in *United States* v. *Groendyke Transport, Inc.,* Civil Action No. 01–M–1821 (CBS) was lodged with the United States District Court for the District of Colorado.

In this action the United States sought civil penalties for alleged violations of Section 311(b)(3) of the Federal Water Pollution Control Act, also known as the Clean Water Act (the Act), 33 U.S.C. 1321(b)(3), as amended by the Oil Pollution Act of 1990 (''OPA''), resulting from discharges of gasoline and asphalt into waters of the United States. The first spill occurred on December 5, 1998,

and resulted in the discharge of approximately 8,700 gallons of gasoline into the South Platte River in Denver, Colorado. The second spill occurred on March 31, 2000, and resulted in the discharge of approximately 5,000 gallons of asphalt into Clear Creek, near Golden, Colorado.

Pursuant to the consent decree, Groendyke Transport Inc., (''Groendyke'') will pay the sum of $48,475 to the Oil Spill Liability Trust Fund and spend $90,025 in the performance of a Supplemental Environmental Project (SEP). The SEP involves Groendyke's purchase of equipment and the funding of training for the South Adams County Fire District so that it will be able to respond more effectively to future spills of petroleum and other hazardous substances. The area served by the South Adams County Fire District includes portions of the South Platte River watershed, the area impacted by the gasoline spill.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Groendyke Transport, Inc.,* Civil Action No. 01–M–1821 (CBS) (D. Colo.), D.J. Ref. 90–5–1–1–07293.

The consent decree may be examined at U.S. EPA Region 8, 999 18th Street, Suite 500, Denver, Colorado, 80202. During the public comment period, the consent decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $6.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–22536 Filed 9–3–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on August 9, 2003, a proposed Consent Decree in *United States* v. *Haskell Chemical Company, Inc. et al.,* Civil Action No. 3:03CV642 was lodged with the United States District Court for the Eastern District of Virginia.

In this action the United States sought to recover costs incurred in responding to the release or threatened release of hazardous substances into the environment from the HH Burn Pit Superfund Site, located in Hanover County, Virginia, near the community of Farrington. The Consent Decree will recover past response costs from Haskell Chemical Company, Inc. and HH, Inc., a dissolved Virginia corporation. On behalf of HH, Inc., the trustees of the Liquidating for Assets and Liabilities of HH, Inc. will cause to be paid to the United States the sum of two hundred thirty-five thousand dollars ($235,000). Upon entry of this Consent Decree, Haskell Chemical Company, Inc. will pay to the United States the sum of one hundred thousand dollars ($100,000). Haskell Chemical Company, Inc. will also pay the additional sum of two hundred thousand dollars ($200,000), plus interest, to be paid to the United States in two annual installments, the first to occur one year after entry of the Consent Decree. In exchange for these payments, Haskell Chemical Company, Inc. and HH. Inc. will each receive a release from liability for past and future response costs incurred by the United States in connection with the Site, subject to certain limitations and conditions. In addition, Haskell Chemical Company, Inc. and HH. Inc. will each receive complete protection from contribution actions brought to recover costs incurred by any other party in connection with the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Haskell Chemical Company, Inc., et al.,* D.J. Ref. 90–11–3–1408/2.

The Consent Decree may be examined at the Office of the United States Attorney, 600 East Main Street, Suite 1800, Richmond, Virginia, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, Pennsylvania. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC. 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $9.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–22537 Filed 9–3–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Advisory Board Meeting

Time and Date: 8:30 a.m. to 5 p.m. on Monday, October 20, 2003. 8:30 a.m. to 5 p.m. on Tuesday, October 21, 2003.

Place: Homewood by Hilton, 1475 Massachusetts Avenue, NW., Washington, DC 20005.

Status: Open.

Matters to be Considered: Leadership/Management Workgroup Update; Strategic Planning; Division Reports; Interstate Compact activities; and Quarterly Report by Office of Justice Programs and Reentry report from Office of Justice Program and NIC.

Contact Person for More Information: Larry Solomon, Deputy Director, 202–307–3106, ext. 44254.

Morris L. Thigpen,

Director.

[FR Doc. 03–22490 Filed 9–3–03; 8:45 am]

BILLING CODE 4410–36–M

DEPARTMENT OF LABOR

Office of Disability Employment Policy

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public

and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Disability Employment Policy is soliciting comments concerning the proposed collection of needs assessment data through the National Survey of Sub-minimum Wage (14 c) Certificate Recipients. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before November 3, 2003.

ADDRESSES: Faith S. Kirk, U.S. Department of Labor, Office of Disability Employment Policy, 200 Constitution Avenue, NW., Suite S–1303, Washington, DC 20210.

SUPPLEMENTARY INFORMATION:

I. Background

This project is a research activity of the Training and Technical Assistance for Providers (T–TAP) project. Funded by the Office of Disability and Employment Policy (ODEP) at the U.S. Department of Labor, T–TAP is a joint project of the Institute for Community Inclusion at the University of Massachusetts at Boston and Virginia Commonwealth University. The project provides a program of technical assistance and training that will be delivered and disseminated nationally to community-based providers including community rehabilitation providers and other public agencies who use the Fair Labor Standards Act (FLSA) section 14 (c) special minimum wage certificates. The overall goal of the T–TAP project is to assist community providers to increase access to regular wage employment in the competitive labor market. Collection of needs assessment data is necessary to identify barriers for organizations serving individuals with disabilities in finding integrated employment at a competitive rate.

The Cooperative Agreement's data collection component is authorized pursuant to Public Law 106–554, the Consolidated Appropriations Act of 2001, which established ODEP within the Department of Labor to bring a heightened and permanent focus for increasing the employment of persons with disabilities and to develop initiatives to ''further the objective of eliminating employment barriers to the training and employment of people with disabilities.'' The Consolidated Appropriations Act of 2002, pursuant to Public Law 107–116, has reauthorized this authority.

The data collected from this survey will provide descriptive information on the current use of 14 (c) Special Wage Certificates by Community Rehabilitation Programs in the United States. Specifically, the survey will look at perceived organizational barriers to achieving competitive employment outcomes for individuals with significant disabilities. This will include organizations' perceived training and resource needs related to moving their programs from 14 (c) to integrated employment outcomes. The information generated by the survey will be used by ODEP for policy analysis and subsequent policy development and recommendations. In addition, T–TAP [VCU and ICI] will use the information to design and disseminate resources and training materials as well as provide technical assistance to Community Rehabilitation Programs (CRP). Part of disseminating this information will include writing journal articles, fact sheets, online seminars and web postings, conference presentations, or other literature that can be used by ODEP, T–TAP, CRPs, organizations, and others interested in facilitating competitive employment for individuals with disabilities.

II. Review Focus

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the execution of the project's mission, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses to the extent reasonable.

III. Current Actions

This is a notice to seek OMB approval of new survey instrument for the Office of Disability Employment Policy, U.S. Department of Labor.

Type of Review: New.

Agency: Office of Disability Employment Policy.

Title: National Survey of Sub-minimum Wage (14 c) Certificate Recipients.

OMB Number: 1230–NEW.

Affected Public: Non-Profit Institutions.

Purpose of Information Collection: Research and Program Planning.

Estimated Number of Respondents: 341.

Total Annual Responses: 341.

Percentages of electronic collection: 25%.

Total Annual Hours Requested: 170.5.

Costs: [in thousands of dollars].

Total Annualized Capital/Start-up $: $0.

Total Annual Costs (O&M): $0.

Frequency of Reporting: One Time.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; comments will also become a matter of public record.

Dated: August 28, 2003.

John R. Davey,

Director, Office of Operations, Office of Disability Employment Policy.

[FR Doc. 03–22502 Filed 9–3–03; 8:45 am]

BILLING CODE 4510–CX–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information in accordance with the Paperwork Reduction Act of

1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)). This helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Employee Benefits Security Administration is soliciting comments concerning the information collection entitled Annual Report for Multiple Employer Welfare Arrangements (Form M–1) contained in the Department's regulation at 29 CFR 2520.101–2, Multiple Employer Welfare Arrangements and Certain Other Entities that Offer or Provide Medical Care to the Employees of Two or More Employers. A copy of the ICR may be obtained by contacting the office listed in the addresses section of this notice.

DATES: Written comments must be submitted to the office shown in the **ADDRESSES** section below on or before November 3, 2003.

ADDRESSES: Gerald B. Lindrew, Office of Policy and Research, U.S. Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue, NW., Room N–5647, Washington, DC 20210. Telephone: (202) 693–8410; Fax: (202) 219–5333. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

I. Background

The Health Insurance Portability and Accountability Act of 1996 (HIPAA), codified as part 7 of Title I of the Employee Retirement Security Act of 1974 (ERISA), was enacted to improve the portability and continuity of health care coverage for participants and beneficiaries of group health plans. In the interest of assuring compliance with part 7, HIPAA also added section 101(g) to ERISA permitting the Secretary of Labor (the Secretary) to require multiple employer welfare arrangements (MEWA) as defined in section 3(40) of ERISA to report to the Secretary in such form and manner as the Secretary might determine. To assist MEWAs and other entities with reporting, the Department published a final rule providing guidance for determining compliance and a form to be used for the annual report. Form M–1, the information collection provision of the regulation, is required to be filed by MEWAs and by other entities described in the regulation. The purpose of the information collection is to provide the Secretary with information to determine the extent to which the requirements of part 7 of ERISA are being carried out in connection with the provision of benefits consisting of medical care.

II. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

III. Current Action

This notice requests comments on the extension of the information collection request (ICR) included in the regulation, Form M–1. The Department is not proposing or implementing changes to the existing ICR at this time.

Type of Review: Extension of a currently approved collection of information.

Agency: Employee Benefits Security Administration, Department of Labor.

Titles: Annual Report for Multiple Employer Welfare Arrangements and Certain Entities Claiming Exception (Form M–1).

OMB Number: 1210–0116.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 741.

Frequency of Response: Annually.

Responses: 3,718.

Estimated Total Burden Hours: 2,336.

Total Burden Cost (Operating and Maintenance): $143,650.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of the ICR; they will also become a matter of public record.

Dated: August 28, 2003.

Gerald B. Lindrew,

Deputy Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 03–22501 Filed 9–3–03; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

National Endowment for the Arts; National Council on the Arts Teleconference—Agenda Change

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that the agenda for the teleconference of the National Council on the Arts, to be on September 12, 2003 from 2 p.m.–3 p.m. may include general discussion in addition to discussion of the American Jazz Masters award.

Any interested persons may participate, as observers, in Council discussions and reviews that are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this teleconference meeting can be obtained from the Council Operations office, National Endowment for the Arts, Washington, DC 20506, at 202/682–5433.

Dated: August 28, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 03–22486 Filed 9–3–03; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Fellowships Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Fellowships Advisory Panel, Literature section (Prose) to the National Council on the Arts will be held on September 22–24, 2003 in Room 415 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting, from 11:30 a.m. to 1 p.m. on September 24th, will be open to the public for policy discussion. The remaining portions of this meeting, from 9 a.m. to 7:30 p.m. on September 22nd, from 9 a.m. to 6:30 p.m. on September 23rd, and from 9 a.m. to 11:30 a.m. and 1 p.m. to 3 p.m. on September 24th, will be closed.

The closed portions of these meetings are for the purpose of panel review, discussion, evaluation, and

recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of April 30, 2003, these sessions will be closed to the public pursuant to (c)(6) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels that are open to the public, and, if time allows, may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Office of Guidelines & Panel Operations, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: August 28, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–22484 Filed 9–3–03; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Leadership Initiatives Advisory Panel—Notice of Change

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a teleconference of the Leadership Initiatives Advisory Panel, AccessAbility section, previously scheduled for August 29, 2003, will be held by teleconference from 2 p.m.–3:30 p.m. on Wednesday, September 24, 2003 from Room 724 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendations on financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency. In accordance with the determination of the Chairman of April 30, 2003, these sessions will be closed to the public pursuant to (c)(6) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Panel Coordinator, National Endowment for the Arts, Washington, DC, 20506, or call 202/682–5691.

Dated: August 28, 2003.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 03–22485 Filed 9–3–03; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (P.L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by October 6, 2003. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

The applications received are as follows:

1. Permit Application No. 2004–013.

Applicant: Gary D. Miller, Biology Department, University of New Mexico, Albuquerque, NM 87131–0001.

Activity for Which Permit is Requested: Take and Import into the United States. The applicant proposes to continue investigations of the diseases of penguins and skuas around the Australian station, Davis, in east Antarctica. He proposes to collect blood and or tissue samples from penguins, skuas, and other seabirds to address the impact diseases may have on the reproductive success of skuas. Previous studies have confirmed the presence of bacterial, viral, and parasitic agents in Antarctic populations. Human activity at scientific stations and/or from tourism is one potential source of disease introduction, however, it is thought that migratory birds such as South Polar Skuas, Kelp Gulls and Sheathbills act as natural vectors to introduce diseases to Antarctica. In addition to collecting blood and tissues samples the applicant plans to monitor the nesting success of skuas, and track adult skuas using small VHF transmitters.

In addition, the applicant will continue analysis of the phylogenetic relationships and population genetics of two major genera of penguins. Blood and tissue samples will be collected from Magellanic, Adelie, Chinstrap, Gentoo, Macaroni, and Emperor penguins throughout their distribution. The applicant will serve as a lecturer onboard a tourist vessel that will give him access to various areas in the Antarctic. All samples will be returned to Dr. Shellum's lab in Perth, Australia or the laboratory at the University of New Mexico for processing. All other remains will be archived.

Location: Davis Station, East Antarctica, and various coastal areas accessible via tourist vessels.

Dates: November 1, 2003, to April 1, 2005.

2. Permit Application No. 2004–014.

Applicant: Scott Borg, Head, Antarctic Sciences Section, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Activity for Which Permit is Requested: Enter Antarctic Specially Protected Area. Annex V of the Environmental Protocol was adopted at the XXVI Antarctic Treaty Consultative Meeting in Madrid, Spain in June 2003, and requires permits for access to any of

the Antarctic Specially Protected Areas. The applicant and his agents propose to enter the Arrival Heights ASPA 122 to continue scientific projects already in place. Principal investigators and their teams will work on projects that include, but are not limited to operation of an ELF/VLF receiver, riometer and magnetometer or studies of the earth's magnetic field and ionosphere, high latitude neutral mesospheric and thermospheric dynamics and thermodynamics, UV monitoring, aerosols investigations, and pollution surveys. Crary Lab science technicians also need to access the site daily for equipment monitoring, data acquisition, calibrations, and repairs. In addition, technical personnel will need to enter the site to monitor, maintain, or repair weather equipment. Lastly, personnel from the Facilities Engineering and Maintenance Center may be called upon to perform maintenance or repair functions at facilities within the site. This activity will be coordinated through the Crary Lab.

Location: ASPA 122—Arrival Heights, Hut Point Peninsula, Ross Island.

Dates: October 1, 2003, to September 30, 2004.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 03–22555 Filed 9–3–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission (new, revision, or extension):* Extension.

2. *The title of the information collection:* NRC Form 398, ''Personal Qualification Statement—Licensee''.

3. *The form number if applicable:* NRC Form 398.

4. *How often the collection is required:* On occasion and every 6 years (at renewal).

5. *Who will be required or asked to report:* Individuals requiring a license to operate the controls at a nuclear reactor.

6. *An estimate of the number of annual responses:* 1,155 (one per respondent).

7. *The estimated number of annual respondents:* 1,155.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,465 or approximately 1.3 hours per response (1,465 hours ÷ 1,155 applications (new, re-applications, renewals and waivers) = 1.3 hours per response).

9. *An indication of whether section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* NRC Form 398 requests detailed information that should be submitted by a license applicant and facility licensee when applying for a new or renewal license to operate the controls at a nuclear reactor facility. This information, once collected, would be used for licensing actions and for generating reports on the Operator Licensing Program.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html*. The document will be available on the NRC Home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 6, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. OMB Desk Officer, Office of Information and Regulatory Affairs (3150–0021), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 415–7233.

Dated at Rockville, Maryland, this 27th day of August, 2003.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–22511 Filed 9–3–03; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s):

(1) *Collection title:* Application for Employee Annuity Under the Railroad Retirement Act.

(2) *Form(s) submitted:* AA–1, AA–1cert, AA–1d, G–204.

(3) *OMB Number:* 3220–0002.

(4) *Expiration date of current OMB clearance:* 10/31/2003.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or household.

(7) *Estimated annual number of respondents:* 13,400.

(8) *Total annual responses:* 19,100.

(9) *Total annual reporting hours:* 10,083.

(10) *Collection description:* The Railroad Retirement Act provides for payment of age, disability, and supplemental annuities to qualified employees. The application and related forms obtain information about the applicant's family work history, military service, disability benefits from other government agencies and public or private pensions. The information is used to determine entitlement to and the amount of the annuity applied for.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363).

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 03–22479 Filed 9–3–03; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of Vestaur Securities, Inc. to Withdraw Its Common Stock, $.01 Par Value, From Listing and Registration on the New York Stock Exchange, Inc. File No. 1–02320

August 29, 2003.

Vestaur Securities, a State of Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

The Issuer's Board of Directors (''Board'') approved resolutions on May 14, 2003 to withdraw the Issuer's Security from listing on the NYSE and approved the listing on the American Stock Exchange (''AMEX''). In making its decision to withdraw the Security from the Exchange, the Board determined that it was in the best interest of the Issuer to delist from the NYSE and list on the AMEX due to considerations of expense and the resulting benefits to the Issuer's shareholders.

The Issuer stated in its application that it has complied with the NYSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the NYSE and from registration under section 12(b) of the Act[3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before September 18, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the NYSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–22514 Filed 9–3–03; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78l(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78l(b).

[4] 15 U.S.C. 78l(g).

[5] 17 CFR 200.30–3(a)(1).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before October 6, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: *Agency Clearance Officer,* Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *OMB Reviewer,* Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Pre-Disaster Mitigation Small Business Loan Application.

No: 5M.

Frequency: On Occasion.

Description of Respondents: Business Application for the Pre-Disaster mitigation loan program.

Responses: 2,500.

Annual Burden: 5,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–22497 Filed 9–3–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before October 6, 2003. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW., 5th Floor, Washington, DC 20416; and *David_Rostker@omb.eop.gov,* fax number 202–395–7285 Office of Information and Regulatory Affairs, Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: Count Me In Survey of Women Business Owners.

No.: N/A.

Frequency: On Occasion.

Description of Respondents: Women who have completed loan applications with Count Me In, an on-line micro-lender.

Responses: 500.

Annual Burden: 79.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 03–22498 Filed 9–3–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3538]

State of Florida

Citrus, Manatee, and Pasco counties and the contiguous counties of De Soto, Hardee, Hernando, Hillsborough, Levy, Marion, Pinellas, Polk, Sarasota, and Sumter in the State of Florida constitute a disaster area due to damages caused by heavy rains and flooding beginning June 19 and continuing through August 21, 2003. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 27, 2003, and for economic injury until the close of business on May 28, 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.

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 353806 and the number for economic injury is 9W7800.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 28, 2003.

Hector V. Barreto,

Administrator.

[FR Doc. 03–22529 Filed 9–3–03; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Request for Public Comment on Review of Employment Impact of United States-Bahrain Free Trade Agreement

AGENCIES: Office of the United States Trade Representative; Department of Labor.

ACTION: Request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) gives notice that the Office of the United States Trade Representative (USTR) and the Department of Labor (Labor) are initiating a review of the impact of the proposed U.S.-Bahrain Free Trade Agreement (FTA) on United States employment, including labor markets. This notice seeks written public comment on potentially significant sectoral or regional employment impacts (both positive and negative) in the United States as well as other likely labor market impacts of the FTA.

DATES: USTR and Labor will accept any comments received during the course of the negotiations of the FTA. However, comments should be received by noon, October 1, 2003, to be assured of timely consideration in the preparation of the report.

ADDRESSES: Submissions by electronic mail: *FR0095@ustr.gov.* Submissions by facsimile: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395–6143.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Substantive questions concerning the employment impact review should be addressed to Jorge Perez-Lopez, Director, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 693–4883; or William Clatanoff, Assistant U.S. Trade Representative for Labor, telephone (202) 395–6120.

SUPPLEMENTARY INFORMATION:

1. Background Information

On August 4, 2003, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative notified the Congress of the President's intent to initiate a free trade agreement with Bahrain. The notification letters to the Congress can be found on the USTR Web site at *http://www.ustr.gov/new/fta/Bahrain/2003-08-04-notification-house.pdf* and *http://www.ustr.gov/new/fta/Bahrain/2003-08-04-notification-senate.pdf* respectively. On August 13, 2003 the USTR requested the ITC provide advice on the probable economic effects. The ITC intends to provide this advice within four months of receipt of the request. We intend to launch negotiations in January 2004.

The FTA will build on the Middle East Free Trade Area, which includes the Jordan and Morocco FTAs. By moving from unilateral trade preferences to a reciprocal trade agreement, the FTA will seek to eliminate duties and unjustified barriers to trade in both U.S.- and Bahrain-origin goods and also address trade in services, trade in agricultural products, investment, trade-related aspects of intellectual property rights, government procurement, trade-related environmental and labor matters, and other issues. The FTA is expected to contribute to stronger economies, the rule of law, sustainable development, and more accountable institutions of governance, complementing ongoing domestic, bilateral, and multilateral efforts in the region. Finally, the FTA will lend momentum to building a Middle East Free Trade Area.

2. Employment Impact Review

Section 2102(c)(5) of the Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. 3802(c)(5), directs the President to ''review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public.'' USTR and the Department of Labor will conduct the employment reviews through the TPSC.

The employment impact review will be based on the following elements, which are modeled to the extent appropriate after those in EO 13141. The review will be: (1) Written; (2) initiated through a **Federal Register** notice soliciting public comment and information on the employment impact of the FTA in the United States; (3) made available to the public in draft form for public comment, to the extent practicable; and (4) made available to the public in final form.

Comments may be submitted on potentially significant sectoral or regional employment impacts (both positive and negative) in the United States as well as other likely labor market impacts of the FTA. Persons submitting comments should provide as much detail as possible in support of their submissions.

3. Requirements for Submissions

To ensure prompt and full consideration of responses, the TPSC strongly recommends that interested persons submit comments by electronic mail to the following e-mail address:

FR0095@ustr.gov. Persons making submissions by e-mail should use the following subject line: Bahrain Employment Review. Documents should be submitted in WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries shall be available for public inspection 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 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.

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 03–22527 Filed 9–3–03; 8:45 am]

BILLING CODE 3190–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Request for Public Comment on Review of Employment Impact of United States-Dominican Republic Free Trade Negotiations

AGENCIES: Office of the United States Trade Representative; Department of Labor.

ACTION: Request for comments.

SUMMARY: The Trade Policy Staff Committee (TPSC) gives notice that the Office of the United States Trade Representative (USTR) and the Department of Labor (Labor) are initiating a review of the impact of the proposed U.S.-Dominican Republic free trade negotiations on United States employment, including labor markets. This notice seeks written public comment on potentially significant sectoral or regional employment impacts (both positive and negative) in the United States as well as other likely labor market impacts of the FTA.

DATES: USTR and Labor will accept any comments received during the course of the negotiations of the FTA. However, comments should be received by noon, October 1, 2003, to be assured of timely consideration in the preparation of the report.

ADDRESSES: Submissions by electronic mail: *FR096@ustr.gov.* Submissions by facsimile: Gloria Blue, Executive Secretary, Trade Policy Staff Committee, at (202) 395–6143.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202) 395–3475. Substantive questions concerning the employment impact review should be addressed to Jorge Perez-Lopez, Director, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 693–4883; or William Clatanoff, Assistant U.S. Trade Representative for Labor, telephone (202) 395–6120.

SUPPLEMENTARY INFORMATION:

1. Background Information

On August 4, 2003, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative notified the Congress of the President's intent to enter into free trade negotiations with the Dominican Republic. The notification letters to the Congress can be found on the USTR Web site at *http://www.ustr.gov/new/fta/Dr/2003–08–04-notification-house.pdf* and *http://www.ustr.gov/new/fta/Dr/2003–08–04-notification-senate.pdf* respectively. We intend to launch negotiations in January 2004.

Through these negotiations we expect to provide for essentially the same disciplines as those in the Free Trade Agreement we are currently negotiating with the five members of the Central American Economic Integration System (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) (CAFTA), and to negotiate specific market access commitments with the Dominican Republic. On August 6, 2003 the USTR requested the ITC provide advice on probable economic effects. The ITC intends to provide this advice within four months of its receipt of the request.

2. Employment Impact Review

Section 2102(c)(5) of the Bipartisan Trade Promotion Authority Act of 2002, 19 U.S.C. 3802(c)(5), directs the President to ''review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public.'' USTR and the Department of Labor will conduct the employment reviews through the TPSC.

The employment impact review will be based on the following elements, which are modeled to the extent appropriate after those in EO 13141. The review will be: (1) Written; (2) initiated through a **Federal Register** notice soliciting public comment and information on the employment impact of the FTA in the United States; (3) made available to the public in draft form for public comment, to the extent practicable; and (4) made available to the public in final form.

Comments may be submitted on potentially significant sectoral or regional employment impacts (both positive and negative) in the United States as well as other likely labor market impacts of the FTA. Persons submitting comments should provide as much detail as possible in support of their submissions.

3. Requirements for Submissions

To ensure prompt and full consideration of responses, the TPSC strongly recommends that interested persons submit comments by electronic

mail to the following e-mail address: *FR096@ustr.gov.* Persons making submissions by e-mail should use the following subject line: ''Dominican Republic Employment Review.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitter. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. To the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Written comments will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6. Confidential business information submitted in accordance with 15 CFR 2003.6 must be clearly marked ''BUSINESS CONFIDENTIAL'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries shall be available for public inspection 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 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.

Carmen Suro-Bredie,

Chairman, Trade Policy Staff Committee.

[FR Doc. 03–22526 Filed 9–3–03; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. A **Federal Register** notice with a 60-day comment period soliciting comments on the following collection of information was published on June 12, 2002, page 40373, and a notice with a 30-day comment period for the December submission for this collection report was published on December 27, 2002, page 79236.

DATES: Comments must be submitted on or before October 6, 2003. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Application for Employment with the Federal Aviation Administration.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2120–0597.

Forms(s): FAA Form 27152.

Affected Public: A total of 50,000 individual applicants for employment with the FAA.

Abstract: This collection of information is necessary for gathering data concerning potential new hires for the FAA. The information will be used to evaluate the qualifications of applicants for a variety of positions. Without this information there would be no reliable means to accurately evaluate applicants' skills, knowledge, and abilities to perform the duties of these positions.

Estimated Annual Burden Hours: An estimated 75,000 hours annually.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 25, 2003.

Judith D. Street,

FAA Information Collection Clearance Officer, Standards and Information Division, APF–100.

[FR Doc. 03–22467 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2003–53]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before September 15, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number FAA–200X-XXXXX] by any of the following methods:

• Web Site: *http://dms.dot.gov.* Follow the instructions for submitting

comments on the DOT electronic docket site.

- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Tim Adams (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 27, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2003–15925.
Petitioner: AirTran Airways, Inc.
Section of 14 CFR Affected: 14 CFR 93.123.
Description of Relief Sought: To permit AirTran Airways, Inc., to conduct 10 operations at LaGuardia Airport without the necessary slots as required under 14 CFR 93.123.

Docket No.: FAA–2003–15792.
Petitioner: Northwest Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 121.505(b).
Description of Relief Sought: To permit pilots operating a single Northwest Airline airplane to be on duty for more than 16 hours during 24 consecutive hours. The proposed exemption will be used in a one-time operation to conduct a part 121 supplemental operation in an attempt to set an around the poles world speed record flight in conjunction with the 100th anniversary of the Wright Brothers first flight at Kitty Hawk.

[FR Doc. 03–22465 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Brunswick Golden Isles Airport, Brunswick, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Brunswick Golden Isles Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before October 6, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Federal Aviation Administration, DOT, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Steve V. Brian, Executive Director of the Glynn County Airport Commission at the following address: 500 Connole Street, Brunswick, Georgia 31525.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Glynn County Airport Commission under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Philip Cannon, Program Manager, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia 30337–2747, (404) 305–7152.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Brunswick Golden Isles Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On August 19, 2003, the FAA determined that the application to the revenue from a PFC submitted by Glynn County Airport Commission was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 2003.

The following is a brief overview of the application.

PFC Application No.: 03–02–U–00–BQK.

Level of the proposed PFC: $4.50.

Proposed charge effective date: November 1, 2003.

Proposed charge expiration date: September 1, 2011.

Total estimated PFC revenue: $572,623.

Brief description of proposed project(s): 1. Airport Terminal Renovations.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Part 135 Air Taxi/Commercial Operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Glynn County Airport Commission.

Issued in College Park, Georgia, on August 25, 2003.

Scott L. Seritt,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 03–22468 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Chehalis-Centralia Railroad Association (Docket Number FRA–2003–15753)

The Chehalis-Centralia Railroad Association has petitioned for a temporary waiver of compliance from the requirements of the *Control of*

Alcohol and Drug Use, 49 CFR part 219, which is FRA's alcohol and drug regulation that governs prohibitions, post-accident testing, testing for cause, identification of troubled employees, pre-employment testing, and random testing. The petitioner states that the railroad is a small non-profit membership based tourist operation with nine miles of track, 11 hours of service employees, and infrequent joint operations with the Puget Sound and Pacific Railroad, and Tacoma Rail.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.*, Waiver Petition Docket Number FRA–2003–15753) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA wishes to inform all potential commenters that 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*.

Issued in Washington, DC, on August 27, 2003.

Michael Logue,

Deputy Associate Administrator for Compliance and Program Implementation.

[FR Doc. 03–22469 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Sumpter Valley Railroad Restoration, Inc.

[Docket Number FRA–2003–15641]

The Sumpter Valley Railroad seeks a waiver of compliance from the Inspection and Maintenance Standards for Steam Locomotives, 49 CFR part 230, published November 17, 1999. Section 230.3(c)(1) of the standards requires steam locomotives having flue tubes replaced after September 25, 1995 to request Special Consideration to come under the new requirements by January 18, 2001 or undergo a one thousand four hundred seventy-two service day inspection (49 CFR 230.17) prior to being allowed to operate under the requirements. The Sumpter Valley Railroad Restoration, Inc. (SVRY) seeks an extension of time beyond January 18, 2001 to file for Special Consideration for SVRY steam locomotive number 19 which had the flue tubes replaced and was returned to service in May of 1996.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (FRA–2003–15641) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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 at *http://dms.dot.gov*.

Issued in Washington, DC on August 27, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–22471 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Safety Advisory

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of FRA Safety Advisory 2003–02.

SUMMARY: FRA is issuing Safety Advisory 2003–02 advising all persons involved in loading and unloading products from railroad tank cars that they cannot rely on internal excess flow valves to stop the flow of product except under the limited conditions for which these valves were designed and installed.

FOR FURTHER INFORMATION CONTACT: Thomas A. Phemister, Hazardous Materials Specialist, Office of Safety, RRS–12, Mail Stop 25, Federal Railroad Administration, Department of Transportation, 1120 Vermont Avenue, NW., Washington, DC 20590 (telephone 202–493–6050).

SUPPLEMENTARY INFORMATION:

Factual Background

On July 14, 2001, at the Atofina Chemicals, Inc., plant in Riverview, Michigan, a pipe attached to an unloading fitting on a railroad tank car fractured and separated, causing the release of methyl mercaptan, a poisonous, flammable gas. The ensuing fire led to the rupture of hoses on an adjacent tank car containing chlorine, a poisonous, corrosive gas. Before the fire

was extinguished about six hours later, three employees in the plant had been killed, and several other employees required treatment for exposure to the chemicals. About 2,000 residents of the area surrounding the plant were evacuated for about 10 hours.

In the course of its investigation, the National Transportation Safety Board (NTSB or the Board) determined that a contributing cause of the accident and its severity was the plant's reliance on the tank car excess flow valves [1] to activate and stop product flow if a hose or unloading pipe broke.

Also as part of the NTSB investigation, it was determined that both the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) had required Atofina to develop safety plans for the Riverview facility. As a mandatory part of the plans, the company had to consider safeguards to reduce both the risk and the consequences of a catastrophic release of the hazardous materials present at the plant. Both the risk management plan required by EPA and the process safety management plan required by OSHA dealt specifically with the potential for the failure of a flexible hose used in the tank car unloading process that delivered methyl mercaptan into the plant's industrial process. Under both plans, Atofina stated that the release of methyl mercaptan would be stopped by the automatic closure of the tank car's excess flow valves, specifically noting that this would occur even if a pipeline or unloading hose ruptured.[2]

Following its investigation into the accident at the Atofina facility in Riverview, Michigan, the Board issued several recommendations. One of them recommended that FRA:

> Issue a hazardous materials bulletin to warn companies involved in tank car loading and unloading operations that tank car excess flow valves cannot be relied upon to stop leaks that occur during those operations.[3]

FRA completely agrees with the safety concerns of the Board in this matter.

The NTSB has previously investigated accidents involving the release of dangerous chemicals during industrial accidents and, in response to an accident in Baton Rouge, Louisiana, on July 30, 1983, the Board issued a report stating that excess flow valves were not designed to act as emergency shutoff devices during cargo transfer.[4]

Excess Flow Valves in the Railroad Hazardous Materials Regulatory Environment

As a general rule, the specifications for tank cars, at 49 CFR Part 179, include excess flow valves as a permissive feature on what the regulations refer to as ''pressure'' tank cars and do not mention the devices in the specification for ''non-pressure'' tank cars. The regulations state:

> The interior pipes of the loading and unloading valves shall be anchored and, except as prescribed in § 179.102 or § 179.103, *may* be equipped with excess flow valves of approved design. (Emphasis supplied.) [5]

The packaging requirements in § 173.314 require excess flow valves for the interior pipes of loading/unloading valves, sampling devices, and gauging devices on tank cars transporting materials with a primary or secondary hazard of 2.1 (flammable gas); excess flow valves are also required on the interior pipes of liquid discharge valves on tank cars transporting chlorine.[6] FRA believes that most cars built to the pressure car standards have excess flow valves, but the same cannot be said for non-pressure cars, many of which, in fact, transport commodities at pressures greater than the ambient atmosphere.

An excess flow valve is, typically, a metallic device inserted into the interior piping of a tank car, just below the valve(s) used to load and unload the car. In the event that the valves are sheared off in a railroad accident, there will be a sudden rush of product out the opening thus created. With nothing to impede the flow of fluid product, the excess flow valve will move toward the opening and seat, thus sealing off the opening.

In response to concerns that the then-current regulatory provision for excess flow valves might be ambiguous, in 1985 the DOT published a notice of proposed rulemaking to amend the tank car specifications by adopting what is now the contemporary standard. Proponents of the clarification stated that tank-mounted excess flow valves are not intended to substitute for adequate excess flow equipment in plant loading systems. ''The only use of such valves is for protection against loss of lading due to shearing of external closure during transit.'' [7]

The hazardous materials regulations (HMR) are quite clear that excess flow valves are limited in purpose and scope:

> An excess flow valve as referred to in this specification, is a device which closes automatically against the outward flow of the contents of the tank in case the external closure valve is broken off or removed during transit * * *[8]

Excess flow valves, by their nature, must encounter a high-volume, surging flow of product to be activated. If that were not the case, they might function in unintended situations, such as when a tank car is being unloaded with the aid of a strong pump. As designed, essentially any apparatus attached to the outside of the external closure valve will create sufficient internal friction (whether hose or pipe) that the flow of product will not be sufficient to activate the excess flow valve.

Safety Warning

Excess flow valves, by both design and regulation, are intended to function only when the external closure valve is sheared, broken off, or otherwise removed during transit. These devices may also function as a back-up flow control device during tank car loading or unloading activities. While FRA neither regulates nor enforces the risk management plans required by EPA or the process safety management plan required by OSHA, it does have considerable expertise in the design, construction, and use of railroad tank cars and the safety features designed into them. FRA cannot urge strongly enough that the excess flow valve feature commonly included in pressure-type tank cars is not to be relied upon to stop leaks that may occur during loading or unloading operations.

Issued at Washington, DC, on August 28, 2003.

George Gavalla,

Associate Administrator for Safety, Federal Railroad Administration.

[FR Doc. 03–22473 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–06–U

[1] Excess flow valves appear in the hazardous materials regulations, inter alia, at 49 CFR 179.100–13(c) and (d). The Tank Car Manual, (Specifications for Tank Cars, Manual of Standards and Recommended Practices, Section C–III, Association of American Railroads, Washington, DC, © 2000, Appendix A, Table A1) uses the term ''check valve.''

[2] Correspondence dated July 16, 2002, from Marion C. Blakely, Chairman, NTSB, to Allan Rutter, Administrator, FRA, summarizing the Board's investigation, including a public hearing, of this incident.

[3] NTSB Safety Recommendation R–02–16.

[4] NTSB, Vinyl Chloride Monomer Release From a Railroad Tank Car and Fire, Formosa Plastics Corporation Plant, Baton Rouge, Louisiana, July 30, 1983, Hazardous Materials Accident Report NTSB/HZM–85/08 (Washington, DC: NTSB, 1985).

[5] 49 CFR 179.100–13(b) Venting, loading and unloading valves, measuring and sampling devices.

[6] 49 CFR 173.314 (j) and (k), respectively.

[7] Docket HM–166W, NPRM at 53 FR at 36418, September 19, 1988; Final Rule adopting the amendment as proposed, 54 FR 38790, September 20, 1989.

[8] 49 CFR 179.100–13(d).

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From Requirements

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket Number FRA–2003–15755]

Applicant: Kansas City Southern Railway, Mr. Calvin R. Jones, Manager of Engineering Projects, Signal Department, 4601 Shreveport-Blanchard Highway, Shreveport, Louisiana 71107–5799.

Kansas City Southern Railway seeks approval of the proposed modification of the traffic control system, on the main track and controlled siding near milepost 604.5, on the Transcontinental Division, Beaumont Subdivision, in Benson, Louisiana. The proposed changes consist of the following:

1. Removal of the North and South Benson control points and the associated power-operated switch machines and controlled signals;

2. Installation of an electrically locked, hand-operated switch and repeater cut section at North Benson; and

3. Installation of an electrically locked, hand-operated switch and back to back, intermediate signals at South Benson.

The reason given for the proposed changes is that Benson Business Track is approximately 4,600 feet and is used primarily to store cars and seldom used to meet trains, and the removed equipment could be better utilized at another location.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov.*

FRA wishes to inform all potential commenters that 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*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 27, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–22470 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) part 235 and 49 U.S.C. 20502(a), the following railroad has petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR part 236 as detailed below.

[Docket No. FRA–2003–15754]

Applicant: Reading Blue Mountain and Northern Railroad, Mr. J.A. Seidel, Manager of C&S, P.O. Box 218, Port Clinton, Pennsylvania 19549.

The Reading Blue Mountain and Northern Railroad seeks approval to extend the temporary discontinuance of the signal system until October 30, 2004, on their Track No. 1 on the Lehigh Line between milepost 119.3 and milepost 130.6, in order to complete repairs to the signal system which was damaged by a winter storm on December 26, 2002.

The reason given for the proposed changes is that Track No. 1 is a seldom-used track running parallel to the Norfolk Southern Corporation's Track No. 2, and there is a substantive dispute between the parties concerning the responsibility for repair of Track No. 1.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and include a concise statement of the interest of the party in the proceeding. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

All communications concerning this proceeding should be identified by the docket number and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street SW., Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the internet at the docket facility's Web site at *http://dms.dot.gov*.

FRA wishes to inform all potential commenters that 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*.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on August 27, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–22472 Filed 9–3–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the General Counsel

Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), pursuant to the Civil Service Reform Act, I have appointed the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Chairperson, Gary B. Wilcox, Deputy Chief Counsel (Technical).
2. Deborah A. Butler, Associate Chief Counsel (Procurement and Administration).
3. Mark Kaizen, Associate Chief Counsel (General Legal Services).
4. Nancy J. Marks, Deputy Associate Chief Counsel (Tax Exempt Government Entities).
5. Cynthia J. Mattson, Division Counsel (Large and Mid-Size Business).
6. Gary A. Benford, Area Counsel (Small Business/Self-Employed), Area 6—Dallas.

This publication is required by 5 U.S.C. 4314(c)(4).

Dated: August 29, 2003.

Richard Mihelcic,

Associate Chief Counsel (Finance and Management).

[FR Doc. 03–22516 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974: Computer Matching Program

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Matching Program.

SUMMARY: Pursuant to the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of an internal computer matching program to be conducted by the Internal Revenue Service pertaining to the matching of systems of records Treasury/IRS36.003 General Personnel and Payroll and Treasury .010 Telephone Call Detail Records.

EFFECTIVE DATE: This notice will be effective October 6, 2003.

ADDRESSES: Inquiries may be mailed to Director, End User and Equipment Services; Modernization, Information Technology and Support Services, M:I:EU, Internal Revenue Service, 5000 Ellin Rd., Lanham, MD.

FOR FURTHER INFORMATION CONTACT: Ed D. Rieser, Project Manager, Telecommunications Asset Tool (TAT), M:I:EU:AD:SE, Internal Revenue Service, (972) 308–1687.

SUPPLEMENTARY INFORMATION: The Matching Process is needed for the Internal Revenue Service (IRS), Telecommunications Division Waste, Fraud, and Abuse initiative to automatically match long distance telephone and calling card call detail records/data to employee making the call(s) and match to the manager of that respective employee by using the Telecommunications Asset Tool (TAT), Corporate Authoritative Directory Services (CADS), and the Calling Card Ordering System (CCOS). Members of the public desiring specific information concerning an ongoing matching activity may request a copy of the applicable computer matching agreement at the address provided above.

Name of source agency: Internal Revenue Service.

Name of recipient agency: Internal Revenue Service.

Beginning and completion dates: The matches are conducted on an ongoing basis in accordance with the terms of the computer matching agreement in effect between the parties as approved by the Treasury Data Integrity Board. The term of this agreement is expected to cover the 18-month period beginning September 1, 2003 and ending February 28, 2005.

Purpose: The purpose of this program is to prevent or reduce waste, fraud, and abuse while protecting the privacy interest of the subjects of the match.

In the past several years the Service has been increasingly challenged to ensure that all resources are used as efficiently as possible. Telecommunications expenditures, one of the largest items in the Service's budget, continue to be an area warranting increased scrutiny due to the steady and dramatic rise in telecommunications usage and cost. On September 25, 2001, in partnership with the National Treasury Employees Union (NTEU), the Service entered into an agreement to implement a new system for reviewing telecommunications usage.

The Telecommunications Asset Tool (TAT), will be used to review employee use of office telephones and calling card records. TAT replaces the Billing Analysis Reporting Tool (BART) that has been used to review personal use of office telephones and calling cards to prevent waste, fraud, and abuse of government telephone services since the early 1990s.

A major purpose of the TAT is to provide a system of checks and balances that directly address the integrity of the data. The call detail data has been derived from Sprint Billing Data received monthly and used to build the call detail database. The new agency-wide TAT review process will concentrate on two areas: (1) potential waste, fraud, and abuse of telecommunications resources; and (2) lost personnel productivity based on excessive time devoted to personal telephone calls. TAT provides data on 100% of call detail records, including long distance telephone calls and phone card calls. TAT is the tool for managing telecommunications expenditures and for identifying waste, fraud, and abuse. Additionally, managers can request ad hoc reports detailing calls from office telephones or calling cards if the manager suspects potential problems related to these services.

Authority: 5 CFR 2635-Standards of Ethical Conduct for Employees of the Executive Branch; 5 CFR 3101-Supplemental Standards of Ethical Conduct for Employees of the Treasury Department, Treasury Supplemental Standards (3101.101–3191, 107, the Treasury Employee Rules of Conduct).

Categories of individuals covered: Employees who have been issued an IRS telephone calling card.

Categories of records covered in the match: Personnel/Payroll and Telephone Call Detail records from the following Privacy Act systems of records.

Treasury/IRS36.003 General Personnel and Payroll Data

CADS data to be used in the matching program:

Standard Employee Identifier (SEID),
Employee Name, Manager Name,
Organizational symbols,
Building/Room Number,
Business office Address,
Employee telephone number.

Treasury/IRS36.003 General Personnel and Payroll Data

CCOS data to be used in the matching program:

Standard Employee Identifier (SEID),
Employee Name, Manager Name,
Organizational symbols,
Building/Room Number,
Business office Address,
Calling card number.

Treasury .010 Telephone Call Detail Records

TAT data to be used in the matching program:
Date,
Time,
Originating telephone number,
Originating Access,
Terminating telephone number,
Terminating City/State,
Terminating Access,
Minutes,
Conference call cancellation charge,
Calling card number,
Tax and Total Cost.

The telephone number or calling card data from the TAT process will be matched with CADS or CCOS database to identify the employee assigned to the respective telephone number/calling card and identify the manager to whom the employee is assigned.

Once the manager is identified, the respective/applicable call detail report(s) are generated.

Ninety days prior to expiration of the agreement, the parties to the agreement may request a 12-month extension in accordance with 5 U.S.C. 552a(o).

Dated: August 27, 2003.

W. Earl Wright, Jr.,

Acting Chief Management and Administrative Programs Officer.

[FR Doc. 03–22515 Filed 9–3–03; 8:45 am]

BILLING CODE 4830–01–P

Federal Register

Thursday,
September 4, 2003

Part II

Department of Health and Human Services

Health Resources and Services Administration

Availability of Funds Announced in the HRSA Preview; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds Announced in the HRSA Preview

AGENCY: Health Resources and Services Administration.

ACTION: General notice.

SUMMARY: Health Resources and Services Administration (HRSA) announces the availability of funds in the HRSA Preview for Summer 2003. This edition of the HRSA Preview is a comprehensive review of HRSA's Fiscal Year 2004 competitive grant programs.

The purpose of the HRSA Preview is to provide the general public with a single source of program and application information related to the Agency's competitive grant offerings. The HRSA Preview is designed to replace the multiple **Federal Register** notices that traditionally advertised the availability of HRSA's discretionary funds for its various programs. It should be noted that additional program initiatives responsive to new or emerging issues in the health care area and unanticipated at the time of publication of the HRSA Preview may be announced through the **Federal Register** and the HRSA Web site, *http://www.hrsa.gov/grants.* This notice does not change requirements appearing elsewhere in the **Federal Register**.

This notice contains nearly all of the content of the HRSA Preview. The HRSA Preview contains a description of competitive and other grant programs scheduled for awards in Fiscal Year 2004, and includes instructions on how to contact the Agency for information and receive application kits for all programs. Specifically, the following information is included in the HRSA Preview: (1) Program announcement number (2) program announcement title; (3) program announcement code; (4) legislative authority; (5) Catalog of Federal Domestic Assistance (CFDA) identification number; (6) purpose; (7) eligibility; (8) funding priorities and/or preferences; (9) estimated dollar amount of competition; (10) estimated number of awards; (11) estimated project period; (12) application availability date; (13) letter of intent deadline (if any); (14) application deadline; (15) projected award date; and (16) programmatic contact, with telephone and e-mail addresses. Certain other information, including how to obtain and use the HRSA Preview and grant terminology, can also be found in the HRSA Preview.

Dated: August 27, 2003.

Elizabeth M. Duke,

Administrator.

This notice describes funding for the following HRSA discretionary authorities and programs (receipt deadlines are also provided):

Health Professions Programs:	
HRSA–04–004 Centers Of Excellence (COES)	01/26/2004
HRSA–04–009 Health Careers Opportunity Program (HCOP)	02/20/2004
HRSA–04–010 Advanced Education Nursing Grants (AENP)	11/25/2003
HRSA–04–011 Nursing Workforce Diversity Grants (NWD)	12/05/2003
HRSA–04–012 Advanced Education Nursing Traineeships (AENT)	11/14/2003
HRSA–04–013 Nurse Anesthetist Traineeships (NATR)	11/14/2003
HRSA–04–014 Nursing Education, Practice and Retention Grants (NEPR)	12/15/2003
HRSA–04–015 Training In Primary Care Medicine And Dentistry (DRPC)	11/06/2003
HRSA–04–016 Podiatric Residency Training In Primary Care (PODPC)	10/20/2003
HRSA–04–017 Graduate Psychology Education Program (GPEP)	12/12/2003
HRSA–04–018 Basic/Core Area Health Education Centers (BAHEC)	02/03/2004
HRSA–04–019 Model State-Supported Area Health Education Centers (MAHEC)	02/03/2004
HRSA–04–020 Grants To States For Loan Repayment Programs (SLRP)	04/01/2004
HRSA–04–021 Bioterrorism Training And Curriculum Development Program (BTCDP)	03/05/2004
HRSA–04–022 Preventive Medicine Residency Program (PMRP)	10/16/2003
HRSA–04–023 Geriatric Education Centers Program (GECS)	01/13/2004
HRSA–04–024 Geriatric Academic Career Awards (GACA)	02/02/2004
HRSA–04–025 Geriatric Training For Physicians, Dentists, And Behavioral And Mental Health Professionals (GTPD)	12/15/2003
HRSA–04–026 Quentin N. Burdick Program For Rural Interdisciplinary Training (QBRH)	01/13/2004
HRSA–04–027 Allied Health Projects (AHPQ)	01/13/2004
Special Programs—Loan Repayments and Scholarships:	
See individual announcements for Web sites and application materials.	
National Health Service Corps Loan Repayment Program (NHSCL)	03/26/2004
National Health Service Corps Scholarship Program (NHSC)	03/26/2004
Nursing Scholarship Program (NSP)	05/31/2004
Nursing Education Loan Repayment Program (NELRP)	02/18/2004
Scholarships For Disadvantaged Students Program (SDS)	12/17/2003
Faculty Loan Repayment Program (FLRP)	05/28/2004
Primary Health Care Programs:	
HRSA–04–028 Radiation Exposure Screening And Education Program (RESEP)	04/05/2004
HRSA–04–029 Integrated Services Development Initiative (ISDI)	04/05/2004
HRSA–04–030 Community And Migrant Health Centers (CMHS)	12/01/2003 05/03/2004
HRSA–04–031 Health Care For The Homeless (HCH)	12/01/2003 05/03/2004
HRSA–04–032 Public Housing Primary Care (PHPC)	12/01/2003 05/03/2004
HRSA–04–033 School Based Health Centers (SBHC)	12/01/2003 05/03/2004
HRSA–04–034 New Delivery Sites And New Starts In Programs Funded Under The Health Centers Consolidation Act (NDSNS)	12/01/2003 05/17/2004
HRSA–04–035 Increase In Medical Capacity In Programs Funded Under The Health Centers Consolidation Act Of 1996 (IMCHC)	02/02/2004
HRSA–04–036 National Health Center Technical Assistance Cooperative Agreements (NAT)	04/05/2004

HRSA–04–037 Increase In Mental Health And Substance Abuse, Oral Health, And Care Management, In Programs Funded Under The Health Centers Consolidation Act Of 1996 (IMHSA)	01/05/2004
HRSA–04–038 Healthy Communities Access Program (HCAP)	04/05/2004
HRSA–04–039 Black Lung Clinics Program (BLCP)	03/01/2004
HRSA–04–040 State Primary Care Associations Supplemental Funding For Managing Health Center Growth And Quality (PCA)	01/05/2004
HRSA–04–041 Operational Health Center Networks (OHCN)	03/08/2004
HIV/AIDS Programs:	
HRSA–04–042 Special Projects Of National Significance (SPNS)	03/22/2004
HRSA–04–043 Title III: Early Intervention Services Capacity Development Grants (EISCDG)	03/05/2004
HRSA–04–044 National HIV Training And Technical Assistance Cooperative Agreements (NHIV)	12/19/2003
HRSA–04–046 Telehealth Resource Centers Cooperative Agreement Program (TRCCP)	03/22/2004
HRSA–04–047 Title IV: Grants For Coordinated HIV Services And Access To Research For Women, Infants, Children, And Youth (CSWICY)	01/05/2004
HRSA–04–048 Title IV: Grants For Coordinated HIV Services And Access To Research For Women, Infants, Children, And Youth: Youth Services Initiative (CSWICY: YSI)	04/01/2004
HRSA–04–005 Title III: Categorical Grant Program To Provide Outpatient Early Intervention Services With Respect To HIV Disease (EISEGA)	12/22/2003 10/15/2004
HRSA–04–049 Title III: Early Intervention Services Planning Grants (EISPG)	03/05/2004
HRSA–04–050 HIV Emergency Relief Grant Program For Eligible Metropolitan Areas (EMAS)	10/01/2003
HRSA–04–008 AETC National Evaluation Center (NECCA)	10/06/2003
Maternal and Child Health Programs:	
HRSA–04–051 Maternal And Child Health Research Program (MCHR)	03/01/2004 08/15/2004
HRSA–04–052 Maternal And Child Health Minority Research Infrastructure Support Program (RMIN)	03/26/2004
HRSA–04–053 Long Term MCH Training (MCHLT)	11/20/2003
HRSA–04–054 Continuing Education And Development (CED)	01/15/2004
HRSA–04–055 Genetic Services Projects (GSP)	01/09/2004
HRSA–04–056 Medical Home For Children With Special Health Care Needs	01/15/2004
HRSA–04–057 Adolescent Health Resource (AHR) Cooperative Agreements	01/05/2004
HRSA–04–058 National Center On School-Based Health Care (NSBHC)	01/05/2004
HRSA–04–059 Integrated Health And Behavioral Health Care For Children, Adolescents And Their Families (IHBHP)	02/02/2004
HRSA–04–060 Breastfeeding Promotion In Physician's Office Practices (BPPOP)	04/01/2004
HRSA–04–061 Partnership For Information And Communication (PIC) Cooperative Agreement Program	11/17/2003
HRSA–04–062 Healthy Tomorrows Partnership For Children Program (HTPC)	10/29/2003
HRSA–04–063 Women's Health	02/02/2004
HRSA–05–001 Maternal And Child Health (MCH) Library Services	07/19/2004
HRSA–04–006 Emergency Medical Services For Children (EMSC) Demonstration Grant Program	10/31/2003
HRSA–04–064 Traumatic Brain Injury (TBI) Program—State Grants	11/17/2003
HRSA–04–065 Poison Control Centers Stabilization And Enhancement Grant Program, Financial Stabilization Grants (PCCFS)	03/01/2004
HRSA–04–066 Healthy Start Program: Eliminating Disparities In Perinatal Health	12/01/2003
Rural Health Policy Programs:	
HRSA–04–001 Rural Health Care Services Outreach Grant Program (RHOGP)	09/12/2003 09/13/2004
HRSA–04–002 Rural Health Network Development Grant Program (RHNGP)	09/26/2003 09/20/2004
HRSA–04–003 Rural Health Network Development Planning Grant Program (RHNPGP)	09/10/2003 09/08/2004
HRSA–04–067 Delta State Rural Development Network Grant Program (DELTA)	05/01/2004
HRSA–04–068 Small Rural Hospital Improvement Program (SHIP)	04/28/2004
HRSA–04–069 Grants For Policy-Oriented Rural Health Services Research (GPOR)	05/03/2004
HRSA–04–070 Rural Health Research Grant Program—Cooperative Agreement (CARHR)	03/15/2004
Special Programs—Grants:	
HRSA–04–071 Regional Collaborative For The Pacific Basin (RCPB)	07/15/2004
HRSA–04–072 Social And Behavioral Interventions To Increase Organ And Tissue Donation (SBITD)	03/05/2004
HRSA–04–073 Clinical Interventions To Increase Organ Procurement (CIOP)	03/05/2004
HRSA–04–074 Best Practices To Increase Organ Donation (HIP)	04/01/2004

How To Use and Obtain Copies of the HRSA Preview

It is recommended that you read the introductory materials, terminology section, and individual program category descriptions before contacting the toll-free number: 1–877–HRSA–123 (1–877–477–2123), M–F 8:30 a.m. to 5 p.m. EST. Likewise, we urge applicants to fully assess their eligibility for grants before beginning to apply for a grant on-line or requesting a grant application kit. As a general rule, no more than one kit per category will be mailed to applicants.

To Obtain a Copy of the HRSA Preview

This HRSA Preview will be available in booklet form in the near future. To have your name and address added to or deleted from the HRSA Preview mailing list, call the toll free number above or send a message by e-mail to *hrsagac@hrsa.gov.*

To Obtain Application Materials

You may apply for HRSA grants on-line or on paper. HRSA encourages you to apply on-line. HRSA's on-line application system is designed to maximize data accuracy and speed processing. Multiple individuals may register and collaborate on applications, and institutional data is stored for you to re-use on future applications.

To apply on-line, go to *http://www.hrsa.gov/grants.* On that Web page, you will find basic instructions and

links to the HRSA on-line application system, where you will be able to register, download application guidance for specific programs and submit your grant application.

Please submit your application early. Applications submitted after program's deadline will not be accepted.

To obtain paper application materials, determine which kit(s) you wish to receive and call 1–877–477–2123 to be placed on the mailing list. Be sure to provide the information specialist with the Program Announcement Number, Program Announcement Code and the title of the grant program. You may also request application kits using the e-mail address above. Application kits are generally available 60 days prior to application deadline. If kits are available earlier, they will be mailed immediately. The guidance contained in the various kits contains detailed instructions, background on the grant program, and other essential information, such as the applicability of Executive Order 12372 and 45 CFR Part 100, and additional information pertinent to the intergovernmental review process, as appropriate.

Grant Terminology

Application Deadlines

Applications will be considered on time if they are received on or before the established deadline. Applicants should check the application guidance material or the HRSA-GRANTS homepage for deadline changes. Applications sent to any address other than that specified in the application guidance are subject to being returned.

Authorization

The citation of the law authorizing the various grant programs is provided immediately following the title of the programs.

CFDA Number

The Catalog of Federal Domestic Assistance (CFDA) is a Government-wide compendium of Federal programs, projects, services, and activities that provide assistance. Programs listed therein are given a CFDA Number.

Cooperative Agreement

A financial assistance mechanism (grant) used when substantial Federal programmatic involvement with the recipient is anticipated by the funding agency during performance of the project. The nature of that involvement will always be specified in the offering or application guidance materials.

DUNS Number—New Requirement

Beginning October 1, 2003, applicants will be required to have a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge.

Although obtaining a DUNS number is not required for applications submitted in response to announcements with deadlines on or before September 30, 2003, regardless of when the award is made, or for other types of applications submitted before September 30 (*e.g.*, unsolicited applications), applicants are encouraged to obtain a DUNS number now if you believe you will be submitting an application(s) to any Federal agency on or after October 1, 2003. Proactively obtaining a DUNS number at the current time will facilitate the receipt and acceptance of applications after September 2003.

To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711.

Eligibility

The status an entity must possess to be considered for a grant. Authorizing legislation and programmatic regulations specify eligibility for individual grant programs, and eligibility may be further restricted for programmatic reasons. In general, assistance is provided to nonprofit organizations and institutions, including faith-based and community-based entities, State and local governments, their agencies, including an Indian Tribe or tribal organization, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Estimated Amount of Competition

The funding level listed is provided only as an estimate, and is subject to the availability of funds, Congressional action, and changing program priorities.

Funding Priorities and/or Preferences

Funding preferences, priorities, and special considerations may come from legislation, regulations, or HRSA program leadership decisions. They are not the same as review criteria. Funding preferences are any objective factors that would be used to place a grant application ahead of others without the preference on a list of applicants recommended for funding by a review committee. Some programs give preference to organizations that have specific capabilities such as telemedicine networking, or have established relationships with managed care organizations. Funding priorities are factors that cause a grant application to receive a fixed amount of extra rating points—which may similarly affect the order of applicants on a funding list. Special considerations are other factors considered in making funding decisions that are neither review criteria, preferences, nor priorities, *e.g.*, ensuring that there is an equitable geographic distribution of grant recipients, or meeting requirements for urban and rural proportions.

Letter of Intent

To help in planning the application review process, many HRSA programs request a letter of intent from the applicant in advance of the application deadline. Letters of intent are neither binding nor mandatory. Details on where to send letters can be found in the guidance materials contained in the application kit.

Matching Requirements

Several HRSA programs require a matching amount, or percentage of the total project support, to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories. Also, matching or other cost-sharing requirements may be administratively required by the awarding office. Such requirements are set forth in the application kit.

Program Announcement Code

The program announcement code is a unique identifier for each program funded by HRSA. The three-five character acronyms are located in parentheses immediately at the end of each program title and must be used to request application materials either from the HRSA Grants Application Center or online at *hrsagac@hrsa.gov.*

Be sure to use the program announcement number, program announcement code and the title of the grant program when requesting an application kit.

Program Announcement Number

A unique program announcement (HRSA) number is located at the beginning of each program announcement in the HRSA Preview and **Federal Register** notices and includes the Fiscal Year and sequence number for announcement; for example, HRSA 04–001. This number is used with the program title and program

announcement code to order application materials.

Project Period

The project period is the total time for which support of a discretionary project has been programmatically approved. The project period usually consists of a series of budget periods of one-year duration. Once approved through initial review, continuation of each successive budget period is subject to satisfactory performance, availability of funds, and program priorities.

Review Criteria

The following are generic review criteria applicable to HRSA programs:

(1) *Need*—The extent to which the application describes the problem and associated contributing factors to the problem.

(2) *Response*—The extent to which the proposed project responds to the ''Purpose'' included in the program description. The clarity of the proposed goals and objectives and their relationship to the identified project. The extent to which the activities (scientific or other) described in the application are capable of addressing the problem and attaining the project objectives.

(3) *Evaluative Measures*—The effectiveness of the method proposed to monitor and evaluate the project results. Evaluative measures must be able to assess (1) to what extent the program objectives have been met and (2) to what extent these can be attributed to the project.

(4) *Impact*—The extent and effectiveness of plans for dissemination of project results, and/or the extent to which project results may be national in scope and/or the degree to which a community is impacted by delivery of health services, and/or the degree to which the project activities are replicable, and/or the sustainability of the program beyond Federal funding.

(5) *Resources/Capabilities*—The extent to which project personnel are qualified by training and/or experience to implement and carry out the project. The capabilities of the applicant organization, and quality and availability of facilities and personnel to fulfill the needs and requirements of the proposed project. For competing continuations, past performance will also be considered.

(6) *Support Requested*—The reasonableness of the proposed budget in relation to the objectives, the complexity of the activities, and the anticipated results.

(7) *Specific Program Criteria*—Additional specific program criteria, if any, are included in the program description and in the individual guidance material provided with the application kit. The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria, as they are the basis upon which the reviewers will judge their applications.

Technical Assistance

A contact person is listed for each program and his/her e-mail address and telephone number provided. Some programs have scheduled workshops and conference calls. If you have questions concerning individual programs or the availability of technical assistance, please contact the person listed. Also check your application materials and the HRSA Web site at *http://www.hrsa.gov/* for the latest technical assistance information.

Frequently Asked Questions

1. Where do I submit grant applications?

The address for submitting your grant application will be shown in the guidance document included in the application kit.

2. How do I learn more about a particular grant program?

If you want to know more about a program before you request an application kit, an e-mail/telephone contact is listed. This contact person can provide information concerning the specific program's purpose, scope and goals, and eligibility criteria. Usually, you will be encouraged to request the application kit so that you will have clear, comprehensive, and accurate information available to you. When requesting application materials, you must state the program announcement number, the program code and title of the program. The application kit lists telephone numbers for a program expert and a grants management specialist who will provide information about your program of interest if you are unable to find the information within the written materials provided.

In general, the program contact person provides information about the specific grant offering and its purpose, and the grants management specialist provides information about the grant mechanism and business matters, though their responsibilities often overlap.

Information specialists at the toll-free number provide only basic information and administer mailings.

3. The dates listed in the HRSA Preview and the dates in the application kit do not agree. How do I know which is correct?

HRSA Preview dates for application kit availability and application receipt deadlines are based upon the best known information at the time of publication, often nine months in advance of the competitive cycle. Occasionally, the grant cycle does not begin as projected and dates must be adjusted. The deadline date stated in your application kit is generally correct. If the application kit has been made available and subsequently the date changes, notification of the change will be mailed to known recipients of the application kit, and also posted on the HRSA home page.

4. Are programs announced in the HRSA Preview ever cancelled?

Infrequently, announced programs may be withdrawn from competition. If this occurs, a cancellation notice will be provided through the HRSA Preview at the HRSA homepage at *http://www.hrsa.dhhs.gov.* If practicable, an attempt will be made to notify those who have requested a kit for the cancelled program by mail.

HRSA Progam Competitions

Health Professions Programs

Note: Programs listed with an asterisk (*) are not included in the President's budget for FY 2004. They are included for planning purposes only. Potential applicants should consider these announcements provisional until final Congressional action on appropriations is taken.

HRSA–04–004 Centers of Excellence (COES) *

CFDA: 93.157.

Legislative Authority: Public Health Service Act, Title VII, Section 736, 42 U.S.C. 293.

Purpose: The goal of the Centers of Excellence (COE) is to assist eligible schools in supporting programs of excellence in health professions education for underrepresented minority individuals. The grantee is required to use the funds awarded: (1) To establish, strengthen, or expand programs to enhance the academic performance of the underrepresented minority students attending the school; (2) to improve the capacity of such schools to train, recruit, and retain underrepresented minority faculty including the payment of stipends and fellowships; (3) to carry out activities to improve the information resources, clinical education, curricula, and cultural competence of the graduates of the schools as it relates to minority health issues; (4) to facilitate faculty and student research on health issues,

particularly affecting underrepresented minority groups; including research on issues relating to the delivery of health care; (5) to carry out a program to train students of the school in providing health services to a significant number of underrepresented minority individuals through training provided to such students at community based health facilities that provide such health services and are located at a site remote from the main site of the teaching facilities of the school; (6) to provide stipends as appropriate; and (7) to develop a large competitive applicant pool through linkages with institutions of higher education, local school districts, and other community based entities and establish an educational pipeline for health professions careers.

* This program is not included in the President's budget for 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action is taken. Updated information will be available on the HRSA Web site.

Eligibility: Eligible applicants are accredited schools of allopathic medicine, osteopathic medicine, dentistry, pharmacy, graduate programs in behavioral or mental health, or other public and non profit health or educational entities, including faith based organizations, and community based organizations, that meet the requirements of section 736(c) of the Public Health Service Act. Historically Black Colleges and Universities, as described in section 736(c)(2)(A) of the Public Health Service Act and which received contracts under former section 788B of the Public Health Service Act (Advanced Financial Distress Assistance) for fiscal year 1987 may apply for Centers of Excellence (COE) grants under section 736(c)(2) of the Public Health Service Act.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $6,118,398.

Estimated Number of Awards: 10.

Estimated Project Period: 3 years.

HRSA–04–004 Centers of Excellence (COE) *

Application Availability Date: September 12, 2003.

Application Deadline: January 26, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Daniel Reed.

Program Contact Phone: (301) 443–2982.

Program Contact E-mail: dreed1@hrsa.gov.

HRSA–04–009 Health Careers Opportunity Program (HCOP) *

CFDA: 93.822.

Legislative Authority: Public Health Service Act, Title VII, Section 739, 42 U.S.C. 293c.

Purpose: The goal of the Health Careers Opportunity Program (HCOP) is to assist individuals from disadvantaged backgrounds to undertake education to enter a health profession. The HCOP program works to build diversity in the health fields by providing students from disadvantaged backgrounds an opportunity to develop the skills needed to successfully compete, enter, and graduate from health professions schools. HCOP funds may be used for: (1) Identifying, recruiting, and selecting individuals from disadvantaged backgrounds for education and training in a health profession; (2) facilitating the entry of such individuals into such a school; (3) providing counseling, mentoring, or other services designed to assist such individuals to complete successfully their education at such a school; (4) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education and health research training designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education; (5) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program; (6) paying scholarships, as the Secretary may determine, for such individuals for any period of health professions education at a health professions school; (7) paying such stipends for such individuals for any period of education in student-enhancement programs (other than regular courses), except that such a stipend may not be provided to an individual for more than 12 months; (8) carrying out programs under which such individuals gain experience regarding a career in a field of primary health care through working at facilities of public or private nonprofit community-based providers of primary health services; (9) conducting activities to develop a larger and more competitive applicant pool through partnerships with institutions of higher education, school districts, and other community-based entities.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible applicants include schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine, public or non-profit private schools that offer graduate programs in behavioral and mental health, programs for the training of physician assistants, and other public or private nonprofit health or educational entities, including faith-based and community-based organizations.

Review Ccriteria: Final review criteria are included in the application kit.

Funding Preferences: Section 739(b) of the Public Health Service Act provides a funding preference for programs that involve a comprehensive approach by several public or nonprofit private health or educational entities to establish, enhance and expand educational programs that will result in the development of a competitive applicant pool of individuals from disadvantaged backgrounds who desire to pursue health professions careers.

Estimated Amount of This Competition: $14,152,621.

Estimated Number of Awards: 35.

Estimated Project Period: 3 years.

HRSA–04–009 Health Careers Opportunity Program (HCOP) *

Application Availability Date: September 12, 2003.

Application Deadline: February 20, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Karen L. Smith.

Program Contact Phone: (301) 443–1348.

Program Contact E-mail: Ksmith1@hrsa.gov.

HRSA–04–010 Advanced Education Nursing Program (AENP)

CFDA: 93.247.

Legislative Authority: Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose: Grants are awarded to eligible institutions for projects that support the enhancement of advanced nursing education and practice. For the purpose of this section, advanced education nurses means individuals trained in advanced degree programs including individuals in combined RN to Master's degree programs, post-nursing Master's certificate programs, or in the case of nurse-midwives, in

certificate programs in existence on November 12, 1998, to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators or public health nurses.

Eligibility: Eligible applicants are schools of nursing, academic health centers, other appropriate public or private nonprofit entities, and for-profit entities capable of carrying out the legislative purpose.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided by section 805 of the Public Health Service Act, preference will be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in state or local health departments.

Estimated Amount of This Competition: $2,091,892.

Estimated Number of Awards: 8.

Estimated Project Period: 3 years.

HRSA–04–010 Advanced Education Nursing Program (AENP)

Application Availability Date: September 15, 2003.

Application Deadline: November 25, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Irene Sandvold.

Program Contact Phone: (301) 443–2295.

Program Contact E-mail: isandvold@hrsa.gov.

HRSA–04–011 Nursing Workforce Diversity Grants (NWD)

CFDA: 93.178.

Legislative Authority: Public Health Service Act, Title VIII, Section 821, 42 U.S.C. 296m.

Purpose: Grants are awarded to increase nursing education opportunities for individuals from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among registered nurses) by providing student scholarships or stipends, pre-entry preparation, and retention activities.

Eligibility: Eligible applicants are schools of nursing, nursing centers, academic health centers, State or local governments, an Indian Tribe or Tribal organization, other public or private nonprofit entities, including faith-based organizations and community-based organizations, and for-profit entities capable of carrying out the legislative purpose.

Review Criteria: Final review criteria are included in the application kit.

Funding preferences: As provided in section 805 of the Public Health Service Act, as amended, preference will be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in State or local health departments.

Estimated Amount of This Competition: $11,396,000.

Estimated Number of Awards: 39.

Estimated Project Period: 3 years.

HRSA–04–011 Nursing Workforce Diversity Grants (NWD)

Application Availability Date: September 15, 2003.

Application Deadline: December 5, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Ernell Spratley.

Program Contact Phone: 301–443–1915.

Program Contact E-mail: espratley@hrsa.gov.

HRSA–04–012 Advanced Education Nursing Traineeships (AENT)

CFDA: 93.358.

Legislative Authority: Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose: Grants are awarded to eligible institutions to meet the cost of traineeships for individuals in advanced nursing education programs. Traineeships are awarded to individuals by participating educational institutions offering Master's and doctoral degree programs, combined RN to Master's degree programs, post-nursing Master's certificate programs, or in the case of nurse midwives, certificate programs in existence on November 12, 1998 to serve as nurse practitioners, clinical nurse specialists, nurse midwives, nurse anesthetists, nurse educators, nurse administrators or public health nurses. The traineeship program is a formula program and all eligible schools will receive awards.

Eligibility: Eligible applicants are schools of nursing, academic health centers, other appropriate public or private nonprofit entities, and for-profit entities capable of carrying out the legislative purpose.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations or help meet public health nursing needs in State or local health departments.

Special Consideration: A statutory special consideration, as provided for in section 811(f)(3) of the PHS Act, will be given to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in health professional shortage areas designated under section 332 of the PHS Act.

Estimated Amount of This Competition: $4,800,000.

Estimated Number of Awards: 335.

Estimated Project Period: 1 year.

HRSA–04–012 Advanced Education Nursing Traineeships (AENT)

Application Availability Date: September 12, 2003.

Application Deadline: November 14, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Karen D. Breeden.

Program Contact Phone: (301) 443–5787.

Program Contact E-mail: kbreeden@hrsa.gov.

HRSA–04–013 Nurse Anesthetist Traineeships (NATR)

CFDA: 93.124.

Legislative Authority: Public Health Service Act, Title VIII, Section 811, 42 U.S.C. 296j.

Purpose: Grants are awarded to eligible institutions for projects that support traineeships for licensed registered nurses enrolled as full-time students beyond the twelfth month of study in a Master's nurse anesthesia program. The traineeship program is a formula program and all eligible entities will receive awards.

Eligibility: Eligible applicants are schools of nursing, academic health centers, other public and private nonprofit institutions, and for-profit entities capable of carrying out the legislative purpose which provide registered nurses with full-time nurse anesthetist education programs that have pre-accreditation or accreditation status from the American Association of Nurse Anesthetists (AANA) Council on Accreditation of Nurse Anesthesia Educational Programs.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 805 of the Public Health Service Act, preference shall be given to applicants with projects that will substantially benefit rural or underserved populations or help meet public health nursing needs in State or local health departments.

Special Consideration: A statutory special consideration, as provided for in section 811(f)(3) of the PHS Act, will be given to an eligible entity that agrees to expend the award to train advanced education nurses who will practice in

health professional shortage areas designated under section 332 of the PHS Act.

Estimated Amount of This Competition: $500,000.

Estimated Number of Awards: 69.

Estimated Project Period: 1 year.

HRSA–04–013 Nurse Anesthetist Traineeships (NATR)

Application Availability Date: September 12, 2003.

Application Deadline: November 14, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Karen D. Breeden.

Program Contact Phone: (301) 443–5787.

Program Contact E-mail: kbreeden@hrsa.gov.

HRSA–04–014 Nursing Education, Practice and Retention Grants (NEPR)

CFDA: 93.359.

Legislative Authority: Public Health Service Act, Title VIII, Section 831, 42 U.S.C. 296p.

Purpose: Grants are awarded to eligible institutions for projects to strengthen and enhance the capacity for nurse education, practice and retention to address the nursing shortage. Education priority areas are: (1) Expanding enrollment in baccalaureate nursing programs; (2) developing and implementing internship and residency programs to encourage mentoring and the development of specialties; (3) providing education in new technologies, including distance learning methodologies. Practice priority areas are: (1) Establishing or expanding nursing proactive arrangements in non-institutional settings to demonstrate methods to improve access to primary health care in medically underserved communities; (2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, the homeless, and victims of domestic violence; (3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; (4) developing cultural competencies among nurses. Retention priority areas are: (1) Career ladder programs which: (A) Promote career advancement for nursing personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals to become professional nurses, advanced education nurses, licensed practical nurses, certified nurse assistants, and home health aides; and (B) assist individuals in obtaining education and training required to enter the nursing profession and advance within such profession, such as by providing career counseling and mentoring; or (2) enhancing patient care delivery systems through improving the retention of nurses and enhancing patient care that is directly related to nursing activities by enhancing collaboration and communication among nurses and other health care professionals, and by promoting nurse involvement in the organizational and clinical decision making processes of a health care facility.

Eligibility: Eligible applicants for the purpose to expand enrollment in baccalaureate nursing programs are collegiate schools of nursing. Eligible entities for all other purposes are: Schools of nursing, health care facilities, or a partnership of such a school and facility, nursing centers, academic health centers, State or local governments, an Indian Tribe or Tribal organization, other public or private non-profit entities including faith-based organizations and community-based organizations, and for-profit entities capable of carrying out the legislative purpose.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in Section 805 of the Public Health Service Act, as amended, preference will be given to applicants with projects that will substantially benefit rural or underserved populations, or help meet public health nursing needs in state or local health departments. For purposes of any amount of funds appropriated to carry out Section 831 for fiscal year 2003, 2004, or 2005 that is in excess of the amount of funds appropriated to carry out this section for fiscal year 2002, preference will be given to awarding grants under subsections (a)(2) Developing and implementing internship and residency programs to encourage mentoring and development of specialties, and (c) Retention Priority grants for Career Ladder Programs and for Enhancing Patient Care Delivery Systems.

Estimated Amount of This Competition: $3,058,400.

Estimated Number of Awards: 11.

Estimated Project Period: 2 to 5 years.

HRSA–04–014 Nursing Education, Practice and Retention Grants (NEPR)

Application Availability Date: September 15, 2003.

Application Deadline: December 15, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Madeline Turkeltaub.

Program Contact Phone: 301–443–6193.

Program Contact E-mail: mturkeltaub@hrsa.gov.

HRSA–04–015 Training in Primary Care Medicine and Dentistry (DRPC) *

CFDA: 93.884.

Legislative Authority: Public Health Service Act, Title VII, Section 747, 42 U.S.C. 293k.

Purpose: Grants are awarded for any single purpose or combination of the following purposes: (1) Residency Training in Primary Care—to plan, develop, and operate or participate (including provision of financial assistance) in approved residency programs in family medicine, general internal medicine and/or general pediatrics; (2) Faculty Development in Primary Care—to plan, develop, and operate (including provision of financial assistance) programs for the training of physicians who plan to teach in family medicine (including geriatrics), general internal medicine and/or general pediatrics training programs; (3) Predoctoral Training in Primary Care—to plan, develop, and operate or participate (including provision of financial assistance) in predoctoral programs in family medicine, general internal medicine and/or general pediatrics; (4) Academic Administrative Units—to meet the costs of projects to establish, maintain or improve academic administrative units to provide clinical instruction in family medicine, general internal medicine and/or general pediatrics; (5) Physician Assistant Training—to meet the costs of projects to plan, develop and operate or maintain approved programs, as defined in section 799B, for the training of physician assistants, and for the training of individuals who will teach in programs to provide such training; (6) General and Pediatric Dentistry—to meet the costs of planning, developing, or operating approved residency programs of general or pediatric dentistry, including providing financial assistance to the trainees in these programs.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: For program purposes (1), (2), and (5) public or nonprofit private hospitals, accredited schools of

medicine or osteopathic medicine, or public or private nonprofit entities are eligible to apply.

For program purposes (3) and (4) public or nonprofit private accredited schools of allopathic or osteopathic medicine are eligible to apply.

For program purpose (6) entities that have programs in accredited dental schools, approved residency programs in the pediatric or general practice of dentistry, approved advanced education programs in the pediatric or general practice of dentistry, or approved residency programs in pediatric dentistry are eligible to apply.

For all grant program purposes (1) through (6), nonprofit entities, including faith-based organizations and community-based organizations, that meet other eligibility requirements are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: In accordance with Section 747(c)(1) of the Public Health Service Act, for program purposes (1) through (6), a funding priority will be given to approved applicants that have a record of training the greatest percentage of providers or that have demonstrated significant improvements in the percentage of providers who enter and remain in primary care practice or general or pediatric dentistry.

In accordance with Section 747(c)(2) of the Public Health Service Act, for program purposes (1) through (6), a funding priority will be given to approved applicants that have a record of training individuals who are from disadvantaged backgrounds (including racial and ethnic minorities underrepresented among primary care practice or general or pediatric dentistry).

In accordance with Section 747(b)(3) of the Public Health Service Act, for program purpose (4), a funding priority will be given to approved applicants that propose a collaborative project between departments of primary care medicines.

Funding Preferences: As provided in section 791(a) of the Public Health Service Act, for purposes (1) through (6), preference will be given to any approved applicant that: (A) has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will be applied to only those applications that rank above the 20th percentile of the applications recommended for approval by the peer review group. So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act concerning underserved communities and populations.

Special Considerations: In accordance with Section 747(c)(3) of the Public Health Service Act, for grant program purposes (1) through (6), special consideration will be given to approved applicants proposing projects to prepare practitioners to care for underserved populations and other high risk groups such as the elderly, individuals with HIV–AIDS, substance abusers, homeless and victims of domestic violence.

Estimated Amount of This Competition: $31,000,000.

Estimated Number of Awards: 160.

Estimated Project Period: 3 years.

HRSA–04–015 Training in Primary Care Medicine and Dentistry (DRPC) *

Application Availability Date: September 2, 2003.

Letter of Intent Deadline: September 12, 2003.

Application Deadline: November 6, 2003.

Projected Award Date: July 1, 2004.

Regional Contact Information for Training in Primary Care Medicine and Dentistry (DRPC) Grant Program

Program Contact Person:

Region 1 (CT, ME, MA, NH, RI, VT)—Shane Rogers
Region 2 (NY, NJ, PR, Virgin Islands)—Brenda Williamson
Region 3 (DE, MD, PA, VA, WV, DC)—Elsie Quinones
Region 4 (AL, FL, GA, KY, MS, NC, SC, TN)—Marcia Britt
Region 5 (IL, IN, MI, OH, WI, MN)—Martha Evans
Region 6 (AR, NM, OK, TX, LA)—Ellie Grant
Region 7 (IA, KS, MO, NE)—Shelby Biedenkapp
Region 8 (CO, MT, UT, ND, SD, WY)—Shelby Biedenkapp
Region 9 (AZ, CA, HI, NV, Pacific Basin)—Shane Rogers
Region 10 (AK, ID, OR, WA)—Shelby Biedenkapp
Phone Number: (301)–443–1467.

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Shane Rogers—*srogers@hrsa.gov*
Brenda Williamson—*bwilliamson@hrsa.gov*

HRSA–04–016 Podiatric Residency Training in Primary Care (PODPC) *

CFDA: 93.181.

Legislative Authority: Public Health Service Act, Title VII, Part D, Section 755(b)(2), 42 U.S.C. 294.

Purpose: Grants are awarded to plan and implement projects in preventive and primary care training for podiatric physicians in approved or provisionally approved residency programs that shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible entities are health professions schools, academic health centers, State or local governments, an Indian Tribe or Tribal organization, or other appropriate public or private nonprofit entities. To be eligible, the applicant shall propose a project which is collaborative among two or more disciplines. Nonprofit entities, including faith-based organizations and community-based organizations, that meet other eligibility requirements are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 791(a) of the Public Health Service Act, preference will be given to any approved applicant that: (A) has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will be applied to only those applications that rank above the 20th percentile of the applications recommended for approval by the peer review group. So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act concerning underserved communities and populations.

Estimated Amount of This Competition: $760,000.
Estimated Number of Awards: 4.
Estimated Project Period: 3 years.

HRSA–04–016 Podiatric Residency Training in Primary Care (PODPC) *

Application Availability Date: September 2, 2003.
Application Deadline: October 20, 2003.
Projected Award Date: July 1, 2004.
Program Contact Person: Rebecca Bunnell.
Program Contact Phone: 301–443–6326.
Program Contact E-mail: rbunnell@hrsa.gov.

HRSA–04–017 Graduate Psychology Education Program (GPEP) *

CFDA: 93.191.
Legislative Authority: Public Health Service Act, Title VII, Section 755(b)(1)(J), 42 U.S.C. 294e.
Purpose: The Graduate Psychology Education Program addresses the interrelatedness of behavior and health and the critical need for integrated health care services.

Grants will be awarded to assist eligible entities in meeting the costs to plan, develop, operate, or maintain graduate psychology doctoral, doctoral internship, and doctoral residency programs, accredited by the American Psychological Association (APA). These programs must foster an integrated approach to health care services and address access for underserved populations by training psychologists to work:

- With underserved populations including children, the elderly, victims of abuse, the chronically ill or disabled; and
- In areas of emerging needs.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible entities are accredited health profession schools, universities, and other public or private nonprofit entities. As provided in section 750 of the Public Health Service Act, to be eligible to receive assistance, the applicant must propose to use the grant funds in collaboration with two or more disciplines.
Review Criteria: Final review criteria are included in the application kit.
Funding Preferences: As provided in section 791(a) of the Public Health Service Act, preference will be given to any approved applicant that: (A) has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will be applied to only those applications that rank above the 20th percentile of the applications recommended for approval by the peer review group. So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act concerning underserved communities and populations.
Estimated Amount of This Competition: $3,000,000.
Estimated Number of Awards: 20.
Estimated Project Period: 3 years.

HRSA–04–017 Graduate Psychology Education Program (GPEP) *

Application Availability Date: October 1, 2003.
Application Deadline: December 12, 2003.
Projected Award Date: May 1, 2004.
Program Contact Person: Roger Straw.
Program Contact Phone: 301–443–6326.
Program Contact E-mail: rstraw@hrsa.gov.

HRSA–04–018 Basic/Core Area Health Education Centers (BAHEC) *

CFDA: 93.824.
Legislative Authority: Public Health Service Act, Title VII, Section 751(a)(1), 42 U.S.C. 294a.
Purpose: To improve the distribution, diversity, and quality of health personnel in the health services delivery system by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers, and health careers programs for K–12 students. The Area Health Education Centers (AHEC) program assists schools in the planning, development and operation of AHEC centers to initiate education systems incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC programs and AHEC centers establish a network of community-based training sites to provide educational services to students, faculty and practitioners in underserved areas, and ultimately to improve the delivery of health care in the service area.

- This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Cost Sharing: Awardees must pay not less than 50 percent of the operating costs of the AHEC Program from non-Federal contributions in cash (directly through contributions from State, county or municipal government, an Indian Tribe or Tribal organization or the private sector). These funds must be for the express use of the AHEC Programs and Centers to address AHEC project goals and objectives and not funds designated for other categorical or specific purposes. However, the Secretary may grant a waiver for up to 75 percent of the amount required in the first 3 years in which an awardee receives funds for this program. It is expected that the non-Federal contributions in cash should be equal to the Federal request—that is, a one-to-one match.
Eligibility: Public or private non-profit, accredited schools of medicine and osteopathic medicine and incorporated consortia made up of such schools or the parent institutions of such schools. In States where no AHEC program is in operation (Iowa, Kansas, North Dakota, South Dakota, Rhode Island and Puerto Rico) accredited schools of nursing are eligible.
Review Criteria: Final review criteria are included in the application kit.
Funding Preferences: All applicants have the option to request the general statutory funding preference found in Section 791(a) of the Public Health Service Act. Only data from the applicant/awardee school may be submitted. To be considered for this funding preference, an applicant must request it by either completing the appropriate table, or in the case of a new program, request and submit the appropriate narrative to support the request. For more information on funding preferences, see the Basic/Core AHEC Program Application Kit under General Statutory Funding Preference.
Special Considerations: In accordance with Section 751(a)(1)(A)(iii) of the Public Health Service Act, special consideration will be given to approved applicants who support the Kids Into Health Careers initiative by establishing

linkages with one or more elementary, middle, or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits. For more information, *see: http://www.bhpr.hrsa.gov.*

In accordance with Section 751(a)(1)(A)(vii) of the Public Health Service Act, special consideration will also be given to approved applicants who (a) develop new and innovative approaches to education and training using distance learning methodologies/telehealth, or (b) enhance or expand existing distance learning educational programs to prepare health professionals and health professional students to deliver quality health care in medically underserved communities.

Estimated Amount of This Competition: $8,000,000.

Estimated Number of Awards: 10.

Estimated Project Period: 3 years.

HRSA–04–018 Basic/Core Area Health Education Centers (BAHEC) *

Application Availability Date: September 19, 2003.

Application Deadline: February 3, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Louis D. Coccodrilli.

Marion Aldrich: CT, DC, FL, ME, RI, VA
Jan Clear: CA, CO, HI, IN, KS, MD, MN, NV, OK, OR, WI
Susan Goodman: AZ, KY, MA, MO, NJ, NY, NC, PR, TN, UT
David Hanny: AL, DE, GA, MS, OH, PA, SD, TX
Armando Pollack: AR, IL, NH, ND, VT, WV
Barry Stern: AK, ID, IA, LA, MI, MT, NE, NM, SC, WA, WY

Program Contact Phone: 301–443–6950.

Program Contact E-mail:

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HRSA–04–019 Model State-Supported Area Health Education Centers (MAHEC) *

CFDA: 93.107.

Legislative Authority: Public Health Service Act, Title VII, Section 751(a)(2), U.S.C. 294a.

Purpose: To improve the distribution, diversity, and quality of health personnel in the health services delivery system by encouraging the regionalization of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers, and health careers programs for K–12 students. The Area Health Education Centers (AHEC) program assists schools in the planning, development and operation of AHEC centers to initiate education systems incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC programs and AHEC centers establish a network of community-based training sites to provide educational services to students, faculty and practitioners in underserved areas, and ultimately to improve the delivery of health care in the service area.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Cost Sharing: To be eligible to apply for funding under this authority, an entity must make available (directly through contributions from State, county or municipal government, an Indian Tribe or Tribal organization, or the private sector) recurring non-Federal contributions in cash toward the costs of operating the model AHEC program in an amount not less than 50 percent of this cost. It is expected that the non-Federal contributions in cash should be equal to the Federal request—that is, a one-to-one match. These funds shall be for the express use of the AHEC Programs and Centers to address AHEC project goals and objectives, and not funds designated for other categorical or specific purposes.

Eligibility: An entity that:

- Has previously received funding under Title VII of the Public Health Service Act for a Basic AHEC program;
- Is currently operating an AHEC program; and
- Is no longer receiving funds under the Title VII Basic AHEC authority.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: All applicants have the option to request the general statutory funding preference found in Section 791(a) of the Public Health Service Act. Only data from the applicant/awardee school may be submitted. To be considered for this funding preference, an applicant must request it by either completing the appropriate table, or in the case of a new program, request and submit the appropriate narrative to support the request. For more information on the funding preferences, see the Model State Supported AHEC Program Application Kit under General Statutory Funding Preference.

Special Considerations: In accordance with Section 751(a)(1)(A)(iii) of the Public Health Service Act, special consideration will be given to approved applicants who support the Kids Into Health Careers initiative by establishing linkages with one or more elementary, middle, or high schools with a high percentage of minority and disadvantaged students to: (1) Inform students and parents about health careers and financial aid to encourage interest in health careers; (2) promote rigorous academic course work to prepare for health professions training; or (3) provide support services such as mentoring, tutoring, counseling, after school programs, summer enrichment, and college visits. For more information, *see: http://www.bhpr.hrsa.gov.*

In accordance with Section 751(a)(1)(A)(vii) of the Public Health Service Act, special consideration will also be given to approved applicants who (a) develop new and innovative approaches to education and training using distance learning methodologies/telehealth, or (b) enhance or expand existing distance learning educational programs to prepare health professionals and health professional students to deliver quality health care in medically underserved communities.

Estimated Amount of This Competition: $8,000,000.

Estimated Number of Awards: 15.

Estimated Project Period: 3 years.

HRSA–04–019 Model State-Supported Area Health Education Centers (MAHEC) *

Application Availability Date: September 19, 2003.

Application Deadline: February 3, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Louis D. Coccodrilli.

Marion Aldrich: CT, DC, FL, ME, RI, VA
Jan Clear: CA, CO, HI, IN, KS, MD, MN, NV, OK, OR, WI

Susan Goodman: AZ, KY, MA, MO, NJ, NY, NC, PR, TN, UT
David Hanny: AL, DE, GA, MS, OH, PA, SD, TX
Armando Pollack: AR, IL, NH, ND, VT, WV
Barry Stern: AK, ID, IA, LA, MI, MT, NE, NM, SC, WA, WY

Program Contact Phone: 301–443–6950.

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dhanny@hrsa.gov
apollack@hrsa.gov
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HRSA–04–020 Grants to States for Loan Repayment Programs (SLRP)

CFDA: 93.165.

Legislative Authority: Public Health Service Act, Title III, Section 338I, 42 U.S.C. 254q–1.

Purpose: The Program's purpose is to assist States in operating programs for the repayment of health professionals' educational loans in return for their practice in federally-designated health professional shortage areas. This Program strives to increase the availability of primary health services in underserved areas. Of the estimated 16 awards, 13 are project period renewals and 3 are new awards.

States seeking support must provide assurances that, with respect to costs of making loan repayments under contracts with health professionals, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash in an amount equal to not less than $1 for every $1 of Federal funds provided in grants. In determining the amount of non-Federal contributions in cash that a State has to provide, no Federal funds may be used in the State's match. Further information about this Program is available in the application guidance and can be obtained from the contact person.

Cost Sharing: Yes.

Eligibility: All 50 States are eligible to apply for funding. The Program operated with the grant must be administered by a State agency.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $3,100,000.

Estimated Number of Awards: 16 (13 renewals, 3 new).

Estimated Project Period: 3 years.

HRSA–04–020 Grants to States for Loan Repayment Programs (SLRP)

Application Availability Date: March 2, 2004.

Application Deadline: April 1, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Mildred Brooks-McDow.

Program Contact Phone: 301–443–1648.

Program Contact E-mail: mbrooks-mcdow@hrsa.gov.

HRSA–04–021 Bioterrorism Training and Curriculum Development Program (BTCDP)

CFDA: 93.996.

Legislative Authority: Public Health Service Act, Title III, Section 319F(g), 42 U.S.C. 247d–6.

Purpose: The goal of this program is the development of a health care workforce with the knowledge, skills and ability to: (1) Recognize indications of a terrorist event; (2) meet the acute care needs of patients, including pediatric and other vulnerable populations, in a safe and appropriate manner; (3) participate in a coordinated, multidisciplinary response to terrorist events and other public health emergencies; and (4) rapidly and effectively alert the public health system of such an event at the community, State, and national level. Cooperative agreements will be awarded to assist entities to prepare a workforce of healthcare professionals to address the medical consequences of bio-terrorism and other public health emergency preparedness and response issues, including other forms of terrorism (such as use of chemical, explosive, incendiary, or nuclear agents against the civilian population) natural disasters and catastrophic accidents. Applicants may apply for funding to: (1) Provide continuing education for practicing providers; and/or (2) Enhance curricula in health professions schools. Each area requires a separate application for funds. To apply for funding in both areas, submit two separate applications.

Federal Involvement: The scope of the Federal involvement is included in the application kit.

Eligibility:

Eligible Applicants for Continuing Education: The entities eligible to apply for this program are academic health centers; other public or private nonprofit accredited or licensed health professions schools; other educational entities such as professional organizations and societies; private accrediting organizations; other nonprofit institutions or entities including faith-based organizations and community-based organizations; and multi-state or multi-institutional consortia of various combinations of these eligible entities. In selecting from among the most highly ranked applications, efforts will be made to balance awards to achieve broad professional and geographical distribution.

Eligible Applicants for Curricular Enhancement: The entities eligible to apply for this program are public or private nonprofit accredited or licensed health professions schools; other educational entities such as professional organizations and societies; and other nonprofit institutions or entities including faith-based organizations and community-based organizations.

To apply for funding for curricular enhancement, an entity that is not a health professions school must provide a written agreement with a health professions school to participate in carrying out the project.

In funding approved applications, consideration will be given to balance the distribution of awards across the following types of health professions schools: Medicine, Nursing, Mental Health, Allied Health, and others.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Under Section 319(g)(1)(D) of the Public Health Service Act, special consideration will be given to applicants who (a) develop new and innovative approaches to education and training using distance learning methodologies/telehealth, or (b) enhance or expand existing distance learning educational programs to prepare health professionals and health professional students to deliver quality health care in medically underserved communities.

Estimated Amount of This Competition: $30,000,000.

Estimated Number of Awards: 40.

Estimated Project Period: 2 years.

HRSA–04–021 Bio-Terrorism Training and Curriculum Development Program (BTTCD)

Application Availability Date: December 8, 2004.

Application Deadline: March 5, 2004.

Projected Award Date: September 1, 2004.

Program Contact Persons:
Lynn Rothberg Wegman
Lou Coccodrilli
Marion Aldrich
Susan Goodman
Armando Pollack
Barry Stern

Program Contact Phone: 301–443–1648.

Program Contact E-mail:
Lynn Rothberg Wegman—*lwegman@hrsa.gov*
Lou Coccodrilli—*lcoccodrilli@hrsa.gov*
Marion Aldrich—*maldrich@hrsa.gov*
Susan Goodman—*sgoodman@hrsa.gov*
Armando Pollack—*apollack@hrsa.gov*
Barry Stern—*bstern@hrsa.gov*

HRSA–04–022 Preventive Medicine Residency Program (PMRP) *

CFDA: 93.117.

Legislative Authority: Public Health Service Act, Title VII, Section 768, 42 U.S.C.295c.

Purpose: The Preventive Medicine Residency Grant Program is designed to promote postgraduate medical education in the field of preventive medicine and public health. Grants assist eligible entities to: plan and develop new residency training programs, maintain and improve existing residency training programs and provide financial support to residency trainees in these programs.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible applicants are schools of medicine, osteopathic medicine and public health (support for dental residencies will be offered through a separate announcement). An applicant must demonstrate that it has or will have available full-time faculty members trained in preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

Preferences: Under Section 765(c) of the Public Health Service Act, a preference will be given to approved applicants: (1) Who demonstrate that at least 40 percent of the program enrollees meet the definition of disadvantaged and/or underrepresented minorities, and (2) who demonstrate that at least 40 percent of their graduates have subsequently practiced in disadvantaged and/or underserved communities. An established program (one having graduated three or more classes), must submit supporting documentation to receive this preference. A new program (one having graduated three or fewer classes) must submit documentation evidencing that it meets at least four of the following criteria to qualify for the funding preference: (A) A specific purpose of the program is the preparation of health professionals to serve underserved populations; (B) The curriculum of the program includes content to prepare practitioners to serve underserved populations; (C) The program requires substantial clinical training experience in medically underserved communities; (D) A minimum of 20 percent of the clinical faculty of the program spends at least 50 percent of its time providing or supervising care in medically underserved communities; (E) The entire program or a substantial portion of the program is physically located in a medically underserved community; (F) Student assistance that is linked to service in medically underserved communities following graduation is available to the students in the program; (G) The program has a graduate placement program to find employment for graduates in medically underserved communities.

Estimated Amount of This Competition: $1,800,000.

Estimated Number of Awards: 12.

Estimated Project Period: 3 years.

HRSA–04–022 Preventive Medicine Residency Program (PMRP) *

Application Availability: September 2, 2003.

Application Deadline: October 16, 2003.

Estimated Project Award Date: July 1, 2004.

Program Contact Name: Rochelle L. Rollins.

Program Contact Phone: 301–443–5244.

Program Contact E-Mail: rrollins@hrsa.gov.

HRSA–04–023 Geriatric Education Centers Program (GECS) *

CFDA: 93.969.

Legislative Authority: Public Health Service Act, Title VII, Section 753(a), 42 U.S.C. 294c.

Purpose: Grants are available to support the development of Geriatric Education Centers (GECs)—collaborative arrangements involving several health professions schools and health care facilities—to train health professional faculty, students, and practitioners in the diagnosis, treatment, prevention of disease, disability, and other health problems of the aged.

Applicants must propose to carry out all of the following statutory purposes: (1) Improve the training of health professionals in geriatrics, including geriatric residencies, traineeships or fellowships; (2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals; (3) support the training and retraining of faculty to provide instruction in geriatrics; (4) support continuing education of health professionals who provide geriatric care; and (5) provide students with clinical training in geriatrics in nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers.

This training must involve four or more health profession disciplines, one of which must be allopathic or osteopathic medicine. Other health professions may include allopathic physicians, osteopathic physicians, dentists, optometrists, podiatrists, pharmacists, nurses, nurse practitioners, physician assistants, chiropractors, clinical psychologists, health administrators, and allied health professionals including professional counselors and social workers.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Grants may be made to entities as defined by sections 799B(1), (3) and (4) and section 801(2) of The Public Health Service Act. These include, among others: schools of medicine; schools of dentistry; schools of osteopathic medicine; schools of pharmacy; schools of optometry; schools of podiatric medicine; schools of veterinary medicine; schools of public health; schools of chiropractic; graduate programs in clinical psychology, clinical social work, health administration, and behavioral health and mental health practice; programs for the training of physician assistants; schools of allied health; and schools of nursing. Applicants must be located in the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Republic of Palau, the Republic of the Marshall Islands, or the Federated States of Micronesia. In selecting from among the most highly ranked applications, efforts will be made to balance awards to achieve broad geographical distribution.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 791(a) of the Public Health Service Act, as amended, preference will be given to any approved applicant that: (A) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically

underserved communities or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will be applied to only those applications that rank above the 20th percentile of the applications recommended for approval by the peer review group. So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations.

Estimated Amount of This Competition: $3,600,000.

Estimated Number of Awards: 9.

Estimated Project Period: 5 years.

HRSA–04–023 Geriatric Education Centers Program (GECS) *

Application Availability Date: October 3, 2003.

Application Deadline: January 13, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Barbara Broome.

Program Contact Phone: 301–443–6866.

Program Contact E-Mail: *bbroome@hrsa.gov.*

HRSA–04–024 Geriatric Academic Career Awards (GACA) *

CFDA: 93.250.

Legislative Authority: Public Health Service Act, Title VII, Section 753(c), 42 U.S.C. 294c.

Purpose: The purpose of this program is to increase the number of junior faculty in geriatrics at accredited schools of medicine and osteopathic medicine and to promote their careers as academic geriatricians. Award recipients must serve as members of the faculties of accredited schools of allopathic or osteopathic medicine providing teaching services, according to the service requirements under this award, for up to 5 years. Prior to submitting an application for the Geriatric Academic Career Award, individuals must have an agreement with an eligible school setting forth the terms and conditions of the award. The agreement with the school must permit the individual to serve as a full-time (as determined by the school) member of the faculty, for not less than the period of the award. As provided in Section 753(c)(5) of the Public Health Service Act, as amended, an individual who receives an award shall provide training in clinical geriatrics, including the training of interdisciplinary teams of health care professionals. The provision of such training shall constitute at least 75 percent of the obligations of the individual under this award. Geriatric Academic Career Awards are made directly to individuals, not institutions.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Geriatric Academic Career Awards are provided for individuals who meet the following criteria: (1) Are board certified or board eligible in internal medicine, family practice, or psychiatry; (2) have completed an approved fellowship program in geriatrics; and (3) have a junior faculty appointment at an accredited school of medicine (allopathic or osteopathic).

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $1,000,000.

Estimated Number of Awards: 20.

Estimated Project Period: 5 years.

HRSA–04–024 Geriatric Academic Career Awards (GACA) *

Application Availability Date: October 10, 2003.

Application Deadline: February 2, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Kathleen Bond.

Program Contact Phone: 301–443–8681.

Program Contact E-Mail: *kbond@hrsa.gov.*

HRSA–04–025 Geriatric Training for Physicians, Dentists, and Behavioral and Mental Health Professionals (GTPD) *

CFDA: 93.156.

Legislative Authority: Public Health Service Act, Title VII, Section 753(b), 42 U.S.C. 294c.

Purpose: This program provides two-year fellowship programs and/or one-year retraining programs for physicians, dentists, and behavioral and mental health professionals who teach or plan to teach geriatric medicine, geriatric dentistry, or geriatric behavioral and mental health. Learning components for two-year fellows include clinical, research, administration, and teaching. A minimum of three fellows—one from each discipline—is required each year of the award.

Funded projects will provide training in the physical and mental disabilities of elderly individuals through rotations such as geriatric consultation services, acute care services, dental services, geriatric behavioral and/or mental health units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals. Programs emphasize the principles of primary care as demonstrated through continuity, ambulatory, preventive, and psychosocial aspects of the practice of geriatric medicine, geriatric dentistry, and geriatric behavioral and mental health.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 791(a) of the Public Health Service Act, as amended, preference will be given to any approved applicant that: (A) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities or (B) during the two-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will be applied to only those applications that rank above the 20th percentile of the applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act, as amended, concerning medically underserved communities and populations.

Estimated Amount of This Competition: $2,000,000.

Estimated Number of Awards: 5.

Estimated Project Period: 5 years.

HRSA–04–025 Geriatric Training for Physicians, Dentists, and Behavioral and Mental Health Professionals (GTPD) *

Application Availability Date: September 2, 2003.

Application Deadline: December 15, 2003.

Projected Award Date: July 1, 2004.

Program Contact Person: Kathleen Bond.

Program Contact Phone: 301–443–8681.

Program Contact E-Mail: kbond@hrsa.gov.

HRSA–04–026 Quentin N. Burdick Program for Rural Interdisciplinary Training (QBRH) *

CFDA: 93.192.

Legislative Authority: Public Health Service Act, Title VII, Section 754, U.S.C. 294d, Section 750(a), 42 U.S.C. 294.

Purpose: These grants support the education and training of health professions students in rural underserved communities and improve access to health care in rural areas. To address needs of the rural health professions workforce, this program funds student stipends and interdisciplinary training projects that: (1) Use new and innovative methods to train health care practitioners to provide services in rural areas; (2) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care; (3) deliver health care services to individuals residing in rural areas; (4) enhance the amount of relevant research conducted concerning health care issues in rural areas; and (5) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible applicants include: health professions schools, academic health centers, State or local governments, an Indian Tribe or Tribal organization, or other appropriate public or private nonprofit entities, including faith-based organizations and community-based organizations. Applications must be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas. Applicants must designate a rural health care agency or agencies for clinical treatment or training including hospitals, community health centers, migrant health centers, rural health clinics, community behavioral and mental health centers, long-term care facilities, Native Hawaiian health centers or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in Section 791(a) of the Public Health Service Act, as amended, preference will be given to any approved applicant that: (A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

So that new applicants may compete equitably, a preference will be given to those new programs that meet at least four of the criteria described in Section 791(c)(3) of the Public Health Service Act, as amended, concerning medically underserved communities and populations.

Estimated Amount of This Competition: $1,500,000.

Estimated Number of Awards: 6.

Estimated Project Period: 3 years.

HRSA–04–026 Quentin N. Burdick Program for Rural Interdisciplinary Training (QBRH) *

Application Availability Date: September 29, 2003.

Application Deadline: January 13, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Marcia Starbecker, Public Health Analyst.

Program Contact Phone: 301–443–6867.

Program Contact E-mail: mstarbecker@hrsa.gov.

HRSA–04–027 Allied Health Projects (AHPG) *

CFDA: 93.191.

Legislative Authority: Public Health Service Act, Title VII, Section 755, 42 U.S.C. 294e.

Purpose: Grants are awarded to assist eligible entities in meeting the associated costs of expanding or establishing programs to increase the number of individuals trained in allied health professions. Projects include the following activities: (1) Expanding enrollment in allied health disciplines that are in short supply or whose services are most needed by the elderly; (2) providing rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences; (3) establishing community-based training programs that link academic centers to rural clinical settings; (4) providing career advancement training for practicing allied health professionals; (5) expanding or establishing clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained; (6) developing curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics; (7) expanding or establishing interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly; (8) expanding or establishing demonstration centers to emphasize innovative models to link allied health, clinical practice, education, and research; and (9) meeting the costs of projects to plan, develop, and operate or maintain graduate programs in behavioral and mental health practice.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Eligible entities are health professions schools, academic health centers, State or local governments, an Indian Tribe or Tribal organization, or other public or private nonprofit entities, including faith-based organizations and community-based organizations. Eligible academic institutions must use funds in collaboration with two or more disciplines.

Review Criteria: Final review criteria are included in the application kit.

Funding priorities: Based on President's Executive Orders 12876,

12900, 13021, and 13125, a funding priority will be given to approved applicants who devote significant resources to provide community-based training experiences designed to improve access to health care services in underserved areas; these applicants include Asian-American and Pacific Islander Serving Institutions, Hispanic Serving Institutions, Historically Black Colleges and Universities, Tribal Colleges, and Universities serving American Indians and Alaska Natives, or an institution that collaborates with one or more of the above listed institutions.

Based on House Report 107–229 and Senate Report 107–084, a funding priority will be given to approved applicants who educate and train allied health professionals experiencing shortage in the areas of medical technology, cytotechnology, genetic counseling and/or emergency preparedness.

Funding Preferences: As provided in section 791(a) of the Public Health Service Act, preference will be given to any approved applicant that: (1) Has a high rate for placing graduates in practice settings having the focus of serving residents of medically underserved communities; or (2) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group. A preference will be given to those new programs that meet at least four of the criteria described in section 791(c)(3) of the Public Health Service Act concerning medically underserved communities and populations so that new applicants may also compete equitably.

Estimated Amount of This Competition: $1,500,000.

Estimated Number of Awards: 13.

Estimated Project Period: 3 years.

HRSA–04–027 Allied Health Projects (AHPG) *

Application Availability Date: September 29, 2003.

Application Deadline: January 13, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Young Song.

Program Contact Phone: 301–443–3353.

Program Contact E-mail: *ysong@hrsa.gov.*

Special Programs—Loan Repayments and Scholarships

National Health Service Corps Loan Repayment Program (NHSCL)

CFDA: 93.162.

Legislative Authority: Public Health Service Act, Title III, Sections 338B–E, 42 U.S.C. 254l–1–254o.

Purpose: The purpose of the National Health Service Corps (NHSC) Loan Repayment Program (LRP) is to ensure an adequate supply of health professionals to provide primary health services (through a culturally competent, interdisciplinary team of clinicians) to populations located in health professional shortage areas (HPSAs) identified by the Secretary of the Department of Health and Human Services. HPSAs can be found in rural and urban communities across the Nation. The NHSC LRP recruits health professionals who agree to provide primary health services in approved NHSC community sites. In return, the NHSC LRP assists clinicians in their repayment of qualifying educational loans. The NHSC is seeking clinicians who demonstrate interest in serving the Nation's medically underserved populations and remaining in HPSAs beyond their service commitment. Additional information on the NHSC may be found at *http://nhsc.bhpr.hrsa/gov.htm.*

Eligibility: An applicant for the NHSC LRP must be a citizen or national of the United States and must: (1)(A) have a degree in medicine, osteopathic medicine, dentistry, or other health profession, an appropriate degree from a graduate program in behavioral or mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant; (B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, behavioral and mental health, or other health profession; or (C) be enrolled as a full-time student in an accredited educational institution in a State, and in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession; (2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be eligible for selection for civilian service in the NHSC; and (3) submit to the Secretary an application for a contract relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for an obligated period of time. Applicants should be in final negotiations or have secured employment at an eligible community site, and must not have any other service obligations, and must meet the other eligibility criteria set forth in the application kit.

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: In accordance with Section 338B(d) of the Public Health Service Act, priority will be given to (A) applicants whose health professions training is needed by the NHSC (needed disciplines will be identified in the application kit), (B) applicants who have characteristics that increase the probability of their continuing to practice in HPSAs after they have completed service, and (C) subject to paragraph (B), applicants from disadvantaged backgrounds.

Administrative Funding Preference: An administrative funding preference will be given to applicants serving HPSAs of greatest need.

Estimated Amount of This Competition: $111,500,000.

Estimated Number of Awards: 1643.

Estimated Project Period: 2 years.

National Health Service Corps Loan Repayment Program (NHSCL)

Application Availability Date: November 1, 2003.

Application Deadline: March 26, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Kay Cook.

Program Contact Phone: (301) 594–4403.

Program Contact E-Mail: *kcook@hrsa.gov.*

National Health Service Corps Scholarship Program (NHSC)

CFDA: 93.288.

Legislative Authority: Public Health Service Act, Title III, Section 338A, C–H, 42 U.S.C. 254l, m-q.

Purpose: The purpose of the National Health Service Corps (NHSC) Scholarship Program (SP) is to ensure an adequate supply of health professionals to provide primary health services (through a culturally competent, interdisciplinary team of clinicians) to populations located in health professional shortage areas (HPSAs) identified by the Secretary of the Department of Health and Human Services. HPSAs can be found in rural and urban communities across the Nation. The NHSC provides scholarships to full-time students of allopathic (MD) and osteopathic (DO) medicine, dentistry, family nurse practitioner, nurse midwifery, and physician assistant education. The

scholarship covers the payment of tuition and required fees to the school (on behalf of the student), the payment of a monthly stipend for living expenses, and an annual payment for books, equipment, and supplies. In return, for each year of support received, students commit to providing primary health care services in a federally designated underserved community in the U.S. The minimum service commitment is two years; the maximum is four. Additional information on the NHSC may be found at *http://nhsc.bhpr.hrsa/gov.htm.* Application kits may be obtained by calling 1–800–221–9393.

Eligibility: Applicants must: Be accepted for enrollment or enrolled full-time in an accredited school in the U.S.; be pursuing one of the health professions programs set forth above; be a U.S. citizen or national; be eligible to hold an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or eligible for a Federal civil service appointment; be free of Federal judgment liens; have no delinquent Federal debt; have no conflicting service obligation; and submit an application, a signed scholarship contract and an authorization to release school enrollment information.

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: In accordance with Section 338A(d) of the Public Health Service Act, priority will be given (A) first, to applicants who are former recipients of NHSC scholarship support and to former recipients of the Federal Scholarship Program for Students of Exceptional Financial Need; (B) second, to applicants who have characteristics that increase the probability of their continuing to practice in HPSAs after they have completed service; and (C) third, subject to subparagraph (B), to applicants from disadvantaged backgrounds.

Estimated Amount of This Competition: $32,600,000.

Estimated Number of Awards: 345.

Estimated Project Period: 2 to 4 years.

National Health Service Corps Scholarship Program (NHSC)

Application Availability Date: November 30, 2003.

Application Deadline: March 26, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Ellen Volpe.

Program Contact Phone: 301–594–4376.

Program Contact E-Mail: evolpe@hrsa.gov.

Nursing Scholarship Program (NSP)

CFDA: 93.908.

Legislative Authority: Public Health Service Act, Title VIII, Section 846(d), 42 U.S.C. 297n(d).

Purpose: The Nursing Scholarship Program authorizes scholarships to individuals for attendance at schools of nursing in exchange for service for a period of not less than two years at a health care facility with a critical shortage of nurses. Additional information may be found at: *http://bhpr.hrsa.gov/nursing/scholarship.htm.*

Eligibility: An ''eligible individual'' is a U.S. citizen or national who is enrolled or accepted for enrollment in a professional program as a full-time or part-time student in an accredited school of nursing. A ''school of nursing'' is a collegiate, associate degree, or diploma school of nursing in a State. Other eligibility criteria are outlined in the application kit.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: Section 846(e) of the Public Health Service Act provides that a funding preference shall be given to qualified applicants with the greatest financial need. To evaluate financial need, the HRSA will use the Department of Education's Expected Family Contribution (EFC) determination. The EFC measures a student's family's financial strength and is used to determine eligibility for federal student aid. First funding preference will be given to qualified applicants who have a zero EFC, have agreed to complete their nursing program as a full-time student, and are enrolled or accepted for enrollment in an undergraduate nursing program.

Second funding preference will be given to the remaining qualified applicants who have a zero EFC. Third, qualified applicants who have an EFC that exceeds zero will be grouped according to their EFC in increments of $500 from highest to lowest need (*i.e.*, applicants with EFC of $1–$500, applicants with EFC of $501–$1,000, etc.), and these groups will be funded, to the extent monies remain available, in order of decreasing need. Within each group, applicants who have agreed to complete their nursing program as a full-time student and are enrolled or accepted for enrollment in an undergraduate nursing program will be funded first, and then the remaining qualified applicants within that group will be funded. If there are insufficient funds to award a contract to all qualified applicants who meet a given funding preference, applicants will be randomly selected within that preference level until all funds are expended.

Estimated Amount of This Competition: $6,000,000.

Estimated Number of Awards: 120.

Estimated Project Period: 1 to 4 years.

Nursing Scholarship Program (NSP)

Application Availability Date: April 16, 2004.

Application Deadline: May 31, 2004.

Projected Award Date: July 30, 2004.

Program Contact Person: Bruce Baggett.

Program Contact Phone: 301–443–5395.

Program Contact E-Mail: bbaggett@hrsa.gov.

Nursing Education Loan Repayment Program (NELRP)

CFDA: 93.908.

Legislative Authority: Public Health Service Act, Title VIII, Section 846, 42 U.S.C. 297n.

Purpose: Under the Nursing Education Loan Repayment Program (NELRP), registered nurses are offered the opportunity to enter into a contractual agreement with the Secretary to receive loan repayment for up to 85 percent of their qualifying loan balance as follows—30 percent each year for the first two years and 25 percent for the third year. In exchange, nurses agree to serve for a minimum of two years in a critical shortage facility (CSF). Application kits may be obtained by calling 1–866–813–3753.

Eligibility: An individual is eligible to apply for NELRP if the individual: (1) Has received a baccalaureate or associate degree in nursing, a diploma in nursing, or a graduate degree in nursing; (2) has obtained one or more nursing student loans authorized under section 835(a) of the PHS Act, as amended, or any other educational loan for nurse training costs; (3) enters into an agreement to serve as a full-time registered nurse for a period of not less than two years in a CSF, which is defined as (a) an Indian Health Service health center, (b) a Native Hawaiian health center, (c) a hospital, (d) a federally-qualified community health center or look-alike, migrant health center or look-alike, health care for the homeless center or look-alike, (e) a rural health clinic, (f) a nursing home, (g) a home health agency, (h) a hospice program, (i) a State or local public health department including a public health clinic within the department, (j) a skilled nursing facility, and (k) an ambulatory surgical center; and (4) is a U.S. citizen, U.S. national, or a permanent legal resident of the United States.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: As provided in section 846(e) of the PHS Act, as amended, a funding preference will be given to eligible applicants with the greatest financial need. Applicants whose total qualifying loans are 40% or greater than their annualized salary, will meet the greatest financial funding preference. Applicants are ranked based on their debt to salary ratio. Awards are made to applicants within each preference described below by decreasing debt to salary ratio until funds are expended.

Among qualified applicants, contracts will be awarded according to the following preferences:

First preference for funding will be given to NELRP applicants with greatest financial need working in a Disproportionate Share Hospital (DSH) for Medicare and Medicaid, nursing home, or State or local public health department including a public health clinic within these departments.

Second preference for funding will be given to applicants with greatest financial need working in a community health center; migrant health center; health care for the homeless health center, rural health clinic, Indian Health Service health center, Native Hawaiian health center, or non-Federal non-DSH for Medicare and Medicaid. Second preference will also be given to qualified applicants with greatest financial need working in the following types of CSFs located in geographic areas identified as Nursing Shortage Counties: ambulatory surgical center, home health agency, hospice program, skilled nursing facility or Federal hospital.

Third preference for funding will be given to applicants with greatest financial need working in the following types of CSFs regardless of geographic location: ambulatory surgical center, home health agency, hospice program, skilled nursing facility, federally qualified health center look-alike, or Federal hospital.

Fourth preference for funding will be given to applicants without greatest financial need working in a DSH for Medicare and Medicaid, nursing home, or State or local public health department including a public health clinic within the department.

Fifth preference for funding will be given to applicants without greatest financial need working a community health center, migrant health center, health care for the homeless health center, rural health clinic, Indian Health Service health center, Native Hawaiian health center, or non-Federal non-DSH for Medicare and Medicaid. Fifth preference will also be given to qualified applicants without greatest financial need working in the following types of CSFs located in geographic areas identified as Nursing Shortage Counties: ambulatory surgical center, home health agency, hospice program, skilled nursing facility, or Federal hospital.

Sixth preference for funding will be given to applicants without greatest financial need working in the following types of CSFs regardless of geographic location: ambulatory surgical center, home health agency, hospice program, skilled nursing facility, federally qualified health center look-alike; or Federal hospital.

Estimated Amount of This Competition: $15,460,000.

Estimated Number of Awards: 900.

Estimated Project Period: 2 years.

Nursing Education Loan Repayment Program (NELRP)

Application Availability Date: December 1, 2003.

Application Deadline: February 18, 2004.

Projected Award Date: September 15, 2004.

Program Contact Person: Jacqueline Brown.

Program Contact Phone: 301–443–3232.

Program Contact E-Mail: *jbrown1@hrsa.gov.*

Scholarships for Disadvantaged Students Program (SDS)

CFDA: 93.925.

Legislative Authority: Public Health Service Act, Title VII, Section 737, U.S.C. 293a.

Purpose: The Scholarships for Disadvantaged Students (SDS) program promotes diversity among health professions students and practitioners by providing scholarships for students from disadvantaged backgrounds. Eligible health professions and nursing schools apply for grants to make scholarships to students from disadvantaged backgrounds who have financial need for scholarships and are enrolled, or accepted for enrollment, as full-time students at the schools.

Eligibility: Eligible entities must have a program for recruiting and retaining students from disadvantaged backgrounds and be a school of allopathic medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatric medicine, veterinary medicine, public health, nursing, chiropractic, or allied health, graduate program in behavioral and mental health practice, or an entity providing programs for the training of physician assistants.

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: In accordance with section 737(c) of the Public Health Service Act, health professions and nursing schools are eligible to receive a funding priority based on the proportion of graduating students going into primary care, the proportion of underrepresented minority students, and the proportion of graduates working in medically underserved communities.

Estimated Amount of This Competition: $9,900,000.

Estimated Number of Awards: 411.

Estimated Project Period: 1 year.

Scholarships for Disadvantaged Students Program (SDS)

Application Availability Date: November 1, 2003.

Application Deadline: December 17, 2003.

Projected Award Date: March 31, 2004.

Program Contact Person: Andrea Castle.

Program Contact Phone: 301–443–1701.

Program Contact e-mail: dpolicy@hrsa.gov.

*Faculty Loan Repayment Program (FLRP) **

CFDA: 93.923.

Legislative Authority: Public Health Service Act, Title VII, section 738a, 42 U.S.C. 293b.

Purpose: The Faculty Loan Repayment Program (FLRP) is a loan repayment program for individuals from disadvantaged backgrounds who serve as faculty at eligible health professions schools for a minimum of two years. In return, the Federal Government agrees to pay up to $20,000 of the outstanding principal and interest on the individual's education loans for each year of service.

This program is designed to increase the number of faculty from disadvantaged backgrounds who act as role models and mentors for students from similar backgrounds. Hence, faculty, as used in this section, means a position that is primarily teach, rather than administrative or research. The employing school must also make payments of principal and interest to the faculty member in an amount equal to the amount of such quarterly payments made by the HHS Secretary for each year in which the recipient serves as a faculty member under contract with HHS. In addition, the school must pay the usual salary to the faculty member. The Secretary may

waive the school's matching requirement if the Secretary determines it will impose an undue financial hardship on the school.

* This program is not included in the President's budget for FY 2004. Potential applicants for funds should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: An individual is eligible to apply for loan repayment under FLRP if the individual is from a disadvantaged background and:

- Has a degree in allopathic or osteopathic medicine, dentistry, nursing, or in another health profession;
- Is enrolled in an approved health professions graduate program; or
- Is enrolled as a full-time student in the final year of health professions training that leads to a degree in one of the following health professions: allopathic medicine, osteopathic medicine, podiatric medicine, veterinary medicine, dentistry, pharmacy, optometry, nursing, public health, dental hygiene, medical laboratory technology, occupational therapy, physical therapy, radiologic technology, speech pathology, audiology, medical nutrition therapy and graduate programs in behavioral health and mental health practice, clinical psychology, clinical social work, and marriage and family therapy.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $1,000,000.

Estimated Number of Awards: 30.

Estimated Project Period: 2 years.

*Faculty Loan Repayment Program (FLRP) **

Application Availability Date: March 1, 2004.

Application Deadline: May 28, 2004.

Projected Award Date: August 28, 2004.

Program Contact Person: Lorraine Evans.

Program Contact Phone: 301–443–0785.

Program Contact E-mail: flrpinfo@hrsa.gov.

Primary Health Care Programs

HRSA–04–028 Radiation Exposure Screening and Education Program (RESEP)

CFDA: 93.257.

Legislative authority: Public Health Service Act, section 417C, 42 U.S.C. 285a–9.

Purpose: The mission of the Radiation Exposure Screening and Education Program (RESEP) is to aid the thousands of individuals adversely affected by the mining, transport and processing of uranium and the testing of nuclear weapons for the Nation's weapons arsenal. This will be accomplished by carrying out programs designed for public education and information; screening eligible individuals for cancer and other related diseases; providing appropriate referrals for medical treatment; and facilitating documentation of claims under the Radiation Exposure Compensation Act.

Eligibility: The following entities are eligible to apply for funding: National Cancer Institute-designated cancer centers; Department of Veterans Affairs hospitals or medical centers; Federally Qualified Health Centers (FQHC), FQHC Look-A-Likes, Community Health Centers, hospitals, agencies of any State or local government that currently provide direct health care services; Indian Health Service (IHS) health care facilities; including programs provided through tribal contracts, compacts, grants, or cooperative agreements with the IHS which are determined appropriate to raising the health status of Indians; and nonprofit organizations. Among the nonprofit organizations eligible to apply are faith-based organizations and community-based organizations.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $2,000,000.

Estimated Number of Awards To Be Made: 6.

Estimated Project Period: 1–5 years.

HRSA–04–028 Radiation Exposure Screening and Education Program (RESEP)

Application Availability Date: February 1, 2004.

Application Deadline: April 5, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Barbara Bailey.

Program Contact Phone: 301–594–4420.

Program Contact E-mail: bbailey@hrsa.gov.

HRSA–04–029 Integrated Services Development Initiative (ISDI)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, section 330 42 U.S.C. 254b.

Purpose: The purpose of the ISDI is to support the creation and further development of health center controlled networks to ensure access to health care for the medically underserved, including the uninsured and underinsured. Applications will be accepted for the following:

1. Planning activities that will result in the establishment of a network to enhance the operations of collaborating health centers;

2. Development of health center controlled networks to ensure access to health care for the underserved, including the uninsured and underinsured through enhancing the operations of the enhancement of the collaborating health centers through the integration of functions within a core area, *e.g.,* administrative, clinical, managed care, etc. across business and clinical functions among network members;

3. Development of shared integrated management systems (SIMIS) which will provide health centers across a State an opportunity to collaborate, share, and/or integrate functions or components of the systems to facilitate centralized data integration, *e.g.,* common business rules/practices, data structure, practice management software, etc.;

4. Development of information and communication technology (ICT) infrastructure that supports the health disparities collaborative care model and leads to a seamless health care delivery system that is more effective, efficient, patient-family centered and reduce errors; and

5. Implement comprehensive pharmacy service in networks of health centers by adding pharmacy services that will improve clinical outcomes, increase medication safety and reduce health disparities.

Eligibility: Applications for ISDI Planning and Development of Managed Care Network funds are limited to currently funded health centers (section 330(e)). Applications for Planning and Development of Practice Management Networks are limited to currently funded section 330 health centers. Applications for SIMIS and ICT funds are limited to section 330(e) health centers and section 330(m) primary care associations. Applications for implementing comprehensive pharmacy services are limited to current recipients of section 330 grant funds.

Cost Sharing: A cost share of 5 or 10 percent in cash is required for ISDI Planning and/or Development applications respectively.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, preference will be given to approvable applications

submitted from sparsely populated areas.

Estimated Amount of This Competition: ISDI Planning $1,000,000; ISDI Development $1,000,000; SIMIS $2,000,000; ICT $3,000,000; Pharmacy $1,500,000

Estimated Number of Awards To Be Made: ISDI Planning up to 6 awards; ISDI Development up to 6 awards; SIMS up to 4 awards; ICT up to 5 awards; Pharmacy up to 8 awards.

Estimated Project Period: 1–5 years.

HRSA–04–029 Integrated Services Development Initiative (ISDI)

Application Availability Date: December 1, 2003.

Application Deadline: April 5, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Susan Lumsden.

Program Contact Phone: 301–594–4488.

Program Contact e-mail: SLumsden@hrsa.gov.

HRSA–04–030 Community and Migrant Health Centers (CMHS)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, section 330, 42 U.S.C. 254b.

Purpose: The Community Health Center and Migrant Health Center (C/MHC) programs are designed to promote the development and operation of community-based primary health care service systems in medically underserved areas for medically underserved populations. It is the intent of HRSA to continue to support health services in these areas, given the unmet need inherent in their provision of services to medically underserved populations. It is expected that each application submitted to serve one of these areas will present a clear focus on maintaining access to care and reducing health disparities identified in the target population. In FY 2004, HRSA will be implementing the third year of the President's Initiative to Expand Health Centers to increase access to the Nation's poor and underserved. HRSA will open competition for awards under section 330 of the Public Health Service Act to support health services in the areas served by these grants. One hundred sixty-three C/MHC grantees will reach the end of their project period during FY 2004.

Eligibility: Applicants are limited to currently funded programs whose project periods expire during FY 2004 and new organizations proposing to serve the same areas or populations being served by these existing programs. New organizations eligible to compete to serve one of these areas are public and nonprofit private entities, including faith-based organizations and community-based organizations. In the list of service areas that follows, those shown with an asterisk after the area description are currently being served through interim arrangements. The HRSA is interested in establishing a permanent grantee in each of these areas. Organizations interested in these competitive opportunities are encouraged to contact the listed program officials for more information.

COMMUNITY/MIGRANT HEALTH CENTERS

City	State	Expiration date
Contact: Jack Egan, 301–594–4339		
East Boston	MA	11/30/2003
Boston	MA	12/31/2003
Roxbury	MA	1/31/2004
Lynn	MA	1/31/2004
Boston	MA	2/29/2004
Boston	MA	3/31/2004
Dorchester	MA	3/31/2004
Fitchburg	MA	3/31/2004
Augusta	ME	3/31/2004
Lowell	MA	3/31/2004
Peabody	MA	3/31/2004
East Hartford	CT	5/31/2004
Richford	VT	5/31/2004
New Bedford	MA	5/31/2004
Littleton	CH	6/30/2004
Franklin	NH	6/30/2004
New York	NY	11/30/2003
Cortland	NY	11/30/2003
Rochester	NY	12/31/2003
Ossining	NY	12/31/2003
Rio Grande	PR	12/31/2003
Brooklyn	NY	1/31/2004
New York	NY	1/31/2004
Perth Amboy	NJ	2/29/2004
St. Croix	VI	2/29/2004
St. Thomas	VI	2/29/2004
Jersey City	NJ	3/31/2004
Trenton	NJ	3/31/2004
Patillas	PR	3/31/2004
Barceloneta	PR	5/31/2004
Plainfield	NJ	5/31/2004
Loiza	PR	5/31/2004
Monsey	NY	6/30/2004
Jersey City	NJ	6/30/2004
New Brunswick	NJ	6/30/2004
Spring Valley	NY	6/30/2004
Elizabeth	WV	2/29/2004
Hamlin	WV	2/29/2004
Washington	DC	2/29/2004
Dawes	WV	2/29/2004
Scott Depot	WV	2/29/2004
Blacksville	WV	5/31/2004
St. Charles	VA	5/31/2004
Danville	VA	6/30/2004
Contact: Jerri Regan, 301–594–4283		
Eutaw:		
Service Area 1*.	AL	11/30/2003
Service Area 2*.	AL	11/30/2003
Service Area 3*.	AL	11/30/2003
Service Area 4*.	AL	11/30/2003
Service Area 5*.	AL	11/30/2003
Fairfax	SC	11/30/2003
Chattanooga	TN	11/30/2003
Manson	NC	11/30/2003
Louisville	KY	11/30/2003
Mantachie	MS	11/30/2003
Savannah	GA	11/30/2003
Stone Mountain	GA	12/31/2003
Savannah	TN	12/31/2003
Wartburg	TN	12/31/2003
Jacksonville	FL	12/31/2003
Miami Springs	FL	1/31/2004
Eutaw	AL	1/31/2004
Wade	NC	1/31/2004
Leakesville	MS	1/31/2004
Lexington	KY	1/31/2004
Tiptonville	TN	1/31/2004
Johns Island	SC	1/31/2004
Gastonia	NC	2/29/2004
Jacksboro	TN	2/29/2004
Immokalee	FL (2)	3/31/2004
Tampa	FL	3/31/2004
Windsor	NC	3/31/2004
Byhalia	MS	3/31/2004
Ashland	MS	3/31/2004
Tuskegee Institute	AL	3/31/2004
Atlanta	GA (2)	5/31/2004
Decatur	GA	5/31/2004
Wadesboro	NC	5/31/2004
McKee	KY	5/31/2004
Ridgeland	SC (2)	5/31/2004
Trenton	FL	5/31/2004
Little River	SC	5/31/2004
Memphis	TN	5/31/2004
Spartanburg	SC	6/30/2004
Waycross	GA	6/30/2004
Wilson	NC	6/30/2004
Contact: Barbara Bailey, 301–594–4317		
Chicago	IL (2)	11/30/2003
Waukegan	IL	11/30/2003
East Chicago	IN	11/30/2003
Cincinnati	OH	12/31/2003
Oquawka	IL	12/31/2003
Minneapolis	MN	12/31/2003
Cincinnati	OH	12/31/2003
Hillman	MI	1/31/2004
Pontiac	MI	2/29/2004
Madison	WI	2/29/2004
Minneapolis	MN	2/29/2004
Aurora	IL	2/29/2004
Flint	MI	3/31/2004
Indianapolis	IN	5/31/2004
Wausau	WI	6/30/2004
Kenosha	WI	6/30/2004
Springfield	IL	6/30/2004
Chicago	IL	6/30/2004
Elgin	IL	6/30/2004
Contact: Theresa Watkins-Bryant, 301–594–4423		
West Memphis	AR	11/30/2003
Dallas	TX	11/30/2003

COMMUNITY/MIGRANT HEALTH CENTERS—Continued

City	State	Expiration date
New Orleans	LA	11/30/2003
Portales	NM	1/31/2004
Alexandria	LA	2/29/2004
Mena	AR	2/29/2004
Tulsa	OK	3/31/2004
Battiest	OK	5/31/2004
Richmond	TX	5/31/2004
Lake Charles	LA	5/31/2004
Espanola	NM	5/31/2004
Bryan	TX	6/30/2004
St. Gabriel	LA	6/30/2004
Mora	NM	6/30/2004
Contact: Jerri Regan, 301–594–4283		
St. Louis	MO	1/31/2004
West Plains	MO	2/29/2004
Wichita	KS	3/31/2004
Springfield	MO	5/31/2004
West Burlington	IA	6/30/2004
Council Bluffs	IA	6/30/2004
Contact: Barbara Bailey, 301–594–4317		
Denver	CO	12/31/2003
St. George	UT	2/29/2004
Glenwood Springs	CO	5/31/2004
Dove Creek	CO	5/31/2004
Ashland	MT	6/30/2004
Helena	MT	6/30/2004
Contact: Theresa Watkins-Bryant, 301–594–4423		
Los Angeles:		
Service Area 1*.	CA	11/30/2003
Service Area 2*.	CA	11/30/2003
Surprise	AZ (2)	11/30/2003
San Ysidro	CA	12/31/2003
Arcata	CA	12/31/2003
Los Angeles	CA	12/31/2003
Vista	CA	02/29/2004
Arboga	CA	2/29/2004
Guerneville	CA	2/29/2004
Tulare	CA	2/29/2004
San Diego	CA	2/29/2004
Redway	CA	2/29/2004
Healdsburg	CA	2/29/2004
San Bernardino	CA	2/29/2004
Long Beach	CA	5/31/2004
Nogales	AZ	5/31/2004
Los Angeles	CA	5/31/2004
Bieber	CA	5/31/2004
Santa Rosa	CA	5/31/2004
Carson City	NV	5/31/2004
Pago Pago	AS	5/31/2004
Hana	HI	6/30/2004
Hilo	HI	6/30/2004
Honolulu	HI	6/30/2004
Waimanalo	HI	6/30/2004
West Covina	CA	6/30/2004
Borrego Springs	CA	6/30/2004
Campo	CA	6/30/2004
Gualala	CA	6/30/2004
Escondido	CA	6/30/2004
San Pablo	CA	6/30/2004

COMMUNITY/MIGRANT HEALTH CENTERS—Continued

City	State	Expiration date
Contact: Barbara Bailey, 301–594–4317		
Hood River	OR (2)	1/31/2004
Bonners Ferry	ID	2/29/2004
Astoria	OR	2/29/2004
Prineville	OR	5/31/2004
Everett	WA	6/30/2004
Talkeetna	AK	6/30/2004
Roseburg	OR	6/30/2004
Nome	AK	8/31/2004
Anchorage	AK (3)	8/31/2004
Juneau	AK	8/31/2004
Naknek	AK	8/31/2004
Unalaska	AK	8/31/2004
Fairbanks	AK	8/31/2004
Seldovia	AK	8/31/2004
Fort Yukon	AK	8/31/2004
Bethel	AK	8/31/2004
Kotzebue	AK	8/31/2004
Dillingham	AK	8/31/2004

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Communication with program staff is essential for interested parties in deciding whether to pursue federal funding as a C/MHC. Technical assistance and detailed information about each service area, such as census tracts, can be obtained from the program staff shown for each geographical area.

Estimated Amount of This Competition: $234,000,000.

Estimated Number of Awards To Be Made: 180.

Estimated Project Period: 3 to 5 years.

HRSA–04–030 Community and Migrant Health Centers (CMHS)

Application Availability Date: September 2, 2003.

Application Deadline: Applications for areas with expiring project period end dates of October 31, 2003, November 30, 2003, December 31, 2003, January 31, 2004, February 29, 2004, March 31, 2004, May 31, 2004, or June 30, 2004 are due December 1, 2003. Applications for areas with expiring project period end date of August 31, 2004, are due May 3, 2004.

Projected Award Date: Varies.

Program Contact Person: Preeti Kanodia.

Program Contact Phone: 301–594–4300.

Program Contact E-mail: pkanodia@hrsa.gov.

HRSA–04–031 Health Care for the Homeless (HCH)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: The Health Care for the Homeless (HCH) program is designed to increase the access of homeless populations to cost-effective, case managed, and integrated primary care and substance abuse services provided by existing community-based programs/providers. It is expected that each application submitted to serve an identified homeless population will present a clear focus on maintaining access to care and reducing health disparities identified in the target population by proposing a comprehensive health care and social services program. It is the intent of HRSA to continue to support health services to the homeless people in these areas/locations given the continued need for cost-effective, community-based primary care services. Twenty-four HCH grantees will reach the end of their project period during FY 2004.

Eligibility: Applicants are limited to currently funded programs whose project periods expire during FY 2004 and new organizations proposing to serve the same areas or populations being served by these existing programs. New organizations eligible to compete to serve one of these areas are public and nonprofit private entities, including faith-based organizations and community-based organizations.

HEALTH CARE FOR THE HOMELESS

City	State	Expiration date
Contact: Jack Egan, 301–594–4339		
New York	NY	10/31/2003
Rochester	NY	10/31/2003
Manhattan	NY	10/31/2003
White Plains	NY	11/30/2003
Trenton	NJ	3/31/2004
Jersey City	NJ	3/31/2004
Contact: Jerri Regan, 301–594–4283		
Orlando	FL	10/31/2003
Hazard	KY	10/31/2003
Ft. Lauderdale	FL	10/31/2003
Clearwater	FL	10/31/2003
Jacksonville	FL	10/31/2003
Nashville	TN	10/31/2003
Lexington	KY	1/31/2004
Tampa	FL	3/31/2004
Little River	SC	5/31/2004
Contact: Barbara Bailey, 301–594–4317		
Dayton	OH	10/31/2003
Cincinnati	OH	12/31/2003
Contact: Theresa Watkins-Bryant, 301–594–4423		
Dallas	TX	10/31/2003
New Orleans	LA	10/31/2003
Tulsa	OK	3/31/2004

HEALTH CARE FOR THE HOMELESS—Continued

City	State	Expiration date
Contact: Jerri Regan, 301–594–4283		
St. Louis	MO	1/31/2004
Wichita	KS	3/31/2004
Contact: Theresa Watkins-Bryant, 301–594–4423		
Carson City	NV	5/31/2004
Contact: Barbara Bailey, 301–594–4317		
Everett	WA	6/30/2004

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Communication with program staff is essential for interested parties in deciding whether to pursue Federal funding as a HCH. Technical assistance and detailed information about each service area, such as census tracts, can be obtained by contacting the program staff shown for each geographical area.

Estimated Amount of This Competition: $12,000,000.

Estimated Number of Awards To Be Made: 24.

Estimated Project Period: 1–5 years.

HRSA–04–031 Health Care for the Homeless (HCH)

Application Availability Date: September 1, 2003.

Application Deadline: Applications for areas with expiring project period end dates of October 31, 2003, November 30, 2003, December 31, 2003, January 31, 2004, February 29, 2004, March 31, 2004, May 31, 2004, or June 30, 2004, are due December 1, 2003. Applications for areas with expiring project period end date of August 31, 2004, are due May 3, 2004.

Projected Award Date: Varies.

Program Contact Person: Preeti Kanodia.

Program Contact Phone: 301–594–4300.

Program Contact E-mail: pkanodia@hrsa.gov.

HRSA–04–032 Public Housing Primary Care (PHPC)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: The mission of the Public Housing Primary Care (PHPC) program is to increase access to comprehensive primary and preventive health care and to improve the physical, mental, and economic well-being of public housing residents. The three priorities for promoting access to primary care and improving the well being of residents of public housing are: resident involvement and participation in program development and implementation; innovative service delivery systems that address the special health needs of public housing residents; and collaboration with other health, education and community-based organizations. It is expected that each application to serve an identified population of residents of public housing will present a clear focus on maintaining access to care and reducing health disparities identified in the target population. It is the intent of HRSA to continue to support health services to public housing residents in these areas/locations given the continued need for cost-effective, community-based primary care services. Six PHPC grantees will reach the end of their project period during FY 2004.

Eligibility: Applicants are limited to currently funded programs whose project periods expire in FY 2004 and new organizations proposing to serve the same areas or populations being served by these existing programs. New organizations eligible to compete to serve one of these areas are public and nonprofit private entities, including faith-based organizations and community-based organizations. In the list of service areas that follows, those shown with an asterisk after the area description are currently being served through interim arrangements. The HRSA is interested in establishing a permanent grantee in each of these areas. Organizations interested in these competitive opportunities are encouraged to contact the listed program officials for more information.

PUBLIC HOUSING PRIMARY CARE

City	State	Expiration date
Contact: Jack Egan, 301–594–4339		
Roxbury	MA	1/31/2004
Pittsburgh	PA	8/31/2004
Contact: Jerri Regan, 301–594–4283		
Savannah	GA	11/30/2003
Marietta	GA	08/31/2004
Contact: Barbara Bailey, 301–594–4317		
Chicago	IL	11/30/2003
Chicago	IL	06/30/2004
Contact: Jerri Regan, 301–594–4283		
St. Louis	MO	01/31/2004

PUBLIC HOUSING PRIMARY CARE—Continued

City	State	Expiration date
Contact: Theresa Watkins-Bryant, 301–594–4423		
Los Angeles*	CA	11/30/2003

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Communication with program staff is essential for interested parties in deciding whether to pursue Federal funding as a PHPC. Technical assistance and detailed information about each service area, such as census tracts, can be obtained by contacting the program staff shown for each geographical area.

Estimated Amount of This Competition: $2,700,000.

Estimated Number of Awards To Be Made: 6.

Estimated Project Period: 1–5 years.

HRSA–04–032 Public Housing Primary Care (PHPC)

Application Availability Date: September 1, 2003.

Application Deadline: Applications for areas with expiring project period end dates of October 31, 2003, November 30, 2003, December 31, 2003, January 31, 2004, February 29, 2004, March 31, 2004, May 31, 2004, or June 30, 2004 are due December 1, 2003. Applications for areas with expiring project period end date August 31, 2004, are due May 3, 2004.

Projected Award Date: Varies.

Program Contact Person: Preeti Kanodia.

Program Contact Phone: 301–594–4300.

Program Contact E-mail: pkanodia@hrsa.gov.

HRSA–04–033 School Based Health Centers (SBHC)

CFDA: 93.224

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: The purpose of the School Based Health Centers (SBHC) is to increase access to comprehensive primary and preventive health care to underserved children, adolescents and families. The SBHC provide comprehensive primary and preventive health care services including mental health, oral health, ancillary, and enabling services in the school or on school grounds on a full-time basis. These services are culturally sensitive, family oriented, and tailored to meet the health care needs of youth, adolescents

and the community. The array of services provided on-site is determined locally by school principals, school boards, parents and providers, and referral arrangements are provided for services not available on-site. No SBHC services are provided without fully informed parental consent. Each SBHC supports educational efforts by making sure that children are ready to learn through an integrated system providing continuity of care, and assuring after hours and year-round coverage. It is expected that each application submitted to serve a school-based population presents a clear focus on maintaining access to care and reducing health disparities identified in the target population. It is the intent of HRSA to continue to support health services for these populations in the areas served by these grantees. Sixteen SBHC grantees will reach the end of their project period during FY 2004.

Eligibility: Applicants are limited to currently funded programs whose project periods expire during FY 2004 and new organizations proposing to serve the same areas or populations being served by these existing programs. New organizations eligible to compete to serve one of these areas are public and nonprofit private entities, including faith-based organizations and community-based organizations.

SCHOOL BASED HEALTH CENTERS

City	State	Expiration date
Contact: Jack Egan, 301–594–4339		
Lynn	MA	1/31/2004
Lowell	MA	3/31/2004
St. Croix	VI	2/29/2004
Plainfield	NJ	5/31/2004
Baltimore	MD	6/30/2004
Contact: Jerri Regan, 301–594–4283		
Lexington	KY	1/31/2004
Ridgeland	SC	5/31/2004
Atlanta	GA	6/30/2004
Contact: Barbara Bailey, 301–594–4317		
Chicago	IL	11/30/2003
Indianapolis	IN	6/30/2004
Denver	CO	12/31/2003
Contact: Theresa Watkins-Bryant, 301–594–4423		
Surprise	AZ	11/30/2003
Green Valley	AZ	1/31/2004
Long Beach	CA	5/31/2004
San Bernardino	CA	6/30/2004

SCHOOL BASED HEALTH CENTERS—Continued

City	State	Expiration date
San Jose	CA	6/30/2004

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Communication with program staff is essential for interested parties in deciding whether to pursue Federal funding as a HSHC. Technical assistance and detailed information about each service area, such as census tracts, can be obtained by contacting the program staff shown for each geographical area.

Estimated Amount of This Competition: $4,000,000.

Estimated Number of Awards To Be Made: 16.

Estimated Project Period: 1–5 years.

HRSA–04–033 School Based Health Centers (SBHC)

Application Availability Date: September 1, 2003.

Application Deadline: Applications for areas with expiring project period end dates of October 31, 2003, November 30, 2003, December 31, 2003, January 31, 2004, February 29, 2004, March 31, 2004, May 31, 2004, or June 30, 2004 are due December 1, 2003. Applications for areas with expiring project period end date of August 31, 2004, are due May 3, 2004.

Projected Award Date: Varies.

Program Contact Person: Preeti Kanodia.

Program Contact Phone: 301–594–4300.

Program Contact E-mail: pkanodia@hrsa.gov.

HRSA–04–034 New Delivery Sites and New Starts in Programs Funded Under the Health Centers Consolidation Act (NDSCS)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: The purpose of this activity is to support the establishment of new service delivery sites in each of the Health Center programs funded under Section 330 of the Public Health Service Act. Each application for support to establish a new site must identify a population in need of primary health care services, and propose a specific plan to increase access to care and reduce disparities identified in the population or community to be served. This activity is the lead in fulfilling the President's multi-year Initiative to Expand Health Centers to bring much needed primary health care services to the Nation's neediest communities. In FY 2004, the establishment of new delivery sites under this program will be in the third year of a five-year initiative. The purpose of the Health Center program is to extend comprehensive primary and preventive health services (including mental health, substance abuse and oral health services) and supplemental services to populations currently without access to such services, and to improve their health status. The programs under this activity include: (1) Community Health Centers, section 330(e); (2) Migrant Health Centers, section 330(g); (3) Health Care for the Homeless program, section 330 (h); (4) Public Housing Primary Care, section 330(i); and (5) School Based Health Centers, section 330. The population served by these programs are: (1) Medically underserved populations in urban and rural areas; (2) migratory and seasonal agricultural workers and their families; (3) homeless people, including children and families; (4) residents of publicly subsidized housing; and (5) medically underserved school students (K–12), their families, and medically underserved populations surrounding the school.

Eligibility: Public and nonprofit private entities, including faith-based organizations and community-based organizations, are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, preference will be given to approvable applications submitted from sparsely populated areas.

Special Considerations: Communities seeking support are strongly encouraged to promote and seek outside funding and are required to maximize third party revenue to establish and maintain new service delivery areas.

Estimated Amount of This Competition: $56,000,000.

Estimated Number of Awards To Be Made: 94.

Estimated Project Period: 3 years.

HRSA–04–034 New Delivery Sites and New Starts in Programs Funded Under the Health Centers Consolidation Act (NDSCS)

Application Availability Date: October 1, 2003.

Application Deadline: December 1, 2003 and May 17, 2004.

Projected Award Date: Varies.

Program Contact Person: Tonya Bowers.

Program Contact Phone: 301–594–4300.

Program Contact E-Mail: tbowers@hrsa.gov.

HRSA–04–035 Increase in Medical Capacity in Programs Funded Under the Health Care Consolidation Act of 1996 (IMCHC)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: FY 2004 marks the third year of the President's multi-year plan to serve more of the Nation's neediest communities through significantly expanded health center access points. The HRSA is committed to improving and expanding access to health care for the underserved and to pledging new funding to strengthen the health care safety net through each of the Health Center programs funded under section 330 of the Public Health Service Act. Health centers extend preventive and primary health care services to populations currently without such services and improve the health status of medically underserved individuals. One way of achieving these goals and reaching new users of health centers is to approve funding increases for existing health center grantees that provide a plan for achieving increased medical capacity within their current service area. The programs included under this activity include: (1) Community Health Centers, section 330(e); (2) Migrant Health Centers, section 330(g); (3) Health Care for the Homeless; section 330(h); (4) Public Housing Primary Care, section 330(i); and (5) School Based Health Centers, section 330. The populations served by these programs are: (1) Medically underserved populations in urban and rural areas; (2) migratory and seasonal agricultural workers and their families; (3) homeless people, including children and families; (4) residents of publicly subsidized housing, and (5) medically underserved students in grades K through 12, their families, and medically underserved populations surrounding the school.

Eligibility: Applicants are limited to currently funded health center programs (*i.e.,* those organizations funded under section 330).

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, preference will be given to approvable applications submitted from sparsely populated areas.

Estimated Amount of This Competition: $42,000,000.

Estimated Number of Awards To Be Made: 94.

Estimated Project Period: 1–5 years.

HRSA–04–035 Increase in Medical Capacity in Programs Funded Under the Health Care Consolidation Act of 1996 (IMCHC)

Application Availability Date: December 1, 2003.

Application Deadline: February 2, 2004.

Projected Award Date: June 30, 2004.

Program Contact Person: Joe Fitzmaurice.

Program Contact Phone: 301–594–4300.

Program Contact E-Mail: JFitzmaurice@hrsa.gov.

HRSA–04–036 National Health Center Technical Assistance Cooperative Agreement (NAT)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Title III, Section 330(m), 42 U.S.C. 254b(m).

Purpose: The purpose of the funding for National Health Center Technical Assistance Cooperative Agreements is to support and expand Primary Care Association's capacity to address the following three strategies:

1. Strengthening and expanding existing health center grantees;

2. Creating new access points; and

3. Improving health status outcomes of persons served in BPHC-supported programs.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: Public and private nonprofit entities, including faith-based organizations and community-based organizations, as well as for-profit entities, are eligible to apply.

Estimated Amount of This Competition: $8,000,000.

Estimated Number of Awards To Be Made: 4.

Estimated Project Period: 3 years.

HRSA–04–036 National Health Center Technical Assistance Cooperative Agreement (NAT)

Application Availability Date: February 1, 2004.

Application Deadline: April 5, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Cephas Goldman.

Program Contact Phone: 301–594–4488.

Program Contact E-Mail: cgoldman@hrsa.gov.

HRSA–04–037 Increase in Mental Health and Substance Abuse, Oral Health, and Care Management, in Programs Funded Under the Health Centers Consolidation Act of 1996 (IMHSA)

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330, 42 U.S.C. 254b.

Purpose: Access to mental health and substance abuse (MH/SA), and oral health is critical to ensuring the overall health and well being of the populations served by health centers and reducing disparities in health center populations being served. In addition, sustaining and spreading the care and improvement models implemented through the Health Disparities Collaborative is enhanced by expanded care management capacity. As part of the President's multi-year plan to impact 1,200 of the Nation's neediest communities, the HRSA will continue to expand access to essential health care services and to support practice improvement through a targeted approach to care management.

The availability of MH/SA, oral health and care management services will enhance the ability of health centers to provide basic primary care result in an increase in users at existing grantee sites, and continue to improve the health status of persons served. Applicants for this funding opportunity are expected to: (1) Describe the target population and its need for MH/SA, oral health, or care management services; (2) present a service delivery plan that demonstrates responsiveness to the identified needs of the target population; and (3) present a sound business plan that links the goals and objectives from the service delivery plan to the budget. The programs included under this activity include: (1) Community Health Centers, section 330(e); (2) Migrant Health Centers, section 330 (g); (3) Health Care for the Homeless, section 330(h); (4) Public Housing Primary Care, section 330(i); and (5) School Based Health Centers, section 330. The populations served by these programs are: (1) Medically underserved populations in urban and rural areas; (2) migratory and seasonal agricultural workers and their families; (3) homeless people, including children and families; (4) residents of publicly subsidized housing; and (5) medically underserved students in grades K through 12, their families, and medically underserved populations surrounding the school.

Eligibility: Applicants are limited to currently funded health center programs

(*i.e.,* those organizations funded under section 330).

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, preference will be given to approvable applications submitted from sparsely populated areas.

Estimated Amount of This Competition: $19,000,000.

Estimated Number of Awards To Be Made: 125.

Estimated Project Period: 1–5 years.

HRSA–04–037 Increase in Mental Health and Substance Abuse, Oral Health, and Care Management, in Programs Funded Under the Health Centers Consolidation Act of 1996 (IMHSA)

Application Availability Date: November 1, 2003.

Application Deadline: January 5, 2004.

Projected Award Date: May 31, 2004.

Program Contact Person: Lisa Dolan-Branton.

Program Contact Phone: 301–594–4300.

Program Contact E-Mail: LDolan@hrsa.gov.

*HRSA–04–038 Healthy Communities Access Program (HCAP) **

CFDA: 93.252.

Legislative Authority: Public Health Service Act, Section 340, 42 U.S.C. 256.

Purpose: The purpose of the Healthy Community Access Program (HCAP) is to provide assistance to communities and consortia of health care providers and others to develop or strengthen integrated community health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured, and to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions who are uninsured or underinsured.

* This program is not included in the President's budget for FY 2004. Potential applicants should consider this announcement provisional until final Congressional action on appropriations is taken. Updated information on Congressional action on appropriations will be available on the HRSA Web site.

Eligibility: Indian Tribes or Tribal organizations, faith-based and community-based organizations are encouraged to apply. For an entity to be eligible to receive a new HCAP award, the following requirements must be met:

1. The applicant entity must represent a consortium whose principal purpose is to provide a broad range of coordinated health care services to their defined community's uninsured and underinsured populations.

2. The community-wide consortium represented by the applicant entity must include at least one of each of the following providers that serve the state community, unless such provider does not exist, declines or refuses to participate, or places unreasonable conditions on its participation:

- A Federally qualified health center (as defined in section 186(aa) of the Social Security Act (42 U.S.C. 1395x(aa));
- A hospital with a low-income utilization rate (as defined in section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r–4(b)(3)), that is greater than 25 percent;
- A public health department; and
- An interested public or private sector health care provider or an organization that has traditionally served the medically uninsured or underserved.
- 3. The applicant is neither a current nor former Community Access Program (CAP) grantee and is proposing to serve a community of uninsured or underinsured individuals that have never been served by a CAP grant.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, a preference will be given to applicants that demonstrate the extent of unmet need in the community involved for a more coordinated system of care as provided through evidence in their ''Community System Needs Assessment''.

Estimated Amount of this Competition: $20,000,000.

Estimated Number of Awards to be Made: 35.

Estimated Project Period: Up to 3 years.

*HRSA–04–038 Healthy Communities Access Program (HCAP) **

Application Availability Date: February 1, 2004.

Application Deadline: April 5, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Susan Lumsden.

Program Contact Phone: 301–594–4420.

Program Contact E-Mail: SLumsden@hrsa.gov.

HRSA–04–039 Black Lung Clinics Program (BLCP)

CFDA: 93.965.

Legislative Authority: The Black Lung Benefits Reform Act of 1977, Section 427(a), 30 U.S.C. 937(a)

Purpose: The primary purpose of the Black Lung Clinics grant program is to provide treatment and rehabilitation for Black Lung patients and others with occupationally related pulmonary diseases. In addition, individual grantee programs are expected to include case finding and outreach, preventive and health promotion services, education for patients and their families, and testing to determine eligibility for Department of Labor or State benefits. Although the number of active coal miners has decreased substantially because of mechanization, there has been an increase in the number of retired coal miners with the disease and in the number of pulmonary patients from other occupations. A current objective of the program is to expand outreach so that more of the eligible population is made aware of the services offered by the grantee clinics.

Eligibility: Applicants are limited to currently funded programs whose project periods expire during FY 2004 and new organizations proposing to serve the same areas or populations being served by these existing programs.

BLACK LUNG CLINICS PROGRAM

City	State	Expiration Date
Contact: Jack Egan, 301–594–4339		
Altoona	PA	6/30/2004
Washington	PA	6/30/2004
Contact: Barbara Bailey, 301–594–4317		
Denver	CO	6/30/2004

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In selecting applications for funding, preference will be given to applicants that are State entities who meet the legislative requirements of the Federal Mine and Safety Act of 1977 as amended by the Black Lung Benefits Reform Act of 1977.

Estimated Amount of This Competition: $1,000,000.

Estimated Number of Awards: 3.

Estimated Project Period: 1–5 years.

HRSA–04–039 Black Lung Clinics Program (BLCP)

Application Availability Date: January 1, 2004.

Application Deadline: March 1, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Jack Egan.

Program Contact Phone: 301–594–4420.

Program Contact E-Mail: jegan@hrsa.gov.

*HRSA–04–040 State Primary Care Associations Supplemental Funding for Managing Health Center Growth and Quality (PCA) **

CFDA: 93.129.

Legislative Authority: Public Health Service Act, Title III, Section 330, 42 U.S.C. 254b.

Purpose: The HRSA announces an opportunity for existing Primary Care Associations (PCAs) to apply for supplemental funding to advance the goals of the President's initiative to expand health centers. The purpose of the funding is to support and expand the PCAs capacity to address the following three strategies: (1) Strengthening and expanding existing health center grantees; (2) creating new access points; and (3) improving health status outcomes and reducing disparities through evidence-based quality care and quality improvement in all HRSA-supported programs. Each proposed activity must be clearly linked to strengthening health centers' ability to contribute to the President's Initiative.

Eligibility: Applicants are limited to currently funded PCAs.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $3,000,000.

Estimated Number of Awards To Be Made: 25.

Estimated Project Period: 1–5 years.

HRSA–04–040 State Primary Care Associations Supplemental Funding for Managing Health Center Growth and Quality (PCA)

Application Availability Date: November 1, 2003.

Application Deadline: January 5, 2004.

Projected Award Date: April 1, 2004.

Program Contact Person: Cephas Goldman.

Program Contact Phone: 301–594–4488.

Program Contact E-Mail: cgoldman@hrsa.gov.

*HRSA–04–041 Operational Health Center Networks (OHCN) **

CFDA: 93.224.

Legislative Authority: Public Health Service Act, Section 330(e)(1)(C).

Purpose: Operational Health Center Networks (OHCN) support health centers that receive assistance under section 330, or at the request of the health centers, directly to a managed care or practice management network or plan that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under section 330 for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment). Operational networks are defined as a group of three or more health centers that can demonstrate that an essential, mission-critical function is performed at the network level for the network members, enabling the member centers to perform their business and clinical operations more efficiently and effectively.

Eligibility: The following entities are eligible to apply for funding under this announcement:

(1) A health center, as defined and funded under section 330 of the Public Health Service Act, acting on behalf of the member health centers and the network;

(a) A health center applying on behalf of a managed care network or plan must have received Federal grants under subsection (e)(1)(A) of section 330 for at least two consecutive preceding years;

(b) A health center (Community Health Center, Migrant Health Center, Health Care for the Homeless, Public Housing Primary Care and School Based Health Centers) applying on behalf of a practice management network must have received Federal grants under section 330 for at least two consecutive years;

(c) Eligibility is limited to public and non-profit organizations; or

(2) Operational networks, controlled by and acting on behalf of the health center(s) as defined and funded under section 330 of the Public Health Service Act. At the request of all the member health centers, a network may apply for direct funds if it is at least majority controlled and, as applicable, at least majority owned, by such health centers.

Matching or Cost Sharing Requirement: Grantees must provide at least 60 percent of the total approved cost of the project. The total approved cost of the project is the sum of the HRSA share and the non-Federal share. Applicants must demonstrate that at least 30 percent of the cost-sharing requirement is met through cash contributions. The remaining non-Federal share may be met by cash or in kind contributions.

Review Criteria: Final review criteria are included in the Application kit.

Funding Preference: A funding preference will be given to applicants proposing to serve sparsely populated rural or frontier areas.

Estimated Amount of This Competition: $2,100,000.

Estimated Number of Awards To Be Made: 5–7 Awards.

Estimated Project Period: 3 years.

HRSA–04–041 Operational Health Center Networks (OHCN)

Application Availability Date: November 1, 2003.

Application Deadline: March 8, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Susan Lumsden.

Program Contact Phone: 301–594–4472.

Program Contact E-Mail: Slumsden@hrsa.gov.

HIV/AIDS Programs

HRSA–04–042 Special Projects of National Significance (SPNS)

CFDA: 93.928.

Legislative Authority: Public Health Service Act, Section 2691; 42U.S.C. 300ff–101.

Purpose: The purpose of this program is to fund Demonstration Models of Outreach, Care, and Prevention Engaging Young HIV Seropositive Men of Color. In the United States, the predominant mode of transmission of HIV remains men who have sex with men (MSM). Over half of new AIDS cases reported among men who have sex with men occur in young men of color.

This funding initiative will support 4–5 projects targeting young (ages 13–24), HIV seropositive MSM of color. The funding start date and duration of this initiative will be the same for both the Evaluation Center and the demonstration projects.

The purpose of this initiative is to support the development and evaluation of innovative service models designed to reach young, HIV seropositive MSM of color not engaged in clinical care and link them to appropriate clinical, supportive, and preventive services. The specific objectives of this initiative are to: (1) Conduct outreach, (2) conduct HIV counseling and testing, (3) link HIV-infected persons with primary care services, and (4) prevent transmission of HIV infection from HIV positive men to others, among young MSM of color. The Evaluation Center will evaluate model effectiveness in reaching and engaging HIV seropositive young MSM in clinical, supportive, and preventive services. The Center will also support the replication of effective models.

Eligibility: Eligible applicants are public and private nonprofit entities, including faith-based and community-based organizations. Existing HIV clinical entities that collaborate with faith-based and community-based organizations are also eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: In awarding these grants, preference will be given to applicants whose primary mission includes serving the target population for this initiative.

Estimated Amount of This Competition: $2,000,000.

Estimated Number of Awards: 5.

Estimated Project Period: 5 years.

HRSA–04–042 Special Projects of National Significance (SPNS)

Application Availability Date: January 16, 2004.

Letter of Intent Deadline: February 13, 2004.

Application Deadline: March 22, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Pamela Belton.

Program Contact Phone: 301–443–9976.

Program Contact E-Mail: *pbelton@hrsa.gov.*

HRSA–04–043 Title III: Early Intervention Services Capacity Development Grants (EISCDG)

CFDA: 93.918.

Legislative Authority: Public Health Service Act, Section 2654(c), 42 U.S.C. 300ff–54(c).

Purpose: The purpose of this grant program is to support eligible entities in their planning efforts to strengthen their organizational infrastructure and enhance their capacity to develop, enhance or expand high quality HIV primary health care services in (1) Rural or (2) urban underserved areas and (3) communities of color. The applicant must propose capacity building activities that develop, enhance, or expand a comprehensive continuum of outpatient HIV primary care services in their community through the applicant agency. Capacity building grant funds are intended for a fixed period of time (one to three years) and not for long-term activities. Grants will not exceed $150,000 per successful applicant.

Eligibility: Eligible applicants must be public or private non-profit agencies. Faith-based and community-based organizations are eligible to apply.

Review Criteria: Final review criteria are included in the Application kit.

Funding Preferences: Congress has directed HRSA, in appropriating Minority AIDS Initiative funds, to provide Services to communities of color. Consequently, in Awarding these Grants, preference will be given to applicants seeking funds that are located in or near the community(ies) of color they are intending to serve.

Estimated Amount of this Competition: $1,700,000.

Estimated Number of Awards: 12.

Estimated Project Period: Up to 3 years.

HRSA–04–043 Title III: Early Intervention Services Capacity Development Grants (EISCDG)

Application Availability Date: January 5, 2003.

Application Deadline: March 5, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Wayne Sauseda.

Program Contact Phone: 301–443–0493.

Program Contact E-Mail: *wsauseda@hrsa.gov.*

HRSA–04–044 National HIV Training and Technical Assistance Cooperative Agreements (NHIV)

CFDA: 93.145.

Legislative Authority: Public Health Service Act, Section 2692 of the [Title 42, U.S.C. 300ff–III] as amended by Pub. L. 106–345 of the Ryan White CARE Act Amendments of 2000.

Purpose: The goal of this Cooperative Agreement is to assist people working with Ryan White CARE Act funded programs, and other programs with an interest in HIV/AIDS, to understand and put into action the requirements of the CARE Act and research based best practices for high quality, comprehensive HIV primary care and support service delivery to people living with HIV/AIDS. The Cooperative Agreement will transfer knowledge and provide practical help to a diverse group of organizations and individuals, including administrative and direct service staff of State/local AIDS programs, State/local health departments, CARE Act grantees and their subcontractors, other AIDS service organizations, community based organizations and faith-based organizations; members of CARE Act planning bodies; and consumers. Cooperative Agreement recipients will build upon the lessons learned from other training, technical assistance and capacity building efforts sponsored by the HIV/AIDS Bureau and work to address needs not fulfilled by existing efforts.

Federal Involvement: The scope of the federal involvement is included in the application kit.

Eligibility: National, regional and local non-profit organizations involved in addressing HIV/AIDS related issues. Applicants must have a history of developing and disseminating informational materials and providing training and technical assistance, to HIV/AIDS related organizations within the past three years. Community-based and faith-based organizations are eligible to apply.

Review Criteria: Review criteria include evaluating applicants whose staff assigned to the project have the following characteristics:—Experience managing large technical assistance programs;—Experience working with organizations providing HIV/AIDS primary care, treatment and support services and people living with HIV/AIDS;—Knowledge of the challenges faced by organizations providing care, treatment and support services to people living with HIV/AIDS; —Knowledge of regulatory, financing, managerial and clinical aspects of the HIV service delivery system and the larger health care delivery system; and —An organizational mission that includes a commitment to addressing the needs of community based organizations providing HIV-related services in communities severely impacted by HIV. Final review criteria are included in the application kit.

Funding Priorities: Priority will be given to applicants who demonstrate significant experience working with populations targeted by this initiative.

Estimated Amount of this Competition: $1,350,000.

Estimated Number of Awards: 5.

Estimated Project Period: 3 years.

HRSA–04–044 National HIV Training and Technical Assistance Cooperative Agreements (NHIV)

Application Availability Date: October 17, 2003.

Letter of Intent Deadline: November 15, 2003.

Application Deadline: December 19, 2003.

projected Award Date: September 1, 2004.

Program Contact Person: Angela Powell.

Program Contact Phone: 301–443–5761.

Program Contact E-Mail: *apowell@hrsa.gov.*

HRSA–04–046 Telehealth Resource Centers Cooperative Agreement Program (TRCCP)

CFDA: 93.211.

Legislative Authority: The Public Health Services Act, Section 330I. The Health Care Safety Net Amendments of 2002 (Public Law 107–251) amended the Public Health Service Act by adding Section 330I.

Purpose: The purpose of the Telehealth Resource Centers Cooperative Agreements Program is to

establish regional resource centers which will provide services to past and existing office for the Advancement of Telehealth (OAT) grantees and other institutions in need of Technical Assistance in order to refine or create new telehealth programs. Working in close collaboration with OAT, the Resource Centers will develop an array of services. Resource Center services will include: providing Technical assistance, training, and support for health care providers and a range of health care entities that currently provide or seeking to provide telehealth services; disseminating information, research findings and best practices related to the field of telehealth; promoting effective collaboration among telehealth care providers in their region; conducting evaluations to determine the best utilization of telehealth technologies to meet our nation's health care needs; fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and implementing special projects or studies under the direction of the OAT.

Federal Involvement: The scope of Federal involvement is included in the Application kit.

Eligibility: Public or private non-profit agencies. Faith-based and community-based organizations are eligible to apply.

Review Criteria: Final Review Criteria will be included in the application kit.

Funding Preferences: As stated in the Legislative Authority, preference will be given to an eligible entity that meets at least 1 of the following requirements:

A. Provision of services—The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations; B. Collaboration and sharing of expertise—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels; C. Broad range of telehealth services—The eligible entity has a record of providing a broad range of telehealth services, which may include—(i) A variety of clinical specialty services; (ii) patient or family education; (iii) health care professional education; (iv) rural residency support programs; and (v) informatics. In addition to providing technical assistance in their region, each grant will serve as a national resource that brings together the lessons learned from throughout the nation in at least two of the following areas: (i) Telehealth program evaluation; (ii) technology assessment; (iii) training, marketing, and information dissemination; (iv) telehealth program operations.

Estimated Amount of This Competition: $500,000.

Estimated Number of Awards: 2.

Estimated Project Period: up to three (3) years.

HRSA–04–046 Telehealth Resource Centers Cooperative Agreement Program (TRCCP)

Application Availability Date: December 15, 2003.

Application Deadline: March 22, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Luigi S. Procopio.

Program Contact Phone: (301) 443–0262.

Program Contact E-Mail: *Lprocopio@hrsa.gov.*

HRSA–04–047 Title IV: Grants for Coordinated HIV Services and Access to Research for Women, Infants, Children, and Youth (CSWICY)

CFDA: 93.153.

Legislative Authority: Public Health Service Act, Section 2671, 42 U.S.C. 300ff–71.

Purpose: The Purpose of the Title IV funding is to improve access to primary medical care, research, and support Services for HIV-infected women, infants, children and youth, and to provide support services for their affected family members. Funded projects will link clinical and other research with comprehensive care systems, and improve and expand the coordination of a system of comprehensive care for women, infants, children and youth who are HIV-infected. Funds will be used to support programs that: (1) Link established systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities, and (2) address the intensity of service needs, high costs, and other complex barriers to comprehensive care and research experienced by medically underserved and hard-to-reach populations. Activities under these grants should address the goals of enrolling and maintaining clients in HIV primary care; increasing client access to research by linking development and support of comprehensive, community-based and family-centered care infrastructures; and emphasizing prevention within the care system, particularly the prevention of perinatal HIV transmission.

Eligibility: Eligible organizations are public or private nonprofit entities that provide or arrange for primary care. Current grantees and new organizations proposing to serve the same patients and populations currently being serviced by these existing Projects are eligible to apply. Faith-based and community-based organizations are eligible to apply.

Limited Competition

Applications are limited to the areas where Project Periods expire in FY 2004. These areas are:

AL—Baldwin; Mobile
AR—Clay; Cleburne; Craighead; Fulton; Greene; Independence; Izard; Jackson; Lawrence; Marion; Poinsett; Randolph; Searcy; Sharp; White
AZ—Maricopa
CA—Los Angeles; Alameda; Contra Costa; San Francisco; Sonoma
CO—Adams; Arapahoe; Boulder; Denver; Douglas; El Paso; Jefferson
FL—Hillsborough; Pinellas; Pasco; Manatee; Sarasota; Duval; St. Johns; Clay; Nassau; Baker; Flagler; Volusia;
GA—South East; Clayton; Dekalb; Cobb; Fulton; Gwinnett Appling; Atkinson; Bacon; Brantley; Bulloch; Candler; Charlton; Clinch; Coffee; Evans; Jeff Davis; Pierce; Tattnall; toombs; Ware; Wayne
IL—Cook
KY—Jefferson
MA—Barnstable; Berkshire; Bristol; Dukes; Essex; Franklin; Hampden; Hampshire; Middlesex; Nantucket; Norfolk; Plymouth; Worcester
MO—St. Louis City; St. Louis; St. Clair; Madison
NC—Gates; Perquimans; Pasquotank; Chowan; Bertie; Martin; Pitt; Beaufort; Greene; Pamlico; Hyde; Washington; Tyrrell Alamance; Caswell; Guilford; Randolph; Rockingham
NM—Bernalillo; Torrance; Valencia
NV—State wide except Clark, Lincoln
NY—Bronx; New York; Kings; Richmond; Queens; Albany; Clinton; Columbia; Delaware; Dutchess; Essex; Franklin; Fulton; Greene; Hamilton; Herkimer; Montgomery; Oneida; Otsego; Rensselaer; Saratoga; Schenectady; Schoharie; Sullivan; Ulster; Warren; Washington
OK—State wide coverage
PA—Butler; Armstrong; Beaver; Allegheny; Westmoreland; Washington; Somerset; Cambria; Fayette; Greene
TN—Shelby; Fayette; Tipton; MS Desoto; AR Crittenden
TX—Dallas; Tarrant; Denton; Ellis; Kaufman; Smith; Gregg; Anderson; Navarro; Collin; Parker; Johnson; Hood; Navarro; Somervell; Erath; Palo Pinto; Wise
VA—Halifax; Charlotte; Prince Edward; Buckingham; Amelia; Powhatan;

Nottoway; Chesterfield; Dinwiddie; Sussex; Charles City; New Kent; Hanover
VI—St. Thomas; St. Croix; St. John
WI—State wide coverage

Review Criteria: Final Review Criteria are included in the Application kit.

Funding Preferences: Preference for Funding will be given to Projects that support a comprehensive, Coordinated system of HIV care serving HIV-infected Women, Infants, Children and Youth, and their families, and are linked with or have initiated activities to link with clinical trials or other Research

Estimated Amount of this Competition: $22,276,300.

Estimated Number of Awards: 32.

Estimated Project Period: 3 years.

HRSA–04–047 Title IV: Grants for Coordinated HIV Services and Access to Research for Women, Infants, Children, and Youth (CSWICY)

Application Availability Date: November 5, 2003.

Application Deadline: January 5, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Wayne Sauseda.

Program Contact Phone: 301–443–0493.

Program Contact E-Mail: *wsauseda@hrsa.gov.*

HRSA–04–048 Title IV: Grants for Coordinated HIV Services and Access to Research for Women, Infants, Children, and Youth: Youth Services Initiative (CSWICY: YSI)

CFDA: 93.153.

Legislative Authority: Public Health Service Act, Section 2671, 42 U.S.C. 300ff–71.

Purpose: The purpose of this initiative is to foster and expand systems of health care and social support services for youth (age 13–24) at risk for or infected with HIV in order to identify infected youth and enroll them in HIV primary care. Grantees will identify additional HIV infected youth and develop, coordinate and provide support services to enroll and maintain them in primary medical care. Adolescent clients should be enrolled into care early in the spectrum of disease and managed throughout the infection. In partnership with other Ryan White funded programs or other agencies, applicants will integrate youth services into existing systems of care to provide access to comprehensive, coordinated primary care, research and social support services.

Eligibility: Eligible organizations are public or private nonprofit entities that provide or arrange for primary care. Current grantees and new organizations proposing to serve the same patients and populations currently being serviced by these existing projects are eligible to apply. Faith-based and community-based organizations are eligible to apply.

Limited Competition

Applications are limited to the areas where project periods expire in FY 2004. These areas are:

CA—Alameda; San Francisco; Los Angeles
DC—District of Columbia
FL—Hillsborough; Pinellas
IL—Cook; Dupage; Douglas; Lake
MA—Norfolk; Suffolk; Middlesex
MD—State Wide Coverage
NY—New York; Manhattan
PR—Island Wide
TN—Shelby; Tipton; Fayette; AR Crittenden
TX—Willacy; Cameron; Hidalgo; Dallas; Houston; Harrison

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: Priority will be given to applicants with a history of working with youth, especially youth infected with HIV. Priority will be given to projects proposed in geographic areas where epidemiologic data demonstrate high numbers of infected youth. This funding priority is consistent with Congressional direction to bridge targeted prevention and medical care and treatment services to youth and young adults.

Funding Preferences: Preference will be given to currently funded adolescent programs that have enrolled significant numbers of HIV infected youth into a primary care system during the previous project period.

Estimated Amount of This Competition: 5,928,779.

Estimated Number of Awards: 16.

Estimated Project Period: 3 years.

HRSA–04–048 Title IV: Grants for Coordinated HIV Services and Access to Research for Women, Infants, Children, and Youth: Youth Services Initiative (CSWICY: YSI)

Application Availability Date: February 1, 2004.

Application Deadline: April 1, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Wayne Sauseda.

Program Contact Phone: 301–443–0493.

Program Contact E-Mail: *wsauseda@hrsa.gov.*

HRSA–04–005 Title III: Categorical Grant Program To Provide Outpatient Early Intervention Services With Respect to HIV Disease (EISEGA)

CFDA: 93.918.

Legislative Authority: Public Health Service Act, Section 2651, 42 U.S.C. 300ff–51.

Purpose: The purpose of this funding is to provide, on an ongoing outpatient basis, high quality early intervention services/primary care to individuals with HIV infection. This is accomplished by increasing the present capacity and capability of eligible ambulatory health service entities. These expanded services become part of a continuum of HIV prevention and care for individuals who are at risk for HIV infections or are HIV infected. All early intervention services (EIS) programs must provide: HIV counseling and testing; counseling and education on living with HIV; appropriate medical evaluation and clinical care; and other essential services such as oral health care, outpatient mental health services, outpatient substance abuse services and nutritional services, and appropriate referrals for specialty services.

For the EIS Grants, a major focus is on increasing access to HIV primary care and support services for communities of color. Funding available through the Minority AIDS Initiative has improved our ability to fund indigenous organizations and those serving communities of color to deliver and implement culturally/linguistically proficient primary care HIV services. Funding preferences have been established for organizations serving communities of color that are highly affected by HIV/AIDS in an effort to improve care, and reduce disparities in health outcomes. These preferences are consistent with Congressional direction to maximize the participation of minority community-based organizations in delivering Early Intervention Services.

Eligibility: Applicants are limited to public or private nonprofit entities that are currently funded Title III programs whose project periods expire in FY 2004 or FY 2005 and new organizations proposing to serve the same patients and populations currently being serviced by these existing projects. Grantees must be public or private non-profit agencies. These may include but are not limited to: Consolidated Health Center Programs (Community Health Centers, Migrant Health Centers, Health Care for the Homeless, Public Housing Primary Care and Healthy Schools, Healthy Communities) receiving support under Section 330 of the PHS

Act; Family planning agencies under Section 1001 of the PHS Act, other than States; Comprehensive Hemophilia Diagnostic and Treatment Centers; Federally qualified health centers as described in Title XIX, Section 1905 of the Social Security Act; Nonprofit private entities that currently provide comprehensive primary care services to populations at risk of HIV disease; Local health departments; University/Medical Center affiliated clinics.

Faith-based and community-based organizations are eligible to apply.

State and Service Area of Project Periods ending 6/30/04:

AK—Municipality of Anchorage
AR—Arkansas; Ashley; Chicot; Desha; Drew; Jefferson; Lincoln; Pulaski; Lonoke; Prairie; Francis; Woodruff Crittenden; Cross; Lee; Mississippi; Monroe; St.
CA—Kern; Los Angeles
CT—Fairfield; New Haven
FL—Broward; St. Lucie; Martin; Ft. Pierce; Indiantown; Collier
IA—Dallas; Polk; Warren; Appanoose; Cedar; Clinton; Davis; Des Moines; Henry; Jackson; Jefferson; Johnson; Keokuk; Lee; Louisa; Mahaska; Monroe; Muscatine; Poweshiek; Scott; Van Buren; Wapello; Washington; Hancock; Henderson; Knox; McDonough; Mercer; Rock Is
ID—Ada; Boise; Elmore; Valley; Owyhee; Canyon; Gem; Payette; Washington; Adams; Butte; Bingham; Power; Bannock; Caribou; Oneida; Franklin; Bear Lake
KY—Pike
MA—Barnstable; Plymouth; Suffolk; Worcester; Norfolk
MI—Wayne
MS—Bolivar; Sunflower; Washington
MT—Beaverhead; Big Horn; Blaine; Broadwater; Carbon; Carter; Cascade; Chouteau; Custer; Daniels; Dawson; Deer Lodge; Fallon; Fergus; Flathead; Gallatin; Garfield; Glacier; Golden Valley; Granite; Hill; Judith Basin; Lake; Lewis and Clark; Liberty; Lincoln
NC—Durham; Wake; Orange; Granville; Vance
NJ—Union; Monmouth; Mercer; Middlesex; Somerset; Hunterdon
NY—Westchester; Putnam; Dutchess; Columbia; Orange; Ulster
NY—Bronx; Albany; Rensselaer
PA—Philadelphia; York
PR—Lares; Barranquitas; Camuy; Ciales; Cidra; Comerio; Corozal; Florida; Naranjito; Hatillo; Patillas; Orocovis Mayaguez; San Sebastian; Western Puerto Rico Gurabo; Caguas; San Lorenzo; Cidra; Cayey
SC—Beaufort; Hampton; Jasper
TX—Bexar
VA Covington City; Clifton Forge City; Alleghany; Botetourt; Craig; Roanoke City; Salem City; Roanoke; Amherst; Appomattox; Bedford; Bedford City; Campbell; Lynchburg City; Buchanan; Dickenson; Russell; Tazewell; Danville City; Pittsylvania; Franklin; Henry
VT—Addison; Bennington; Caledonia; Chittenden; Essex; Franklin; Grand Isle; Lamoille; Orange; Orleans; Rutland; Washington; Windham; Windsor
WI—Dane; Adams; Buffalo; Crawford; Columbia; Dodge; Green; Fond Du Lac; Calumet; Pepin; Trempealeau; Jackson; La Crosse; Monroe; Vernon; Grant; Lafayette; Iowa; Jefferson; Sauk; Richland; Juneau; Marquette; Waushara; Waupaca; Winnebago; Sheboygan; Rock; Gree

State and Service Area of Project Periods ending 3/31/05:

AK—Anchorage Borough; Fairbanks North Star Borough; Juneau Borough
AR—Baxter; Clay; Cleburne; Craighead; Fulton; Greene; Independence; Izard; Jackson; Lawrence; Marion; Poinsett; Randolph; Searcy; Sharp; Stone; Van Buren; White
CA—Los Angeles; Sacramento; Fresno; San Diego
CT—Middlesex; New London; New Haven; Hartford
DC—District of Columbia
FL—Franklin; Gadsden; Jefferson; Leon; Liberty; Madison; Taylor; Wakulla; Dade; Miami Beach; Miami Lake; Osceola; Orange; Brevard; Volusia; Polk; Seminole
GA—Clarke; Elbert; Greene; Jackson; Madison; Morgan; Oconee; Oglethorpe; Walton; DeKalb
IL—Cook
IN—Lake
KY—Anderson; Bourbon; Boyle; Bath; Boyd; Bracken; Clark; Estill; Fayette; Franklin; Garrard; Jessamine; Lincoln; Madison; Mercer; Nicholas; Powell; Scott; Woodford; Fleming; Lewis; Mason; Robertson; Menifee; Montgomery; Morgan; Rowan; Carter; Elliott; Greenu; Henderson; Daviess; Union; Webster
LA—Allen; Avoyelles; Catahoula; Concordia; Grant; La Salle; Rapides; Vernon; Winn, Orleans
LA—Caldwell; Franklin; Jackson; Lincoln; Morehouse; Ouachita; Union; West Carroll; Bossier; Caddo
MA—Nantucket; Dukes; Barnstable; Worcester; Essex Middlesex; Norfolk; Suffolk; Plymouth
ME—Washington; Hancock; Penobscot; Piscataquis; Aroostook
MN—Beltrami; Clearwater; Pine; Sherburne; Anoka; Benton; Mille Lacs; Goodhue; Wabasha; Olmsted; Dodge; Mower; Lincoln; Lyon; Yellow Medicine; Renville; Lac Qui Parle; Chippewa; Redwood
MO—Andrew; Atchison; Buchanan; Caldwell; Carroll; Clinton; Daviess; DeKalb; Gentry; Grundy; Harrison; Holt; Livingston; Mercer; Nodaway; Worth
MS—Yazoo; Madison; Sharkey; Warren; Claiborne; Hinds; Copiah; Simpson; Rankin; Issaquena
NY—Warren; Washington; Hamilton; Essex; Saratoga; Bronx Kings; New York; Queens; Bronx; Staten Island
OH—Medina; Summit; Portage; Stark; Carroll; Holmes; Wayne; Tuscarawas; Williams; Wood; Fulton; Lucas; Ottawa; Defiance; Henry; Sandusky
PA—Philadelphia; Dauphin; Erie; Northampton
PA—Cameron; Clarion; Clearfield; Crawford; Elk; Erie; Forest; Jefferson; Lawrence; McKean; Mercer; Venango; Warren
RI—Providence
SC—Chester; Lancaster; Chesterfield; Darlington; Marlboro
SD—Union; Clay; Yankton; Bon Homme; Charles Mix; Lincoln; Turner; Hutchinson; Douglas; Minnehaha; McCook; Hanson; Davison; Aurora; Brule; Moody Lake; Miner; Sanborn; Buffalo; Brookings; Kingsbury; Beadle; Hand; Hyde; Hughes; Sully; Deuel; Hamlin; Codington
TN—Shelby
VA—Roanoke; Norton City; Wise; Dickenson; Russell; Scott; Washington; Tazewell; Smyth; Grayson; Carroll; Bland; Wythe; Galax City; Giles; Montgomery; Floyd; Patrick; Franklin; Henry; Craig; Alleghany; Covington City; Clifton Forge City; Botetourt; Bedford
WA—Spokane; Whitman; Garfield; Asotin; Adams; Lincoln; Ferry; Okanogan; Stevens; Pend Oreille; Whatcom; Skagit
WI—Milwaukee
WV—Boone; Putnam; Clay; Kanawha; Raleigh; Summers; Monroe; Wyoming; McDowell; Mercer; Braxton; Webster; Nicholas; Fayette; Greenbrier; Pocahontas

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: Preference will be given to applicants in an area experiencing an increase in the burden of providing services regarding HIV disease, as described by AIDS cases, sexually transmitted diseases, tuberculosis, drug abuse, lack of availability of early intervention services, lack of primary health providers other than the applicant, and the distance patients have to travel for

care. Preference will be given to applicants that provide services in rural (outside urbanized areas and urban clusters as described by the U.S. Census Bureau) or underserved communities where the HIV epidemic is increasing and in areas that receive limited or no Ryan White CARE Act monies. Preference will be given to organizations serving communities of color that are highly impacted by HIV/AIDS, and are supported by the communities of color proposed to be served. This preference is consistent with Congressional direction to maximize the participation of minority community based organizations that have a history of serving communities of color.

Estimated Amount of This Competition: $94,116,800.

Estimated Number of Awards: 177.

Estimated Project Period: 3 years.

HRSA–04–005 Title III: Categorical Grant Program To Provide Outpatient Early Intervention Services With Respect to HIV Disease (EISEGA)

Application Availability Date: October 22, 2003; August 15, 2004.

Application Deadline: December 22, 2003; October 15, 2004.

Projected Award Date: July 1, 2004; April 1, 2005.

Program Contact Person: Wayne Sauseda.

Program Contact Phone: 301–443–0493.

Program Contact E-Mail: wsauseda@hrsa.gov.

Explanation: Application Availability Date is October 22, 2003 for project period ending June 30, 2004. Application Availability Date is August 15, 2004 for project periods ending March 31, 2005. Application Deadline is December 22, 2003 for project period ending June 30, 2004. Application Deadline is October 15, 2004 for project period ending March 31, 2005. Competition for programs with project periods ending December 31, 2003 and March 30,2004 were announced in a previously published **Federal Register** Notice. Contact Wayne Sauseda for further information.

HRSA–04–049 Title III: Early Intervention Services Planning Grants (EISPG)

CFDA: 93.918.

Legislative Authority: Public Health Service Act, Section 2654(c), 42 U.S.C. 300ff–54(c).

Purpose: The purpose of this grant program is to support eligible entities in their efforts to plan for the provision of high quality comprehensive HIV primary health care services in rural or urban underserved areas and communities of color. Planning grants support the planning process and do not fund any service delivery or patient care.

Eligibility: Eligible applicants must be public or private nonprofit agencies. Faith-based and community-based organizations are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Funding References: In awarding grants, preference will be given to applicants seeking funds that are located in or near the community(ies) of color they are intending to serve. This preference is consistent with Congressional direction to maximize participation of minority community-based organizations that have a history of serving communities of color.

Estimated Amount of This Competition: $500,000.

Estimated Number of Awards: 10.

Estimated Project Period: 1 year.

HRSA–04–049 Title III: Early Intervention Services Planning Grants (EISPG)

Application Availability Date: January 5, 2003.

Application Deadline: March 5, 2004.

Projected Award Date: August 1, 2004.

Program Contact Person: Wayne Sauseda.

Program Contact Phone: 301–443–0493.

Program Contact E-Mail: wsauseda@hrsa.gov.

HRSA–04–050 HIV Emergency Relief Grant Program for Eligible Metropolitan Areas (EMAS)

CFDA: 93.914.

Legislative Authority: Public Health Service Act, Title XXVI, Pub. L. 106–345, 42 U.S.C. 300ff–11 *et seq.*

Purpose: Part A (Title I) of the Ryan White CARE Act authorizes grants for outpatient and ambulatory health and support services to Eligible Metropolitan Areas (EMAs). These grants fund systems of community-based care composed of approximately 25 categories of medical and other health and social support services for individuals with HIV/AIDS in EMAs. These services are intended primarily for low income/under insured people living with HIV/AIDS. Fifty percent of the funds available are awarded according to a formula based on the estimated number of living cases of AIDS in the EMAs. The remaining funds, less any hold harmless amounts and amounts appropriated for the Minority AIDS Initiative (MAI), are awarded as discretionary supplemental grants based on the demonstration of additional need by the EMA.

Eligibility: Limited to 51 Eligible Metropolitan Areas (EMAs).

Estimated Amount of This Competition: $247.2 million (amount excludes MAI award amounts).

Estimated Number of Awards: 51.

Estimated Project Period: March 1, 2004 through February 28, 2005.

HRSA–04–050 HIV Emergency Relief Grant Program for Eligible Metropolitan Areas (EMAS)

Application Availability Date: July 15, 2003.

Application Deadline: October 1, 2003.

Projected Award Date: No later than 60 days post final FY 2004 Appropriation.

Program Contact Person: Douglas H. Morgan.

Program Contact Number: (301) 443–6745.

Program Contact E-Mail: dmorgan@hrsa.gov.

HRSA–04–008 AETC National Evaluation Center (NECCA)

CFDA: 93.15.

Legislative Authority: Public Health Service Act, as amended, 42 U.S.C. 300ff–111(a).

Purpose: This cooperative agreement will be awarded to an eligible 0entity to develop, test, and disseminate methods and models for evaluating the impact of clinical education and training on provider behavior and clinical practice, with respect to changes in knowledge and skills, clinical practice behavior, and clinical outcomes.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: Funding will be directed to activities designed for documentation and data collection, outcome evaluation, technical assistance, writing and dissemination. Eligible entities include public or private non-profit entities, including schools and academic health sciences centers. Faith-based and community-based organizations are eligible to apply.

Review Criteria: Applications will be reviewed by an objective review committee using the following criteria: Understanding of the Problem, Professional Qualifications and Expertise of Applicant, Organizational Capacity, Methods and Program Plan, and Appropriateness and Justification of the Budget.

Estimated Amount for This Competition: $450,000.

Estimated Number of Awards: 1.

Estimated Project Year: 3 years.

HRSA–04–008 AETC National Evaluation Center (NECCA)

Application Availability Date: August 15, 2003.

Application Deadline: October 6, 2003.

Projected Award Date: December 1, 2003.

Program Contact Person: Marisol M. Rodriguez.

Program Contact Phone: (301) 443–4082.

Program Contact E-Mail: mrodriguez@hrsa.gov.

Maternal and Child Health Programs

HRSA–04–051 Maternal and Child Health Research Program (MCHR)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701(a)(2).

Purpose: The Maternal and Child Health Research Program will award grants for the following purposes: (1) Extramural MCH Research Program to support applied research relating to maternal and child health services, which show promise of substantial contribution to the advancement of the current knowledge pool, and when used in States and communities should result in health and health services improvements; and (2) Pediatric Research Network Program to support a pediatric applied research network that promotes coordinated multi-centered research activities, focused on translating research to practice and that should result in health and health service improvements when applied directly into pediatric primary care and/or service settings.

Eligibility: For program purpose, only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants for research in maternal and child health services or in services for children with special health care needs, as cited in 42 CFR Part 51a.3 (b).

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition:

For program purpose—
(1) Extramural MCH Research Program: $2,800,000.
(2) Pediatric Research Network Program: $400,000.

Estimated Number of Awards:

For program purpose—
(1) Extramural MCH Research Program: 10 awards.
(2) Pediatric Research Network Program: 1 award.

Estimated Project Period:

For program purpose—
(1) Extramural MCH Research Program: Up to 4 years.
(2) Pediatric Research Network Program: 5 years.

HRSA–04–051 Maternal and Child Health Research Program (MCHR)

Application Availability Date:

For program purpose—
(1) Extramural MCH Research Program: Continuously.
(2) Pediatric Research Network Program: December 15, 2003.

Application Deadline:

(1) Extramural MCH Research Program: March 1, 2004; and August 15, 2004.
(2) Pediatric Research Network Program: March 1, 2004.

Projected Award Date:

(1) Extramural MCH Research Program: September 1, 2004, January 1, 2005.
(2) Pediatric Research Network: September 1, 2004.

Program Contact Person:

(1) Extramural MCH Research Program: Rita Haggerty (e-mail: *rhaggerty@hrsa.gov*) or Hae Young Park (e-mail: *hpark@hrsa.gov*).
(2) Pediatric Research Network Program: Rita Haggerty.

Program Contact Phone: 301–443–2207.

HRSA–04–052 Maternal and Child Health Minority Research Infrastructure Support Program (RMIN)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701(a)(2).

Purpose: The purpose of this program is to increase the capacity of institutions and their faculty to conduct rigorous maternal and child health (MCH) applied research addressing issues relating to health disparities. The intent of the research infrastructure program is to strengthen the research environments of institutions through grant support to develop and/or expand existing capacities for conducting research in all areas of MCH care and services, which shows promise of substantial contribution to the advancement of current knowledge pool, and when used in States and communities should result in health and health services improvements.

Eligibility: As cited in 42 CFR Part 51a.3(b), only public or nonprofit institutions of higher learning and public or private nonprofit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants for research in maternal and child health services or in services for children with special health care needs.

Funding Preferences: All eligible applications will be considered. However, the Surgeon General's Healthy People 2010 Objectives, the Institute of Medicine's report Unequal Treatment: Confronting Racial and Ethnic Disparities in Health Care, and the HHS Secretary's initiative to eliminate racial and ethnic disparities in health all evidence a continuing—if not growing—trend of inequities in the health status of racial, ethnic and low income groups. In order to enhance research outcomes on health disparities in areas of MCH care and services (*e.g.*, prenatal care, low birth weight, immunizations, maternal and infant morality), the program is seeking applicants who demonstrate: geographic proximity, a history of established relationships and commitment to the well being of the proposed study population, trust of the community, availability of researchers with cultural and linguistic competence relative to the research population, and evidence of research experience in the area to be studied with resultant professional presentations and/or publications.

Review Criteria: Final review criteria are included in the application guidance material.

Estimated Amount of This Competition: $250,000.

Estimated Number of Awards: 2.

Estimated or Average Size of Each Award: $125,000.

Estimated Project Period: 5 years.

HRSA–04–052 Maternal and Child Health Minority Research Infrastructure Support Program (RMIN)

Application Availability Date: December 1, 2003.

Application Deadline: March 26, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Hae Young Park and/or Roscoe G. Dandy.

Phone Number: (301) 443–2207 for Ms. Park or (301) 443–2964 for Dr. Dandy.

E-Mail: hpark@hrsa.gov and *rdandy@hrsa.gov.*

HRSA–04–053 Long Term MCH Training (MCHLT)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, Section 501(a)(2), 42 U.S.C. 702(b)(2).

Purpose:

(1) Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities (LEND) (T73)

The purpose of the Maternal and Child Health Interdisciplinary Leadership Education in Neurodevelopmental and Related Disabilities (LEND) program is to improve the health status of infants, children, and adolescents with, or at risk for, neurodevelopmental and related disabilities, including mental retardation, neurodegenerative and acquired neurological disorders, and multiple handicaps. The educational curricula emphasize the integration of services supported by State, local agencies, organizations, private providers and communities. The LEND programs will prepare health professionals to assist children and their families to achieve their developmental potentials by forging a community-based partnership of health resources and community leadership.

(2) Leadership Education Certificate in Public Health (T04)

The purpose of this program is to strengthen the Nation's Maternal and Child Health Public Health system by broadening the leadership base of the current and future MCH workforce. Emphasis will be placed on developing the public health workforce through innovative strategies that address the special education needs of health professionals who: live in isolated geographic communities; need to enhance or advance their skills while continuing to meet their daily on site work and family responsibilities; and/or are from underserved or underrepresented populations. These training programs could lead to a graduate degree (*i.e.*, Masters in Public Health) and/or in-depth training which is tailored to the specific needs of public health students in improving their skills (*i.e.*, certificate program). Institutions are encouraged to develop the certificate and degree programs for students who desire to build upon previous course work to continue their formal education.

Eligibility: As cited in 42 CFR Part 51a.3(b), only public or private nonprofit institutions of higher learning may apply for training grants.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations:

(1) In the interest of equitable geographic distribution, special consideration for funding may be given to projects from States or jurisdictions without a currently funded project in this category.

Estimated Amount of This Competition:

(1) LEND $8,219,000.

(2) Leadership Educ. Certificate in Public Health, $720,000.

Estimated Number of Awards:

(1) LEND, 17.

(2) Leadership Educ. Certificate in Public Health, 4.

Estimated Project Period: 5 years.

HRSA–04–053 Long Term MCH Training (MCHLT)

Application Availability Date: September 12, 2003.

Letter of Intent Deadline: October 1, 2003.

Application Deadline: November 20, 2003.

Projected Award Date:

(1) LEND, July 1, 2004.

(2) Leadership Education in Public Health, June 1, 2004.

Program Contact Person:

(1) LEND, Denise Sofka.

(2) Leadership Education in Public Health, Nanette H. Pepper.

Program Contact Phone:

(1) LEND, (301) 443–0344.

(2) Leadership Education in Public Health, (301) 443–6445.

Program Contact E-Mail:

(1) LEND, *dsofka@hrsa.gov.*

(2) Leadership Education in Public Health, *npepper@hrsa.gov.*

HRSA–04–054 Continuing Education and Development (CED)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, Section 501(a)(2), 42 U.S.C. 701(a)(2).

Purpose:

(1) Continuing Education and Development (General) (T02)

Continuing Education and Development (CED) focuses on increasing the leadership skills of MCH professionals by facilitating the timely transfer of new information, research findings, and technology related to MCH; and updating and improving the knowledge and skills of health and related professionals in programs serving mothers and children. CED programs support the conduct of short-term, non-degree related courses, workshops, conferences, symposia, institutes and distance learning strategies and/or development of curricula, guidelines, standards of practice, and educational tools/strategies intended to assure quality health care for the MCH population.

Programs must address a critical MCH training need, such as, but not limited to, oral health, behavioral health, cultural competency, core public health functions, asthma, early identification/detection of children with special health care needs, suicide prevention, health education, nutrition, nursing, or inter-professional education.

(2) Continuing Education/Distance Learning (T21)

Alternative education methodologies provide effective and efficient means by which maternal and child health (MCH) professionals can enhance and advance their analytical, managerial, administrative and clinical skills while continuing to meet their daily on-site responsibilities. These functions include assessing need; utilizing data; developing policies and programs; addressing and resolving problems; monitoring progress and evaluating performance. This grant program supports the development, implementation, creative utilization, application and evaluation of distance education opportunities for maternal and child health (MCH) professionals. Projects will work collaboratively with each other and the MCH Bureau to provide technical assistance in distance education and technology to the MCH community.

Eligibility: As cited in 42 CFR Part 51a.3(b), only public or private institutions of higher learning may apply for training grants.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations:

(1) Special consideration will be given to applicants serving underrepresented minority students.

Estimated Amount of this Competition:

(1) Continuing Education and Development, $300,000;

(2) CED/Distance Learning, $525,000

Estimated Number of Awards:

(1) Continuing Education and Development, 10

(2) CED/Distance Learning, 4

Estimated Project Period:

(1) Continuing Education and Development, 1–3 years

(2) CED/Distance Learning, 3 years

HRSA–04–054 Continuing Education and Development (CED)

Application Availability Date: November 14, 2003.

Letter of Intent Deadline: December 15, 2003.

Application Deadline: January 15, 2004.

Projected Award Date: June 1, 2004.

Program Contact Person:

(1) Continuing Education and Development, Diana L. Rule

(2) CED/Distance Learning, Aaron Favors

Program Contact Phone:

(1) Continuing Education and Development, (301) 443–0233

(2) CED/Distance Learning, (301) 443–0392

Program Contact E-Mail:

(1) Continuing Education and Development, *drule@hrsa.gov*

(2) CED/Distance Learning, *afavors@hrsa.gov*

HRSA–04–055 Genetic Services Projects: Delivery of Genetic Services (GSGE) and Regional Newborn Screening and Genetics Collaboratives (GSRC)

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

CFDA: 93.110.

Purpose: The purpose of this grant activity is to fund two separate initiatives to establish demonstration projects to address issues confronting State newborn screening and State Title V genetics programs. These initiatives will provide models, best practices, and dissemination strategies for ensuring optimal follow-up and management for children identified with heritable conditions by helping to translate genetic technological advances into practice.

Initiative 1—Regional Newborn Screening and Genetics Collaboratives

The purpose of this grant activity is to establish demonstration projects that enhance and support the newborn screening and genetics service capacity of State Title V programs. The projects will reflect partnerships among State programs, medical homes, families, and tertiary care centers. The projects will focus on ensuring optimal follow-up and management for children identified with heritable conditions by helping to translate genetic technological advances into practice. They will also undertake a regional approach toward addressing the maldistribution of genetic resources. The initiative will establish Collaboratives to: Serve as regional focus of genetics expertise for the sub-specialty care and treatment and management of children identified with heritable disorders by newborn screening; Demonstrate partnerships with multiple state newborn screening and Title V programs within a region, modeling a regional approach toward facilitating access to the genetics expertise that providers and families need to diagnose and manage children identified with heritable disorders; Provide information, educational resources, technical assistance, and support to the medical homes within the region in the treatment and management of children identified with heritable disorders by newborn screening, as well as to the families of the children identified with heritable disorders in the region. This will be done by: Utilizing innovations in communication and telehealth medicine; Demonstrating partnerships with existing comprehensive care programs to provide genetics expertise; Demonstrating the ability to offer technical assistance to State newborn screening and Title V programs served by the region; Assessing the long term health outcomes of children identified by newborn screening in this region and the clinical validity and utility of this regional approach; and Addressing issues related to the incidence of heritable conditions identified by newborn screening in the region. Funds available: $2,000,000 for 4 cooperative agreements. The cooperative agreements will be funded for five years, subject to the availability of funding for years 2 through 5 and satisfactory grantee performance.

Initiative 2—Delivery of Genetic Services

The purpose of this grant activity is to establish 5 separate demonstration projects to examine genetic service issues such as service delivery and capacity, developing communities of practice for systems integration, quality of services, genetic literacy, education and awareness and the multiple social and ethical issues that have emerged from the use of new and evolving genetic technologies within these programs. All projects must consider the complexity of the public health and health care delivery systems. Applications may address Projects 1–5. Funds available: $1,000,000 for 5 cooperative agreements. The cooperative agreements will be funded for two years, subject to the availability of funding for the second year and satisfactory grantee performance.

- One project will identify strategies and develop materials and a model that identifies and measures quantifiable performance criteria for newborn genetic screening programs. Issues such as expanded newborn screening, missed infants, false positive results, and delayed diagnosis will be addressed—Project 1.
- One project will identify strategies and develop materials and a model that utilizes a consumer-based family history tool to increase awareness about genetics—Project 2.
- One project will identify strategies and develop materials and a model to evaluate existing data and recommend and weight priorities on health and economic value of genetic services, including genetic testing, education and counseling to provide important cost, health outcomes, and quality of care data—Project 3.
- One project will identify strategies and develop materials for addressing the ethical social issues surrounding the use of new and emerging technologies, the current models for delivering genetic tests and other genetic services—Project 4.
- One project will establish a resource center for developing a community of practice model for Genetic Service Branch's Best Practices in the Integration of Newborn Metabolic Screening Programs with Other Public Health Programs. The purpose of this resource center is to develop and implement policy initiatives related to achieving policy that supports integrating newborn metabolic screening programs with other public health programs and the health care delivery system. Components of the policy include definitions of integration, core function specification, standards of practice, and indicators to monitor and measure progress and outcomes. Direct involvement from a variety of public health programs and support functions, health care providers, community members, and families will be necessary for success because of the multiple, critical roles they play in the health of a newborn—Project 5.

Federal Involvement: The scope of federal involvement with respect to all of the cooperative agreements is included in the application kit.

Eligibility: As cited in 42CFR Part 51 a.3(a) any public or private entity, including an Indian Tribe or Tribal organization (as those terms are defined in 25 U.S.C. 450(b)) is eligible to apply for Federal Funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of this Competition: $3,200,000.

Estimated Number of Awards: 9.

Estimated Project Period: 5 years for Priority 1 projects (Regional Newborn Screening and Genetics Collaboratives-GSRC) and 2 years for Priority 2 projects (Delivery of Genetic Services-GSGE).

HRSA–04–055 Genetic Services Projects: Delivery of Genetic Services (GSGE) and Regional Newborn Screening and Genetics Collaboratives (GSRC)

Application Availability: October 15, 2003.

Letter of Intent Deadline: December 1, 2003.

Application Deadline: January 9, 2004.

Estimated Project Start Date: July 1, 2004.

Program Contact Name: Michele A. Lloyd-Puryear.

Program Contact E-Mail: mpuryear@hrsa.gov.

Program Contact Telephone: 301–443–1080.

HRSA–04–056 Medical Home for Children With Special Health Care Needs (MHCSH)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: In February 2001, President Bush released the New Freedom Initiative, a comprehensive plan to tear down barriers facing people with disabilities and preventing them from participating fully in community life. This broad interagency initiative calls upon the Federal government to assist States and localities to implement the decision of the Supreme Court in Olmstead v L.C., which requires States to place qualified individuals with mental disabilities in community settings in certain circumstances. As part of this initiative, HRSA was charged with ''developing and implementing a plan to achieve appropriate community-based service systems for children and youth with special health care needs (CYSHCN) and their families.'' A core component of community systems is that every child with a special health care need must have access to a regular ongoing source of health care in the community, *i.e.*, a medical home. The medical home is articulated through the Healthy People 2010 Objectives and is a core performance measure for Title V Maternal and Child Health Programs. This initiative supports the medical home component of the President's New Freedom Initiative through: (1) A national resource center; (2) state implementation grants; (3) targeted support to pediatric practices for service models; (4) grants to assure access to specialty services; and (5) a cooperative agreement using autism as a case example to improve early identification and clinical management and referrals. These priorities will provide models, best practices, and dissemination strategies for ensuring that all children and youth with special health care needs have the services and support necessary for full community inclusion.

Priority 1

National Resource Center on Medical Home Implementation. One cooperative agreement to: (1) Develop and implement policy initiatives related to achieving medical homes for children and youth with special health care needs; (2) establish and implement strategies for enhancing timely interactive communication, including telecommunication, among pediatricians, health care providers, community leaders, and policy-makers concerned with access, appropriateness, and coordination of primary care with specialty care and the array of other services required for this population of children and families; (3) promote activities that establish medical home as the standard of care for all community-based primary care physicians caring for children with special needs; (4) expand and enhance the capacity to collect, analyze, and use quantitative and qualitative data to promote medical homes for children with special health care needs; (5) facilitate the development of resources that increase access and awareness of the medical home for families and children with special health care needs; (6) assist states in implementation, assessment, and evaluation of strategies to promote Healthy People 2010 Goals and the President's New Freedom Initiative around community based systems of care for children with special health care needs; and (7) build upon the operational definition of a medical home, utilizing tools that have been developed, such as the medical home index and continuous quality improvement measures. Funds available: $700,000 for one cooperative agreement. The scope of Federal involvement with respect to all cooperative agreements is included in the Application Kit. The cooperative agreement has a 5 year project period. Funding for the 2–5 years is contingent upon the availability of funds and satisfactory performance of the grantee.

Priority 2

Integrating and Sustaining Medical Home through Statewide Implementation. Grants to States to improve and ensure the sustainability of statewide implementation of the medical home for CSHCN. Applicants must: (1) Conduct a medical home needs assessment based on the State-specific findings of the National Survey of CSHCN and incorporate those findings into the Block Grant Application; (2) incorporate medical home into the ongoing budget for the State Title V program; (3) implement/expand a plan for achieving statewide implementation of medical home; (4) participate in a continuous quality improvement strategy with primary care practices in the state; (5) develop and implement a structured plan for fiscal and programmatic sustainability; and (6) implement formative and summative evaluation activities. Funds available: $1,200,000 for 6–8 grants. Grants are for four years.

Priority 3

Medical Home Implementation through Community-Based, Primary Care Practices. Grants to primary care practices/networks to improve the ability of community primary care practices to become medical homes and to promote and support community inclusion for children and youth with special health care needs by better linking medical homes with early intervention, child care, Head Start, schools, and other community programs. Eligible applicants are: (a) networks of medical home providers including but not limited to State primary care professional organizations and other existing networks of primary care practices: and (b) individual primary care practices. Funds available: $800,000 for grants up to $50,000 for individual practices, or up to $250,000 for Network applications supporting at least five pediatric primary care practices. Grants are for four years.

Priority 4

Subspecialty Capacity-Building. Grants to develop strategies for partnership between State Title V agencies, subspecialty networks, and the medical home to improve access and availability of health/medical services to support children and youth in their community. Funds will support: (a) Comprehensive Statewide, contiguous State, or national needs assessments of workforce capacity for specialists and sub-specialists serving CSHCN; (b) development and implementation of a plan to improve workforce capacity; and (c) strengthen subspecialty relationships with the medical home. The plan must define and articulate the role of subspecialty networks, the medical home, and Title V in improving access to and availability of appropriate health and related services to support inclusion of children and youth in their community. Funds available: $400,000 for 2 grants up to $200,000. Grants are for four years.

Priority 5

Early Identification and Intervention for Children with Autism. A cooperative agreement to improve the capacity of the medical home and the early intervention community to identify, appropriately serve, and integrate children with autism into their communities. The cooperative agreement will: (a) Work with MCHB, family leaders, and pediatric primary care providers to improve medical home capacity for early identification of

young children with autism; (b) support the work of HRSA on the Interagency Autism Coordinating Council; (c) collaborate with CDC's national awareness campaign to ensure that medical homes are well-prepared to support identified children; and (d) implement community-based strategies to link the medical home with early intervention programs for children identified as having autism. Funds available: $300,000 for one cooperative agreement. The scope of Federal involvement with respect to all cooperative agreements is included in the Application Kit. The cooperative agreement is for four years.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization, faith based and community based organization (as those terms are defined at 25 U.S.C. 450b), is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of this Competition: $3,400,000.

Estimated Number of Awards: 18.

Estimated Project Period: See purpose.

HRSA–04–056 Medical Home for Children With Special Health Care Needs (MHCSH)

Application Availability Date: October 15, 2003.

Letter of Intent Deadline: November 17, 2003.

Application Deadline: January 15, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Monique Fountain.

Program Contact Phone: 301 443–2370.

Program Contact E-mail: mfountain@hrsa.gov.

HRSA–04–057 Adolescent Health Resource Cooperative Agreements (AHR)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The overall purpose of the Adolescent Health Resource (AHR) program is to promote the health, development, safety, and social and emotional well-being of all school-aged children, adolescents, and young adults in the United States, and their families. It includes efforts that address the needs of decision-makers and professionals at national, State and community levels. The AHR program is founded on two frameworks: Healthy People 2010 and the principles of healthy youth development. Three categories of AHR cooperative agreement funding opportunities are offered for FY 2004: the State Adolescent Health Resource Center for Maternal and Child Health Personnel (SAMCH); the National Adolescent Health Information Center (NAHIC); and, the Public Policy Analysis and Education Center for Middle Childhood, Adolescent and Young Adult Health (PAE/CAYAH).

I. (SAMCH)—The specific purpose of this national technical assistance and resource center is to assist State Title V Maternal and Child Health Programs to promote core capacity in adolescent health and to improve measurable adolescent health status in such arenas as unintentional injury, interpersonal violence, mental health, substance use, reproductive health, nutrition and physical activity, and oral health. II. (NAHIC)—The specific purpose of the National Adolescent Health Information Center is to collect, synthesize, coordinate and disseminate information regarding the health, safety and well-being of school-aged children, adolescents, young adults, and their families. As part of this effort, this Center provides technical assistance, consultation and continuing education to States, communities, and groups of health professionals and decision-makers. III. (PAE/CAYAH)—The specific purpose of this Center is to analyze the effects of public policies, regulations and practices at the community, State and Federal levels on the health, safety and well-being of school-aged children, adolescents, young adults, and their families. The intent is to enhance the knowledge of, and to inform, policy and decision-makers as well as health professionals regarding the short- and long-term consequences of public policies on these population groups.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of this Competition: $695,000.

Estimated Number of Awards: 3.

Estimated Project Period: 5 years.

HRSA–04–057 Adolescent Health Resource Cooperative Agreements (AHR)

Application Availability Date: October 29, 2003.

Letter of Intent Deadline: December 17, 2003.

Application Deadline: January 5, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Trina Menden Anglin.

Program Contact Phone: 301–443–4291.

Program Contact E-mail: tanglin@hrsa.gov.

HRSA–04–058 National Center on School-Based Health Care (NSBHC)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The purpose of this national resource center is to provide current, evidence-based information and other resources to school-based and school-linked health centers in order to improve and enhance their service capabilities and quality of care. As part of this effort, the Center will develop models of interagency and interdisciplinary collaboration for delivering health and mental health services in schools that involve school staff, school-based/linked health centers, and community agencies. The intent of Center activities will be to promote development of the school health infrastructure; foster the delivery of high quality services to students that integrate primary care, mental health, and substance abuse treatment services; contribute to positive health, social and educational outcomes; enhance collaboration between school-based/linked health care services and other school health programs; encourage parental involvement in the health care of their children and adolescents as well as engage parents in programs that promote health and prevent health risk behaviors; and address issues of practice management, such as quality improvement and financing of school-based/linked health care. Because this Center is national in scope, the applicant should be prepared to interact with the approximately 1500 school-based/linked health centers in our Nation, as well as with communities interested in developing this model of health care. The Center will be expected to interact collaboratively with other HRSA/MCHB programs that promote school health and adolescent health.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $200,000.

Estimated Number of Awards: 1.

Estimated Project Period: 5 years.

HRSA–04–058 National Center on School-Based Health Care (NSBHC)

Application Availability Date: October 29, 2003.

Letter of Intent Deadline: December 17, 2003.

Application Deadline: January 5, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Isadora R. Hare.

Program Contact Phone: 301–443–6392.

Program Contact E-mail: ihare@hrsa.gov.

HRSA–04–059 Integrated Health and Behavioral Health Care for Children, Adolescents and Their Families (IHBHP)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The purpose of this set of planning grants is to assist community health care organizations to develop and formalize working relationships for planning a program of health service delivery for children, adolescents and their families that integrates physical and psychosocial primary care, comprehensive mental health services, and substance abuse prevention and treatment services. Plans for integration of services that are developed as part of grant activities need to address such issues as organizational structure, governance and executive leadership, staffing, education and training of personnel, facilities, information systems and protection of confidentiality, regulatory requirements, functioning in a managed care environment, fiscal arrangements, quality improvement and accountability, and involvement with the larger community. The ultimate goal of this initiative is to develop a set of integrated services models that meet the unique needs of different communities. This funding opportunity represents a third cycle for this initiative.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization, faith based and community based organization (as those terms are defined at 25 U.S.C. 450b), is eligible to apply for this Federal funding. Organizations that have previously received funding under this initiative are not eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $400,000.

Estimated Number of Awards: 8.

Estimated Project Period: 2 years.

HRSA–04–059 Integrated Health and Behavioral Health Care for Children, Adolescents and Their Families (IHBHP)

Application Availability Date: October 29, 2003.

Letter of Intent Deadline: December 17, 2003.

Application Deadline: February 2, 2004.

Projected Award Date: July 1, 2004.

Program Contact Person: Sharon Adamo.

Program Contact Phone: 301–443–3972.

Program Contact E-mail: sadamo@hrsa.gov.

HRSA–04–060 Breastfeeding Promotion in Physician's Office Practices (BPPOP)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: This grant program is designed to: (1) Facilitate preparation of providers of obstetrical, family practice, pediatric health care and other health disciplines in office settings to effectively promote and manage breastfeeding with the goal to move breastfeeding initiation and duration rates toward the Healthy People 2010 national health objectives; (2) implement strategies to enroll health care providers working with underserved population in breastfeeding promotion, support, and technical assistance programs; and (3) encourage collaborations between obstetrical, pediatric, family health care, and other health providers at the local, state, and regional levels. Because this grant is national in scope, the applicant should be prepared to clearly demonstrate a national expertise and capacity for addressing breastfeeding promotion, support, and technical assistance issues related to providers of obstetrical, family practice and pediatric medical and health care to consumers and their families; and applicants building upon current breastfeeding promotion and support partnerships with professional organizations and federal agencies.

Eligibility: As cited in 42 CFR Part 51a.3(a), any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b), is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $200,000.

Estimated Number of Awards: 1.

Estimated Project Period: 3 years.

HRSA–04–060 Breastfeeding Promotion in Physician's Office Practices (BPPOP)

Application Availability Date: January 27, 2004.

Letter of Intent Deadline: March 17, 2004.

Application Deadline: April 1, 2004.

Projected Award Date: September 30, 2004.

Program Contact Person: Denise Sofka.

Program Contact Phone: 301–443–0344.

Program Contact E-Mail: dsofka@hrsa.gov.

HRSA–04–061 Partnership for Information and Communication Cooperative Agreement Program (PICA)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The general purpose of the Partnership for Information and Communication program is to collaborate with governmental, professional and private membership organizations representing community, state and private sector leaders to identify issues impacting maternal and child health, to share information about approaches to improving maternal and child health issues, and to clarify the particular perspectives of stakeholders in maternal and child health care. For FY 2004, two categories of PIC funding opportunities are offered:

I. Family Partnerships in Maternal and Child Health (FPPIC): The specific purpose of this category is to assist organizations representing the interests of culturally diverse families to: (a) Identify the particular concerns of those families regarding health, mental health and welfare; (b) collaborate with the MCHB to increase the involvement of culturally diverse families in MCH and Children with Special Health Care Needs (CSHCN) issues; (c) communicate to families, in a culturally competent manner, important issues identified by the MCHB; (d) assist state and local MCH/CSHCN programs in obtaining family perspectives from culturally diverse populations; and, (e) work collaboratively with other family organizations to promote the concerns of all families and to address health, mental health and social issues impacting families. Organizations will be selected in a manner to assure family representation from the variety of racial, ethnic and culturally diverse groups that make up the MCH/CSHCN population as well as family/parent

organizations having a particular issue of concern (*e.g.*, mental health, education, safety). The program will consider both well-established family organizations and family organizations which are not so well-established but demonstrate promise in supporting and representing families of currently under represented groups.

II. MCH and Mental Health (MHPIC): The specific purpose of this category is to support national organizations representing family/child health programs and mental health services programs in States to develop new ways for their State constituents to better understand each others' roles and responsibilities, to identify areas of common concern, and to support new ways of facilitating State agencies to work together on behalf of the mental heath and well-being of women, children and families. The outcome of this effort will be the creation of a coherent system to promote the mentally healthy development of children and adolescents, support the emotional health of families, improve the ability of the health care system to identify mental health issues at the earliest possible stage, and improve the mental health system's ability to intervene appropriately with the full range of emotional problems.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization, faith-based and community-based organization (as those terms are defined at 25 U.S.C. 450b), is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: For the FPPIC category, national membership organizations representing parents will be considered for funding; for the MHPIC category, national membership organizations representing State health and mental health programs will be considered for funding.

Estimated Amount of This Competition: $700,000.

Estimated Number of Awards: 4—Funding is available to make 2 awards under the FPPIC category and 2 awards under the MHPIC category.

Estimated Project Period: 3 years.

HRSA–04–061 Partnership for Information and Communication Cooperative Agreement Program (PICA)

Application Availability Date: August 29, 2003.

Letter of Intent Deadline: September 18, 2003.

Application Deadline: November 17, 2003.

Projected Award Date: April 1, 2004.

Program Contact Person: Isadora Hare.

Program Contact Phone: 301–443–6392.

Program Contact E-Mail: IHare@hrsa.gov.

HRSA–04–062 Healthy Tomorrows Partnership for Children Program (HTPC)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The purpose of this program is to stimulate innovative community-based programs that employ prevention strategies to promote access to health care for mothers and children nationwide. This year, the HTPC will fund 2 separate initiatives, HTPC-General and HTPC-Targeted. It is anticipated that HTPC-General grants will be awarded to approximately 9 recipients The intent of HTPC-General grants are: (1) To support the development of family-centered, community-based initiatives that plan and implement innovative and cost-effective approaches for focusing resources to promote community defined preventive child health and developmental objectives for vulnerable children and their families, especially those with limited access to quality health services; (2) foster/promote collaboration among community organizations, individuals, agencies, businesses, and families; (3) involve pediatricians and other pediatric health professionals in community-based service programs; and (4) build community and statewide partnerships among professionals in health, education, social services, government, and business to achieve self-sustaining programs to assure healthy children and families.

The HTPC-Targeted grants will focus on the following targeted areas: increased access to pediatric oral health services; enhancement of behavioral and/or psychosocial aspects of pediatric care; and developing and delivering clinical pediatric telemedicine services that enhance access to community-based health care services for medically underserved areas, or for medically underserved populations. It is anticipated that approximately 10 grants will be awarded to organizations who address a community need in these critical targeted areas.

Cost Sharing Flag: Yes.

Eligibility: As cited in 42 CFR Part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for Federal funding. Community-based organizations, including faith-based organizations, are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: In the interest of equitable geographic distribution, special consideration for funding may be given to projects from States without a currently funded project in this category. These States are: Alabama, Alaska, Delaware, Georgia, Hawaii, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, Tennessee, Utah, West Virginia, Wisconsin, Wyoming, American Samoa, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Guam, Puerto Rico, Republic of Palau, Republic of the Marshall Islands, and the Virgin Islands.

Estimated Amount of This Competition: $950,000.

Estimated Number of Awards: 19.

Estimated or Average Size of Each Award: $50,000.

EStimated Project Period: 5 years.

HRSA–04–064 Healthy Tomorrows Partnership for Children Program (HTPC)

Application Availability Date: September 2, 2003.

Letter of Intent Deadline: September 29, 2003.

Application Deadline: October 29, 2003.

Projected Award Date: March 1, 2004.

Program Contact Person: Jose H. Belardo.

Program Contact Phone: 301–443–0757.

Program Contact E-Mail: jbelardo@hrsa.gov.

HRSA–04–063 Women's Health (MCH–WH)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: Under this program, grants will be awarded in three areas each addressing significant issues in women's health: (1) Integrated Comprehensive Women's Health Services In State MCH Programs (ICWHS) will focus on expanding capacity in State MCH programs to improve women's health by providing a focal point for women's health to

establish linkages and build partnerships with state and other organizations; this focal point will also identify gaps and facilitate the establishment of an infrastructure for comprehensive women's health services; (2) Women's Behavioral Health Systems Building: Innovative Ideas For Local And State Collaboration (WBHS–LSC) will fund creative partnerships in the area of women's health, specifically women of childbearing age, to develop horizontal networks of behavioral and health care service providers, policymakers and consumer and family groups; these networks will also foster systems coordination, policy development and coalition building among consumer and professional organizations and local and state agencies with local and state agencies with the ultimate goal of integrating and improving behavioral health services to women of childbearing age; and (3) Innovative Approaches To Promoting A Healthy Weight In Women (IPHWW) will fund projects to develop creative, innovative approaches that are effective in reducing the prevalence of overweight/obesity in women by increasing the number of women who adopt positive health lifestyles. The interventions must be substantive in nature and positively impact the woman's knowledge, attitudes, and behaviors. These approaches should target women in communities who have limited access to preventive health services and be linked with Title V, Community Centers of Excellence in Women's Health, Centers of Excellence in Women's Health, and/or other relevant resources. Proposals must target: (1) Women who are members of racial and ethnic minority populations who are disproportionately affected by overweight/obesity; and, (2) women before (preconception) and after (post-partum) pregnancy.

Eligibility: Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b), and faith and community-based organizations are eligible to apply.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: For purpose (1) to (3), only 1 applicant per state will be funded. For the purposes of the Integrated Comprehensive Women's Health Services in State MCH Programs (H74) only, in the interest of equitable geographic distribution, special consideration for funding may also be given to States or jurisdictions who have never received funding for this program

Estimated Amount of This Competition: For program purposes (1) $600,000; (2) $450,000; and (3) $600,000.

Estimated Number of Awards: For program purposes (1) 6 awards, (2) 3 awards; and (3) 4 awards.

Estimated Project Period: 3 years.

HRSA–04–063 Women's Health (MCH–WH)

Application Availability Date: November 18, 2003.

Letter of Intent Deadline: December 16, 2003.

Application Deadline: February 2, 2004.

Projected Award Date: For program purpose (1) July 1, 2004, (2) May 1, 2004; and (3) June 1, 2004.

Program Contact Person: For program purposes (1) and (3) Lisa King. For program purpose (2) Juliann De Stefano.

Program Contact Phone: Lisa King 301–443–5720; Juliann De Stefano 301–443–8783.

Program Contact E-Mail: Lisa King *lking@hrsa.gov;* Juliann De Stefano *jdestefano@hrsa.gov.*

HRSA–05–001 Maternal and Child Health Library Services (MCHLS)

CFDA: 93.110.

Legislative Authority: Social Security Act, Title V, 42 U.S.C. 701.

Purpose: The purpose of the MCH Library Services cooperative agreement is to support a national information and education resource library which provides the information needed by the MCH community to plan and carry out program and policy development and to improve service delivery. The overall goal is to use information sciences and information technology to identify, collect, and organize information from the MCH field that is not readily available from other information sources, such as Healthy Start, infant mortality, oral health, nutrition, mental health, health promotion, women's health, MCH organizations, Medicaid, research, etc. The MCH Library is expected to conduct activities in the following areas: Collection and management of MCH information, and outreach for awareness and utilization of MCH information, including maintenance of databases, bibliographies, and other information resources on a website which provides national access to key MCH-related data and information.

Federal Involvement: The scope of Federal involvement is included in the application kit.

Eligibility: As cited in 42 CFR part 51a.3 (a), any public or private entity, including an Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b), is eligible to apply for this Federal funding.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $550,000.

Estimated Number of Awards: 1.

Estimated Project Period: 5 years.

HRSA–05–001 Maternal and Child Health Library Services (MCHLS)

Application Availability Date: April 20, 2004.

Letter of Intent Deadline: June 18, 2004.

Application Deadline: July 19, 2004.

Projected Award Date: January 1, 2005.

Program Contact Person: James A. Resnick.

Program Contact Phone: 301–443–2778.

Program Contact E-Mail: JResnick@hrsa.gov.

HRSA–04–006 Emergency Medical Services for Children Demonstration Grant Program (EMSC)

CFDA: 93.127.

Legislative Authority: Public Health Service Act, Section 1910, 42 U.S.C. 300w–9.

Purpose: The goal of the EMSC program is the reduction of child and youth mortality and morbidity sustained as a result of severe illness or trauma. The EMSC program does not intend to promote the development of a separate EMS system for children, but rather to enhance the pediatric capability of EMS systems originally designed primarily for adults. The EMSC grants support activities in the following areas: Injury prevention, database studies, outcome measures, patient assessments, facility and equipment standards, procedure standards, protocols for treatment, triage, and transfer, model agreements, training courses, videotapes and books, and community programs for special populations. EMSC projects demonstrate how the outcomes of pediatric emergencies can be improved by strengthening or expanding the pediatric capabilities of an existing EMS system.

For FY 2004, three categories of EMSC Demonstration Grant funding opportunities are offered: I. Funding is available for up to 9 EMSC State Partnership (EMSCP) demonstration grants to support activities that represent the steps to take in order to institutionalize EMSC within Emergency Medical Services (EMS) and to continue to improve and refine EMSC. Proposed activities should be consistent with documented needs in the State and should reflect a logical progression in enhancing pediatric capabilities. For example, funding might

be used to: (a) Address problems identified in the course of a previous EMSC grant; (b) increase the involvement of families in EMSC; (c) improve linkages between local, regional, or State agencies; (d) promulgate standards developed for one region of the State under previous funding to include the entire State; or (e) assure effective triage of the child in physical or emotional crisis to appropriate facilities and/or other resources. II. To provide supplemental funds to approximately existing 8 EMSC State Partnership Demonstration grantees for Regional Symposium (EMSCS) round-table meetings that are convened for the explicit purpose of knowledge synthesis and dissemination. The primary goal of the EMSC program's knowledge synthesis and dissemination activities is to improve the quality of care to children. In collaboration with schools of medicine, regional consortia of State EMS programs will meet annually to develop and evaluate improved procedures and protocols for children. Meetings will involve coordinating, exchanging, and demonstrating innovative activities of common interest to participating States, while facilitating a forum for knowledge transfer on EMSC related issues between individual care providers and care providing organizations.

III. Funding is available for approximately 7 EMSC Targeted Issue Demonstration Grants (EMSCT) that are intended to address specific, focused issues related to the development of EMSC knowledge and capacity, with the intent of advancing the state-of-the-art tools, and creating tools or knowledge that will be helpful to the field. Proposals must have well-conceived methodology for analysis and evaluation.

Eligibility: For State Partnerships and Regional Symposiums, the eligible applicant is the State EMS Agency, unless the State specifically requests and designates another State entity or an accredited school of medicine. For targeted Issues, the eligible applicants are State governments, and accredited schools of medicine (Targeted Issue applicants from accredited schools of medicine do not need to be endorsed by the State EMS Office.)

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $2,755,000.

Estimated Number of Awards: 24.

Estimated Project Period: 1 or 3 years.

HRSA–04–006 Emergency Medical Services for Children Demonstration Grant Program (EMSC)

Application Availability Date: September 2, 2003.

Letter of Intent Deadline: October 3, 2003.

Application Deadline: October 31, 2003.

Projected Award Date: March 1, 2004.

Program Contact Person: Dan Kavanaugh.

Program Contact Phone: 301–443–1321.

Program Contact E-mail: dkavanaugh@hrsa.gov.

HRSA–04–064 Traumatic Brain Injury (TBI) Program—State Grants

CFDA: 93.234.

Legislative Authority: Public Health Service Act, Title XII, Section 1252, 42 U.S.C. 300d–52.

Purpose: The purpose of the Traumatic Brain Injury (TBI) program is to improve access, availability, appropriateness and acceptability of health and other services for individuals with traumatic brain injury (TBI) and their families. State TBI systems should be culturally competent and services should be person and family directed. States applying under this announcement must address the four Core Capacity Components of a TBI service system: a lead Designated State Agency and State staff person responsible for State TBI activities, a Statewide TBI Advisory Board, a Statewide Resource/Needs Assessment, and a Statewide Action Plan that is a comprehensive, community-based system of cure that addresses the need of individuals with TBI and their families. For FY 2004, three categories of State TBI funding opportunities are offered: I. Funding for up to 7 State TBI Planning (TBIP) Grant awards is available to assist States and Territories to develop the infrastructure needed to implement a TBI program. States applying under this category MUST submit a plan for developing the Four Core Capacity Components. These components DO NOT have to be in place at the time of application. II. Funding for approximately 7 State TBI Implementation (TBII) Grants is available to help States move toward a Statewide system that will assure access to comprehensive and coordinated services for individuals with TBI and their families. III. Funding for approximately 2 State TBI Post Demonstration (TBIPD) Grants to address issues that will encompass specific State capacity building initiatives to contribute to sustainable change in the system of community services and supports that reflect the best practices in the field of TBI.

Cost Sharing: Secretary may make a grant under such subsection only if the State agrees to make available non-Federal contributions toward such costs in an amount that is not less than $1 for each $2 of Federal funds provided under the grant.

Eligibility: For all TBI State grants, State governments are the only eligible applicants for funding under the Federal TBI Program. Applicants for State TBI Post-Demonstration Grants may only come from the State agency designated as the Lead Agency for TBI services within the State.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $2,125,000.

Estimated Number of Awards: 16.

Estimated Project Period: 1, 2, or 3 years.

HRSA–04–064 Traumatic Brain Injury (TBI) State Grant Program

Application Availability Date: September 8, 2003.

Letter of Intent Deadline: September 18, 2003.

Application Deadline: November 17, 2003.

Projected Award Date: April 1, 2004.

Program Contact Person: Betty Hastings.

Program Contact Phone: 301–443–5599.

Program Contact E-mail: bhastings@hrsa.gov.

HRSA–04–065 Poison Control Centers Stabilization and Enhancement Grant Program, Financial Stabilization Grants (PCCFS)

CFDA: 93.253.

Legislative Authority: The Poison Control Center Enhancement and Awareness Act, Section 6(a) of Public Law 106–174.

Purpose: The purpose of the Poison Control Program is to stabilize and improve poison control centers (PCCs) and promote a comprehensive system for the delivery of high quality poison control services nationwide.

For FY 2004, two categories of PCC stabilization and enhancement grant opportunities are offered:

I. Funds are available to be awarded to existing, certified PCCs or poison control systems, and

II. Funds are available to be awarded to non-certified or newly established PCCs to obtain certification from the American Association of Poison Control Centers or a State with equivalent standards, as determined by the Secretary.

Eligibility: Eligibility for funding under Category I is limited to certified PCCs. Centers must be certified by the American Association of Poison Control Centers or a State with equivalent standards, as determined by the Secretary. Eligibility for Category II awards is limited to non-certified PCCs.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: I. $14,100,000; II. $2,100,000.

Estimated Number of Awards: 50 and 10.

Estimated Project Period: 3 years and 2 years.

HRSA–04–065 Poison Control Centers Stabilization and Enhancement Grant Program, Financial Stabilization Grants (PCCFS)

Application Availability Date: December 30, 2003.

Application Deadline: March 1, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: I. Maxine Jones; II. Carol Delany.

Program Contact Phone: 301–443–6192; 301–443–5848.

Program Contact E-Mail: *mjones@hrsa.gov, cdelany@hrsa.gov.*

HRSA–04–066 Healthy Start Program: Eliminating Disparities in Perinatal Health (HSED)

CFDA: 93.926.

Legislative Authority: Public Health Service Act, Title III, Section 330 H.

Purpose: Under this program, grants will be awarded in two areas to address significant disparities in perinatal health indicators: (1) Eliminating Disparities In Perinatal Health focuses on disparities among Hispanics, Americans Indians, African Americans, Alaska Natives, Asian/Pacific Islanders, Immigrant Populations, or differences occurring by education, income, disability, or living in rural/isolated areas by enhancing a community's service system; and (2) Eliminating Disparities In Perinatal Border Health focusing on enhancing a border community's perinatal service system to address significant disparities and deficiencies in these communities. Under both grants, communities must provide a scope of project services that will cover pregnancy and interconceptional phases for women and infants residing in the proposed project area. Services are to be given to both mother and infant for two years following delivery to promote longer interconceptional periods and prevent relapses of unhealthy risk behaviors.

Eligibility: For program purposes (1) and (2) Any public or private entity, including an Indian tribe or tribal organization (as defined at 25 U.S.C. 450b) is eligible to apply. Funding would be made available to community-based (and faith-based) projects which have: (1) Significant disparities in perinatal indicators which contribute to high infant mortality rates, among one or more subpopulations; (2) an existing active consortia of stakeholders which have underway a perinatal disparity reduction initiative for at least one year; and, (3) a feasible plan to reduce barriers, improve the local perinatal system of care, and work towards eliminating existing disparities in perinatal health. These sites must have or plan to implement/adapt Healthy Start strategies of consortium, case management, and outreach services in a culturally and linguistically sensitive manner. In addition, they must demonstrate existing/planned collaborations with key State and local services and resources systems. Such key State and local resources include Title V, Title X, Title XIX, Title XXI, WIC, Enterprise Communities/ Empowerment Zones, federally funded Community and Migrant Health Centers, federally funded Health Care for the Homeless projects, and Indian/Tribal Health Services. For program purpose (2) To apply programs must target a community/geographic area(s) with disparate perinatal indicators (such as inadequate prenatal care, anemia) that can contribute to infant mortality The selected communities must be within 62 miles of the U.S.-Mexican border, or be in Alaska or Hawaii

Review Criteria: Final review criteria are included in the application kit.

Funding Priorities: In recognition of current efforts in high risk communities, a priority consideration will occur at the time of award.

Special Considerations: For purpose (1) and (2), only 1 applicant per community/project area will be funded.

Estimated Amount of This Competition: $6,100,000.

Estimated Number of Awards: 7.

Estimated Project Period: 4 years.

HRSA–04–066 Healthy Start Program: Eliminating Disparities in Perinatal Health (HSED)

Application Availability Date: September 18, 2003.

Letter of Intent Deadline: October 15, 2003.

Application Deadline: December 1, 2003.

Projected Award Date: June 1, 2004 .

Program Contact person: Beverly Wright.

Program Contact Phone: (301) 443–8427.

Program Contact E-Mail: *BWright@HRSA.gov.*

Rural Health Policy Programs

HRSA–04–001 Rural Health Care Services Outreach Grant Program (RHOGP)

CFDA: 93.912.

Legislative Authority: Public Health Service Act, Section 330A, 42 U.S.C. 254c.

Purpose: The Rural Health Care Services Outreach Grant Program supports projects that demonstrate creative or effective models of outreach and service delivery in rural communities. Applicants may propose projects to address the health care needs of a wide range of population groups and to deliver many different types of health care and health care related services in rural communities.

Eligibility:

(1) The applicant organization must be a public or nonprofit private entity located in a rural area or in a rural ZIP Code of an urban county (list included in application materials) and all services must be provided in a rural county or ZIP Code; or (2) The applicant organization exists exclusively to provide services to migrant and seasonal farm workers in rural areas and is supported under Section 330g of the Public Health Service Act or (3) The applicant is a federally recognized Native American Tribal or quasi-Tribal entity that will deliver services on Reservation or Federally recognized Tribal lands (documentation of status must be included). The entity must represent a consortium composed of members that include three or more health care providers and that may be nonprofit or for-profit entities.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: The authorizing legislation for Rural Health Care Services Outreach Grants provides a funding preference for some applicants. Applicants receiving a preference will be placed in a more competitive position among the applications that can be funded. A funding preference will be given to any qualified applicant that can demonstrate one of the following three criteria:

(1) At least one of the consortium members is located in officially designated health professional shortage areas (HPSAs) OR medically underserved communities (MUCs) OR serve medically underserved populations (MUPs). To ascertain HPSA and MUP designation status, please refer to the following Web site: *http://bhpr.hrsa.gov/shortage/index.htm.* To

qualify as a Medically Underserved Community (MUC) the project must include facilities that are federally designated as any of the following:

Community Health Centers, Migrant Health Centers, Health Care for the Homeless Grantees, Public Housing Primary Care Grantees, Rural Health Clinics, National Health Service Corps sites, Indian Health Services Sites, Federally Qualified Health Centers, Primary Medical Care Health Professional Shortage Areas, Dental Health Professional Shortage Areas, Nurse Shortage Areas, State or Local Health Departments, and Ambulatory practice sites designated by State Governors as serving medically underserved communities.

(2) Ambulatory practice sites designated by State Governors as serving medically underserved communities; OR

(3) Propose to develop project with a focus on primary care and prevention and wellness.

The applicant must request and identify the particular preference they are eligible for to receive a funding preference.

Special Considerations: The Office of Rural Health Policy seeks to expand the outreach program into geographic areas not currently served by the program. Consequently, HRSA will consider geographic location when deciding which approved applications to fund.

Estimated Amount of This Competition: $3,500,000.

Estimated Number of awards: 20.

Estimated Project Period: 3 years.

HRSA–04–001 Rural Health Care Services Outreach Grant Program (RHOGP)

Application Availability Date: June 16, 2003/June 15, 2004.

Application Deadline: September 12, 2003/September 13, 2004.

Projected Award Date: May 1, 2004/ May 1, 2005.

Program Contact Person: Lilly Smetana.

Program Contact Phone: 301–443–6884.

Program Contact E-Mail: lsmetana@hrsa.gov.

HRSA–04–002 Health Network Development Grant Program (RHNGP)

CFDA: 93.912.

Legislative Authority: Public Health Service Act, Section, 330A, 116 STAT. 1621, Public Law 107–251, 42 U.S.C. 254c.

Purpose: The Rural Health Network Development Grant Program 330A(f) supports development of rural health networks. Grant funds are used to support activities that strengthen the organizational capabilities of these networks whose purpose is to overcome the fragmentation and vulnerability of providers in rural areas. This program is designed for organizations that wish to further ongoing collaborative relationships to integrate systems of care administratively, clinically, financially, and/or technologically. The goal of the Rural Health Network Development Program is to achieve efficiencies; expand access to, coordinate, and improve the quality of essential health care services; and strengthen the rural health care system as a whole.

Cost Sharing Flag: Yes.

Eligibility: The applicant must be a public or nonprofit entity that represents a network that includes at least three or more health care providers. In addition, the grantee must meet at least one of three following requirements:

(1) The applicant organization must be located in a rural area or in a rural ZIP code of an urban county (list included in application materials and on program Web site) and all grant-funded activities must support rural areas; or (2) The applicant organization exists exclusively to provide services to migrant and seasonal farm workers in rural areas and is supported under Section 330(g) of the Public Health Service Act or (3) The applicant is a federally recognized Native American Tribal or quasi-Tribal entity that will deliver services on Reservation or Federally recognized Tribal lands (documentation status must be included.)

Funding Preferences: The authorizing legislation for Network Development Grants provides a funding preference for some applicants. Applicants receiving the preference will be placed in a more competitive position among the applications that can be funded. A funding preference will be given to any qualified applicant that can demonstrate either of the following two criteria:

A. Those applicants for which at least 50% of the proposed rural health network's service area is located in officially designated health professional shortage areas (HPSAs) OR medically underserved communities (MUCs) OR serve medically underserved populations (MUPs).

To ascertain HPSA and MUP designation status, please refer to the following Web site: *http://bhpr.hrsa.gov/shortage/.*

To qualify as a Medically Underserved Community (MUC), at least 50% of the network's participation must include facilities that are federally designated as any of the following:

(a) Community Health Centers
(b) Migrant Health Centers
(c) Health Care for the Homeless Grantees
(d) Public Housing Primary Care Grantees
(e) Rural Health Clinics
(f) National Health Service Corps sites
(g) Indian Health Service sites
(h) Federally Qualified Health Centers
(i) Primary Medical Care Health Professional Shortage Areas
(j) Dental Health Professional Shortage Areas
(k) Nurse Shortage Areas
(l) State or Local Health Departments
(m) Ambulatory practice sites designated by State Governors as serving medically underserved communities; or

B. Those applicants whose projects focus on primary care, and wellness and prevention strategies.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: The Office of Rural Health Policy seeks to expand the Network Development grant program into geographic areas not currently supported by the program. Consequently, the Office will consider geographic location when deciding which approved applications to fund.

Estimated Amount of This Competition: $2,000,000.

Estimated Number of Awards: 10–15.

Estimated Project Period: 3 years.

HRSA–04–002 Rural Health Network Development Grant Program (RHNGP)

Application Availability Date: June 2, 2003/June 11, 2004.

Application Deadline: September 26, 2003/September 20, 2004.

Projected Award Date: May 1, 2004/ May 1, 2005.

Program Contact Person: Katherine Bolus.

Program Contact Phone: 301–443–7444 or 301–443–7320.

Program Contact E-mail: kbolus@hrsa.gov, mpray@hrsa.gov.

HRSA–04–003 Rural Health Network Development Planning Grant Program (RHNPGP)

CFDA: 93.912.

Legislative Authority: Public Health Service Act, Section 330A(f), 42 U.S.C. 254c.

Purpose: The Rural Health Network Development Planning Grant Program supports one year of planning activities to develop integrated health care networks in rural areas. The Planning Grant Program provides support to rural entities that seek to develop a formal health care network and that do not have a significant history of

collaboration. Formative networks are those that are not sufficiently evolved to apply for a 3-year planning implementation grant and do not yet have a formalized structure.

The program is designed to support organizations that wish to develop formal collaborative relationships among health care providers to integrate systems of care administratively, clinically, financially, and/or technologically. The goal of the Rural Health Network Development Program is to achieve efficiencies; expand access to, coordinate, and improve the quality of essential health care services; and strengthen the rural health care system as a whole. The Planning Grant Program supports this overall program goal by providing support to entities in the formative stages of planning and organizing a rural health network.

Eligibility: The applicant must be a public or nonprofit entity that represents a network that includes at least three or more health care providers. In addition, the grantee must meet at least one of three following requirements:

The applicant organization must be located in a rural area or in a rural ZIP code of an urban county (list included in application materials and on program Web site) and all grant-funded activities must support rural areas; OR the applicant organization exists exclusively to provide services to migrant and seasonal farm workers in rural areas and is supported under Section 330(g) of the Public Health Service Act; OR the applicant is a federally recognized Native American Tribal or quasi-Tribal entity that will deliver services on Reservation or Federally recognized Tribal lands (documentation status must be included.)

Existing networks that seek to expand services or expand their service area are not eligible to apply to this program.

Review Criteria: Final review criteria are included in the application kit.

Funding Preferences: The authorizing legislation for Network Development Planning Grants provides a funding preference for some applicants. Applicants receiving the preference will be placed in a more competitive position among the applications that can be funded. A funding preference will be given to any qualified applicant that can demonstrate either of the following two criteria:

A. Those applicants for which at least 50% of the proposed rural health network's service area is located in officially designated health professional shortage areas (HPSAs) OR medically underserved communities (MUCs) OR serve medically underserved populations (MUPs).

To ascertain HPSA and MUP designation status, please refer to the following Web site: *http://bhpr.hrsa.gov/shortage/.*

To qualify as a Medically Underserved Community (MUC), at least 50% of the network's participation must include facilities that are federally designated as any of the following:

(a) Community Health Centers
(b) Migrant Health Centers
(c) Health Care for the Homeless Grantees
(d) Public Housing Primary Care Grantees
(e) Rural Health Clinics
(f) National Health Service Corps sites
(g) Indian Health Service sites
(h) Federally Qualified Health Centers
(i) Primary Medical Care Health Professional Shortage Areas
(j) Dental Health Professional Shortage Areas
(k) Nurse Shortage Areas
(l) State or Local Health Departments
(m) Ambulatory practice sites designated by State Governors as serving medically underserved communities; OR

B. Those applicants whose projects focus on primary care, and wellness and prevention strategies.

Special Considerations: The Office will consider geographic location when deciding which approved applications to fund to ensure balanced distribution of grant funds to rural areas across the U.S.

Estimated Amount of This Competition: $1,000,000.

Estimated Number of Awards: 10–15.

Estimated Project Period: 1 year.

HRSA–04–003 Rural Health Network Development Planning Grant Program (RHNPGP)

Application Availability Date: June 16, 2003/June 11, 2004.

Application Deadline: September 10, 2003/September 8, 2004.

Projected Award Date: December 1, 2003/December 1, 2004.

Program Contact Person: Michele Pray-Gibson.

Program Contact Phone: 301–443–7320.

Program Contact E-Mail: mpray@hrsa.gov.

HRSA–04–067 Delta State Rural Development Network Grant Program (DELTA)

CFDA: 93.912.

Legislative Authority: Public Law 104–299, enacted in 1996, authorizes the Rural Health Outreach, Network Development, and Telemedicine Grant programs. The Consolidated Appropriations Act, 2001, Public Law 106–554, includes in the Rural Health Outreach appropriation line, the section on Miscellaneous Appropriations, Division B, Title V, subtitle F the Delta Regional Authority and in Division B Title I Sec. 153 defined the States and counties considered as part of the Mississippi River Delta region.

Purpose: The purpose of these grants is to provide support to the rural Mississippi Delta region to strengthen community-based organizations' abilities to target the under- and uninsured. Specifically, the grants are used to fund statewide organizations having the capability to support development of community-based networks. The primary responsibility of the statewide networks is to help local Delta rural counties in their respective States identify greatest local health needs, identify potential funding for these projects, and develop and implement fundable health intervention projects to address local needs.

Eligibility: Eligible applicants are limited to the eight designated Delta Region States: Alabama, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, Tennessee.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $5,500,000.

Estimated Number of Awards: 8.

Estimated Project Period: 3 years.

HRSA–04–067 Delta State Rural Development Network Grant Program (DELTA)

Application Avaialbility Date: February 1, 2004 .

Application Deadline: May 1, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Michele Pray-Gibson.

Program Contact Phone: 301–443–7320.

Program Contact E-Mail: mpray@hrsa.gov.

HRSA–04–068 Small Rural Hospital Improvement Program (SHIP)

CFDA: 93.301.

Legislative Authority: Social Security Act, Section 1820(g)(3).

Purpose: The Small Rural Hospital Improvement Program (SHIP) provides grants to small rural hospitals to help them do any or all of the following: (1) Pay for costs related to the implementation of PPS, (2) comply with provisions of HIPAA, and (3) reduce medical errors and support quality improvement.

Hospitals need to apply for these grants through their State's Office of Rural Health.

Eligibility: All small rural hospitals located in the fifty States and territories are eligible to apply for the SHIP Grant Program. Hospitals need to apply for these grants through their State's Office of Rural Health. For the purpose of this program, (1) small is defined as 49 available beds or less, (2) rural is defined as located outside a Metropolitan Statistical Area (MSA); or located in a rural census tract of a MSA as determined under the Goldsmith Modification or the Rural Urban Commuting Areas, and (3) hospital is defined as a non-federal, short-term, general acute care facility.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $15,000,000.

Estimated Number of Awards: 1,500.

Estimated Project Period: 3 years.

HRSA–04–068 Small Rural Hospital Improvement Program (SHIP)

Application Availability Date: February 3, 2004.

Application Deadline: Hospital application due to their State's Office of Rural Health (SORH) by COB March 17, 2004, State application due to HRSA by COB April 28, 2004.

Projected Award Date: September 1, 2004 .

Program Contact Person: Jerry Coopey.

Program Contact Phone: 301–443–0835.

Program Contact E-Mail: jcoopey@hrsa.gov.

HRSA–04–069 Grants for Policy-Oriented Rural Health Services Research (GPOR)

CFDA: 93.155.

Legislative Authority: Public Health Service Act, Section 301, 42 U.S.C. 241.

Purpose: Awards are available for competitive grants for policy-oriented rural health services research. Individual research projects that address rural health services will be funded under this announcement. Policy-oriented rural health services research is useful because it informs policy-makers concerned with rural health issues and it enhances knowledge about rural health and rural health services. These grants are designed to provide support both for entities established in the rural health services research field as well as those entering this field. These grants are also intended to advance specific areas of rural health services research in which a limited amount of research exists.

Eligibility: Eligibility is open to public, private, and non-profit—including faith-based and community-based organizations. Institutions that received a Rural Health Research Center Award in 2004 and those with Fiscal Year 2000–2004 ORHP awards under special congressional initiatives are ineligible for this grant program. Although multiple applications may be submitted, only one award will be made to the same entity.

In addition to the above criteria, applicants must be capable of receiving the grant funds directly and must have the capability to manage the project. Applicants must be able to exercise administrative and program direction over the grant project; must have the administrative and accounting capabilities to manage the grant funds; and must have some permanent research staff at the time the application is submitted.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Research Areas: HRSA wants to fund a variety of research areas in making new awards under this announcement. Therefore, HRSA will consider the variety of research areas when selecting which applications recommended for approval to fund. See the list below. The research areas are: Mental Health; Substance Abuse; Oral Health, American Indian/Alaska Native/Native Hawaiian Health Issues; Integration of Native and Non-Native Health Care; Special Populations—Children, Women, Homeless, Elderly; Chronic Disease (*e.g.*, Asthma and Diabetes); Bio-terrorism Preparedness; Frontier Issues; Medicaid; S-CHIP; End of Life Care; Continuum of Care; Public Health Issues; Quality of Life; Uninsured; Disabled/Disability; Low Income Populations; Quality of Care; EMS (for all populations, with a special interest in children); Dual Eligible.

Geographic Coverage: Applications are sought for research that is national in scope. Research covering a single community, multiple communities, or a single state are not acceptable and will not be reviewed. HRSA wants to achieve a geographic balance among awardees in making new awards under this announcement. Therefore, HRSA will consider geographic distribution when selecting which applications recommended for approval to fund.

Estimated Amount of This Competition: $900,000.

Estimated Number of Awards: 6.

Estimated Project Period: 1 year.

HRSA–04–069 Grants for Policy-Oriented Rural Health Services Research (GPOR)

Application Availability Date: March 30, 2004.

Letter of Intent Deadline: April 30, 2004.

Application Deadline: May 3, 2004.

Projected Award Date: August 15, 2004.

Program Contact Person: Emily Costich.

Program Contact Phone: (301) 443–0502.

Program Contact E-Mail: ecostich@hrsa.gov.

HRSA–04–070 Rural Health Research Grant Program—Cooperative Agreement (CARHR)

CFDA: 93.155.

Legislative Authority: Public Health Service Act, Section 301, 42 U.S.C. 241.

Purpose: Awards are available from the Office of Rural Health Policy for competitive cooperative agreements for Rural Health Research Centers. The Rural Health Research Centers are funded to conduct policy-oriented rural health services research with a specific area of concentration (*e.g.,* Medicare, Medicaid, health disparities, health workforce.) The awards are for four years and 4–5 individual research projects are conducted per year, including several projects in the specific area of concentration. Policy-oriented rural health services research is useful because it informs policy-makers concerned with rural health issues and it enhances knowledge about rural health and rural health services. This program is designed to provide support for establishment of a Rural Health Research Center as an identifiable entity with a specific area of research concentration and an infrastructure to develop health services researchers entering the field into experts in the research complexities of rural health issues.

Federal Involvement: The scope of the Federal Involvement is included in the application kit.

Eligibility: Eligibility is open to public, private, and non-profit—including faith-based and community-based organizations. Although multiple applications may be submitted, only one award will be made to the same entity.

Review Criteria: Final review criteria are included in the application kit.

Special Considerations: Research Areas: HRSA wants to fund a variety of areas of research concentration among research centers in making new awards under this announcement. Therefore, HRSA will consider the variety of areas

of concentration when selecting which applications recommended for approval to fund.

Geographic Coverage: Applications are sought for research projects that are national in scope. Applications containing any research projects covering a single community, multiple communities, or a single state are not acceptable and will not be reviewed.

HRSA wants to achieve a geographic balance among awardees in making new awards under this announcement. Therefore, HRSA will consider geographic distribution when selecting which applications recommended for approval to fund.

Estimated Amount of This Competition: $4,000,000.

Estimated Number of Awards: 8.

Estimated Project Period: 4 years.

HRSA–04–070 Rural Health Research Grant Program—Cooperative Agreement (CARHR)

Application Availability Date: January 15, 2004.

Letter of Intent Deadline: February 5, 2004.

Application Deadline: March 15, 2004.

Projected Award Date: August 15, 2004.

Program Contact Person: Joan F. Van Nostrand.

Program Contact Phone: (301) 443–0613.

Program Contact E-Mail: jvan_nostrand@hrsa.gov.

Special Programs—Grants

HRSA–04–071 Regional Collaborative for the Pacific Basin (RCPB)

CFDA: 93.110.

Legislative Authority: Public Health Service Act , Sections 301, 330(A), 330(k), 761(b), 767, as amended, and the Social Security Act, Sections 509 and 711 as amended.

Purpose: The Health Resources and Services Administration (HRSA) announces the availability of fiscal year 2004 funds for a grant program for a Regional Collaborative for the Pacific Basin to serve as a regional health policy body for the six Pacific Basin jurisdictions (American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Federated States of Micronesia, Republic of the Marshall Islands, and Republic of Palau). The Regional Collaborative is intended to serve as a formal mechanism to discuss common health interests, problems and concerns; to promote and enhance a regional approach for cost-effective sharing of resources, information, and human expertise to advance health care improvements in the Pacific Basin; and to provide technical assistance to the Pacific Basin jurisdictions. This project is intended to provide support to conduct activities to further the IOM strategic goals, such as addressing the needs of health care providers who serve vulnerable populations, strengthening the primary care delivery systems in the jurisdictions, supporting the efforts in the jurisdictions to develop and enhance their telehealth and distance education capacities, convening regional and jurisdictional policy meetings to address the health care needs of the underserved and vulnerable populations in the Pacific Basin.

Eligibility: Eligible applicants are public or non-profit private entities, including faith-based and community-based organizations, that are part of a network of the Pacific Basin jurisdictions (U.S. flag territories of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, and the three U.S.-associated jurisdictions of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau) which support, or provide for, the delivery of health care services and will work together to complete the proposed project.

Review Criteria: Final criteria are included in the application kit.

Preference: Preference will be give to those projects which provide an implementation of recommendations in the 1998 Institute of Medicine (IOM) study of the Pacific Basin health care delivery system, Pacific Partnerships for Health: Charting a Course for the 21st Century.

Estimated Amount of This Competition: $125,000.

Estimated Number of Awards: 1.

Estimated Project Period: 3 years.

HRSA–04–071 Regional Collaborative for the Pacific Basin (RCPB)

Application Avaialbility Date: June 1, 2004.

Letter of Intent Deadline: June 30, 2004.

Application Deadline: July 15, 2004.

Projected Award Date: September 1, 2004.

Program Contact Person: Lynnette S. Araki.

Program Contact Phone Number: 301–443–6204.

Program Contact E-Mail: LAraki@hrsa.gov.

HRSA–04–072 Social and Behavioral Interventions To Increase Organ and Tissue Donation (SBITD)

CFDA: 93.134.

Legislative Authority: Public Health Service Act, Section 371(a)(3) as amended, U.S.C. 273(a)(3).

Purpose: The goal of this grant program is to assist eligible entities in the evaluation of, or the implementation and evaluation of, highly promising strategies and approaches that can serve as model interventions for increasing organ and tissue donation. All projects must have rigorous methodology and evaluation components capable of ascertaining the effectiveness of the intervention(s). Applications may focus on pilot projects or replications of interventions already shown to be effective in a pilot study. Projects involving the use of information and communication technology to increase donation are also of interest.

Eligibility: Applications must be submitted by a consortium of at least two types of organizations, a transplant-related organization and a research-related organization. As specified in Section 371(a)(3) of the Public Health Service Act, the applicant organization must be a Federally designated organ procurement organization or another private not-for-profit entity. However, public and for-profit organizations may participate as consortium members or in other capacities, but may not serve as the applicant institution.

Special Considerations: HRSA reserves the option to achieve a balance among funded projects with respect to various parameters, *e.g.,* target populations, geography, and intervention diversity.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $1,250,000.

Estimated Number of Awards: 7.

Estimated Project Period: 3 years.

HRSA–04–072 Social and Behavioral Interventions To Increase Organ and Tissue Donation (SBITD)

Application Availability: October 24, 2003.

Letter of Intent Deadline: January 5, 2004.

Application Deadline: March 5, 2004.

Project Award Date: July 30, 2004.

Program Contact Person: Nancy B. Carothers.

Program Contact Phone Number: 301–443–3622.

Program Contact E-Mail: ncarothers@hrsa.gov.

HRSA–04–073 Clinical Interventions To Increase Organ Procurement (CIOP)

CFDA: 93.134.

Legislative Authority: Public Health Service Act, Section 371(a)(3) as amended, U.S.C. 273(a)(3).

Purpose: The goal of this grant program is to assist eligible entities in the implementation, evaluation, and dissemination of model interventions with the greatest potential for increasing the number of heart-beating and non-heart-beating deceased donors and/or the number of organs that are recovered from such donors. All projects must have rigorous methodology and evaluation components capable of ascertaining the effectiveness of the intervention(s). Projects can employ qualitative studies, quantative research, or empiric work. Eligible interventions could focus on new and/or improved methods to optimize hemodynamic stability after brain death; improve donor organ evaluation practices; investigate time-efficient technologies to match donor organs with compatible recipients; and identify appropriate non-heart-beating donation candidates. Interventions focusing on the use of information and communication technology to disseminate donor related information or to increase the efficiency of organ placements are encouraged.

Eligibility: As specified in Section 371(a)(3) of the Public Health Service Act, the applicant organization must be a Federally designated organ procurement organization or another private not-for-profit entity. However, public and for-profit organizations may participate in the project but may not serve as the applicant institution.

Special Considerations: HRSA reserves the option to achieve a balance among funded projects with respect to various parameters, *e.g.,* target populations, geography, and intervention diversity.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $2,250,000.

Estimated Number of Awards: 12.

Estimated Project Period: 3 years.

HRSA–04–073 Clinical Interventions to Increase Organ Procurement (CIOP)

Application Availability: October 24, 2003.

Letter of Intent Deadline: January 5, 2004.

Application Deadline: March 5, 2004.

Project Award Date: July 30, 2004.

Program Contact Person: Jade K. Perdue.

Program Contact Phone Number: 301–443–3124.

Program Contact E-Mail: jperdue@hrsa.gov.

HRSA–04–074 Best Practices to Increase Organ Donation (HIP)

CFDA: 93.134.

Legislative Authority: Public Health Service Act, Section 371(a)(3) as amended, U.S.C. 273(a)(3).

Purpose: The purpose of this demonstration grant program is to provide support for organ procurement organizations and high donor potential hospitals to implement high impact practices for increasing organ donation rates in hospitals as identified through the HRSA's Division of Transplantation Best Practices Initiative: Breakthrough Organ Donation Collaborative or its research grant program: Social and Behavioral Interventions to Increase Organ and Tissue Donation.

Eligibility: Eligible organizations for this program are Federally designated organ procurement organizations and hospitals with high organ donor potential. As specified in Section 371(a)(3) of the Public Health Service Act, the applicant organization must be a Federally designated organ procurement organization or another private non-profit organization. However, public and for-profit hospitals may participate as consortium members or in other capacities. Each application must be submitted by a consortium of at least one organ procurement organization and one hospital with high organ potential in the OPO's service area.

Special Considerations: HRSA reserves the option to achieve a balance among funded projects with respect to various parameters, *e.g.*, target populations, geography, and intervention diversity.

Review Criteria: Final review criteria are included in the application kit.

Estimated Amount of This Competition: $1,250,000.

Estimated Number of Awards: 10.

Estimated Project Period: 2 years.

HRSA–04–074 Best Practices to Increase Organ Donation (HIP)

Application Availability: January 7, 2004.

Letter of Intent Deadline: February 16, 2004.

Application Deadline: April 1, 2004.

Project Award Date: July 30, 2004.

Program Contact Person: Mary Ganikos.

Program Contact Phone Number: 301–443–8665.

Program Contact E-mail: mganikos@hrsa.gov.

HRSA News—Additional Information

Guidance and Policy Statement of Religious Nondiscrimination in Grant Eligibility and Service Delivery

The Federal government does not discriminate against non-governmental organizations on the basis that such organizations have a religious character. Faith-based organizations are eligible to compete for grant funds on the same basis as all other non-governmental organizations. Decisions about grant applications and awards will be made based solely on the competence, capacity, and actions of the provider, not whether it is a secular or faith-based provider.

To the extent permitted by law, faith-based organizations that receive federal financial assistance may—just as secular non-governmental organizations—use their facilities to provide federally funded services without removing or altering art, icons, literature, or other distinctive symbols from these facilities. In addition, faith-based organizations that apply for or participate in programs supported with federal financial assistance may retain their organizational identity including, but not limited to name, internal governance, and mission statements.

No grantee may discriminate in its delivery of a federally-funded program against a client or potential client on the basis of religion or religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice. Any specifically religious activity or service made available to clients by the grantee must be voluntary as well as separate in time and location from government funded activities and services.

Key Facts About the Grants.gov Program Spring 2003

www.grants.gov Find. Apply. Succeed.

Overview

Grants.gov will simplify the grants management process, and create a centralized, online process to find and apply for over 600 grant programs from the 26 Federal grant-making agencies. Grants.gov will streamline the process of awarding $360+ billion annually to state and local governments, academia, not-for-profits and other organizations. This program is one of the 24 Federal cross-agency E-Government initiatives focused on improving access to services via the Internet. The vision for Grants.gov is to produce a simple, unified source to electronically find, apply, and manage grant opportunities. Additionally, the Grants.gov initiative will facilitate efficient operations for Federal grant agencies and the grant community.

Agencies will allow applicants for Federal grants to apply for and ultimately manage grant funds online through a common Web site, simplifying grants management and eliminating redundancies * * *''

(The President's FY 2002 Management Agenda)

Standardizing Federal grant management activities is a priority for the Administration and Congress, as evidenced by Public Law 106–107, legislation that mandates streamlining and improved accountability for Federal grants, and related references in the President's Management Agenda.

Benefits

Grants.gov will serve as the common face for Federal grant program information and applications. Key benefits include:

- A single source for finding grant opportunities, helping applicants locate and learn more about funding opportunities in a standardized manner
- A single, secure and reliable source for applying for Federal Grants online, simplifying the grant application process and reducing paperwork Grants.gov will provide a unified interface for all agencies to announce their grant opportunities, and for all potential grantees to find and apply for grants. Grants.gov simplifies the entire application process, while also creating avenues for consolidation and best practices within each grant-making agency.

Progress and Next Steps

The first stage of Grants.gov was a successful pilot that enabled participating grantors to post and grant seekers to search for grant opportunities. Each Federal grant-making agency will be posting all of their competitive grant opportunities to Grants.gov by October 1, 2003. Also in October, the Grants.gov team will deploy a simple, unified application to enable applicants to apply for these grants online. Here's how it works: a grant seeker from an organization, for instance, visits the Grants.gov Web site to search for grant opportunities. Once a match is found, the organization downloads an electronic application to apply for the grant. The organization would complete the application and then submit it through the Grants.gov site. The application is time stamped and the appropriate Federal agency has immediate access to it. The agency will receive the application, sending confirmation back to the applicant through Grants.gov. Processing will be accelerated by avoiding the handling of paper applications.

In 2004, the focus will shift to rolling out the management and reporting functions of the Grants.gov system. Additional tools will be available to assist the grant community in moving through the grants life cycle, and will streamline and improve the grants application process.

Participants

All grant-making agencies will participate in Grants.gov over time. The Department of Health and Human Services, managing partner for the Grants.gov program, is supported by 10 additional ''partner'' agencies. A list of these agencies can be found on the Grants.gov Web site, at *http://www.grants.gov.*

The Grants.gov team is also working closely with the grant community and organizations that represent them, to facilitate delivery of a system that will meet their needs. We are in close contact with the Council of State Governments, the National Council for Nonprofit Associations, and the Federal Demonstration Partnership, to name just a few.

Questions?

Visit *http://www.grants.gov* to access past and current materials on the Grants.gov program or e-mail your questions to *info@grants.gov.*

New Office of Management & Budget Requirement—DUNS Number for all Federal Applicants

In order to improve the statistical reporting of federal grants and cooperative agreements, the Office of Management and Budget has directed federal agencies to require all applicants to provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper or an electronic application, and whether an applicant is applying for a new award or renewal of a current award. While the current directive does not cover non-competing continuations, Phase II of the project, which begins in FY 2004, will cover these continuations. Therefore, we encourage all grantees to obtain a DUNS number.

Use of the DUNS number government-wide will provide a cost-effective means to identify entities receiving those awards and their business relationships. The identifier will be used for tracking purposes, and to validate address and point of contact information. The DUNS number already is in use by the federal government to identify entities receiving federal contracts, and by some agencies in their grant and cooperative agreement processes.

Organizations should verify that they have a DUNS number or take the steps needed to obtain one as soon as possible if there is a possibility that they will be applying for Federal grants or cooperative agreements on or after October 1, 2003. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711. Individuals who would personally receive a grant or cooperative agreement award from the federal government apart from any business or non-profit organization they may operate, and foreign entities are exempt from this requirement.

If your organization does not have a DUNS number, and you anticipate that your organization will apply for a grant or cooperative agreement on or after October 1, 2003, you should take steps to obtain a DUNS number in advance of the application deadline. If your organization does not have a DUNS number, you may not be able to apply for Federal grants or cooperative agreements after that time. Future potential applicants should also consider requesting a DUNS number now if there is any intention of applying for a federal grant in the future.

Further information can be found in the **Federal Register**, located at: *http://a257.gakamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/pdf/03–16356.pdf*

Register in the Central Contract Registry (CCR)

In order to help centralize information about grant recipients and provide a central location for grant recipients to change organizational information, the government will be using the Central Contractor Registry (CCR) for grant applicants and recipients. Use of the CCR is to provide one location for applicants and recipients to change information about their organization and enter information on where government payments should be made. The registry will enable recipients to make a change in one place and one time for all Federal agencies to use.

General Information

Organizations should register on how they want to do business.

A separate registration in the CCR may be required if an organization wants to have a single unit conduct business and it has a direct payment flow to that organization, it would require a separate DUNS number specified for that unit (if a different address from the parent organization). If the same address, the organization could use the DUNS + 4 found in the CCR. For example, a university that wants to have its payment information

flow through one central point for grants should register as the entity doing business with the government. This registration would require a specific DUNS number for that business.

Instructions for Registering

Information for registering in the CCR and online documents can be found at *http://www.ccr.gov.* Before registering applicants and recipients should review the Central Contractor Registration Handbook (March 2003). In the handbook is a Registration Worksheet. It is recommended that registrants print this worksheet and gather the needed information prior to starting the online registration process. The fastest and easiest method to register is by computer. To register via the computer, click on ''Start New Registration.'' Registering in the CCR should be the first preparation step in the submission for a grant. Allow a minimum of 5 days to complete the CCR registration. Organizations can register independently of submitting a grant application.

Registration Worksheet for Grant Applicants/Recipients

General Information: Enter all information that has an M placed next to the line meaning Mandatory or Required.

Prior to registering in the CCR, an applicant organization must receive a DUNS number. This can be done by telephone and the numbers are on the bottom of the worksheet. Many of the items are self-explanatory. Identified below are some items that may not be familiar to grant applicants and recipients.

Cage Code: For U.S. applicants, do not enter a Cage Code, one will be assigned. For foreign applicants, follow the instructions in the CCR.

Legal Business Name: Enter the name of the business or entity as it appears on legal documents.

Business Name: Enter the name of the organization/entity under which it is applying for a grant.

Annual Revenue: For some organizations/entities this can be an annual budget.

Type of Organization: In this section, indicate whether the organization/entity is Tax Exempt or Not. Indicate what type or how the organization is recognized. Use ''Other'' if the organization does not fit in the designated categories.

Owner Information: Fill-in if a sole proprietorship.

Business Types: As indicated, check all that apply. Check the ones that are the closest description to your organization. Most grant applicants can use ''Nonprofit Institution'' plus any other type that may fit the description. (The listing is being revised to include grant applicants business types.)

Party Performing Certification: Enter information only if the organization has a certification from SBA. Most grant recipients and applicants do not fall into this category.

Goods and Services: This section is required. It will require the grant applicant/recipient to look up a code and enter the ones that best fit the type of services the organization provides. It is not required to fill-in all the spaces provided for the codes.

NAICS Code: Is required. Follow the instructions.

SIC Code: Is required. Follow the instructions.

Financial Information: Follow the instructions found in the CCR Handbook on page 14.

Registration Acknowledgement and Point of Contact Information

This section is very important and needs to have names and telephone numbers put in for specific purposes. For grant applicants and recipients the M fields are required.

CCR Point of Contact: Mandatory. Enter the name of the person that knows and acknowledges that the information in the CCR is current, accurate and complete. The person named here will be the only person within the registering organization to receive the Trading Partner Identification Number (TPIN) via e-mail or U.S. mail services. The registrant and the alternate are the only people authorized to share the information with the CCR Assistance Center personnel. An e-mail address is required. An alternate is also required for registration.

Government Business Point of Contact: Not mandatory; review CCR Handbook.

Electronic Business Point of Contact: Mandatory. Grant applicants/recipients must provide a name of an individual who will be responsible for approving the Role Manager for the organization. The Role Manager will be required to approve individuals who are authorized to submit grant applications on behalf of the organization. E-mail and telephone number are required. An alternate is required.

Past Performance Point of Contact: Not required.

Marketing Partner ID (MPIN): Mandatory for Grants.gov submission. This is a self-defined access code that will be shared with authorized electronic partner applications. The MPIN will act as your password in other systems. The MPIN must be nine positions and contain at least one alpha character, one number and no spaces or special characters.

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