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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–056–2]

Karnal Bunt; Revision of Domestic Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our Karnal bunt regulations to incorporate updates and improvements identified as a result of our review of their provisions. The changes include clarifying our method for determining Karnal bunt infestation and the circumstances under which a field or area is classified as a regulated area, as well as adding provisions and criteria for the release of fields or areas from regulation; modifying the restrictions that apply to the planting of wheat, durum wheat, and triticale seed originating in regulated areas; and modifying cleaning and disinfection requirements for certain equipment and storage facilities involved in the harvesting, planting, or storage of Karnal bunt-positive host crops or seeds, as well as providing for the disposal of chemically treated, spore-positive seed. These changes are intended to improve the clarity and effectiveness of the regulations, thus helping to prevent the spread of Karnal bunt within the United States.

EFFECTIVE DATE: March 24, 2004.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Spaide, Senior Program Manager, Surveillance and Emergency Programs Planning and Coordination, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–7819.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the movement of infected seed. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine. Therefore, in the absence of measures taken by the U.S. Department of Agriculture (USDA) to prevent its spread, the establishment of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

The domestic quarantine and other regulations regarding Karnal bunt are set forth in ''Subpart—Karnal Bunt'' (7 CFR 301.89–1 through 301.89–16, referred to below as the regulations). Among other things, the regulations describe articles and areas regulated for Karnal bunt; criteria for classifying areas or fields as regulated areas; requirements for planting wheat, durum wheat, and triticale in regulated areas; restrictions on movement of regulated articles from regulated areas; permitting, cleaning, disinfection, and treatment requirements; and requirements for growers, handlers, seed companies, and other entities seeking compensation from the USDA to mitigate losses or expenses incurred because of Karnal bunt. The regulations are designed to prevent the artificial spread of Karnal bunt.

Following a review of our regulations, the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register**, on July 8, 2003 (68 FR 40534–40541, Docket No. 02–056–1), a proposal to amend them to improve their clarity, transparency, and effectiveness. More specifically, the proposed changes included the following: Clarifying our method for determining Karnal bunt infestation; adding or removing several definitions; adding or removing certain articles from the list of regulated articles; clarifying the circumstances under which a field or area would be classified as a regulated area, as well as adding provisions and criteria for the release of fields or areas from regulation; modifying the restrictions that apply to the planting of wheat, durum wheat, and triticale seed originating in regulated areas; and modifying cleaning and disinfection requirements for mechanized harvesting equipment, seed conditioning equipment, and storage facilities involved in the harvesting, planting, or storage of Karnal bunt-positive host crops or seed, as well as adding a requirement for the disposal of chemically treated, spore-positive seed.

We solicited comments concerning our proposal for 60 days ending September 8, 2003. We received nine comments by that date. The comments were from State governments and grain producers' associations. All of the commenters supported the proposed rule, but two suggested some modifications to certain provisions. Specifically, the commenters urged us to: Reconsider our decision to remove manure, soil, and milling products from the list of regulated articles in the existing regulations; clarify a provision pertaining to the regulation of grain elevators, equipment, and structures; modify our criteria for the release of a field from regulation; and develop procedures for seed sampling and analysis and for inspectors to use to determine whether certain regulated articles require disinfection. The comments are discussed below by topic.

The commenters stated that manure should continue to be included on the list of regulated articles. It was recommended that manure from cattle that have been fed unprocessed Karnal bunt-positive host crops or cattle that have been allowed to graze in known infected fields on host crops that have developed past the heading stage should have to remain within the regulated area and that such animals should be subjected to a 5-day clean-out period before being moved outside a regulated area. The commenters suggested that because bunted kernels are not likely to be completely digested by cattle, the Karnal bunt pathogen can survive in their digestive tracts; therefore, some risk exists that bunted kernels could be dispersed through manure.

We will not be making any changes to the final rule in response to these comments. Our decision to remove manure from the list of regulated articles in § 301.89–2 resulted, in part, from a change in our regulatory goals. In 1996, manure was placed under regulation because the goal of the Karnal

bunt regulatory program at that time was eradication, and research had demonstrated that the Karnal bunt spore or pathogen could potentially be spread in manure. The 5-day clean-out period was put into practice—though never specified in the regulations—to mitigate this potential risk. Since 1998, we have changed the focus of the program from eradication to the management of risk associated with the disease, and we have adopted the bunted kernel as the infestation standard.

In addition, in contrast to the commenters, we view the risk of disseminating Karnal bunt through manure as very small. Cattle are grazed on wheat and removed from the fields prior to the soft-dough stage of plant growth. These cattle are not routinely fed bunted kernels. A review of our regulatory records for the past 2 seasons indicate less than 0.5 percent of the 186,500 head of cattle moved under limited permits from regulated areas were required to undergo the 5-day clean-out. These cattle were subjected to the clean-out because they had grazed in fields that were past the soft-dough stage and that were within the regulated area; however, there are no records to confirm the presence of the disease in the fields where the cattle grazed. The percentage of cattle that actually grazed in infected fields is likely to be much lower than the 0.5 percent figure, as known infected fields represent a very small portion of the regulated areas in the United States. We believe that there is a very minimal risk of the spread of Karnal bunt spores through manure and an even smaller risk—if any—that bunted kernels may be spread that way. One commenter cited research indicating that 25 percent to 35 percent of healthy kernels pass through the ruminant digestive tract without being completely digested. A bunted kernel is not a healthy kernel of wheat, however, and the structural integrity of the former is not equivalent to that of the latter. Bunted kernels are very fragile and are easily ruptured, and, thus, are less likely than healthy grain to pass through the digestive tract of ruminant animals without being completely digested.

The commenters also stated that soil in quantities sufficient to harbor bunted kernels should continue to be listed among the regulated articles for Karnal bunt. It was suggested that soil could not only contain bunted kernels but could also serve as a mechanism for spreading both the disease and the pathogen.

We have not observed soil originating in regulated areas being moved in significant volumes. We have seen limited movement of soil throughout a regulated area for use as fill, road construction, and housing in areas. Soil moved and used in this way presents a minimal risk of spreading Karnal bunt. Smaller quantities of soil have also been permitted to move to approved laboratories for analytical purposes. Such movement and processing present little risk of disseminating the Karnal bunt pathogen. Finally, soil movement has also been associated with the movement of harvesting equipment. All equipment used to harvest bunted-kernel-positive wheat is required to be cleaned prior to leaving a regulated area. The cleaning process includes the removal of any soil on the equipment being cleaned, thus minimizing any pest risk associated with the movement outside of a regulated area of bunted kernels in soil. In addition, harvesting equipment that is moving across State lines usually requires cleaning for noxious weed seed, which also entails the removal of any soil on the equipment. Therefore, we will not be making any changes to the final rule in response to these comments.

The commenters also stated that certain milling products or byproducts, such as screenings, should continue to be regulated, since they may present a risk of spreading Karnal bunt. Such products or byproducts, if produced from host crops within a regulated area, should have to be handled, stored, and used within the regulated area, according to the commenters.

We will not be making any changes to the final rule in response to these comments. Bunted or damaged kernels are likely to be susceptible to the milling process, *i.e.*, unlikely to survive it intact. Moreover, the screenings that result from the milling process are routinely used for animal feed. In order for the animals to receive the maximum benefit from this feed source, the screenings are routinely steam-rolled or used in a pellet formulation. Both of these processes mitigate the risk of transmitting the Karnal bunt pathogen.

The commenters also stated that proposed § 301.89–2(b), which listed as regulated articles grain elevators, equipment, and structures used to store and handle Karnal bunt-positive host crops, needed clarification. It was suggested that the paragraph could be interpreted to apply only to those regulated articles used to store or handle grain, since only bunted kernels are mentioned. One commenter noted that proposed § 301.89–12(c) addressed the cleaning and disinfection requirements for facilities that stored either spore-positive seed or bunted-kernel-positive grain, suggesting that, in the final rule, the list of regulated articles in § 301.89–2(b) should also include storage facilities for seed that has tested positive for spores.

As noted in our definition of infestation (infected) in proposed § 301.89–1, we regulate grain and seed according to different criteria. Proposed § 301.89–2(b) was intended to apply only to articles used to store or handle grain that has tested positive for bunted kernels; we addressed seed conditioning equipment and storage/handling equipment separately in proposed § 301.89–2(f). To eliminate any possible confusion on the part of users of the regulations, we have decided to rearrange § 301.89–2 in the final rule to place the provisions for grain and seed equipment adjacent to one another. Proposed § 301.89–2(f) will become § 301.89–2(c) in the final rule, with the remainder of the section reordered accordingly, and a reference to structures will be added to better align the paragraph with § 301.89–2(b).

The commenters generally welcomed our efforts to develop uniform criteria for removing fields from regulation, but took issue with some parts of our list of acceptable field management practices in proposed § 301.89–3. Proposed § 301.89–3 stated that a known infected field, as well as surrounding non-infected acreage, could be released from regulation if the field was no longer being used for crop production or if it had been subjected each year, for 5 consecutive years, to any one of the following management practices: Planting with a cultivated non-host crop; tilling once annually; or planting with a host crop that tests negative, through the absence of bunted kernels, for Karnal bunt. The commenters argued that we should eliminate tilling from the list because it does not prevent Karnal bunt infection if a crop is allowed to head. The commenters also recommended that fields planted with non-host crops be planted with ones that are not cultivated annually, such as alfalfa; that if no crop is planted in a regulated field during the first year of the 5-year period preceding deregulation, the field should be required to undergo cultivation or chemical fallow; and that the list of acceptable management practices should be expanded to include planting the field with a host crop for grazing, while ensuring the destruction of the crop prior to the boot stage, and enrolling the field in the Conservation Reserve Program.

We will not be making any changes to the final rule in response to these comments. Tillage is a proven method of reducing the spore load in the soil. Tillage exposes spores to the

environment, which in turn causes the spores to deteriorate, resulting in a decrease of the spore load in the soil. In addition, exposing the spores to the surface without a host promotes ''suicidal germination'' of the teliospores, which also contributes to a decrease in the spore load. Spores germinate when the environmental conditions are favorable, regardless of whether there is a susceptible host plant. Suicidal germination reduces the spore load and the probability of infection. Another advantage of tilling is that it also prevents volunteer host material from reaching the heading stage of growth. We do not agree with the recommendation to plant non-host crops that are not cultivated annually. If a field is not cultivated annually, spore longevity is likely to increase. We do not believe chemical fallow should qualify as an independent practice during the 5-consecutive-year period, as its value, if any, in reducing the spore load in the soil is undetermined. Planting a host crop for grazing is also problematic as a management strategy. Many times, wheat is planted for grazing, and, depending on the price of wheat, the crop is allowed to mature. We do not have the authority to dictate what a wheat producer may plant on his farm, nor may we condemn or require destruction of a crop without evidence of the Karnal bunt pathogen. Finally, because a field enrolled in the Conservation Reserve Program is not likely to undergo annual tilling, spore longevity in the field is not likely to decrease.

One commenter criticized the proposed rule for not stating how seed will be sampled and analyzed under the regulations. It was argued that APHIS must develop, publish, and distribute procedures for these tasks, adopt procedures to protect the seed supply from both bunted kernels and teliospores, and develop procedures to deal with seed that tests positive for bunted kernels or teliospores and for the facility in which the seed was stored and the field in which it was produced.

We will not be making any changes to the final rule in response to these comments. Procedures for seed sampling and analysis do exist and are contained in APHIS's Karnal Bunt Manual, available on the Internet at *http://www.aphis.usda.gov/ppq/manuals/online_manuals.html#Karnal*. Protecting the seed supply from bunted kernels is not a concern because, as noted earlier, if grain tests positive for bunted kernels, it does not qualify as seed and could never be used as such. Procedures to deal with seed that tests positive for teliospores, the facility in which such seed was stored, and the field in which it was produced are contained in various places in this final rule, including §§ 301.89–3, 301.89–12, and 310.89–13.

One commenter took issue with some provisions of the cleaning, disinfection, and disposal requirements that were contained in § 301.89–12 of the proposed rule. Proposed paragraphs (a) and (c) stated that an inspector may determine whether to require disinfection of certain regulated articles. The commenter argued that since § 301.89–12 does not include criteria for inspectors to use in making such determinations, APHIS needed to develop such criteria and train its staff in their use. The commenter also suggested that APHIS needed to consider pertinent environmental factors, such as soil type, depth of the water table, and the potential for product leaching and movement in the soil, in regard to the burial of chemically treated seed that has tested positive for Karnal bunt. Due to these and other factors, meeting the 24-inch minimum depth requirement for burial that is specified in § 319.89–12(e) may not always be possible.

We will not be making any changes to the final rule in response to these comments. The regulations address how APHIS will handle Karnal bunt-negative grain, Karnal bunt-positive grain, and seed produced in a regulated area. Any machinery or equipment associated with the production of Karnal bunt host material will fall into one of these three categories and be handled accordingly. Specific guidance will be provided in the Karnal Bunt Manual, and staff training will be given. Regarding the burial provision, our current practices and this rulemaking do reflect our consideration of the environmental factors cited by the commenter. We only allow burial of treated seed in landfills approved by the U.S. Environmental Protection Agency or on privately owned property with the owner's consent. We do not allow burial in areas that are currently cultivated or in areas subject to cultivation in the future. We do not allow burial of seed in areas where the minimum 24-inch depth is not attainable.

Miscellaneous

Because we included tilling on our list of acceptable crop management practices in proposed § 301.89–3, we determined that we needed to define the term. Section 301.89–1 of this final rule defines *tilling* as the turning of a minimum of the top 6 inches of soil.

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

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

This final rule is intended to improve the clarity, transparency, and effectiveness of our Karnal bunt regulations. This rulemaking is the result of a review of the regulations.

Of the substantive changes to the regulations contained in this final rule, four stand out as having the potential to have the most economic impact: (1) Adding provisions for removing fields or areas from the list of regulated areas, (2) modifying seed planting restrictions, (3) removing animal manure from the list of regulated articles, and (4) modifying cleaning and disinfecting requirements for seed conditioning equipment. These four changes—all of which are expected to have a favorable impact on any affected entities—are discussed individually in the paragraphs that follow.

Adding Provisions for Removing Fields or Areas From the List of Regulated Areas

The regulations have not contained criteria for the removal of fields or areas from the list of regulated areas, although we have removed some fields or areas from regulation in the past on a case-by-case basis. This rule establishes uniform criteria for the removal of fields or areas from regulation.

Even wheat testing Karnal bunt-negative has not been eligible for a phytosanitary certificate with an additional declaration if it was grown in fields that previously tested Karnal bunt-positive—a situation that adversely impacts the wheat's marketability and value.[1] By allowing wheat from those fields to become eligible for such a certificate (if certain conditions are met), this rule will yield potential—and in some cases immediate—economic benefits for affected producers.

In San Saba and McCulloch Counties, TX, there are approximately 28 producers with fields that previously tested positive for Karnal bunt—including about 8 that will be

[1] Major foreign importers will not accept wheat from the United States that does not have such an additional declaration. Furthermore, many U.S. elevators will not commingle wheat from previously tested positive fields with wheat destined for the export market.

immediately eligible for deregulation since they have already satisfied the conditions for release. It is estimated that these 28 producers would have received, collectively, at least about $295,000 more for their wheat this past crop season if it had been eligible for export—an average of about $10,500 per producer. These dollar estimates are based on a price differential of at least $1.80 per bushel between uncertified wheat sold for animal feed and certified wheat in Texas sold for the export market.[2]

This final rule also has the potential to enable the approximately 25 producers in 4 north Texas counties (Young, Throckmorton, Archer, and Baylor) with fields in a regulated area to recover lost revenues. Based on their estimated production capacity of about 81,000 bushels of wheat per crop season, this rule, by allowing the 25 growers to obtain the phytosanitary certificate with the additional declaration needed to market their wheat for export, has the potential to enable them to recover $145,000 or more in annual revenues, based on current prices.[3]

Growers in Arizona and California will also benefit. This rule will enable the approximately 67 producers in Arizona with fields that previously tested Karnal bunt-positive, to recover, collectively, revenues estimated at about $1,433,000 per year. The four producers in California with fields that previously tested positive stand to recover, collectively, about $210,000 per year in lost revenues.[4]

Modifying Seed Planting Requirements

The regulations have provided that wheat, durum wheat, or triticale that is grown in regulated areas and intended for use as seed cannot be planted outside those areas. Under this final rule, wheat, durum wheat, or triticale grown in regulated areas will be eligible for planting outside the regulated areas if it is tested and found free of bunted kernels and spores.

Seed producers in regulated areas will benefit because they will be able to sell their seed outside those areas, recapturing markets that they had previously lost. Furthermore, by removing a disincentive for certified seed producers to operate in regulated areas, the rule also has the potential to benefit owners of seed conditioning equipment who operate in those areas.

Even producers who do not sell seed outside the regulated area stand to benefit. In Texas, for example, it is not uncommon for producers to hold back a quantity of grain for use as seed in the next planting season. With the regulatory changes in effect, producers in regulated areas will be able to use their grain as seed in fields that they operate outside the regulated area—instead of having to purchase higher-priced commercial seed for use in those fields. In San Saba and McCulloch Counties, TX, it is estimated that 14 producers would have saved a total of about $60,000 this past crop season if they had been able to use their grain as seed in fields that they operated outside the regulated area.[5] It is estimated that about half of the approximately 450 wheat producers in the regulated areas of northern Texas will benefit to at least some extent from this aspect of the final rule.

Removing Animal Manure From the List of Regulated Articles

The regulations have listed manure from animals that have fed on untreated or raw wheat as a regulated article under § 301.89–2. Although not set forth in the regulations, it has been our practice to require a 5-day ''clean-out'' period for livestock that have been fed untreated or raw wheat before the animals can be moved from the regulated area. During the clean-out period, livestock can be fed only Karnal bunt-negative wheat or a non-host crop. This final rule removes animal manure from the list of regulated articles in § 301.89–2, effectively eliminating the clean-out policy.

This aspect of the rule will benefit livestock producers, since the clean-out policy may compel them to switch their animals to an alternative, but less desirable, feed crop during the 5-day period. A change in feeding rations during the clean-out period can adversely impact weight gain, which, in turn, can adversely affect animal prices. In northern Texas, where this rule has the potential to have the most impact, it has been estimated that cattle can lose up to 20 percent of their weight in the first week following a feed-crop change. For a single head of cattle weighing 700 lbs. before clean out, therefore, the clean-out requirement can translate into a loss of up to $109 (based on the current price of about $0.78/lb).

Livestock producers will further benefit because clean-out can also involve gathering the animals and transporting them to a new location, such as a new pasture, during the 5-day period. The time and expense associated with gathering and transporting cattle to a new location for clean-out may vary among individual livestock producers, depending on such factors as the distance to the new location, the cost for the use of the new location, and the equipment needed for transport to the new location.

To date in northern Texas, only a few cattle producers have had to clean out their animals, since most moved their animals before the wheat reached the soft dough stage. However, there are at least 500 cattle producers in northern Texas who will potentially benefit from this aspect of the final rule, including some who move up to about 25,000 head annually.[6]

Modifying Cleaning and Disinfecting Requirements for Seed Conditioning Equipment

The regulations have provided that seed conditioning equipment used in the production of any host crop must be cleaned and disinfected (using USDA-approved methods) prior to being moved from the regulated area. (Cleaning means the removal of all soil and plant debris, and disinfecting means the treatment by one of three approved methods, including steam and hot water and detergent.)

Under this final rule, only seed conditioning equipment that was used to condition seed that was tested and found to contain spores or bunted kernels will have to be cleaned and disinfected prior to being moved from a regulated area (or prior to handling spore-negative seed).

As a result of this rule, fewer pieces of portable seed conditioning equipment will have to be cleaned and disinfected. The affected entities will benefit, because a single cleaning and disinfecting is estimated to cost at least $150. However, the number of entities potentially affected by this aspect of the rule, and the potential impact on each, is unknown.

Economic Impact on Small Entities

The Regulatory Flexibility Act requires that agencies consider the economic impact of their rules on small businesses, organizations, and governmental jurisdictions. This rule is expected to have an overall beneficial impact on the entities affected by the regulations, especially wheat producers. However, we do not expect that the rule will have a significant economic impact

[2] Source: George Nash (APHIS). Approximately 70 percent of the wheat produced in Texas is exported.

[3] Source: Barte Smith (APHIS).

[4] Dollar estimates are derived from data provided by Michael Hennessey and Cindy Umbdenstock (APHIS). Dollar estimates assume a price differential of $1.80/bushel between uncertified and certified wheat.

[5] George Nash (APHIS).

[6] Source: Barte Smith (APHIS).

on a substantial number of entities, large or small.

Parts of three States (Texas, Arizona, and California) are currently regulated for Karnal bunt. In Texas, there are approximately 285,000 agricultural acres and about 550 wheat producers under regulation. The equivalent figures for Arizona and California are, respectively, 465,000 acres (120 producers) and 105,000 acres (18 producers).

Wheat producers that will be affected by this rule are likely to be small in size, when judged by the U.S. Small Business Administration's (SBA's) standards. This assumption is based on composite data for providers of the same and similar services. In 1997, Arizona had a total of 6,135 farms of all types. Of those farms, 89 percent had annual sales that year of less than $500,000, well below the SBA's small entity threshold of $750,000 for wheat farms. Similarly, the comparable percentages of small entities for Texas (194,301 total farms) and California (74,126 total farms) were 98 percent and 89 percent, respectively.

For some of the affected entities, especially the smaller ones, the benefits of this rule may be substantial. However, the number of entities that will experience substantial benefits is expected to be small relative to all entities potentially affected by this rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

■ Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701–7772; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

■ 2. Section 301.89–1 is amended by removing the definitions for *farm tools* and *milling products and byproducts* and by adding, in alphabetical order, definitions for *grain, hay, host crops, plant, seed, straw,* and *tilling* and revising the definitions for *contaminated seed, infestation (infected)*, and *mechanized cultivating equipment and mechanized harvesting equipment* to read as follows:

§ 301.89–1 Definitions.

* * * * *

Contaminated seed. Seed from sources in which the Karnal bunt pathogen (*Tilletia indica* (Mitra) Mundkur) has been determined to exist by the presence of bunted kernels or teliospores.

* * * * *

Grain. Wheat, durum wheat, and triticale used for consumption or processing.

* * * * *

Hay. Host crops cut and dried for feeding to livestock. Hay cut after reaching the dough stage may contain mature kernels of the host crop.

Host crops. Plants or plant parts, including grain, seed, or hay, of wheat, durum wheat, and triticale.

Infestation (infected). The presence of Karnal bunt, or any identifiable stage of development (*i.e.*, bunted kernels in grain, bunted kernels or teliospores in seed) of the fungus *Tilletia indica* (Mitra) Mundkur, or the existence of circumstances that make it reasonable to believe that Karnal bunt is present.

* * * * *

Mechanized cultivating equipment and mechanized harvesting equipment. Mechanized equipment used for soil tillage, including tillage attachments for farm tractors—*e.g.*, tractors, disks, plows, harrows, planters, and subsoilers; mechanized equipment used for harvesting purposes—*e.g.*, combines, grain buggies, trucks, swathers, and hay balers.

* * * * *

Plant. Any plant (including any plant part) for or capable of propagation, including a tree, a tissue culture, a plantlet culture, pollen, a shrub, a vine, a cutting, a graft, a scion, a bud, a bulb, a root, and a seed.

Seed. Wheat, durum wheat, and triticale used for propagation.

* * * * *

Straw. The vegetative material left after the harvest of host crops. Straw is generally used as animal feed, bedding, mulch, or for erosion control.

Tilling. The turning of a minimum of the top 6 inches of soil.

■ 3. Section 301.89–2 is revised to read as follows:

§ 301.89–2 Regulated articles.

The following are regulated articles:

(a) Conveyances, including trucks, railroad cars, and other containers used to move host crops produced in a regulated area that have tested positive for Karnal bunt through the presence of bunted kernels;

(b) Grain elevators/equipment/structures used for storing and handling host crops produced in a regulated area that have tested positive for Karnal bunt through the presence of bunted kernels;

(c) Seed conditioning equipment and storage/handling equipment/structures that have been used in the production of wheat, durum wheat, and triticale found to contain the spores of *Tilletia indica;*

(d) Plants or plant parts (including grain, seed, and straw) and hay cut after reaching the dough stage of all varieties of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum* X *Secale cereale*) that are produced in a regulated area, except for straw/stalks/seed heads for decorative purposes that have been processed or manufactured prior to movement and are intended for use indoors;

(e) *Tilletia indica* (Mitra) Mundkur;

(f) Mechanized harvesting equipment that has been used in the production of wheat, durum wheat, or triticale that has tested positive for Karnal bunt through the presence of bunted kernels; and

(g) Any other product, article, or means of conveyance when:

(1) An inspector determines that it presents a risk of spreading Karnal bunt based on appropriate testing and the intended use of the product, article, or means of conveyance; and

(2) The person in possession of the product, article, or means of conveyance has been notified that it is regulated under this subpart.

■ 4. Section 301.89–3 is amended as follows:

■ a. In paragraph (d), by revising the fourth sentence to read as set forth below.

■ b. By revising paragraph (e)(3) to read as set forth below.

■ c. By redesignating paragraph (f) as paragraph (g) and adding a new paragraph (f) to read as set forth below.

■ d. In newly redesignated paragraph (g), by revising the introductory text to read as set forth below.

§ 301.89–3 Regulated areas.

* * * * *

(d) * * * As soon as practicable, this area either will be added to the list of designated regulated areas in paragraph (g) of this section, or the Administrator will terminate the designation. * * *

(e) * * *

(3) It is a distinct definable area that contains at least one field that has been determined to be associated with grain at a handling facility containing a bunted kernel of a host crop (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to the field associated with the bunted kernel at the handling facility).

(f) A field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, will be released from regulation if:

(1) The field is no longer being used for crop production; or

(2) Each year for a period of 5 consecutive years, the field is subjected to any one of the following management practices (the practice used may vary from year to year):

(i) Planted with a cultivated non-host crop;

(ii) Tilled once annually; or

(iii) Planted with a host crop that tests negative, through the absence of bunted kernels, for Karnal bunt.

(g) The following areas or fields are designated as regulated areas (maps of the regulated areas may be obtained by contacting the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, 4700 River Road Unit 98, Riverdale, MD 20737–1236):

* * * * *

■ 5. Section 301.89–4 is revised to read as follows:

§ 301.89–4 Planting.

Any wheat, durum wheat, or triticale that originates within a regulated area must be tested and found free from bunted wheat kernels and spores before it may be used as seed within or outside a regulated area.

§ 301.89–5 [Amended]

■ 6. Section 301.89–5 is amended as follows:

■ a. In paragraph (a)(3), footnote 1, by removing the words ''Domestic and Emergency Operations, 4700 River Road Unit 134'' and adding the words ''Surveillance and Emergency Programs Planning and Coordination, 4700 River Road Unit 98'' in their place.

■ b. By removing paragraph (a)(4).

■ 7. Section 301.89–6 is amended as follows:

■ a. In the introductory text of paragraph (a), footnote 2, by removing the words ''Domestic and Emergency Operations, 4700 River Road Unit 134'' and adding the words ''Surveillance and Emergency Programs Planning and Coordination, 4700 River Road Unit 98'' in their place and by removing the words '', or from the Karnal Bunt Project, 3658 E. Chipman Rd., Phoenix, Arizona 85040''.

■ b. By revising paragraph (b) and the introductory text of paragraph (c) to read as set forth below.

§ 301.89–6 Issuance of a certificate or limited permit.

* * * * *

(b) To be eligible for movement under a certificate, hay cut after the dough stage or grain from a field within a regulated area must be tested prior to its movement from the field or before it is commingled with similar commodities and must be found free from bunted kernels. If bunted kernels are found, the grain or hay will be eligible for movement only under a limited permit issued in accordance with paragraph (c) of this section, and the field of production will be considered positive for Karnal bunt.

(c) An inspector or a person operating under a compliance agreement will issue a limited permit for the movement outside the regulated area of a regulated article not eligible for a certificate if the inspector determines that the regulated article:

* * * * *

■ 8. Section 301.89–7 is amended by revising footnote 4 to read as follows:

§ 301.89–7 Compliance agreements.

* * * * * 4

[4] Compliance agreements may be initiated by contacting a local office of Plant Protection and Quarantine, which are listed in telephone directories. The addresses and telephone numbers of local offices of Plant Protection and Quarantine may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Surveillance and Emergency Program Planning and Coordination, 4700 River Road Unit 98, Riverdale, Maryland 20737–1236.

■ 9. Section 301.89–12 is revised to read as follows:

§ 301.89–12 Cleaning, disinfection, and disposal.

(a) Mechanized harvesting equipment that has been used to harvest host crops that test positive for Karnal bunt based on the presence of bunted kernels must be cleaned and, if disinfection is determined to be necessary by an inspector, disinfected in accordance with § 301.89–13 prior to movement from a regulated area.

(b) Seed conditioning equipment that was used in the conditioning of seed that was tested and found to contain spores or bunted kernels of *Tilletia indica* must be cleaned and disinfected in accordance with § 301.89–13 prior to being used in the conditioning of seed that has tested negative for the spores of *Tilletia indica* or to being moved from a regulated area.

(c) Any grain storage facility, including on-farm storage, that is used to store seed that has tested bunted-kernel or spore positive or grain that has tested bunted-kernel positive must be cleaned and, if disinfection is determined to be necessary by an inspector, disinfected in accordance with § 301.89–13 if the facility will be used to store grain or seed in the future.

(d) Conveyances used to move bunted-kernel-positive host crops, including trucks, railroad cars, and other containers, that have sloping metal sides leading directly to a bottom door or slide chute, are self cleaning, and will not be required to be cleaned and disinfected.

(e) Spore-positive wheat, durum wheat, or triticale seed that has been treated with any chemical that renders it unfit for human or animal consumption must be disposed of by means of burial under a minimum of 24 inches of soil in a nonagricultural area that will not be cultivated or in an approved landfill.

■ 10. Section 301.89–13 is revised to read as follows:

§ 301.89–13 Treatments.

All conveyances, mechanized harvesting equipment, seed conditioning equipment, grain elevators, and structures used for storing and handling wheat, durum wheat, or triticale required to be cleaned under this subpart must be cleaned by removing all soil and plant debris. If disinfection is required by an inspector in addition to cleaning, the articles must

be disinfected by one of the methods specified in paragraph (a), (b), or (c) of this section, unless a particular treatment is designated by an inspector. The treatment used must be that specified by an inspector:

(a) Wetting all surfaces to the point of runoff with one of the following 1.5 percent sodium hypochlorite solutions and letting stand for 15 minutes, then thoroughly washing down all surfaces after 15 minutes to minimize corrosion:

(1) One part Ultra Clorox brand regular bleach (6 percent sodium hypochlorite; EPA Reg. No. 5813–50) in 3 parts water; or

(2) One part CPPC Ultra Bleach 2 (6.15 percent sodium hypochlorite; EPA Reg. No. 67619–8) in 3.1 parts water.

(b) Applying steam to all surfaces until the point of runoff, and so that a critical temperature of 170 °F is reached at the point of contact.

(c) Cleaning with a solution of hot water and detergent, applied under pressure of at least 30 pounds per square inch, at a minimum temperature of 170 °F.

§ 301.89–14 [Removed and Reserved]

■ 11. Section 301.89–14 is removed and reserved.

Done in Washington, DC, this 17th day of February, 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04–3807 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–34–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245–AE70

Small Business Investment Companies—Long Term Financing

AGENCY: U.S. Small Business Administration (SBA).

ACTION: Direct final rule.

SUMMARY: This direct final rule brings the U.S. Small Business Administration's (SBA) regulations concerning the Small Business Investment Company (SBIC) program into conformity with the Small Business Investment Act, as amended (Act). Specifically, the rule would allow an SBIC to extend financings on terms that require a small business concern to repay debt or to redeem equity securities, options, or warrants after a minimum of one year (rather than five years, as currently stated in SBA's regulations).

DATES: This rule is effective on May 24, 2004, without further action unless adverse comment is received by March 24, 2004. If adverse comment is received, SBA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Written comments should be sent to Harry Haskins, Deputy Associate Administrator for Investment, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416 or *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Carol Fendler, Director, Office of Licensing and Program Standards, Investment Division, Office of Capital Access, (202) 205–7559 or *carol.fendler@sba.gov*.

SUPPLEMENTARY INFORMATION: SBA always has interpreted section 102 of the Act, 15 U.S.C. 681, to require SBICs to provide long term financing, either in the form of loans or equity capital. Because the Act did not define ''long term,'' SBA had administratively defined the term to mean generally a financing with a minimum term of five years. Accordingly, SBA promulgated §§ 107.830, 107.835, 107.845 and 107.850, which generally require that loans and debt securities have a stated term of at least five years prior to maturity, subject to reasonable amortization requirements, and that equity securities be outstanding for at least five years before the issuing small business concern can be required to redeem them.

The Small Business Investment Corrections Act of 2000, Public Law 106–554 (Corrections Act), title IV, section 402(b)(3), added a new section 103(17) to the Act, that effectively overruled SBA's administrative definition by defining ''long term'' to mean any period of time not less than one year. Each of the regulations affected by this direct final rule contains references to a five-year minimum financing term. It should be emphasized that the Corrections Act established one year as the minimum financing term, but did not affect an SBIC's ability to offer longer term financing. Under this rule, SBICs will continue to be able to structure investments with longer maturities to accommodate the varying financial needs of small businesses.

SBA is aware that the new statutory definition of ''long term'' from the Corrections Act may require further amendment of some of the affected sections beyond the changes made by this rule. SBA intends to make any such amendments through a proposed rule to be published at a later time. This rule makes no changes to the current regulations other than technical changes to conform the regulations to the Act, as amended. SBA is publishing this regulation as a direct final rule because it believes the rule is non-controversial since it merely conforms the existing rule to the provisions of the Act that became effective on December 21, 2000. SBA believes that this rule will not elicit any significant adverse comments.

This rule is not intended to affect the rights of any parties to any outstanding financing or commitment whose terms were drafted in accordance with regulations that established a minimum five year term for a financing.

Compliance With Executive Orders 12866, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Compliance With Executive Order 12866

The Office of Management and Budget (OMB) did not determine this rule to be a ''significant'' regulatory action under Executive Order 12866. This rule only implements technical corrections to the statute authorizing the SBIC program and will not have an annual effect on the economy of $100 million or more, adversely affect the economy in a material way, create a serious inconsistency or otherwise interfere with an action taken or planned by another agency, materially alter the budgetary impact of loan programs or other governmental programs, or raise novel legal or policy issues arising out of legal mandates or the President's priorities.

Compliance With Executive Order 12988

For purposes of Executive Order 12988, SBA has determined that this rule was drafted, to the extent practicable, in accordance with the standards set forth in section 3 of that order.

Compliance With Executive Order 13132

For purposes of Executive Order 13132, SBA has determined that the rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, SBA has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Compliance With Paperwork Reduction Act, 44 U.S.C. Ch. 35

The rule does not impose any new information collection requirements from SBA which require approval by OMB under the Paperwork Reduction Act, 44 U.S.C. Ch. 35.

Compliance With the Regulatory Flexibility Act, 5 U.S.C. 601–612

The rule directly affects all SBICs, of which there are currently 447. SBA estimates that 75 percent of these SBICs are small entities. Therefore, SBA has determined that the rule will have an impact on a substantial number of small entities.

However, SBA has determined that the impact on entities affected by the rule will not be significant. The effect of the rule will be to allow SBICs the flexibility to negotiate the optimal structure for their investments. The rule establishes one year as the minimum financing term, but does not affect an SBIC's ability to offer longer term financing. Under this rule, SBICs will continue to be able to structure investments with longer maturities to accommodate the varying financial needs of small businesses. The rule imposes no additional paperwork burden and no new notification or approval requirements. Accordingly, SBA hereby determines that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 13 CFR Part 107

Investment companies, Loan programs-business, Small businesses.

■ For the reasons set forth in the preamble, amend part 107 of title 13 of the Code of Federal Regulations as follows:

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

■ 1. Revise the authority citation for Part 107 to read as follows:

Authority: 15 U.S.C. 681 *et seq.*, 683, 687(c), 687b, 687d, 687g, 687m, and Pub. L. 106–554, 114 Stat. 2763.

■ 2. Revise the definition of ''Short-term Financing'' in § 107.50 to read as follows:

§ 107.50 Definition of Terms.

* * * * *

Short-term Financing means Financing with a term of less than one year in accordance with the regulations.

* * * * *

■ 3. Amend § 107.830 by:
■ a. Revising paragraph (a);
■ b. Removing paragraph (b);
■ c. Redesignating paragraphs (c) and (d) as (b) and (c), respectively; and
■ d. Revising newly redesignated paragraphs (b), (c)(2), and (c)(3), to read as follows:

§ 107.830 Minimum duration/term of financing.

(a) *General rule.* The duration/term of all your Financings must be for a minimum period of one year.

(b) *Restrictions on mandatory redemption of Equity Securities.* If you have acquired Equity Securities, options or warrants on terms that include redemption by the Small Business, you must not require redemption by the Small Business within the first year of your acquisition except as permitted in § 107.850.

(c) * * *

(2) *Prepayment.* You must permit voluntary prepayment of Loans and Debt Securities by the Small Business. You must obtain SBA's prior written approval of any restrictions on the ability of the Small Business to prepay other than the imposition of a reasonable prepayment penalty under paragraph (c)(3) of this section.

(3) *Prepayment penalties.* You may charge a reasonable prepayment penalty which must be agreed upon at the time of the Financing. If SBA determines that a prepayment penalty is unreasonable, you must refund the entire penalty to the Small Business. A prepayment penalty equal to 5 percent of the outstanding balance during the first year of any Financing, declining by one percentage point per year through the fifth year, is considered reasonable.

■ 4. Amend § 107.835 by:
■ a. Removing paragraph (d);
■ b. Redesignating paragraph (e) as paragraph (d); and
■ c. Revising the introductory text and the first sentence of paragraph (a) to read as follows:

§ 107.835 Exceptions to minimum duration/term of Financing.

You may make a Short-term Financing for a term less than one year if the Financing is:

(a) An interim Financing in contemplation of long-term Financing.

* * *

* * * * *

■ 5. Revise § 107.845 to read as follows:

§ 107.845 Maximum rate of amortization on Loans and Debt Securities.

The principal of any Loan (or the loan portion of any Debt Security) with a term of one year or less cannot be amortized faster than straight line. If the term is greater than one year, the principal cannot be amortized faster than straight line for the first year.

■ 6. Revise § 107.850(a) and (a)(2) to read as follows:

§ 107.850 Restrictions on redemption of Equity Securities.

(a) A Portfolio Concern cannot be required to redeem Equity Securities earlier than one year from the date of the first closing unless:

(1) * * *

(2) You make a follow-on investment, in which case the new securities may be redeemed in less than one year, but no earlier than the redemption date associated with your earliest Financing of the concern.

* * * * *

Dated: January 27, 2004.

Hector V. Barreto,

Administrator.

[FR Doc. 04–3842 Filed 2–20–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004–NE–06–AD; Amendment 39–13485; AD 2004–04–04]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF34–8E Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for General Electric Company (GE) CF34–8E series turbofan engines, with certain serial number (SN) master variable geometry (VG) actuators installed. This AD requires initial and repetitive reviews of the airplane computer systems for master VG actuator fault messages. This AD also requires replacement of actuators reported faulty by the Full Authority Digital Engine Control (FADEC). This AD results from nine reports of CF34–8C master VG actuator electrical signal faults, one report of which was a dual-channel fault, resulting in the FADEC commanding the engine power to idle. We are issuing this AD to prevent VG master actuator dual-channel electrical signal faults which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle; and which could result in a multi-engine loss of thrust if

dual-channel faults occur on more than one engine simultaneously.

DATES: This AD becomes effective March 9, 2004. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 9, 2004.

We must receive any comments on this AD by April 23, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- By mail: The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2004–NE–06–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*.

You can get the service information referenced in this AD from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Grant, Aerospace Engineer, Aircraft Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA; telephone (781) 238–7757; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: In September of 2002, GE, the manufacturer of CF34–8E series turbofan engines, replaced its supplier of dual-channel linear variable differential transformers (LVDTs), installed on the master VG actuator, part number 4120T02P02. Since that changing of suppliers, nine master VG actuators, installed on CF34–8C engines, with LVDTs produced by the new supplier have been reported with single-channel electrical signal faults sent to the MDC and to the FADEC. The CF34–8E engines use the same part number VG master actuator as the CF34–8C series engines, and the same service experience is expected. One of these master VG actuators also experienced a failure of the second LVDT channel, seventeen days after the first single-channel fault report, resulting in the FADEC commanding the engine power to idle. The manufacturer's on-going investigation has revealed LVDT coil wire deformation and breakage, caused by thermal expansion of potting material. The affected master VG actuators are identified by serial numbers (SNs) APM238AE, and SNs APM242AE and up. A dual-channel LVDT failure that occurs at a certain phase of flight will result in a single engine loss of thrust control. VG master actuators with dual-channel LVDT failures that occur simultaneously on multiple engines will cause a multi-engine loss of thrust control.

Relevant Service Information

We have reviewed and approved the technical contents of GE Alert Service Bulletin (ASB) No. CF34–8E–AL S/B 75–A0001, Revision 1, dated February 10, 2004, that describes procedures for initial and repetitive reviews of the airplane computer systems for fault messages, and replacement of actuators reported faulty by the FADEC.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other CF34–8E series turbofan engines of the same type design. We are issuing this AD to prevent VG master actuator dual-channel electrical signal faults:

- Which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle; and
- Which could result in a multi-engine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

This AD requires an initial review within 10 days after the effective date of the AD, of the airplane computer systems for fault messages, and replacement of actuators reported faulty by the FADEC. Actuator hardware troubleshooting may be required to identify faulty actuators. This AD also requires the same reviews, repetitively, at intervals not to exceed 10 days. Replacement of actuators reported faulty by the FADEC is required either before further flight or within 10 days of the first fault occurrence, based on requirements defined in the service information described previously, for the actual fault reported. You must use the service information described previously to perform the actions required by this AD.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs our AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Interim Action

These actions are interim actions and we may take further rulemaking actions in the future.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES.** Include ''AD Docket No. 2004–NE–06–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us verbally, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov.*

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES.** Include ''AD Docket No. 2004–NE–06–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2004–04–04 General Electric Company: Amendment 39–13485. Docket No. 2004–NE–06–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 9, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CF34–8E series turbofan engines, with master variable geometry (VG) actuators, part number (P/N) 4120T02P02, serial number (SN) APM238AE, and SNs APM242AE and up. These engines are installed on, but not limited to, Embraer 170 series airplanes.

Unsafe Condition

(d) This AD results from nine reports of CF34–8C master VG actuator electrical signal faults, one report of which was a dual-channel fault, resulting in the Full Authority Digital Engine Control (FADEC) commanding the engine power to idle. We are issuing this AD to prevent VG master actuator dual-channel electrical signal faults:

(1) Which will cause an uncommanded reduction of thrust to idle with a subsequent loss of the ability to advance thrust above idle; and

(2) Which could result in a multi-engine loss of thrust if dual-channel faults occur on more than one engine simultaneously.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

(f) Before installation of a replacement VG actuator, P/N 4120T02P02 with SNs APM238AE, APM242AE and up, confirm that the actuator is new, or if used, confirm that records show that the linear variable differential transformer (LVDT), installed on the master VG actuator, has been replaced since last actuator use.

Initial Review

(g) Within 10 days after the effective date of this AD, initially review the airplane computer systems for fault messages, and replace actuators with faults reported by the FADEC. Follow the review and replacement requirements of paragraph 3 of the Accomplishment Instructions of GE Alert Service Bulletin (ASB) No. CF34–8E–AL S/B 75–A0001, Revision 1, dated February 10, 2004. The specific review instructions are dependent on the version of FADEC software installed at the time of the review, as detailed in the ASB.

Repetitive Review

(h) At intervals not to exceed 10 days, repetitively review the computer systems for fault messages, and replace actuators with faults reported by the FADEC. Follow the review and replacement requirements of paragraph 3 of the Accomplishment Instructions of GE ASB No. CF34–8E–AL S/B 75–A0001, Revision 1, dated February 10, 2004. The specific review instructions are dependent on the version of FADEC software installed at the time of the review, as detailed in the ASB.

Alternative Methods of Compliance

(i) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Special Flight Permits

(j) Under 39.23, the FAA imposes the following conditions and limitations on the issuance and use of Special Flight Permits for this AD:

(1) If both engines report FADEC status messages, with dispatch classification the same as an actuator LVDT fault, at the same time, whether intermittent or continuous, at least one engine must be cleared of faults before the further flight, even if none of the faults are VG actuator-related.

(2) If both engines report FADEC status messages with dispatch classification the same as an actuator LVDT fault, at the same time, whether intermittent or continuous, the airplane computer systems must be reviewed for master VG actuator faults before further flight. If actuator faults are present for both engines, then at least one master VG actuator must be replaced before further flight.

(3) If intermittent status messages are posted for both engines, with the same dispatch classification as LVDT faults, and the cause cannot be found, one of the actuators must be replaced before further flight.

(4) If a master VG actuator with a single channel fault switches channels, the actuator must be replaced before further flight.

Material Incorporated by Reference

(k) You must use GE Alert Service Bulletin No. CF34–8E–AL S/B 75–A0001, Revision 1, dated February 10, 2004, to perform the reviews and actuator dispositions required by this AD. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. You may review copies at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Related Information

(l) AD 2003–26–05 also addresses the same unsafe condition, but for GE CF34–8C1 series and CF34–8C5 series turbofan engines.

Issued in Burlington, Massachusetts, on February 13, 2004.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–3679 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–29–AD; Amendment 39–13486; AD 2004–04–05]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Corporation (Formerly Allison Engine Company) AE 3007 Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is superseding an existing airworthiness directive (AD) for Rolls-Royce Corporation (RR) (formerly Allison Engine Company) AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines. That AD currently requires initial and repetitive inspections for bearing material contamination of the engine oil system. This AD requires the same inspections but with an extended repetitive inspection interval, and adds terminating actions to the repetitive inspections required by this AD. This AD is prompted by design changes introduced by the manufacturer that reduce the axial load on the No. 1 bearing. We are issuing this AD to prevent the rapid failure of the No. 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown.

DATES: Effective March 9, 2004. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 9, 2004.

We must receive any comments on this AD by April 23, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- By mail: The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–NE–29–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*.

You can get the service information referenced in this AD from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone (317) 230–3030.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kyri Zaroyiannis, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7836; fax: (847) 294–7834.

SUPPLEMENTARY INFORMATION: On April 16, 2001, we issued AD 2001–08–15, Amendment 39–12192 (66 FR 21067, April 27, 2001). That AD requires initial and repetitive inspections for bearing material contamination of the engine oil system. That AD was prompted by reports of rapid failures of the No. 1 bearing. That AD also allows as terminating action to the repetitive inspections, incorporation of Embraer Service Bulletin (SB) 145–79–0001, dated April 24, 1998. That SB installs an electrical jumper in an airplane electrical connector, which adds a second function to the Oil Impending Bypass advisory message, on the Engine Indication and Crew Alerting System (EICAS). After incorporation of the SB, this message can either represent that there is an oil impending bypass, or that the magnetic chip detector plug has collected enough ferrous metal to indicate possible initiation of bearing failure. That condition, if not corrected, could result in smoke in the cabin and an uncommanded in-flight engine shutdown.

Actions Since AD 2001–08–15 Was Issued

Since that AD was issued, the manufacturer has introduced several turbine design changes, each of which sufficiently reduces the axial load on the No. 1 bearing, to virtually eliminate the potentially unsafe condition of rapid, undetected bearing failure. The design changes include:

- Modifying the current high pressure (HP)-to-low pressure (LP) seal assembly, part number (P/N) 23068183, with a large geometric rear seal diameter, and remarking it to new P/N 23073953. This modified seal assembly adjusts interstage turbine cavity pressure and effectively reduces the axial load on the No. 1 bearing.
- Introducing new HP-to-LP seal assemblies, P/Ns 23074463, 23074729, 23076526, and 23077397, with a smaller geometric rear seal diameter. These new seal assemblies also reduce the axial load on the No. 1 bearing.

Relevant Service Information

We have reviewed and approved the technical contents of the following RR service bulletins (SBs) and Embraer SB:

- RR SB AE 3007A–79–034, dated May 14, 2002, which provides procedures for inspecting for bearing material contamination of the engine oil system by reviewing the maintenance page on the cockpit Multi Function Display.
- RR SB AE 3007A–72–199, Revision 3, dated May 13, 2002, which provides procedures to modify the HP-to-LP seal assembly, P/N 23068183, and remark seal assembly to P/N 23073953.
- RR SB AE 3007A–72–213, Revision 1, dated May 13, 2002, which provides procedures to install new design HP-to-LP seal assembly, P/N 23074729.
- RR SB AE 3007A–72–213, Revision 2, dated November 20, 2003, which provides procedures to install new design HP-to-LP seal assembly, P/N 23077397.
- RR SB AE 3007A–72–248, dated July 29, 2003, which provides procedures to install new design HP-to-LP seal assembly, P/N 23074463.
- RR SB AE 3007A–72–263, Revision 1, dated March 4, 2003, which provides procedures to modify the HP-to-LP seal assembly, P/N 23074729, and remark seal assembly to P/N 23076526.
- RR SB AE 3007A–72–284, dated October 16, 2003, which provides procedures to modify the HP-to-LP seal assembly, P/N 23074729 or P/N 23076526, and remark seal assembly to P/N 23077397.
- Embraer SB 145–79–0001, dated April 24, 1998, which provides procedures to modify the airplane wiring so that the oil impending bypass message will be displayed in the cockpit when the primary engine magnetic chip detector captures debris.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other RR AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines of the same type design. We are issuing this AD to prevent the rapid failure of the No. 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown. This AD requires initial and repetitive inspections for bearing material contamination of the engine oil system, and adds terminating actions to the repetitive inspections required by this AD. Six of the seven terminating actions listed, eliminate the unsafe condition by

installing new or reworked parts, and one terminating action eliminates the unsafe condition by installing an electrical jumper in an airplane electrical connector, which adds a second function to the Oil Impending Bypass advisory message, on the EICAS. You must do these actions in accordance with the service information described previously.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Changes to 14 CFR Part 39—Effect on the AD

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

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2000–NE–29–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us through a nonwritten communication, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You may get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for location.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2000–NE–29–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2004–04–05 Rolls-Royce Corporation: Amendment 39–13486. Docket No. 2000–NE–29–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 9, 2004.

Affected ADs

(b) This AD supersedes AD 2001–08–15, Amendment 39–12192.

Applicability

(c) This AD is applicable to Rolls-Royce Corporation (RR) (formerly Allison Engine Company) AE 3007A, AE 3007A1/1, AE 3007A1/2, AE 3007A1, AE 3007A1/3, AE 3007A1P, and AE 3007A3 turbofan engines. These engines are installed on, but not limited to, Embraer Model EMB–145, EMB–145ER, EMB–145MR, EMB–145LR, EMB–135ER, and EMB–135LR airplanes.

Unsafe Condition

(d) This AD is prompted by design changes introduced by the manufacturer that reduce the No. 1 bearing load. The actions specified in this AD are intended to prevent the rapid failure of the No. 1 bearing, which could result in smoke in the cabin and an uncommanded in-flight engine shutdown.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified unless the actions have already been done.

Inspection for Bearing Material Contamination of the Oil System

(f) Inspect for bearing material contamination of the oil system using paragraph 2.A. of the Accomplishment Instructions of RR service bulletin (SB) No. AE 3007A–79–034, dated May 14, 2002, as follows:

(1) Initially inspect within 50 flight hours or five flight days after the effective date of this AD.

(2) Thereafter, inspect every 50 flight hours or every five flight days.

Terminating Actions

(g) As terminating actions to the repetitive inspections specified in paragraph (f)(2) of this AD, do any one of the following paragraphs (g)(1) through (g)(7), by December 31, 2007:

(1) Modify high pressure (HP)-to-low pressure (LP) seal assembly, part number (P/N) 23068183, and remark to P/N 23073953, at engine overhaul, using RR SB AE 3007A–72–199, Revision 3, dated May 13, 2002.

(2) Install new design HP-to-LP seal assembly, P/N 23074729, at engine overhaul, using RR SB AE 3007A–72–213, Revision 1, dated May 13, 2002.

(3) Install new design HP-to-LP seal assembly, P/N 23077397, at engine overhaul, using RR SB AE 3007A–72–213, Revision 2, dated November 20, 2003.

(4) Install new design HP-to-LP seal assembly, P/N 23074463, at engine overhaul, using RR SB AE 3007A–72–248, dated July 29, 2003.

(5) Modify HP-to-LP seal assembly, P/N 23074729, and remark to P/N 23076526,

at engine overhaul, using RR SB AE 3007A–72–263, Revision 1, dated March 4, 2003.

(6) Modify HP-to-LP seal assembly, P/N 23074729 or P/N 23076526, and remark to P/N 23077397, at engine overhaul, using RR SB AE 3007A–72–284, dated October 16, 2003.

(7) Using Embraer SB 145–79–0001, dated April 24, 1998, modify the airplane wiring so that the oil impending bypass message will be displayed in the cockpit when the primary engine magnetic chip detector captures debris.

Alternative Methods of Compliance

(h) The Manager, Chicago Aircraft Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(i) The Director of the Federal Register approved the incorporation by reference of the Rolls-Royce (RR) documents and Embraer document listed in Table 1 of this AD in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may get RR copies from Rolls-Royce Corporation, P.O. Box 420, Indianapolis, IN 46206–0420; telephone (317) 230–3030, and Embraer copies from Emprasa Brasiliera de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos-SP, Brazil. You may review copies at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. Table 1 follows:

TABLE 1.—INCORPORATION BY REFERENCE

Service bulletin	Page number(s) shown on the page	Revision level shown on the page	Date shown on the page
RR SB AE 3007A–79–034	All	Original	May 14, 2002.
RR SB AE 3007A–72–199	All	3	May 13, 2002.
RR SB AE 3007A–72–213	All	1	May 13, 2002.
RR SB AE 3007A–72–213	All	2	November 20, 2003.
RR SB AE 3007A–72–248	All	Original	July 29, 2003.
RR SB AE 3007A–72–263	All	1	March 4, 2003.
RR SB AE 3007A–72–284	All	Original	October 16, 2003.
Embraer SB–145–79–0001	All	Original	April 24, 1998.

Related Information

(j) None.

Issued in Burlington, Massachusetts, on February 13, 2004.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–3681 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–66–AD; Amendment 39–13487; AD 2004–04–06]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CT58 Series and T58 Series Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain General Electric Company (GE) CT58–100–2, CT58–140–1, –140–2, and T58–GE–1, –3, –5, –8E, –8F, –10, –100, and –402 turboshaft engines. This AD requires the removal from service of certain fuel flow divider assemblies. This AD results from a report that a certain population of flow divider end caps could crack and cause large volumes of fuel leakage. We are issuing this AD to prevent fuel leakage from the fuel flow divider assembly, which could cause an engine fire, leading to an in-flight engine shutdown and forced landing.

DATES: This AD becomes effective March 9, 2004. The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of March 9, 2004.

We must receive any comments on this AD by April 23, 2004.

ADDRESSES: Use one of the following addresses to submit comments on this AD:

- By mail: The Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–NE–66–AD, 12 New England Executive Park, Burlington, MA 01803–5299.
- By fax: (781) 238–7055.
- By e-mail: *9-ane-adcomment@faa.gov*.

You can get the service information referenced in this AD from GE Aircraft Engines Customer Support Center, M/D 285, 1 Neumann Way, Evendale, OH 45215, telephone (513) 552–3272; fax (513) 552–3329, e-mail *GEAE.csc@ae.ge.com*.

You may examine the AD docket, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA. You may examine the service information, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mark Bouyer, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park; telephone (781) 238–7755; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 25, 2003, we were made aware that 182 temperature control valve assemblies, located on the fuel flow divider assembly, are susceptible to cracking and leaking of fuel. GE has identified the affected temperature control valve assemblies by serial number (SN). An investigation by GE revealed that the end caps for the temperature control valve assemblies may be susceptible to intergranular corrosion, which can result in cracking. Even though there have been no reports of these end caps cracking, the FAA has determined that this condition represents an unsafe condition. Since the affected engines could accumulate as many as 120 hours time-in-service every two weeks, we have determined that notice and opportunity for prior public comment is impracticable, and that this AD must be issued as a final rule; request for comments. This condition, if not corrected, could cause an engine fire, leading to an in-flight engine shutdown and forced landing.

Relevant Service Information

We have reviewed and approved the technical contents of GE Alert Service Bulletin (ASB) CT58 S/B 73–A0081,

Revision 2, dated August 7, 2003, that lists the affected SNs of temperature control assemblies, part numbers (P/Ns) 5040T77G02 or 5040T87G02.

FAA's Determination and Requirements of this AD

The unsafe condition described previously is likely to exist or develop on other GE CT58 series turboshaft engines of the same type design. We are issuing this AD to prevent fuel leakage from the fuel flow divider assembly, which could cause an engine fire, leading to an in-flight engine shutdown and forced landing. This AD requires within 120 hours time-in-service:

- Locating suspect fuel flow divider assemblies, P/Ns 4050T82G02 and 4067T04G02, and
- Locating affected temperature control assemblies, P/N 5040T77G02 and 5040T87G02, by SN, and
- Removing affected fuel flow divider assemblies from service.

You must use the service information described previously by this AD to identify the affected temperature control assemblies by SN.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Changes to 14 CFR Part 39—Effect on the AD

On July 10, 2002, we issued a new version of 14 CFR part 39 (67 FR 47998, July 22, 2002), which governs our AD system. This regulation now includes material that relates to special flight permits, alternative methods of compliance, and altered products. This material previously was included in each individual AD. Since this material is included in 14 CFR part 39, we will not include it in future AD actions.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any written relevant data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include ''AD Docket No. 2003–NE–66–AD'' in the subject line of your comments. If you want us to acknowledge receipt of your mailed comments, send us a self-addressed, stamped postcard with the docket number written on it; we will date-stamp your postcard and mail it back to you. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify it. If a person contacts us verbally, and that contact relates to a substantive part of this AD, we will summarize the contact and place the summary in the docket. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with you. You can get more information about plain language at *http://www.faa.gov/language* and *http://www.plainlanguage.gov*.

Examining the AD Docket

You may examine the AD Docket (including any comments and service information), by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. See **ADDRESSES** for the location.

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a summary of the costs to comply with this AD and placed it in the AD Docket. You may get a copy of this summary by sending a request to us at the address listed under **ADDRESSES**. Include ''AD Docket No. 2003–NE–66–AD'' in your request.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

2004–04–06 General Electric Company: Amendment 39–13487. Docket No. 2003–NE–66–AD.

Effective Date

(a) This airworthiness directive (AD) becomes effective March 9, 2004.

Affected ADs

(b) None.

Applicability

(c) This AD applies to General Electric Company (GE) CT58–100–2, CT58–140–1, –140–2, and T58–GE–1, –3, –5, –8E, –8F, –10, –100, and –402 turboshaft engines, with fuel flow divider assemblies part number (P/N) 4050T82G02 or 4067T04G02, having temperature control assemblies, P/N 5040T77G02 or 5040T87G02, with serial numbers (SNs) listed in 1.A.(3) of GE Alert Service Bulletin (ASB) No. CT58 S/B 73–A0081, Revision 2, dated August 7, 2003, installed. These engines are installed on, but not limited to, Agusta S.p.A. AS–61N, AS–61N1, Boeing Vertol 107–II, and Sikorsky S–61L, S–61N, S–61R, S–61NM, S–62A helicopters, and the following surplus military helicopters that have been certified in accordance with § 21.25 or 21.27 of the Federal Aviation Regulations (14 CFR 21.25 or 21.27): CA Department of Forestry UH–1F, Carson S–61L, Firefly UH–1F, Garlick Helicopters UH–1F, UH–1P, and TH–1F, Glacier CH–3E, Robinson Air Crane CH–3C, CH–3E, HH–3C, HH–3E, UH–1F, UH–1P, and TH–1F, Sikorsky S–61A, S–61D, and S–61V, Tamarack UH–1F, and Siller Helicopters CH–3A, and SH–3A helicopters.

Unsafe Condition

(d) This AD results from a report that a certain population of flow divider end caps could crack and cause large volumes of fuel leakage. We are issuing this AD to prevent fuel leakage from the fuel flow divider assembly, which could cause an engine fire, leading to an in-flight engine shutdown and forced landing.

Compliance

(e) You are responsible for having the actions required by this AD performed within 120 hours time-in-service after the effective date of this AD:

Required Actions

(f) Locate the temperature control assembly, which is mounted on the fuel flow divider assembly and do the following:

(1) Read the SN of the temperature control assembly. The SN is located on the end cap of the temperature control assembly. The end cap has a one-inch hex flange and is threaded into the fuel flow divider body.

(2) If the SN is listed in 1.A.(3) of GE ASB No. CT58 S/B 73–A0081, Revision 2, dated August 7, 2003, or if the SN cannot be determined, remove the fuel flow divider assembly from service.

(g) After the effective date of this AD, do not install any fuel flow divider assembly P/N 4050T82G02 or 4067T04G02, that has a temperature control assembly with a SN listed in 1.A.(3) of GE ASB No. CT58 S/B 73–A0081, Revision 2, dated August 7, 2003.

Alternative Methods of Compliance

(h) The Manager, Engine Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Material Incorporated by Reference

(i) You must use GE ASB No. CT58 S/B 73–A0081, Revision 2, dated August 7, 2003 to identify by SN the affected temperature control assemblies. The Director of the Federal Register approved the incorporation by reference of this service bulletin in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You can get a copy from GE Aircraft Engines Customer Support Center, M/D 285, 1 Neumann Way, Evendale, OH 45215, telephone (513) 552–3272; fax (513) 552–3329, e-mail *GEAE.csc@ae.ge.com*. You may review copies at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Related Information

(j) None.

Issued in Burlington, Massachusetts, on February 13, 2004.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 04–3680 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No.1992N–0297]

RIN 0905–AC81

Prescription Drug Marketing Act of 1987; Prescription Drug Amendments of 1992; Policies, Requirements, and Administrative Procedures; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA) is further delaying, until December 1, 2006, the effective date of certain requirements of a final rule published in the **Federal Register** of December 3, 1999 (64 FR 67720). In the **Federal Register** of May 3, 2000 (65 FR 25639), the agency delayed until October 1, 2001, the effective date of certain requirements in the final rule relating to wholesale distribution of prescription drugs by distributors that are not authorized distributors of record, and distribution of blood derivatives by entities that meet the definition of a ''health care entity'' in the final rule. The agency further delayed the effective date of these requirements in three subsequent **Federal Register** notices. Most recently, in the **Federal Register** of January 31, 2003 (68 FR 4912), FDA delayed the effective date until April 1, 2004. This action further delays the effective date of these requirements until December 1, 2006. The final rule implements the Prescription Drug Marketing Act of 1987 (PDMA), as modified by the Prescription Drug Amendments of 1992 (PDA), and the Food and Drug Administration Modernization Act of 1997 (the Modernization Act). The agency is taking this action to address concerns about the requirements in the final rule raised by affected parties.

As explained in the **SUPPLEMENTARY INFORMATION** section, FDA is working with stakeholders through its counterfeit drug initiative to facilitate widespread, voluntary adoption of track and trace technologies that will generate a de facto electronic pedigree, including prior transaction history back to the original manufacturer, as a routine course of business. If this technology is widely adopted, it is expected to help fulfill the pedigree requirements of the PDMA and obviate or resolve many of the concerns that have been raised with respect to the final rule by ensuring that an electronic pedigree travels with a drug product at all times. Therefore, it is necessary to delay the effective date of §§ 203.3(u) and 203.50 (21 CFR 203.3(u) and 203.50) until December 1, 2007 to allow stakeholders time to continue to move toward this goal. In addition, the further delay of the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities is necessary to give the agency additional time to consider whether regulatory changes are appropriate and, if so, to initiate such changes.

DATES: The effective date for §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities, added at 64 FR 67720, December 3, 1999, is delayed until December 1, 2006. Submit written or electronic comments by April 23, 2004.

ADDRESSES: Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Aileen H. Ciampa, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: PDMA (Public Law 100–293) was enacted on April 22, 1988, and was modified by the PDA (Public Law 102–353, 106 Stat. 941) on August 26, 1992. The PDMA, as modified by the PDA, amended sections 301, 303, 503, and 801 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 331, 333, 353, 381) to, among other things, establish requirements for the wholesale distribution of prescription drugs and for the distribution of blood derived prescription drug products by health care entities.

On December 3, 1999, the agency published final regulations in part 203 (21 CFR part 203) implementing PDMA (64 FR 67720) that were to take effect on December 4, 2000. After publication of the final rule, the agency received communications from industry, industry trade associations, and members of Congress objecting to the provisions in §§ 203.3(u) and 203.50. Respectively, these provisions define

the phrase ''ongoing relationship'' as used in the definition of ''authorized distributor of record'' and set forth requirements regarding an ''identifying statement'' (commonly referred to as a ''pedigree'').

On March 29, 2000, the agency met with representatives from the wholesale drug industry and industry associations to discuss their concerns. In addition, FDA received a petition requesting that the relevant provisions of the final rule be stayed until October 1, 2001. The agency also received a petition from the Small Business Administration requesting that FDA reconsider the final rule and suspend its effective date based on the severe economic impact it would have on more than 4,000 small businesses.

In addition to the communications regarding wholesale distribution by unauthorized distributors, the agency received several letters on, and held several meetings to discuss, the implications of the final regulations for blood centers that distribute blood derivative products and provide health care to hospitals and patients.

Based on the concerns expressed by industry, industry associations, and Congress about implementing §§ 203.3(u) and 203.50 by the December 4, 2000, effective date, the agency delayed the effective date for those provisions until October 1, 2001 (65 FR 25639). FDA also delayed the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities until October 1, 2001, and reopened the administrative record to give interested persons until July 3, 2000, to submit written comments. The rest of the regulations took effect on December 4, 2000.

On May 16, 2000, the House Committee on Appropriations (the Committee) stated in its report accompanying the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, 2001 (H. Rept. 106–619), that it supported the ''recent FDA action to delay the effective date for implementing certain requirements of the Prescription Drug Marketing Act until October 1, 2001, and reopen the administrative record in order to receive additional comments.'' The Committee further stated that it ''believes the agency should thoroughly review the potential impact of the proposed provisions on the secondary wholesale pharmaceutical industry.'' The Committee directed the agency to provide a report to the Committee summarizing the comments and issues raised and agency plans to address the concerns.

On March 1, 2001, FDA again delayed the effective dates of the provisions to allow time for the agency to consider the comments and testimony received at an October 27, 2000, public hearing and to prepare its report to Congress (65 FR 56480). The agency's report, which was submitted to Congress on June 7, 2001, concluded that FDA could address some of the concerns raised by the secondary wholesale industry and the blood industry through regulatory changes. However, to make other changes requested by the secondary wholesale industry, Congress would have to amend section 503(e) of the act.

Since submitting its report to Congress, FDA has delayed the effective date of the provisions two more times, most recently until April 1, 2004. On both occasions, the effective date was delayed in order to give Congress additional time to determine whether legislative action was appropriate and to give the agency time to consider whether regulatory changes were warranted (67 FR 6645; 68 FR 4912).

Today, the agency is further delaying, until December 1, 2006, the effective date of §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. The agency's decision to delay the effective date of §§ 203.3(u) and 203.5 was based, in part, on comments received on FDA's Counterfeit Drug Task Force's Interim Report (Docket 03N–0361).

As part of its Counterfeit Drug Initiative, FDA sought comment on the most effective ways to achieve the goals of PDMA. In particular, given recent or impending advances in technology, the agency requested comment on the feasibility of using an electronic pedigree in lieu of a paper pedigree. Although many comments received by the Task Force supported the use of paper pedigrees for their deterrent value and as a means to verify prior sales through due diligence, the majority of comments confirmed that significant concerns persist regarding the feasibility and limitations of full implementation of the PDMA pedigree requirements. Some comments suggested a risk-based approach to implementing PDMA, focusing on those drugs that are at high-risk of being counterfeited. For example, some comments suggested that drugs at high risk for counterfeiting maintain a full pedigree that documents all sales and transactions back to the manufacturer. One comment suggested an interim solution of ''one forward, one back'' pedigree for most likely to be counterfeited. The majority of comments, however, supported the eventual use of an electronic pedigree for all drug products in the supply chain and indicated that an electronic pedigree should be considered as a long-term solution to fulfilling the PDMA requirements codified at § 203.50.

In response to these comments, FDA is continuing to work closely with affected parties to identify and resolve concerns related to the implementation of the pedigree requirements of the PDMA. FDA is encouraged by the enthusiasm and interest that stakeholders in the U.S. drug supply chain have expressed toward the adoption of sophisticated track and trace technologies. Although there are technical, operational, and regulatory issues that have yet to be resolved, these are being considered and addressed by FDA and stakeholders. Currently, it appears that industry will migrate toward and implement electronic track and trace capability by 2007. If this capability is widely adopted, a de facto electronic pedigree will follow the product from the place of manufacture through the U.S. drug supply chain to the final dispenser. If properly implemented, this electronic pedigree could meet the statutory requirement in 21 U.S.C. 353(e)(1)(A) that ''each person who is engaged in the wholesale distribution of a drug*** who is not the manufacturer or authorized distributor of record of such drug*** provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction.)'' The permanent electronic pedigree would address the concerns that have been expressed by wholesalers, particularly secondary wholesalers, regarding access to pedigrees because the required information would travel with the product at all times, regardless of whether a party to the transaction is an authorized distributor of record.

Until the electronic pedigree is in widespread use, FDA believes that the multi-layer strategies and measures discussed in the FDA's Counterfeit Drug Final Report (Final Report) can help reduce the likelihood that counterfeit drugs will be introduced into the U.S. drug distribution system. These measures, combined with implementation of Radio Frequency Identification (RFID) technology, could provide effective long-term protections to help minimize the number of counterfeit drug products in the U.S. distribution system. As discussed in greater detail in the Final Report, such long-term measures include the

following: Use of authentication technologies in products and packaging and labeling, in particular, for drugs most likely to be counterfeited; adoption of secure business practices by stakeholders; adoption of the revised model rules for wholesale distributor licensure by States; stronger criminal penalties and enforcement at the State and national levels; and education and outreach to stakeholders, including greater communication through the counterfeit alert network.

Although FDA is further delaying the effective date of §§ 203.3(u) and 205.30, the agency encourages wholesalers to provide pedigree information that documents the prior history of the product, particularly for most likely to be counterfeited, even when such a pedigree is not required by the act. The suggestion from the comments that there be a one-forward, one-back pedigree for high-risk drugs until an electronic pedigree is uniformly adopted may have some merit. However, FDA believes legislative changes would be needed before it could adopt such a system.

To summarize, FDA has concluded that an electronic pedigree should accomplish and surpass the goals of PDMA and is potentially a more effective solution to tracing the movement of pharmaceuticals than a paper pedigree. As stated previously, it appears that industry will migrate toward and implement electronic track and trace capability by 2007. Therefore, to allow stakeholders to continue to move toward this goal, FDA has decided to delay the effective date of §§ 203.3(u) and 203.50 until December 1, 2006. Before the effective date, FDA intends to evaluate the progress toward implementation of the electronic pedigree and its capacity to meet the intent of PDMA, and determine whether to further delay the effective date of the regulations or take other appropriate regulatory action.

FDA is also further delaying the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities. This further delay is necessary to give FDA additional time to address concerns about the requirements raised by affected parties and consider whether regulatory changes are appropriate and, if so, initiate such changes.

FDA has examined the impacts of this delay of effective date under Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this action is consistent with the regulatory philosophy and principles identified in the Executive order. This action will ease the burden on industry by delaying the effect of §§ 203.3(u) and 203.50, and the applicability of § 203.3(q) to wholesale distribution of blood derivatives by health care entities while FDA works with industry to resolve concerns about these provisions either with the implementation of technological solutions (§§ 203.3(u) and 203.50) or the consideration of possible regulatory changes (§ 203.3(q)). Thus, this action is not a significant action as defined by the Executive order.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. In addition, given the imminence of the current compliance date, seeking prior public comment on this delay is contrary to the public interest in the orderly issuance and implementation of regulations. Notice and comment procedures in this instance would create uncertainty, confusion, and undue financial hardship because, during the time that the agency would be proposing to extend the compliance date for the requirements identified below, those companies affected would have to be preparing to comply with the April 1, 2004, compliance date. In accordance with 21 CFR 10.40(c)(1), FDA is also providing an opportunity for comment on whether this delay should be modified or revoked.

This action is being taken under FDA's authority under 21 CFR 10.35(a). The Commissioner of Food and Drugs finds that this delay of the effective date is in the public interest.

Dated: February 17, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–3856 Filed 2–18–04; 4:04 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Self-Contained Self-Rescuers (SCSRs); Updating a Reference for Locating SCSRs More Than 25 Feet From a Miner

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Technical amendment.

SUMMARY: This technical amendment updates the reference in 30 CFR 75.1714–2(e) (Self-rescue devices; use and location requirements) from 30 CFR 75.1101–23 (Program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel; evacuation procedures; fire drills) to 30 CFR 75.1502 (Mine emergency evacuation and firefighting program of instruction). This action is necessary to amend the outdated reference in § 75.1714–2(e).

DATES: Effective February 23, 2004.

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Jr., Director, Office of Standards, Regulations, and Variances, MSHA, 1100 Wilson Blvd., Room 2350, Arlington, Virginia 22209–3939, *Nichols.Marvin@dol.gov*, (202) 693–9440 (telephone), or (202) 693–9441 (facsimile).

SUPPLEMENTARY INFORMATION:

Background

On September 9, 2003, we published the Emergency Evacuations final rule (68 FR 53037 Sept. 9, 2003). Among other things, the rule removed § 75.1101–23 (Program of instruction; location and use of fire fighting equipment; location of escapeways, exits and routes of travel; evacuation procedures; fire drills) and replaced it with § 75.1502 (Mine emergency evacuation and firefighting program of instruction). The Emergency Evacuations final rule was effective upon publication in the **Federal Register**.

In issuing the Emergency Evacuations rule we inadvertently omitted updating the reference in § 75.1714–2(e). Section 75.1714–2(e) references another section of 30 CFR which provides the mechanism for mine operators to apply to the District Manager for permission to place SCSRs more than 25 feet away from a miner. The reference to § 75.1101–23 in § 75.1714–2(e) should have been renumbered to correspond with the change in the numbering in the Emergency Evacuations rule. This technical amendment updates the

language in § 75.1714–2(e) to refer to the renumbered standard.

Discussion of Change

Section 75.1714–2 (Self-rescue devices; use and location requirements) requires self-rescue devices to be used and located as prescribed in paragraphs (b) through (f) of this section. Paragraph (e) provides the mechanism for a mine operator to allow placement of self-contained self-rescuers (SCSRs) more than 25 feet away when necessary. The mine operator must apply to the District Manager of the Coal Mine Safety and Health district in which the mine is located for permission to place the SCSR more than 25 feet away.

Prior to the promulgation of the Emergency Evacuations rule, the mine operator submitted an application to the District Manager under § 75.1101–23. The promulgation of the Emergency Evacuations rule removed § 75.1101–23 and created § 75.1502 (Mine emergency evacuation and firefighting program of instruction).

This technical amendment updates wording in § 75.1714–2(e) to correctly reference the renumbered § 75.1502 (Mine emergency evacuation and firefighting program of instruction).

List of Subjects in 30 CFR Part 75

Coal mines, Underground coal mining, Fire prevention, Mine safety and health.

Dated: February 13, 2004.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

■ Chapter I of title 30, part 75 of the Code of Federal Regulations is amended as follows:

PART 75—[AMENDED]

■ 1. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Section 75.1714–2 is amended by revising paragraph (e) introductory text to read as follows:

§ 75.1714–2 Self-rescue devices; use and location requirements.

* * * * *

(e) A mine operator may apply to the District Manager under § 75.1502 for permission to place the SCSR more than 25 feet away.

* * * * *

[FR Doc. 04–3771 Filed 2–20–04; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 775

RIN 0703–AA51

Policies and Responsibilities for Implementation of the National Environmental Policy Act Within the Department of the Navy

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DON) is revising portions of its internal regulations that establish the responsibilities and procedures within the DON for complying with the National Environmental Policy Act (NEPA). This revision clarifies when certain DON actions must be studied to determine their effect on the human environment and what types of activities are excluded from the NEPA analysis and documentation requirements.

DATES: Effective February 23, 2004.

ADDRESSES: Interested parties should request copies of the rule from: Mr. Thomas Egeland, Office of the Assistant Secretary of the Navy (Installations and Environment), 1000 Navy Pentagon, Washington, DC 20350–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Egeland, Office of the Assistant Secretary of the Navy (Installations and Environment), 703–614–5913.

SUPPLEMENTARY INFORMATION: The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) establishes national policy and goals for protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the attainment of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision making and to prepare detailed environmental statements on recommendations or reports significantly affecting the quality of the human environment.

Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement procedural provisions of NEPA. Accordingly, CEQ issued final NEPA regulations (40 CFR parts 1500–1508) on November 29, 1978, which are binding on all Federal agencies as of July 30, 1979. These regulations require each Federal agency, as necessary, to adopt implementing procedures to supplement the CEQ regulations. Section 1507.3(b) of the CEQ regulations identifies those sections of the regulations that must be addressed in agency procedures.

The final rule revises DON's implementing regulations that were originally published in 55 FR 33898 on August 20, 1990. Significant changes that these amendments bring about include: Revision of and additions to the DON list of approved categories of actions excluded from further analysis and documentation under NEPA; revised criteria for disallowing the application of listed categorical exclusions; and assignment of responsibilities to the Assistant Secretary of the Navy (Research, Development and Acquisition), the General Counsel of the Navy, and the Judge Advocate General of the Navy.

The DON published the proposed rule in 64 FR 37069 on July 9, 1999, and granted a 60-day comment period. DON received comments from one Federal agency, one state agency, one local government agency, and one private party. DON coordinated the proposed rule with Council on Environmental Quality (CEQ). DON carefully considered the comments received. Most comments focused on two general areas: The discussion of policies and responsibilities and the revision of DON categorical exclusions. In response to comments on policies and responsibilities: The rule was modified to more clearly reflect the relationship among internal DON regulations and between the rule and internal Department of Defense directives; the phrase ''environmental analysis'' was substituted for the term ''NEPA document'' where appropriate; and definitions and other discussions perceived as inconsistent with the regulations promulgated by CEQ were deleted.

The discussion of categorical exclusions was also modified in response to comments. Based upon a recommendation from CEQ that routine documentation of categorical exclusions was not necessary, the two-group approach to categorical exclusions contained in the draft rule was eliminated. As a result, the categorical exclusions were placed in a single group and renumbered. The consolidation into a single grouping also reemphasized that, even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action categorical exclusion involved any one of several enumerated conditions.

Several categorical exclusions were modified to reflect that they were

intended to apply to routine actions of the nature described in the particular exclusion. Categorical exclusion XXVII, addressing natural resource management actions covered by an Environmental Assessment (EA) or Environmental Impact Statement (EIS) on the underlying management plan, was eliminated as unnecessary. Categorical exclusion XXXII, addressing actions similar in type, intensity, and setting to other actions for which it had been determined in an EA or EIS that there were no significant impacts, was revised and is now presented as two separate and more specific categorical exclusions. The first of these two exclusions applies to routine testing and evaluation of military equipment on existing military reservations, ranges, and operating areas. This exclusion is intended to encompass routine categories of tests conducted in areas designated for or historically used for military operations, training, and testing. Examples of this categorical exclusion are captive-carry tests, weapons stores separation tests, and minor component survivability tests. The second of these two exclusions applies to routine military unit level training or minor training exercises conducted by two or more units. As with all DON categorical exclusions, these two exclusions cannot be used if they involve any of the enumerated conditions set out in Section 775.6(e).

The Department of the Navy has determined that this regulation is not a significant rule as defined by Executive Order 12866 and is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)).

List of Subjects in 32 CFR Part 775

Environmental impact statements.

■ Accordingly, Part 775 of Chapter VI of title 32 of the Code of Federal Regulations is amended as follows:

PART 775—POLICIES AND RESPONSIBILITIES FOR IMPLEMENTATION OF THE NATIONAL ENVIRONMENTAL POLICY ACT WITHIN THE DEPARTMENT OF THE NAVY

■ 1. The authority for Part 775 continues to read as follows:

Authority: 5 U.S.C. 301; 42 U.S.C. 4321–4361; 40 CFR Parts 1500–1508.

■ 2. Section 775.1 is revised to read as follows:

§ 775.1 Purpose and scope.

(a) To implement the provisions of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA, 40 CFR 1500–1508, and the Department of Defense Instruction on Environmental Planning and Analysis, DODINST 4715.9, and to assign responsibilities within the Department of the Navy (DON) for preparation, review, and approval of environmental documents prepared under NEPA.

(b) The policies and responsibilities set out in this part apply to the DON, including the Office of the Secretary of the Navy, and Navy and Marine Corps commands, operating forces, shore establishments, and reserve components. This part is limited to the actions of these elements with environmental effects in the United States, its territories, and possessions.

■ 3. Section 775.2 is revised to read as follows:

§ 775.2 Definitions.

(a) *Action proponent.* The commander, commanding officer, or civilian director of a unit, activity, or organization who initiates a proposal for action, as defined in 40 CFR 1508.23, and who has command and control authority over the action once it is authorized. For some actions, the action proponent will also serve as the decision-making authority for that action. In specific circumstances, the action proponent and decision maker may be identified in Navy Regulations, other SECNAV Instructions, operational instructions and orders, acquisition instructions, and other sources which set out authority and responsibility within the DON.

(b) *Environmental Impact Statement (EIS).* An environmental document prepared according to the requirements of Council on Environmental Quality (CEQ) regulations (40 CFR parts 1500–1508) for a major action that will have a significant effect on the quality of the human environment.

(c) *Environmental Assessment (EA).* A concise document prepared according to the requirements of 40 CFR parts 1500–1508 that briefly provides sufficient evidence and analysis for determining whether to prepare an EIS. An EA aids compliance with NEPA when no EIS is necessary and facilitates preparation of an EIS when one is necessary.

(d) *Categorical Exclusion (CATEX).* A published category of actions that do not individually or cumulatively have a significant impact on the human environment under normal circumstances, and, therefore, do not require either an environmental assessment or an environmental impact statement.

(e) *Record of Decision (ROD).* An environmental document signed by an appropriate official of the DON. A ROD sets out a concise summary of the final decision and selected measures for mitigation (if any) of adverse environmental impacts of the alternative chosen from those considered in an EIS.

(f) *Finding of No Significant Impact (FONSI).* A document that sets out the reasons why an action not otherwise categorically excluded will not have a significant impact on the human environment, and for which an EIS will not therefore be prepared. A FONSI will include the EA or a summary of it and shall note any other environmental documents related to it. A FONSI may be one result of review of an EA.

■ 4. Section 775.3 is revised to read as follows:

§ 775.3 Policy.

(a) It is the DON policy regarding NEPA, consistent with its mission and regulations and the environmental laws and regulations of the United States, to:

(1) Initiate the NEPA processes at the earliest possible time to be an effective decision making tool in the course of identifying a proposed action.

(2) Develop and carefully consider a reasonable range of alternatives for achieving the purpose(s) of proposed actions.

(3) Assign responsibility for preparation of action specific environmental analysis under NEPA to the action proponent. The action proponent should understand the plans, analyses, and environmental documents related to that action.

(b) NEPA is intended to ensure that environmental issues are fully considered and incorporated into the Federal decision making process. Consequently, actions for which the DON has no decision-making authority and no discretion in implementing the action, such as those carried out under a non discretionary mandate from Congress (*e.g.*, congressional direction to transfer Federal property to a particular entity for a particular purpose that leaves DON no discretion in how the transfer will be implemented) or as an operation of law (*e.g.*, reversionary interests in land recorded at the time the property was obtained and that provide no discretion in whether to trigger the reversion or how the reversion will be implemented), require no analysis or documentation under NEPA or its implementing regulations.

■ 5. Section 775.4 is revised to read as follows:

§ 775.4 Responsibilities.

(a) The Assistant Secretary of the Navy (Installations and Environment) (ASN (I&E)) shall:

(1) Act as principal liaison with the Office of the Secretary of Defense, the Council on Environmental Quality, the Environmental Protection Agency, other Federal agencies, Congress, state governments, and the public with respect to significant NEPA matters.

(2) Direct the preparation of appropriate environmental analysis and documentation and, with respect to those matters governed by SECNAV Instruction 5000.2 series, advise the Assistant Secretary of the Navy (Research Development and Acquisition) (ASN (RD&A)) concerning environmental issues and the appropriate level of environmental analysis and NEPA documentation needed in any particular circumstance.

(3) Except for proposed acquisition-related actions addressed in paragraph (b)(2) of this section, review, sign, and approve for publication, as appropriate, documents prepared under NEPA.

(4) Establish and publish a list of categorical exclusions for the DON.

(b) The Assistant Secretary of the Navy (Research, Development and Acquisition (ASN (RD&A)) shall, in accordance with SECNAV Instruction 5000.2 series:

(1) Ensure that DON acquisition programs, research programs, and procurements comply with NEPA.

(2) Review, sign, and approve for publication, as appropriate, environmental documents prepared under NEPA for proposed acquisition or research and development related actions.

(c) The General Counsel of the Navy and the Judge Advocate General of the Navy shall:

(1) Ensure that legal advice for compliance with environmental planning requirements is available to all decision-makers.

(2) Advise the Secretary of the Navy, the Chief of Naval Operations, and the Commandant of the Marine Corps as to the legal requirements that must be met, and the conduct and disposition of all legal matters arising in the context of environmental planning.

(d) The Chief of Naval Operations (CNO) and the Commandant of the Marine Corps (CMC) shall:

(1) Implement effective environmental planning throughout their respective services.

(2) Prepare and issue instructions or orders to implement environmental planning policies of the DON. Forward proposed CNO/CMC environmental planning instructions or orders to ASN (I&E) and, when appropriate, ASN (RD&A) for review and comment prior to issuance.

(3) Make decisions on environmental assessments as to whether a Finding of No Significant Impact is appropriate or preparation of an environmental impact statement is required.

(4) Ensure that subordinate commands establish procedures for implementing mitigation measures described in NEPA documents.

(5) Provide coordination as required for the preparation of NEPA documents for actions initiated by non-DON/DOD entities, state or local agencies and/or private individuals for which service involvement may be reasonably foreseen.

(6) Bring environmental planning matters that involve controversial issues or which may affect environmental planning policies or their implementation to the attention of ASN (I&E) and, where appropriate, ASN (RD&A) for coordination and determination.

(7) Notify ASN (I&E), and when appropriate, ASN (RD&A) of any proposed EIS, and of any EA that may involve potentially sensitive public interest issues. EIS notification shall occur prior to commencing NEPA document preparation or receiving any public or regulatory agency involvement. EA notification shall be made as soon as it becomes apparent that potentially sensitive public issues are involved.

■ 6. Section 775.6 is amended by revising paragraphs (a), (b), (e) and (f) to read as follows:

§ 775.6 Planning considerations.

(a) An EIS must be prepared for proposed major Federal actions that will have significant impacts on the human environment. The agency decision in the case of an EIS is reflected in a ROD.

(b) Where a proposed major Federal action has the potential for significantly affecting the human environment, but it is not clear whether the impacts of that particular action will in fact be significant, or where the nature of an action precludes use of a categorical exclusion, an EA may be used to assist the agency in determining whether to prepare an EIS. If the agency determination in the case of an EA is that there is no significant impact on the environment, the findings will be reflected in a FONSI. If the EA determines that the proposed action is likely to significantly affect the environment (even after mitigation), then an EIS will be prepared. An EA also may be used where it otherwise will aid compliance with NEPA.

* * * * *

(e) A categorical exclusion (CATEX), as defined and listed in this regulation, may be used to exclude a proposed action from further analysis. Even though a proposed action generally is covered by a listed categorical exclusion, a categorical exclusion will not be used if the proposed action:

(1) Would adversely affect public health or safety;

(2) Involves effects on the human environment that are highly uncertain, involve unique or unknown risks, or which are scientifically controversial;

(3) Establishes precedents or makes decisions in principle for future actions that have the potential for significant impacts;

(4) Threatens a violation of Federal, state, or local environmental laws applicable to the Department of the Navy; or

(5) Involves an action that, as determined in coordination with the appropriate resource agency, may:

(i) Have an adverse effect on Federally listed endangered/threatened species or marine mammals;

(ii) Have an adverse effect on coral reefs or on Federally designated wilderness areas, wildlife refuges, marine sanctuaries, or parklands;

(iii) Adversely affect the size, function or biological value of wetlands and is not covered by a nation-wide or regional permit;

(iv) Have an adverse effect on archaeological resources or resources (including but not limited to ships, aircraft, vessels and equipment) listed or determined eligible for listing on the National Register of Historic Places; or

(v) Result in an uncontrolled or unpermitted release of hazardous substances or require a conformity determination under standards of the Clean Air Act General Conformity Rule.

(f) *Categorical exclusions.* Subject to the criteria in paragraph (e) above, the following categories of actions are excluded from further analysis under NEPA. The CNO and CMC shall determine whether a decision to forego preparation of an EA or EIS on the basis of one or more categorical exclusions must be documented in an administrative record and the format for such record.

(1) Routine fiscal and administrative activities, including administration of contracts;

(2) Routine law and order activities performed by military personnel, military police, or other security personnel, including physical plant protection and security;

(3) Routine use and operation of existing facilities, laboratories, and equipment;

(4) Administrative studies, surveys, and data collection;

(5) Issuance or modification of administrative procedures, regulations, directives, manuals, or policy;

(6) Military ceremonies;

(7) Routine procurement of goods and services conducted in accordance with applicable procurement regulations, executive orders, and policies;

(8) Routine repair and maintenance of buildings, facilities, vessels, aircraft, and equipment associated with existing operations and activities (*e.g.*, localized pest management activities, minor erosion control measures, painting, refitting);

(9) Training of an administrative or classroom nature;

(10) Routine personnel actions;

(11) Routine movement of mobile assets (such as ships and aircraft) for homeport reassignments, for repair/overhaul, or to train/perform as operational groups where no new support facilities are required;

(12) Routine procurement, management, storage, handling, installation, and disposal of commercial items, where the items are used and handled in accordance with applicable regulations (*e.g.*, consumables, electronic components, computer equipment, pumps);

(13) Routine recreational/welfare activities;

(14) Alteration of and additions to existing buildings, facilities, structures, vessels, aircraft, and equipment to conform or provide conforming use specifically required by new or existing applicable legislation or regulations (*e.g.*, hush houses for aircraft engines, scrubbers for air emissions, improvements to storm water and sanitary and industrial wastewater collection and treatment systems, and installation of fire fighting equipment);

(15) The modification of existing systems or equipment when the environmental effects will remain substantially the same and the use is consistent with applicable regulations;

(16) Routine movement, handling and distribution of materials, including hazardous materials/wastes that are moved, handled, or distributed in accordance with applicable regulations;

(17) New activities conducted at established laboratories and plants (including contractor-operated laboratories and plants) where all airborne emissions, waterborne effluent, external ionizing and non-ionizing radiation levels, outdoor noise, and solid and bulk waste disposal practices are in compliance with existing applicable Federal, state, and local laws and regulations;

(18) Studies, data, and information gathering that involve no permanent physical change to the environment (*e.g.*, topographic surveys, wetlands mapping, surveys for evaluating environmental damage, and engineering efforts to support environmental analyses);

(19) Temporary placement and use of simulated target fields (*e.g.*, inert mines, simulated mines, or passive hydrophones) in fresh, estuarine, and marine waters for the purpose of non-explosive military training exercises or research, development, test and evaluation;

(20) Installation and operation of passive scientific measurement devices (*e.g.*, antennae, tide gauges, weighted hydrophones, salinity measurement devices, and water quality measurement devices) where use will not result in changes in operations tempo and is consistent with applicable regulations;

(21) Short-term increases in air operations up to 50 percent of the typical operation rate, or increases of 50 operations per day, whichever is greater. Frequent use of this CATEX at an installation requires further analysis to determine there are no cumulative impacts;

(22) Decommissioning, disposal, or transfer of Navy vessels, aircraft, vehicles, and equipment when conducted in accordance with applicable regulations, including those regulations applying to removal of hazardous materials;

(23) Non-routine repair and renovation, and donation or other transfer of structures, vessels, aircraft, vehicles, landscapes or other contributing elements of facilities listed or eligible for listing on the National Register of Historic Places which will result in no adverse effect;

(24) Hosting or participating in public events (*e.g.*, air shows, open houses, Earth Day events, and athletic events) where no permanent changes to existing infrastructure (*e.g.*, road systems, parking and sanitation systems) are required to accommodate all aspects of the event;

(25) Military training conducted on or over nonmilitary land or water areas, where such training is consistent with the type and tempo of existing non-military airspace, land, and water use (*e.g.*, night compass training, forced marches along trails, roads and highways, use of permanently established ranges, use of public waterways, or use of civilian airfields);

(26) Transfer of real property from DON to another military department or to another Federal agency;

(27) Receipt of property from another Federal agency when there is no anticipated or proposed substantial change in land use;

(28) Minor land acquisitions or disposals where anticipated or proposed land use is similar to existing land use and zoning, both in type and intensity;

(29) Disposal of excess easement interests to the underlying fee owner;

(30) Renewals and minor amendments of existing real estate grants for use of Government-owned real property where no significant change in land use is anticipated;

(31) Land withdrawal continuances or extensions that merely establish time periods and where there is no significant change in land use;

(32) Renewals and/or initial real estate in grants and out grants involving existing facilities and land wherein use does not change significantly (*e.g.*, leasing of federally-owned or privately-owned housing or office space, and agricultural out leases);

(33) Grants of license, easement, or similar arrangements for the use of existing rights-of-way or incidental easements complementing the use of existing rights-of-way for use by vehicles (not to include significant increases in vehicle loading); electrical, telephone, and other transmission and communication lines; water, wastewater, storm water, and irrigation pipelines, pumping stations, and facilities; and for similar utility and transportation uses;

(34) New construction that is similar to existing land use and, when completed, the use or operation of which complies with existing regulatory requirements (*e.g.*, a building within a cantonment area with associated discharges/runoff within existing handling capacities);

(35) Demolition, disposal, or improvements involving buildings or structures when done in accordance with applicable regulations including those regulations applying to removal of asbestos, PCBs, and other hazardous materials;

(36) Acquisition, installation, and operation of utility (*e.g.*, water, sewer, electrical) and communication systems (*e.g.*, data processing cable and similar electronic equipment) which use existing rights of way, easements, distribution systems, and/or facilities;

(37) Decisions to close facilities, decommission equipment, and/or temporarily discontinue use of facilities or equipment, where the facility or

equipment is not used to prevent/control environmental impacts);

(38) Maintenance dredging and debris disposal where no new depths are required, applicable permits are secured, and disposal will be at an approved disposal site;

(39) Relocation of personnel into existing Federally-owned or commercially leased space that does not involve a substantial change affecting the supporting infrastructure (*e.g.*, no increase in vehicular traffic beyond the capacity of the supporting road network to accommodate such an increase);

(40) Pre-lease upland exploration activities for oil, gas or geothermal reserves, (*e.g.*, geophysical surveys);

(41) Installation of devices to protect human or animal life (*e.g.*, raptor electrocution prevention devices, fencing to restrict wildlife movement onto airfields, and fencing and grating to prevent accidental entry to hazardous areas);

(42) Reintroduction of endemic or native species (other than endangered or threatened species) into their historic habitat when no substantial site preparation is involved;

(43) Temporary closure of public access to DON property in order to protect human or animal life;

(44) Routine testing and evaluation of military equipment on a military reservation or an established range, restricted area, or operating area; similar in type, intensity and setting, including physical location and time of year, to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and conducted in accordance with all applicable standard operating procedures protective of the environment;

(45) Routine military training associated with transits, maneuvering, safety and engineering drills, replenishments, flight operations, and weapons systems conducted at the unit or minor exercise level; similar in type, intensity and setting, including physical location and time of year, to other actions for which it has been determined, through NEPA analysis where the DON was a lead or cooperating agency, that there are no significant impacts; and conducted in accordance with all applicable standard operating procedures protective of the environment.

■ 7. Section 775.12 is revised to read as follows:

§ 775.12 Delegation of authority.

(a) The ASN (I&E) may delegate his/her responsibilities under this instruction for review, approval and/or signature of EISs and RODs to appropriate Executive Schedule/Senior Executive Service civilians or flag/general officers. ASN (I&E), CNO, and CMC may delegate all other responsibilities assigned in this instruction as deemed appropriate.

(b) The ASN (RD&A) delegation of authority for approval and signature of documents under NEPA is contained in SECNAV Instruction 5000.2 series, which sets out policies and procedures for acquisition programs.

(c) Previously authorized delegations of authority are continued until revised or withdrawn.

Dated: February 13, 2004.

S.A. Hughes,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 04–3590 Filed 2–20–04; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

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

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of BFEs and modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable

standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and record keeping requirements.

■ Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

■ 1. The authority citation for Part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Modified ♦ Elevation in feet (NAVD) Modified
MI	Vassar (City) Tuscola County (FEMA Docket No. P7639).	Cass River	.....	*639
Maps are available for inspection at City Hall, 287 East Huron Avenue, Vassar, Michigan.				
MO	Albany (City) Gentry County (FEMA Docket No. P7633).	East Fork Grand River	.....	*848
Maps are available for inspection at City Hall, 106 East Clay Street, Albany, Missouri.				

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

Dated: February 11, 2004.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–3814 Filed 2–20–04; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

Final Flood Elevation Determinations

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

ACTION: Final rule.

SUMMARY: Base (1% annual-chance) Flood Elevations and modified Base Flood Elevations (BFEs) are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of BFEs and modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and 44 CFR Part 67.

The Federal Emergency Management Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

■ Accordingly, 44 CFR part 67 is amended to read as follows:

PART 67—[AMENDED]

■ 1. The authority citation for part 67 continues to read as follows:

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

§ 67.11 [Amended]

■ 2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD) Modified	Communities affected
Solomon River Tributary:		
At Union Pacific Railroad	*1,172	FEMA Docket No. P7635 Dickinson County, KS (Unincorporated Areas) City of Solomon, KS
Approximately 4,200 feet upstream of 7th Street	*1,189	

ADDRESSES

Dickinson County, Kansas

Maps are available for inspection at 109 East First Street, Suite 202, Abilene, Kansas.

City of Solomon, Kansas

Maps are available for inspection at 116 West Main Street, Solomon, Kansas.

Boggy Bayou:		
At confluence with Cypress Bayou	*160	FEMA Docket No. P7635 Caddo Parish, LA (Unincorporated Areas)
Approximately 3,100 feet downstream of the Southern Pacific Railroad Bridge.	*160	
Brush Bayou:		
At confluence with Boggy Bayou	*160	
Approximately 4,600 feet upstream of confluence with Boggy Bayou.	*160	
Buchanan Bayou:		
At confluence with Boggy Bayou	*160	
Approximately 5,400 feet upstream of the confluence with Boggy Bayou.	*160	
Caddo Lake:		
At Caddo Lake Dam	*181	Caddo Parish, LA (Unincorporated Areas) Town of Mooringsport, LA Town of Oil City, LA
Cypress Bayou:		
At Wallace Lake Dam	*160	Caddo Parish, LA (Unincorporated Areas) City of Shreveport, LA
Approximately 300 feet upstream of U.S. Highway 171 Bridge.	*178	
Wallace Lake:		
At Wallace Lake Dam	*160	Caddo Parish, LA (Unincorporated Areas) City of Shreveport, LA

ADDRESSES

Caddo Parish, Louisiana

Maps are available for inspection at 505 Travis Street, 8th Floor, Shreveport, Louisiana.

City of Shreveport, Louisiana

Maps are available for inspection at 505 Travis Street, 3rd Floor, Shreveport, Louisiana.

Town of Mooringsport, Louisiana

Maps are available for inspection at City Hall, 122 West Croom Street, Mooringsport, Louisiana.

Town of Oil City, Louisiana

Maps are available for inspection at 202 Allen Street, Oil City, Louisiana.

Dated: February 11, 2004.

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

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–3815 Filed 2–20–04; 8:45 am]

BILLING CODE 6718–04–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: This rule is effective as of February 23, 2004.

FOR FURTHER INFORMATION CONTACT: Mattie C. Condray, Senior Assistant General Counsel, Legal Services

Corporation, 3333 K St., NW., Washington, DC, 20007; (202) 295–1624; *mcondray@lsc.gov*.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 2004 set out below are equivalent to 125% of the current Poverty Guidelines as published on February 13, 2004 (69 FR 7336).

List of Subjects in 45 CFR Part 1611

Grant programs—law, legal services.

■ For reasons set forth above, 45 CFR part 1611 is amended as follows:

PART 1611—ELIGIBILITY

■ 1. The authority citation for part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

■ 2. Appendix A of part 1611 is revised to read as follows:

Appendix A of Part 1611

LEGAL SERVICES CORPORATION 2004 POVERTY GUIDELINES*

Size of family unit	48 contiguous states and the District of Columbia[i]	Alaska[ii]	Hawaii[iii]
1	$11,638	$14,538	$13,375
2	15,613	19,513	17,950
3	19,588	24,488	22,525
4	23,563	29,463	27,100
5	27,538	34,438	31,675
6	31,513	39,413	36,250
7	35,488	44,388	40,825
8	39,463	49,363	45,400

*The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.

[i] For family units with more than eight members, add $3,975 for each additional member in a family.

[ii] For family units with more than eight members, add $4,976 for each additional member in a family.

[iii] For family units with more than eight members, add $4,575 for each additional member in a family.

Victor M. Fortuno,

Vice President for Legal Affairs, General Counsel and Corporate Secretary.

[FR Doc. 04–3783 Filed 2–20–04; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 04–137; MB Docket No. 03–8; RM–10625]

Radio Broadcasting Services; Irmo and Saluda, South Carolina

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 68 FR 5862 (February 5, 2003), this *Report and Order* grants the requests of Breckinridge Communications, LLC (''Breckinridge''), licensee of Station WJES–FM, to upgrade its station from Channel 221A to Channel 221C3 and to reallot Channel 221C3 from Saluda to Irmo, South Carolina, thus providing Irmo with its first local aural transmission service. This document also denies comments filed by Glory Communications, Inc., licensee of Station WFMV(FM), South Congaree, South Carolina, which opposed Breckinridge's foregoing requests. The coordinates for Channel 221C3 at Irmo are 34–09–00 North Latitude and 81–13–00 West Longitude, with a site restriction of 7.8 kilometers (4.9 miles) northwest of Irmo, South Carolina.

DATES: Effective March 15, 2004.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order in MB Docket No. 03–8, adopted January 28, 2004, and released January 30, 2004. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW.rrr, Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Irmo, Channel 221C3, and removing Saluda, Channel 221A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 04–3822 Filed 2–20–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Part 225

[DFARS Case 2003–D089]

Defense Federal Acquisition Regulation Supplement; Memorandum of Understanding—Sweden

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to reflect a determination of the Deputy Secretary of Defense that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of defense equipment produced or manufactured in Sweden.

EFFECTIVE DATE: February 23, 2004.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0328; facsimile (703) 602–0350. Please cite DFARS Case 2003–D089.

SUPPLEMENTARY INFORMATION:

A. Background

A memorandum of understanding between the Government of Sweden and the Government of the United States provides for both governments to remove barriers to procurement of defense equipment produced in the

other country, and to accord to industries in the other country treatment no less favorable in relation to procurement than is accorded to industries of its own country. Therefore, DoD has determined that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of defense equipment produced or manufactured in Sweden. This final rule amends DFARS 225.872–1 to add Sweden to the list of countries for which DoD has made such public interest determinations, and to remove Sweden from the list of countries for which exemption from the Buy American Act is permitted only on a purchase-by-purchase basis.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This rule will not have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Therefore, publication for public comment is not required. However, DoD will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 2003–D089.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 225

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

■ Therefore, 48 CFR Part 225 is amended as follows:

■ 1. The authority citation for 48 CFR Part 225 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 225—FOREIGN ACQUISITION

225.872–1 [Amended]

■ 2. Section 225.872–1 is amended as follows:

■ a. In paragraph (a) by adding, in alphabetical order, ''Sweden'' to the list of countries; and

■ b. In paragraph (b) by removing ''Sweden'' from the list of countries.

[FR Doc. 04–3698 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH50

Endangered and Threatened Wildlife and Plants; Removing the Mariana Mallard and the Guam Broadbill From the Federal List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: Under the authority of the Endangered Species Act of 1973 (Act), as amended, we, the U.S. Fish and Wildlife Service (Service), remove the Mariana mallard (*Anas platyrhynchos oustaleti*) and Guam broadbill (*Myiagra freycineti*) from the Federal List of Endangered and Threatened Wildlife. All available information indicates that these species are extinct. The Mariana mallard was endemic to the Mariana Archipelago and documented to have occurred on the islands of Guam, Tinian, and Saipan. We listed the Mariana mallard as endangered on June 2, 1977 (42 FR 28136), because its population was critically low due to excessive hunting and loss of wetland habitat. No confirmed sightings of the Mariana mallard have been made since 1979. The Guam broadbill was endemic to the island of Guam. We listed the Guam broadbill as endangered on August 27, 1984 (49 FR 33881), because of its critically low population. No confirmed sightings of the Guam broadbill have been made since 1984. This final rule removes the Federal protection provided by the Act for the Guam broadbill and Mariana mallard but does not alter or supersede their designation by the government of Guam as endangered species. The Mariana mallard is not a species protected by the Commonwealth of the Northern Mariana Islands Government (CNMI).

DATES: This rule is effective February 23, 2004.

ADDRESSES: The administrative record file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850.

FOR FURTHER INFORMATION CONTACT: Fred Amidon, Fish and Wildlife Biologist, Pacific Islands Fish and Wildlife Office, at the above address (telephone: 808/792–9400; facsimile: 808/792–9580).

SUPPLEMENTARY INFORMATION:

Background

The Mariana mallard was endemic to the Mariana Archipelago and documented to occur on the islands of Guam, Tinian, and Saipan. There was some speculation that Mariana mallards were once found on the islands of Rota and Pagan (Baker 1948; Steadman 1992; Reichel and Lemke 1994).

The Mariana mallard is believed to have been a subspecies that originated as a hybrid between the common mallard (*Anas platyrhynchos*) and the grey duck (*Anas superciliosa*) (Reichel and Lemke 1994). The majority of males and all female Mariana mallards resembled the grey duck except their legs were orange, their bill was olive, and they lacked the grey duck's prominent brown streak below the eye (Yamashina 1948). The remaining males resembled male common mallards, having green heads and purple-blue speculums (Yamashina 1948).

Mariana mallards were recorded in freshwater marshes, lakes, and rivers, and were also observed in mangrove lagoons (Stott 1947; Marshall 1949; Kibler 1950). Little was known about their foraging habitat but they were observed foraging on green vegetation and seeds (Marshall 1949). Mariana mallards apparently bred from March to August (Kuroda 1941, cited in Reichel and Lemke 1994; Kuroda 1942, cited in Reichel and Lemke 1994; Marshall 1949), and were believed to have laid 1 clutch of 7 to 12 eggs per year (Kuroda 1942, cited in Reichel and Lemke 1994).

No population estimate was ever recorded for the Mariana mallard prior to its decline. However, it was believed that they were never abundant due to the limited habitat availability of freshwater marshes and lakes in the Mariana Archipelago (Baker 1951). The largest number of Mariana mallards ever recorded was of 2 flocks of 50 to 60 Mariana mallards at Lake Hagoi, Tinian, in 1936 (Kuroda 1942, cited in Reichel and Lemke 1994). However, by the 1940s, most observations of Mariana mallards on Tinian, Saipan, and Guam were of 12 or fewer birds (Stott 1947; Marshall 1949; Kibler 1950). The last Mariana mallards observed on Guam and Tinian were observed in 1967 and 1974, respectively (Drahos 1977; Tenorio and Associates 1979). On

Saipan, the last wild Mariana mallards were observed in 1979 by our biologist Eugene Kridler (1979). At that time, Mr. Kridler also captured a pair of Mariana mallards for captive propagation at Pohakuloa, HI, which were then sent to Sea World, San Diego, CA. All attempts at propagation failed and the last known Mariana mallard died there in 1981 (Engbring and Pratt 1985). Since 1979, surveys of all the known wetlands on Guam, Rota, Saipan, and Tinian have produced no observations of Mariana mallards (Tenorio and Associates 1979; Stinson et al. 1991, 1997; Reichel *et al.* 1992; Reichel and Lemke 1994; Service unpublished report, 2003).

The Mariana mallard's range reduction and eventual extinction have been attributed to habitat loss and hunting, especially during and immediately after World War II (WWII) (Baker 1948; Reichel and Lemke 1994). Evolving without predators, the mallard was not wary of humans, and so was easily caught (Kuroda 1942, cited in Reichel and Lemke 1994; Stott 1947). Kuroda (1942, cited in Reichel and Lemke 1994) reported that there was a hunting season on Saipan from July through December, but no hunting was allowed on Tinian. However, it is unknown if these regulations were enforced. After WWII, islanders were allowed to own firearms and hunting of the birds persisted (Drahos 1977).

Draining and fragmentation of wetlands greatly reduced the quantity and quality of habitat available for the Mariana mallard on Guam, Tinian, and Saipan (Stinson et al. 1991; Reichel *et al.* 1992; Reichel and Lemke 1994). During the Japanese occupation of Saipan and Tinian between 1914 and 1945, most wetlands were channelized and converted to rice paddies. Also during this time, sugar mill wastes were discharged into Lake Susupe on Saipan, the last known location of the Mariana mallard in the wild. Since 1945, many wetlands have been drained or filled in as a result of urban development on Guam, Tinian, and Saipan (Stinson *et al.* 1991; Reichel *et al.* 1992; Reichel and Lemke 1994). The Mariana mallard, never great in number, is believed to have lost most of its limited habitat with the decimation of wetlands, while being hunted with little to no enforcement of hunting restrictions.

The Guam broadbill (*Myiagra freycineti*) was a member of the monarch flycatcher family (Monarchidae). Most of the eight or nine genera in this subfamily are widespread in the tropical Pacific islands, and many species are endemic to a single island or archipelago (Pratt et al. 1987). The Guam broadbill was closely related to congeners (same genus) in Palau (*M. erythrops*), Chuuk (*M. oceanica*), and Pohnpei (*M. pluto*). The Guam broadbill weighed approximately 0.4 ounces (12 grams) and had a bluish head, neck, back, wings, and tail, and a white throat and light cinnamon breast (Baker 1951). Similar to other monarch flycatchers, the Guam broadbill was insectivorous and fed both by gleaning prey from twigs and foliage and by taking insects from the air (Jenkins 1983). This species nested year-round, and nests usually were placed in a fork of branches in understory trees or shrubs (Jenkins 1983). Both sexes incubated eggs and brooded young (Jenkins 1983).

Guam broadbills were once found in all forested habitats on Guam as well as in mangrove swamps (Stophlet 1946; Kibler 1950; Baker 1951; Jenkins 1983). However, by 1979 the Guam broadbill was restricted primarily to mature limestone forests of the relatively undisturbed northern cliff-line of Guam (Jenkins 1983). A 1981 survey estimated a total population of 460 Guam broadbills in Guam, with birds occurring at low densities, and encountered regularly only in extreme northwestern Guam (Engbring and Ramsey 1984). In 1983, the population was primarily restricted to the Pajon Basin, a small area on the north coast, and was estimated at less than 100 individuals (Aguon 1983). That same year, a male Guam broadbill was collected for captive propagation (Beck 1983). This captive breeding attempt failed because no other individuals could be located and the captive male died of unknown causes in February 1984 (Beck 1984). The last sightings of this species took place in 1984, one in March in the Northwest Field on Andersen Air Force Base, and one in August adjacent to the Navy golf course in Barrigada (52 FR 2239). Since 1984, annual spring bird surveys and other ornithological activities in areas where this species would likely occur have yielded no observations (Wiles *et al.* 1995; Service unpublished report 2003).

Reduction in the range of the Guam broadbill and its eventual extinction have been variously attributed to pesticide use during and after WWII, the spread of avian diseases, and predation by introduced animals, including rats *(Rattus spp.),* monitor lizards *(Varanus indicus),* and brown tree snakes *(Boiga irregularis).* However, studies have determined that predation by the brown tree snake was likely the single most important factor in the decline of the Guam broadbill and other native forest birds of Guam (Savidge 1986, 1987; Conry 1988; Wiles *et al.* 1995; Rodda *et al.* 1997).

Previous Federal Action

Federal action on the Mariana mallard began on May 22, 1975, when the Fund for Animals, Inc., petitioned us to list 216 taxa of plants and animals as endangered species pursuant to the Act (16 U.S.C. 1531 *et seq.*). These species appeared in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), but did not appear on the U.S. List of Endangered and Threatened Wildlife and Plants. We published in the **Federal Register** a proposed rule to list 216 species as endangered, including the Mariana mallard, on September 26, 1975 (40 FR 44329). In a final rule, published on June 14, 1976 (41 FR 24062), we determined 159 of the 216 taxa were endangered species. However, the Mariana mallard was not included in this rule because the Governors of Guam and the Commonwealth of the Northern Mariana Islands inadvertently were not notified of the proposal as required by the Act. These Governors were later notified and allowed 90 days for comment. A final rule listing the Mariana mallard as endangered was published on June 2, 1977 (42 FR 28136), without critical habitat. On January 25, 2002 (67 FR 3675), we published a proposed rule in the **Federal Register** to delist the Mariana mallard due to extinction.

Federal action on the Guam broadbill began on February 27, 1979, when the Acting Governor of Guam petitioned us to list the Guam broadbill and five other forest bird species as endangered. We issued a notice of review for 12 petitioned animals, including the Guam broadbill, on May 18, 1979 (44 FR 29128). In our December 30, 1982 (47 FR 58454), Review of Vertebrate Wildlife, the Guam broadbill was considered a category 1 candidate for Federal listing. Category 1 species were those for which we had substantial information on biological vulnerability and threats to support preparation of a listing proposal, but for which a listing proposal had not yet been published because it was precluded by other listing activities. We published a proposed rule to list the Guam broadbill as endangered on November 29, 1983 (48 FR 53729). The final rule determining the Guam broadbill to be an endangered species was published on August 27, 1984 (49 FR 33881), and a recovery plan for the Guam broadbill and four other listed bird species on Guam and Rota was published in 1990 (Service 1990).

A proposed rule to designate critical habitat for the Guam broadbill and five other endangered species on Guam was

published in the **Federal Register** on June 14, 1991 (56 FR 27485). This proposed rule was withdrawn on April 4, 1994 (59 FR 15696) because most of the lands proposed as critical habitat had by this time been incorporated into the Guam National Wildlife Refuge overlay lands. We determined that critical habitat designation was not prudent because it would not provide the Guam broadbill with any benefit beyond that already provided by the refuge overlay lands. On April 3, 2000, the Marianas Audubon Society and the Center for Biological Diversity filed a suit to challenge our withdrawal of critical habitat for these species. On September 7, 2000, we filed a motion to voluntarily remand the nonprudency decision based on subsequent court decisions on critical habitat. This motion set a deadline of June 1, 2003, for us to redetermine prudency and designate final critical habitat, if prudent, for the Guam broadbill and five other listed species. We published a proposed rule in the **Federal Register** to delist the Guam broadbill due to extinction on January 25, 2002 (67 FR 3675). On April 16, 2002, the Guam District Court issued a ruling that ordered us to comply with terms of the critical habitat settlement agreement by June 1, 2003.

On October 15, 2002, we published a proposed rule to designate critical habitat for the Mariana fruit bat *(Pteropus mariannus mariannus),* the Mariana crow *(Corvus kubaryi),* and the Guam Micronesian kingfisher *(Halcyon cinnamomina cinnamomina)* (67 FR 63738). In this proposed rule, we also found that designation of critical habitat for the Guam broadbill would not be prudent because the species was extinct. On May 30, 2003, the Government of Guam filed a motion to extend the deadline for publication of the final rule to allow time to develop an alternative to critical habitat designation on Guam. The Government of Guam stated that they did not have adequate time to develop these alternatives due to a recent change in administration and hardships encountered as a result of the Typhoon Chataan and the Supertyphoon Pongsona. On June 13, 2003, the Guam District Court extended the deadline for publication of a final rule indefinitely.

Summary of Comments and Recommendations

In the proposed rule to delist the Mariana mallard and Guam broadbill published on January 25, 2002 (67 FR 3675), we requested that all interested parties submit comments on the proposal. We also contacted all appropriate State and Federal agencies, county governments, landowners, and other interested parties and invited them to comment. The comment period closed on March 26, 2002 (67 FR 3675).

Only one comment was received during the comment period. The Commonwealth of the Northern Mariana Islands Division of Fish and Wildlife stated that they concurred with our conclusion that the Mariana mallard is extinct and should be removed from the List of Endangered and Threatened Wildlife.

We also requested and received peer review from three experts on the waterbirds and forest birds of the Mariana Islands. All three peer reviewers concurred with our conclusion that the Mariana mallard and the Guam broadbill are extinct and should be removed from the List of Endangered and Threatened Wildlife.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations promulgated to implement the listing provisions of the Act (50 CFR part 424) set forth the procedures for listing, reclassifying, or removing species from listed status. We may determine a species to be an endangered or threatened species because of one or more of the five factors described in section 4(a)(1) of the Act; we must consider these same five factors in delisting species. We may delist a species according to section 424.11(d) if the best available scientific and commercial data indicate that the species is neither endangered nor threatened for the following reasons: (1) The species is extinct; (2) The species has recovered and is no longer endangered or threatened; and/or (3) The original scientific data used at the time the species was classified were in error.

After a thorough review and consideration of all information available, we have determined that the Mariana mallard and Guam broadbill are extinct and should be removed from the List of Endangered and Threatened Wildlife. We determined that none of the five factors addressed in section 4(a)(1) of the Act now affects these species.

No confirmed sightings or vocalizations of the Mariana mallard have been reported since 1979, despite surveys, and the last captive bird died in 1981. No confirmed sightings or vocalizations of the Guam broadbill have been reported since August 1984, despite surveys, and the last captive bird died in February 1984. Therefore, we believe enough evidence exists to declare the Mariana mallard and Guam broadbill extinct and to remove them from the List of Endangered and Threatened Wildlife.

In accordance with 5 U.S.C. 553(d), we have determined that this rule relieves an existing restriction and good cause exists to make the effective date of this rule immediate. Delay in implementation of this delisting could cost government agencies staff time and monies in conducting formal section 7 consultation on actions that may affect a species no longer in need of protection under the Act. Relieving the existing restrictions associated with this listed species will enable Federal agencies to minimize any delays in any ongoing or future project planning and implementation actions that may have affected the Mariana mallard and Guam broadbill.

Effects of This Rule

This final rule revises § 17.11(h) to remove the Mariana mallard and the Guam broadbill from the List of Endangered and Threatened Wildlife due to extinction. The prohibitions and conservation measures provided by the Act, particularly sections 7 and 9, will no longer apply to these species. There is no designated critical habitat for these species.

The Mariana mallard and the Guam broadbill are protected by the government of Guam (Pub. L. 15–36). Removal of these species from the List of Endangered and Threatened Wildlife does not alter or supersede their designation by the government of Guam as endangered species.

Paperwork Reduction Act

This rule does not contain any new collections of information that require approval by Office of Management and Budget (OMB) under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This rule will not impose record keeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Information collections associated with threatened and endangered species permits are covered by an existing OMB approval and are assigned control number 1018–0093, which expires March 31, 2004.

National Environmental Policy Act

We have determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the

National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this final rule is Fred Amidon, Ecological Services, Pacific Islands Fish and Wildlife Office, U.S. Fish and Wildlife Service (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as set forth below:

PART 17—[AMENDED]

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.11(h) by removing the entries for ''Mallard, Mariana'' and ''Broadbill, Guam'' under ''BIRDS'' from the List of Endangered and Threatened Wildlife.

Dated: February 10, 2004.

Steve Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 04–3784 Filed 2–20–04; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 69, No. 35
Monday, February 23, 2004

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.

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 205

[Docket No. RM 2004–2]

Legal Processes

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule.

SUMMARY: The Copyright Office is proposing adoption of rules governing service of process on the Copyright Office, the Register of Copyrights or an employee of the Copyright Office acting in his or her official capacity and adoption of rules governing production of Office documents and testimony of Office employees in legal proceedings. These regulations will serve as a statement of Office policy and provide comprehensive guidelines for the Office and its employees, outside agencies, and other persons regarding the appropriate procedures in these areas.

DATES: Comments must be received no later than March 24, 2004.

ADDRESSES: An original and ten copies of any comment shall be sent to the Copyright Office. If comments are mailed, the address is: Copyright Office GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400. If comments are hand delivered by a private party, they must be addressed to: ''Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000'' and delivered to the Public Information Office of the Copyright Office, located in Room 401 of the James Madison Memorial Building of the Library of Congress, 101 Independence Avenue, SE., Washington, DC between 8:30 a.m. and 5 p.m. If comments are hand delivered by a commercial, non-government courier or messenger, they must be delivered to: the Congressional Courier Acceptance Site, located at Second and D Streets, NE., between 8:30 a.m. and 4 p.m., and addressed to ''Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC 20559–6000.''

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel or Robert Kasunic, Senior Attorney, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400. Telephone (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: The Copyright Office is proposing revision of part 205 of subchapter A of Chapter II, 37 CFR. Generally, part 205 establishes rules governing service of complaints, summonses, subpoenas and other legal process on the Copyright Office and its employees in their official capacities. Under the proposed revision, subpart A sets forth the definitions for the part, the addresses for legal service, and waiver of the rules. Subpart B establishes the requirements for service of legal process on an employee of the Copyright Office concerning information acquired in the course of performing official duties or because of the employee's official relationship with the Office and clarifies the requirements for service on the Register of Copyrights pursuant to section 17 U.S.C. 411(a). Subpart C prescribes policies and procedures of the Copyright Office governing testimony by an Office employee in his or her official capacity and the production of Office documents pursuant to a demand, request, subpoena, or order for use in legal proceedings in which the Office is not a party.

Background

1. Service of Process

Since its inception, the Copyright Office has operated without any published rules or regulations governing service of process.[1] Unlike many government agencies, the Copyright Office is not charged with enforcing the provisions of the statute that it administers. Under both the Copyright Act of 1909 and the Copyright Act of 1976, the rights bestowed by copyright protection are primarily enforced privately by copyright owners. The Copyright Office is an office of public record which, through the registration process, enables copyright owners both to make a record of their works and to facilitate protection of those works. The Office has, in the past, referred to the applicable law governing service of complaints and summonses on the United States and has handled service of subpoenas and other process on a case-by-case basis. *See* Fed. R. Civ. p. 4(i). The proposed rules ensure that service intended for the Office and its employees will be properly handled. These rules also ensure centralized procedures that are necessary for the Office's timely response to service of legal process.

2. Production of Documents and Testimony by Employees in Legal Proceedings in Which the Office Is Not a Party

The Copyright Office occasionally receives subpoenas and other informal requests for documents and testimony in cases in which the Office is not a party. Although the Office has rules governing requests for information from the general public and charges fees for providing such information, the Office currently has no regulations governing subpoenas requesting document production and testimony of Office employees in legal proceedings. An increase in such requests in recent years warrants adoption of regulations governing their submission, evaluation, and processing. Proper handling of subpoenas for documents and testimony requires uniform rules and centralized procedures. In some situations, litigants have served subpoenas directly on Office employees, while others have mailed copies of subpoenas to the Copyright Office. In some cases, the responsible officials within the Office have not become aware of the existence of subpoenas for days or even weeks. Such delays cause the Office to lose valuable time assessing and responding to subpoenas for testimony and documents. Establishing uniform procedures for legal processes will ensure timely notice and promote centralized decision-making.

As a general rule, all documents and material submitted to the Copyright

[1] In 1994, the Office published a policy statement containing an address where litigation material should be directed. In 2001, it published in regulatory text the address where the Register should be served when copyright registration is refused and the applicant wants to bring a copyright infringement suit. 66 FR 19094 (April 13, 2001).

Office as part of a completed registration of a claim to copyright are available for public inspection and copying. 37 CFR 201.2(b)(1). Anyone seeking such documents, including documents to be used in litigation, must contact the Certifications and Documents Section of the Office. *Id.* Correspondence between a copyright claimant or his or her agent and the Copyright Office regarding matters such as recordation, registration, or refusal to register is also available for public inspection. The Certifications and Documents Section certifies the authenticity of copies of Office documents and records which expedites legal proceedings since such certified copies of public documents and public records are self-authenticating. Fed. R. Evid. 902, 1005. *See also,* Fed. R. Civ. p. 44(a)(1). Office policy denies direct public access to in-process files and to work areas where they are handled. 37 CFR 201.2(b)(2). Information contained in the in-process files may, under certain circumstances, be obtained by complying with the procedures of 37 CFR 201.2(b)(3). Records that are not open to the public include correspondence, memoranda, reports, opinions, and similar material relating to internal matters of personnel and procedures, Office administration, security matters, and internal consideration of policy and decisional matters, including the work product of an attorney. 37 CFR 201.2(c).

Section 201.2(d) of 37 CFR prescribes the method for requesting copies of copyright registration records. Copying of the deposit copies of works submitted for registration is limited to circumstances where there is written permission from the copyright holder(s), a court order, or a written request submitted via a Litigation Statement from an attorney engaged in either actual or prospective litigation involving the requested work.

Copyright Office regulations also specify how documents, other than registration material, that are available to the public may be obtained. For example, administrative staff manuals may be obtained in accordance with 37 CFR 201.2(b)(7).

Given the existing regulations and the availability of most Office documents and records, further regulations for production of documents in legal proceedings may seem unnecessary. When the Office has received production requests in the past, it has attempted to apply current regulations to respond to the request. Attorneys familiar with Office practices generally forego seeking document production via request or subpoena and simply follow the established procedures. When attorneys do not follow established procedures for obtaining information, it is usually because they are unfamiliar with Office practices or established procedures. Typically, such demands take the form of a subpoena on an Office employee directing him or her to appear at a certain time and place and to produce certain documents. In addition, subpoenas are sometimes served on an Office employee who is not responsible for the requested documents. Responding to these requests and subpoenas is not only burdensome for the Office, but is less efficient for the requestor who could obtain the requested documents more expeditiously by other means. There is, therefore, a need to regulate requests by centralizing their receipt and thereby allowing the Office to assess the request in an efficient manner. The proposed rules will also assist those seeking documents or testimony from the Office, by clarifying the alternative procedures available to obtain the information sought.

The rules governing testimony of Office employees in legal proceedings will also centralize the service of deposition subpoenas. Subpoenas for depositions are typically directed to copyright examiners and supervisors, but the Office has received deposition notices for other employees. Generally, the information sought by deposition is available through alternative written resources published or available for public inspection by the Office. As a consequence, it is important for the Copyright Office General Counsel to determine whether Office involvement in private litigation would unduly burden Office resources. This determination requires obtaining information on the precise nature of the testimony sought and whether alternative sources of the requested information are available. A single procedure directing all requests for testimony to an authorized official for review and evaluation will expedite and centralize the decision-making process. The Copyright Office is, therefore, proposing the following regulations.

Proposed Regulations

The Copyright Office is proposing revision of part 205 of subchapter A of chapter II of 37 CFR as adopted on April 13, 2001, 37 CFR 205.1. Generally, part 205 would set forth the Office rules on legal processes. Subpart A contains the general provisions governing legal process on the Office. Subpart B sets forth the requirements for service of process on the Office or its employees in their official capacities. Subpart C prescribes the requirements for requests and subpoenas to produce Office documents or the testimony of Office employees in legal proceedings in which the Office is not a party to the action.

1. General Provisions

The general provisions supply definitions and Office addresses. There is also a provision that permits waiver of the rule by the General Counsel. Only the General Counsel of the Copyright Office or his or her designee is authorized to receive service of process for the Office or an employee of the Office acting in his or her official capacity. The requirements prescribed by part 205 are in addition to any requirements prescribed by law or statute; and parties must, of course, comply with the service requirements of the Federal Rules of Civil or Criminal Procedure and any other applicable statute or court rule.

2. Service of Process

The purpose of subpart B is to identify the proper parties within the Copyright Office upon whom process must be served, and to describe the conditions and requirements of such service.

Section 205.11 provides the scope and purpose of subpart B.

Section 205.12 clarifies that the subpart applies only to process served on the Copyright Office and its employees in their official capacities. Subpart B does not apply to any Office employee who is served with process in his or her individual capacity for matters related solely to his or her personal dealings.

Section 205.13 clarifies the procedures for complaints served on the Register of Copyrights pursuant to 17 U.S.C. 411(a).

3. Testimony by Employees and/or the Production of Documents in Legal Proceedings in which the Office is not a Party

Subpart C governs the terms and procedures for demands for Office documents or the testimony of a Copyright Office employee in his or her official capacity in legal proceedings. The requirements of subpart C are modeled on those imposed by other federal agencies following *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

The Supreme Court's decision in *United States ex rel. Touhy* v. *Ragen,* 340 U.S. 462 (1951) affirmed the reversal of a contempt charge against an FBI agent who, pursuant to a Department of Justice (''DOJ'') regulation, refused to produce certain

documents subpoenaed by a state prisoner in a federal habeas corpus proceeding. The DOJ regulation forbade employees from disclosing Department documents, except as authorized by the Attorney General or his assistant. The Court held that the FBI agent's refusal to produce documents was lawful given the DOJ regulation. The Court stated that ''[w]hen one considers the variety of information contained in the files of any government department and the possibilities of harm from unrestricted disclosure in court, the usefulness, indeed necessity, of centralizing determination as to whether subpoenas duces tecum will be willingly obeyed or challenged is obvious.'' *Touhy* at 468. Thus, under *Touhy*, government entities may centralize, by regulation, determinations concerning subpoena responses and forbid the unauthorized response by employees. Further, government employees cannot be held in contempt of court for complying with such regulations.

Touhy regulations typically provide internal guidance and direction to agency employees, as well as establish procedures that must be followed by those external to an agency who are seeking information from the agency or its employees. Touhy regulations usually contain provisions concerning matters such as who an agency employee should contact for direction when he or she receives a subpoena or demand; the agency's office or official that a party or attorney seeking testimony or documents should contact; and who at the agency may authorize the production of testimony or documents by agency employees. Almost universal are provisions prohibiting an employee's disclosure of documents or giving of testimony without authorization of an appropriate agency official. Additionally, some regulations set out factors that the agency decision-maker should consider in deciding whether to authorize the giving of testimony or the release of documents. Touhy regulations, thus, serve the purpose of centralizing determinations within an agency concerning whether and to what extent demands for testimony and documents will be honored.

Section 205.21 outlines the scope of subpart C and notes that it applies to testimony and production of documents in legal proceedings pursuant to a demand, subpoena or order. Section 205.21 makes it clear that an employee acting in his or her official capacity may not appear voluntarily as a witness or provide voluntary testimony in a legal proceeding without authorization by the General Counsel of the Copyright Office. The section explains the reasons for this policy, including conservation of Office resources and the centralization of the administrative process.

Sections 205.22 and 205.23 state under what conditions the Office will authorize the production of documents and testimony in a legal proceeding in which the Office is not a party. Section 205.22 provides the required procedure for demands for documents or testimony in legal proceedings. In most cases, testimony of an Office employee must be sought through either a subpoena or a court order, both of which require proper service on the Copyright Office. The service requirements of Rule 45 of the Federal Rules of Civil Procedure must be complied with. However, there are occasions when one or more parties to a proceeding contact the Office and request a deposition of an Office employee or seek testimony at trial. The proposed rule clarifies that any such demand, request or subpoena for testimony must be in writing, must be accompanied by an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746, and must be delivered to the General Counsel of the Copyright Office.

Likewise, all demands, requests, subpoenas or orders for production of documents must be directed to the General Counsel of the Copyright Office. As discussed above, under current Copyright Office regulations, most documents in the possession of the Office are available to the general public, and the Office encourages litigants to avail themselves of these records by following existing agency practices. When the Office has in the past received a subpoena or order for production of documents, it has generally responded to the demand through use of current procedures. However, because a court may require an official of the Office to appear in person to produce the requested records, it is necessary to adopt procedures governing these types of demands.

In addition to requiring that all demands, requests or subpoenas for testimony and production of documents in legal proceedings in which the Office is not a party be in written form, § 205.22(a)(3) requires that all demands, requests and subpoenas be accompanied by an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746 that identifies the title of the legal proceeding, the forum, the requesting party's interest in the legal proceeding, the reasons for the demand, request or subpoena, a showing that the desired testimony or document is not reasonably available from any other source, and, if testimony is requested, the intended use of the testimony, a detailed summary of the testimony desired, and a showing that no document could be provided and used in lieu of the requested testimony. The purpose of this requirement is to permit the Office to evaluate whether the information sought in the demand is available through other less burdensome means before deciding whether the testimony or production should be authorized.

Subsections (b) through (f) of § 205.22 propose several Office practices governing testimony by employees and production of documents in legal proceedings. Subsection (b) makes it clear that no Office employee may provide testimony or produce a document in a legal proceeding concerning Office business without the authorization of the General Counsel of the Copyright Office. In addition, no Office employee shall answer inquiries from members of the public regarding testimony or documents subject to a demand, subpoena or order. All requests for such testimony must be directed to the General Counsel of the Copyright Office. There are two exceptions to this rule: there is no limitation on testimony of facts or events that are unrelated to official business and there is no limitation on a former employee's testimony as an expert in connection with a particular matter in which the former employee did not participate personally while at the Office.

As discussed above, most documents in the possession of the Office are public records and can be obtained by the public under current regulations. In general, the Office will continue to direct the public to seek documents through its Certification and Documents Section. Parties seeking documents, including certified documents to be used in litigation, must contact the Certification and Documents Section of the Office.

Section 205.23 governs the scope of permissible testimony. When the testimony of an employee is authorized by the General Counsel, an employee may testify as to relevant matters of fact within his or her knowledge so long as the factual matters do not probe into the mental processes employed in formulating a decision of the Office. *United States* v. *Morgan*, 298 U.S. 468 (1941); *Western Electric Co., Inc.* v. *Piezo Technology, Inc.*, 860 F.2d 428 (Fed. Cir. 1988). In addition, an employee would be prohibited from giving expert or conjectural testimony.

List of Subjects in 37 CFR Part 205

Copyright, Service of process, Testimony by employees and production of documents in legal proceedings.

Proposed Regulations

In consideration of the foregoing, the Copyright Office proposes to revise 37 CFR part 205 as follows:

1. Part 205 is revised to read as follows:

PART 205—LEGAL PROCESSES

Subpart A—General Provisions

Sec.

205.1 Definitions.
205.2 Address for mail and service; telephone number.
205.3 Waiver of rules.
205.4 Relationship of this part to the Federal Rules of Civil and Criminal Procedure.
205.5 Scope of this part related to Copyright Office duties under title 17 of the U.S. Code.

Subpart B—Service of Process

205.11 Scope and purpose.
205.12 Process served on the Register of the Copyright Office and an employee in his or her official capacity.
205.13 Complaints served on the Register of Copyrights pursuant to 17 U.S.C. 411.

Subpart C—Testimony by Employees and Production of Documents in Legal Proceedings in Which the Office Is Not a Party

205.21 Scope and purpose.
205.22 Production of documents and testimony.
205.23 Scope of testimony.

Authority: 17 U.S.C. 702.

Subpart A—General Provisions

§ 205.1 Definitions.

For the purpose of this part:

Demand means an order, subpoena or any other request for documents or testimony for use in a legal proceeding.

Document means any record or paper held by the Copyright Office, including, without limitation, official letters, deposits, recordations, registrations, publications, or other material submitted in connection with a claim to register a copyright.

Employee means any current or former officer or employee of the Copyright Office, as well as any individual subject to the jurisdiction, supervision, or control of the Copyright Office.

General Counsel, unless otherwise specified, means the General Counsel of the United States Copyright Office or his or her designee.

Legal proceeding means any pretrial, trial, and post trial stages of existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards or other tribunals, foreign or domestic. This phrase includes all phases of discovery as well as responses to formal or informal requests by attorneys or others involved in legal proceedings. This phrase also includes state court proceedings (including grand jury proceedings) and any other state or local legislative and administrative proceedings.

Office means the United States Copyright Office, including any section, division or operating unit within the United States Copyright Office.

Official business means the authorized business of the United States Copyright Office.

Testimony means a statement in any form, including a personal appearance before a court or other legal tribunal, an interview, a deposition, an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746, a telephonic, televised, or videotaped statement or any response given during discovery or similar proceeding, which response would involve more than the production of documents, including a declaration under 35 U.S.C. 25 or a declaration under penalty of perjury pursuant to 28 U.S.C. 1746.

United States means the Federal Government, its departments and agencies, individuals acting on behalf of the Federal Government, and parties to the extent they are represented by the United States.

§ 205.2 Address for mail and service; telephone number.

(a) Mail under this part should be addressed to the General Counsel, Copyright GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400.

(b) Service by hand shall be made upon an authorized person from 8:30 a.m. to 5 p.m. E.S.T., Monday through Friday in the Public Information Office, U.S. Copyright Office, Library of Congress, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC. Persons authorized to accept service of process are the General Counsel of the Copyright Office and his or her designees.

(c) The Office of the General Counsel may be reached by telephone during normal business hours specified in paragraph (b) of this section at 202–707–8380.

§ 205.3 Waiver of rules.

In extraordinary situations, when the interest of justice requires, the General Counsel may waive or suspend the rules of this part, *sua sponte* or on petition of an interested party, subject to such requirements as the General Counsel may impose on the parties. However, the inclusion of certain legal process within the scope of these rules, *e.g.*, state legal proceedings, does not represent a waiver of any claim of immunity, privilege, or other defense by the Office in a legal proceeding, including but not limited to, sovereign immunity, preemption, or lack of relevance. This rule does not create any right or benefit, substantive or procedural, enforceable at law by a party against the Copyright Office or the United States.

§ 205.4 Relationship of this part to the Federal Rules of Civil and Criminal Procedure.

Nothing in this part waives any requirement under the Federal Rules of Civil or Criminal Procedure.

§ 205.5 Scope of this part related to Copyright Office duties under title 17 of the U.S. Code.

This part relates only to legal proceedings, process, requests and demands relating to the Copyright Office's performance of its duties pursuant to title 17 of the United States Code. Legal proceedings, process, requests and demands relating to other matters (*e.g.*, personal injuries, employment matters, etc.) are the responsibility of the General Counsel of the Library of Congress and are governed by 36 CFR part 703.

Subpart B—Service of Process

§ 205.11 Scope and purpose.

(a) This subpart provides the procedures governing service of process on the Copyright Office and its employees in their official capacity. These regulations provide the identity of Copyright Office officials who are authorized to accept service of process. The purpose of this subpart is to provide a centralized location for receipt of service of process to the Office. Such centralization will provide timely notification of legal process and expedite Office response. Litigants also must comply with all requirements pertaining to service of process that are established by statute, court rule and rule of procedure including the applicable provisions of the Federal Rules of Civil Procedure governing service upon the United States.

(b) This subpart does not apply to service of process made on an employee

personally for matters not related to official business of the Office. Process served upon a Copyright Office employee in his or her individual capacity must be served in compliance with the applicable requirements for service of process established by statute, court rule, or rule of procedure.

§ 205.12 Process served on the Copyright Office and its employees in their official capacities.

(a) Summonses, complaints and all other process directed to the Copyright Office, the Register of Copyrights or any other Copyright Office employee in his or her official capacity should be served on the General Counsel of the Copyright Office or his designee as indicated in § 205.2. To effect proper service, the requirements of Rule 4(i) of the Federal Rules of Civil Procedure must also be satisfied by effecting service on both the United States attorney for the district in which the action is brought and the Attorney General, Attn: Director of Intellectual Property Staff, Commercial Litigation Branch, Civil Division, Department of Justice, Washington, DC 20530.

(b) Any employee of the Office served with a summons or complaint in connection with the conduct of official business shall immediately notify and shall deliver the summons or complaint to the Office of the General Counsel of the Copyright Office.

(c) Any employee receiving a summons or complaint shall note on the summons or complaint the date, hour, and place of service and mode of service.

(d) The Office will accept service of process for an employee only when the legal proceeding is brought in connection with the conduct of official business carried out in the employee's official capacity.

(e) When a legal proceeding is brought to hold an employee personally liable in connection with an action taken in the conduct of official business, rather than liable in an official capacity, the employee is to be served in accordance with any applicable statute, court rule, or rule of procedure. Service of process in this case is inadequate when made only on the General Counsel. An employee sued personally for an action taken in the conduct of official business shall immediately notify and deliver a copy of the summons or complaint to the General Counsel of the Copyright Office.

§ 205.13 Complaints served on the Register of Copyrights pursuant to 17 U.S.C. 411(a).

When an action has been instituted pursuant to 17 U.S.C. 411(a) for infringement of the copyright of a work for which registration has been refused, notice of the institution of the action and a copy of the complaint must be served on the Register of Copyrights by sending such documents by registered or certified mail to the General Counsel of the Copyright Office, GC/I&R, PO Box 70400, Southwest Station, Washington, DC 20024–0400, or delivery by hand addressed to the General Counsel of the Copyright Office and delivered to the Public Information Office, U.S. Copyright Office, Library of Congress, James Madison Memorial Building, Room LM–401, 101 Independence Avenue, SE., Washington, DC. The notice must be in the form of a letter that is clearly identified as a 411(a) notice. Both the letter and the envelope should state: ''Section 411(a) Notice to the Register of Copyrights.'' In compliance with FED. R. CIV. P. Sec. 4(i), a notice of the institution of the action and a copy of the complaint must also be served on both the United States attorney for the district in which the action is brought and the United States Department of Justice, directed to the Attorney General, Attn: Director of Intellectual Property Staff, Civil Division, Department of Justice, Washington, DC 20530.

Subpart C—Testimony by Employees and Production of Documents in Legal Proceedings in Which the Office Is Not a Party

§ 205.21 Scope and purpose.

(a) This subpart prescribes policies and procedures of the Copyright Office governing testimony, in legal proceedings in which the Office is not a party, by Office employees in their official capacities and the production of Office documents for use in legal proceedings pursuant to a demand, request, subpoena or order.

(b) The purpose of this subpart is:

(1) To conserve the time of Office employees for conducting official business;

(2) To minimize the possibility of involving the Office in the matters of private parties or other issues which are not related to the mission of the Office;

(3) To prevent the public from confusing personal opinions of Office employees with Office policy;

(4) To avoid spending the time and money of the United States for private purposes;

(5) To preserve the integrity of the administrative process, minimize disruption of the decisionmaking process, and prevent interference with the Office's administrative functions.

(c) An employee of the Office may not voluntarily appear as a witness or voluntarily testify in a legal proceeding relating to his or her official capacity without proper authorization under this subpart.

(d) This subpart does not apply to any legal proceeding in which:

(1) An employee is to testify regarding facts or events that are unrelated to official business; or

(2) A former employee is asked to testify as an expert on a matter in which that employee did not personally participate while at the Office so long as the former employee testifies concerning his or her personal opinion and does not purport to speak for or on behalf of the Copyright Office.

§ 205.22 Production of documents and testimony.

(a) Generally, all documents and material submitted to the Copyright Office as part of a completed application to register a claim to copyright are available for public inspection and copying. Most documents are therefore available through Office services that do not require the utilization of litigation processes. Anyone seeking such documents must contact the Certifications and Documents Section of the Office. 37 CFR 201.2(b)(1). Certified copies of public documents and public records are self-authenticating. FED R. EVID. 902 and 1005; *see also,* FED. R. CIV. P. 44(a)(1). In certain specified circumstances, information contained in the in-process files may be obtained by complying with the procedures of 37 CFR 201.2(b)(3). Correspondence between a copyright claimant or his or her agent and the Copyright Office in a completed registration, recordation, or refusal to register is also available for public inspection. Section 201.2(d) of this chapter prescribes the method for requesting copies of copyright registration records. Reproduction of deposit copies of works submitted for registration are, upon approval of the General Counsel, available to an attorney engaged in actual or prospective litigation involving the requested work upon written request and a completed Litigation Statement or a court order. The fees associated with various document requests, searches, copies, and expedited handling are listed in 37 CFR 201.3. Other publications containing Copyright Office procedures and practices are available to the public without charge from the Copyright Office or its Web site: *http://www.loc.gov/copyright.* The Office Web site also allows online searching of copyright registration information and information pertaining

to documents recorded with the Copyright Office beginning January 1, 1978. Pre-1978 copyright registration information and document recordation information is available to the public in the Copyright Office during regular business hours. If the information sought to be obtained from the Office is not available through these Office services, demands and subpoenas for testimony or documents may be served as follows:

(1) *Demands for testimony or documents.* All demands, requests, subpoenas or orders for production of documents or testimony in a legal proceeding directed to the Copyright Office, the Register of Copyrights or any other Copyright Office employee in his or her official capacity must be in writing and should be served on the General Counsel of the Copyright Office as indicated in § 205.2 of this part and in accordance with the Federal Rules of Civil or Criminal Procedure.

(2) *Affidavits.* Except when the Copyright Office is a party to the legal proceeding, every demand, request or subpoena shall be accompanied by an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746. Such affidavit or declaration shall contain a written statement setting forth the title of the legal proceeding; the forum; the requesting party's interest in the legal proceeding; the reasons for the demand, request, or subpoena; a showing that the desired testimony or document is not reasonably available from any published or other written source, (*e.g.* **Federal Register**, Compendium II: Compendium of Copyright Office Practices, other written practices of the Office, circulars, the Copyright Office Web site) and is not available by other established procedure, *e.g.* 37 CFR 201.2, 201.3. If testimony is requested in the affidavit or declaration, it shall include the intended use of the testimony, a detailed summary of the testimony desired, and a showing that no document could be provided and used in lieu of the requested testimony. The purpose of these requirements is to permit the General Counsel of the Copyright Office to make an informed decision as to whether testimony or production of a document should be authorized. The decision by the General Counsel will be based on consideration of the purposes set forth in § 205.21(b), on the evaluation of the requesting party's need for the testimony and any other factor warranted by the circumstances. Typically, when the information requested is available through other existing Office procedures or materials, the General Counsel will not authorize production of documents or testimony.

(b) No Copyright Office employee shall give testimony concerning the official business of the Office or produce any document in a legal proceeding other than those made available by the Certifications and Documents Section under existing regulations without the prior authorization of the General Counsel. Without prior approval from the General Counsel, no Office employee shall answer inquiries from a person not employed by the Library of Congress or the Justice Department regarding testimony or documents in connection with a demand, subpoena or order. All inquiries involving demands, subpoenas, or orders shall be directed to the General Counsel of the Copyright Office.

(c) Any Office employee who receives a demand, request, subpoena or order for testimony or the production of documents in a legal proceeding shall immediately notify the Copyright Office General Counsel at the phone number indicated in § 205.2 and shall immediately forward the demand to the Copyright Office General Counsel.

(d) The General Counsel may consult or negotiate with an attorney for a party or the party, if not represented by an attorney, to refine or limit a demand, request or subpoena to address interests or concerns of the Office. Failure of the attorney or party to cooperate in good faith under this part may serve as the basis for the General Counsel to deny authorization for the testimony or production of documents sought in the demand.

(e) A determination under this part regarding authorization to respond to a demand is not an assertion or waiver of privilege, lack of relevance, technical deficiency or any other ground for noncompliance. The Copyright Office reserves the right to oppose any demand on any appropriate legal ground independent of any determination under this part, including but not limited to, sovereign immunity, preemption, privilege, lack of relevance, or technical deficiency.

(f) Office procedures when an employee receives a demand or subpoena:

(1) If the General Counsel has not acted by the return date, the employee must appear at the time and place set forth in the subpoena (unless otherwise advised by the General Counsel) and inform the court (or other legal authority) that the demand has been referred for the prompt consideration of the General Counsel and shall request the court (or other legal authority) to stay the demand pending receipt of the requested instructions.

(2) If the General Counsel makes a determination not to authorize testimony or the production of documents, but the subpoena is not withdrawn or modified and Department of Justice representation cannot be arranged, the employee should appear at the time and place set forth in the subpoena unless advised otherwise by the General Counsel. If legal counsel cannot appear on behalf of the employee, the employee should produce a copy of these rules and state that the General Counsel has advised the employee not to provide the requested testimony or to produce the requested document. If a court (or other legal authority) rules that the demand in the subpoena must be complied with, the employee shall respectfully decline to comply with the demand, citing *United States* ex rel. *Touhy* v. *Ragen*, 340 U.S. 462 (1951).

§ 205.23 Scope of testimony.

(a)(1) If a Copyright Office employee is authorized to give testimony in a legal proceeding, the testimony, if otherwise proper, shall be limited to facts within the personal knowledge of the Office employee. An Office employee is prohibited from giving expert testimony, or opinion, answering hypothetical or speculative questions, or giving testimony with respect to subject matter which is privileged. If an Office employee is authorized to testify in connection with his or her involvement or assistance in a proceeding or matter before the Office, that employee is further prohibited from giving testimony in response to an inquiry about the bases, reasons, mental processes, analyses, or conclusions of that employee in the performance of his or her official functions.

(2) The General Counsel may authorize an employee to appear and give expert testimony or opinion testimony upon the showing, pursuant to § 205.3 of this part, that exceptional circumstances warrant such testimony and that the anticipated testimony will not be adverse to the interest of the Copyright Office or the United States.

(b) If an Office employee is authorized to testify, the employee will generally be prohibited from providing testimony in response to questions which seek, for example:

(1) To elicit information about the employee's:

(i) Qualifications to examine or otherwise consider a particular copyright application.

(ii) Usual practice or whether the employee followed a procedure set out

in any Office manual of practice in a particular case.

(iii) Consultation with another Office employee.

(iv) Familiarity with:

(A) Preexisting works that are similar.

(B) Registered works, works sought to be registered, a copyright application, registration, denial of registration, or request for reconsideration.

(C) Copyright law or other law.

(D) The actions of another Office employee.

(v) Reliance on particular facts or arguments.

(2) To inquire into the manner in and extent to which the employee considered or studied material in performing the function.

(3) To inquire into the bases, reasons, mental processes, analyses, or conclusions of that Office employee in performing the function.

(4) In exceptional circumstances, the General Counsel may waive these limitations pursuant to § 205.3 of this part.

Dated: February 17, 2004.

David O. Carson,

General Counsel.

[FR Doc. 04–3725 Filed 2–20–04; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA 112–RECLAS, FRL–7625–7]

Clean Air Act Reclassification, San Joaquin Valley Nonattainment Area; California; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to grant a request by the State of California to voluntarily reclassify under the Clean Air Act (''CAA'' or ''the Act'') the San Joaquin Valley Ozone Nonattainment Area (''San Joaquin Valley Air Basin'' or ''SJVAB'') from a severe to an extreme 1-hour ozone nonattainment area. EPA is also proposing that the State submit, by no later than October 1, 2004, an extreme ozone nonattainment area plan addressing the requirements of CAA section 182(e) and that the State submit revised Title V and New Source Review rules that reflect the extreme area requirements no later than 12 months from the effective date of the final reclassification.

Final reclassification of the SJVAB will stop the sanctions and federal implementation plan clocks that were started under CAA section 179(a) upon EPA's 2002 finding that the State failed to submit the statutorily required severe area attainment demonstration for the area.

Several Indian tribes have reservations located within the boundaries of the SJVAB. EPA implements relevant reclassification provisions of the CAA in these reservations and is also proposing that these areas be reclassified from a severe to an extreme 1-hour ozone nonattainment area. Thus, this action could potentially affect these tribes. Accordingly, EPA has notified the affected tribal leaders of our proposed action and is inviting consultation with interested tribes.

EPA will accept comments on all aspects of this proposed rule. However, as discussed in section II. below, EPA believes that the CAA compels the Agency to grant a voluntary reclassification when requested by a State.

DATES: Comments on this proposed action must be received by March 24, 2004.

ADDRESSES: Send comments to David Wampler, Planning Office (AIR–2), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to *wampler.david@epa.gov*, or submit comments at *http://www.regulations.gov*.

You can inspect and copy the docket for this action at our Region IX office during normal business hours (*see* **ADDRESSES** above). Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you. The **Federal Register** notice is also available as an electronic file on EPA's Region 9 Web Page at *http://www.epa.gov/region09/air*.

FOR FURTHER INFORMATION CONTACT: David Wampler, Planning Office (AIR–2), Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972–3975.

SUPPLEMENTARY INFORMATION: Throughout this document, the words ''we,'' ''us,'' or ''our'' mean U.S. EPA.

I. Background

The San Joaquin Valley Ozone Nonattainment Area (''San Joaquin Valley Air Basin'' or ''SJVAB'') consists of the following counties in California's central valley: San Joaquin, the western portion of Kern,[1] Fresno, Kings, Madera, Merced, Stanislaus and Tulare.

Upon the date of enactment of the 1990 Clean Air Act Amendments, the SJVAB was classified as a serious ozone nonattainment area for the 1-hour ozone National Ambient Air Quality Standard (''NAAQS''). (56 FR 56694, November 6, 1991 and CAA section 181(a)(1)).

In December 2001, EPA reclassified the SJVAB from a serious to a severe nonattainment area for the 1-hour ozone NAAQS. (66 FR 56476, November 8, 2001). This reclassification resulted from the failure of the SJVAB to attain the standard by November 15, 1999 as required for serious nonattainment areas. CAA section 181(a) and (b)(2). In our final action, we explained that the State of California would need to submit by May 31, 2002 a state implementation plan (''SIP'') revision addressing the severe area planning requirements including, but not limited to, a demonstration of attainment of the severe 1-hour ozone standard by November 15, 2005, and a rate of progress (''ROP'') demonstration of creditable ozone precursor emission reductions of at least 3 percent per year until attainment. (66 FR 56476, 56481, November 8, 2001).

On October 2, 2002 (67 FR 61784; effective September 18, 2002), EPA found that the State failed to submit by May 31, 2002 the following required severe area SIP revisions for the SJVAB: (1) A demonstration of attainment of the 1-hour ozone NAAQS by no later than 2005; (2) a ROP demonstration as described above; (3) an emission control rule for lime kilns; (4) an emissions inventory; and (5) contingency measures. In our final action, we stated that, pursuant to CAA section 179(a), if the State did not submit the required plan revisions, the offset sanction identified in CAA section 179(b) would be applied in the affected area followed by the highway sanction 6 months after the offset sanction was imposed. We also stated that the sanction clock would stop upon a finding by EPA that the State has made complete [2] submittals addressing these severe area requirements. Finally, we explained that, under CAA section 110(c), EPA must promulgate a federal implementation plan (''FIP'') no later than two years after the finding under section 179(a) unless the Agency takes

[1] *See* 66 FR 56476 (November 8, 2001) (boundary change for the San Joaquin Valley establishing the eastern portion of Kern County as its own nonattainment area).

[2] The requirements regarding completeness of SIP submittals are found in CAA section 110(k)(1) and 40 CFR part 51, appendix V.

final action to approve the required SIP revisions within that time.

The State has submitted all of the required severe area plan requirements except for a demonstration of attainment of the ozone standard by 2005 and EPA has found these submittals to be complete.[3]

II. Reclassification of the SJVAB to Extreme Ozone Nonattainment

By letter dated January 9, 2004, The State requested that EPA reclassify the SJVAB from a severe to an extreme nonattainment area for the 1-hour ozone standard.[4] The State made the request because they and the San Joaquin Valley Unified Air Pollution Control District (''District'') believe that sufficient emission reductions to demonstrate attainment of the 1-hour ozone NAAQS by 2005 in the SJVAB have not yet been defined.

Section 181(b)(3) of the CAA provides for ''voluntary reclassification'' and states that ''* * * [t]he Administrator *shall grant the request of any State* to reclassify a nonattainment area in that State * * * to a higher classification'' and that ''* * * [t]he Administrator shall publish a notice in the **Federal Register** of any such request and of action by the Administrator granting the request.'' Emphasis supplied.

EPA intends to take final action granting the State's request for a voluntary reclassification. We believe that the plain language of section 181(b)(3) mandates that we approve such a request and, as such, gives the Agency no discretion to deny it.[5] We are, however, considering the relevance of the State's request to reclassification of Indian Country areas located within the SJVAB. Typically, states have no jurisdiction under the Clean Air Act in Indian country, and California has not been approved by EPA to administer any CAA programs in Indian country. CAA actions in Indian country would thus generally be taken either by EPA, or by a tribe itself under an EPA-approved program. Irrespective of that issue, however, we believe that, as a matter of EPA's federal implementation of relevant provisions of the CAA over Indian country within the SJVAB, these areas of Indian country should similarly be reclassified to extreme. Ground-level ozone continues to be a pervasive pollution problem in areas, such as the SJVAB, throughout the United States. Ozone and precursor pollutants that cause ozone can be transported into an area from pollution sources found many miles away. Therefore EPA recommends that boundaries for nonattainment areas be drawn to encompass both areas with direct sources of the pollution problem as well as nearby areas in the same airshed. Classifications of nonattainment areas are coterminous with their boundaries. EPA believes that this approach best ensures public health protection from the adverse effects of ozone pollution. Therefore, it is generally counterproductive from an air quality and planning perspective to segregate land areas located well within the boundaries of a nonattainment area, such as the seven Indian reservations in the SJVAB. Moreover, violations of the one-hour ozone standard, which are measured and modeled throughout the nonattainment area, as well as shared meteorologic conditions, would dictate the same result. EPA does, however, recognize the significance of Indian country boundaries within the nonattainment area and, as described below, will consult with the affected Tribes regarding the need for reclassification of their Indian country.

III. Consequences of Reclassification

A. Sanctions and FIP

EPA believes that when a nonattainment area is reclassified, the CAA attainment requirements of the new classification supersede those of the previous classification; therefore the former attainment requirements are moot. In other words, once a nonattainment area has been reclassified and, as a result, has a new statutory attainment deadline, the deadline applicable to the previous classification no longer has any logical, practical or legal significance. *See, e.g.,* 61 FR 54972, 54974 (October 23, 1996). Consequently, when the SJVAB is reclassified to extreme,[6] the failure of the State to submit a severe area ozone attainment demonstration will no longer have any significance. Therefore, upon the effective date of the reclassification, the sanction and FIP clocks that were started as a result of the Agency's October 2, 2002 finding that the State failed to submit the severe area attainment demonstration will stop.

B. Required Plan, New Source Review and Title V Permit Program Revisions

As discussed below, the extreme classification, once effective, will require revisions to the SJVAB portion of California's SIP. We propose that the State submit, by no later than October 1, 2004, an extreme ozone nonattainment area plan for the SJVAB. In addition, we propose that the State submit revised New Source Review rules and Title V program revisions for the areas within the District's jurisdiction within 12 months from the effective date of the final reclassification.

1. *Extreme Area Plan Requirements.* Under 182(e), extreme area plans are required to meet all the requirements for severe area plans[7] plus the requirements for extreme areas, including, but not limited to: (1) A 10 ton per year major source definition; (2) additional reasonably available control technology (RACT) rules for sources subject to the new lower major source cutoff; (3) a new source review offset requirement of at least 1.5 to 1; (4) a rate of progress demonstration of emission reductions of ozone precursors of at least 3 percent per year from 2005 until the attainment date;[8] (5) clean fuels for boilers as required for at CAA section 182(e)(3); and contingency measures.

The extreme area plan for the SJVAB must also contain adopted regulations and/or enforceable commitments to adopt and implement control measures in regulatory form by specified dates, sufficient to make the required rate of progress and to attain the 1-hour ozone NAAQS as expeditiously as practicable but no later than November 15, 2010. The new attainment demonstration should be based on the best information available. While we realize that modeling based on Central California Ozone Study (CCOS)[9] data may not be

[3] Rule 4313—Lime Kilns was submitted to EPA on June 5, 2003, EPA found the submittal complete on July 18, 2003 and approved the rule on September 4, 2003 (68 FR 52510). The District's *Amended 2002 and 2005 Ozone Rate of Progress Plan for San Joaquin Valley,* with its associated emissions inventory and contingency measures, was submitted to EPA on April 10, 2003. EPA found the submittal complete on September 4, 2003.

[4] Letter from Catherine Witherspoon, Executive Officer, California Air Resources Board, to Mr. Wayne Nastri, Regional Administrator, EPA Region IX, dated January 9, 2004.

[5] Compare CAA reclassifications based on the failure of a nonattainment area to attain a NAAQS. See, *e.g.,* section 181(b)(2)(A): ''Within 6 months following the applicable attainment date * * * the *Administrator shall determine, based on the area's design value * * * whether the area attained* the standard by that date.'' Emphasis supplied.

[6] Under section 181(b)(3) of the Act, the attainment deadline for a severe area voluntarily reclassified to extreme is as expeditiously as practicable but no later than November 15, 2010.

[7] The CAA specifically excludes certain severe area requirements from the extreme area requirements, *e.g.,* section 182(c)(6), (7) and (8).

[8] The CAA does not allow the state to use the provision at CAA 182(c)(2)(B)(ii) that would allow the state to demonstrate to the satisfaction of the Administrator that less than 3 percent reduction per year is approvable if the plan reflecting such lesser amount includes all measures that can feasibly be implemented in the area.

[9] The Central California Ozone Study is a large field measurement program conducted during the summer of 2000 to provide a more comprehensive and liable data base for future ozone analyses.

Continued

completed in time for use in the extreme area plan, the State should, to the extent possible, use available new data.

In anticipation of the reclassification of the SJVAB, work on the extreme area plan has been ongoing since 2002 but has not yet been completed because of a delay in the photochemical modeling. The District now projects completion of the plan in May 2004, and Board adoption in the summer of 2004.[10] Given the current status of the plan development, EPA believes that a submittal deadline of October 1, 2004 is reasonable.

2. *NSR and Title V Program Revisions.* In addition to the required plan revisions discussed above, the District must revise its New Source Review (NSR) rule to reflect the extreme area definitions for major new sources and major modifications and to increase the offset ratio for these sources from the ratio for severe areas in CAA section 182(d)(2) to 1.5 to 1. CAA section 182(e)(1) and (2). The District must also make any changes in its Title V operating permits program necessary to reflect the change in the threshold from 25 tpy for severe areas to 10 tpy for extreme areas. We are proposing that the State submit any required revisions to these programs by no later than 12 months from the effective date of the final reclassification.

IV. Effect of EPA's Implementation of the New 8-hour Ozone NAAQS on Today's Proposed Action

On June 2, 2003, EPA published in the **Federal Register** a proposed rule that outlined two distinct options on how EPA would implement the revised 8-hour ozone air quality standard issued by EPA in 1997, including the transition from implementation of the 1-hour standard to implementation of the 8-hour standard. (68 FR 32802). EPA issued draft regulatory text on August 6 (68 FR 46536), and on October 21 (68 FR 60054) invited comments on alternative classification options. At this time, EPA is in the process of evaluating comments we received on the proposed implementation rule—and subsequent notices—and we expect to finalize the rule soon. At the same time, we are working with the states and tribes to finalize the 8-hour designations by April 15, 2004. After the implementation rule is final and the 8-hour area designations are set, we will be able to fully evaluate how the transition to the revised 8-hour standard will impact the existing requirements to implement the 1-hour ozone standard.

V. Administrative Requirements

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. EPA has determined that the voluntary reclassification would not result in any of the effects identified in Executive Order 12866 sec. 3(f). Voluntary reclassifications under 181(b)(3) of the CAA are based solely upon requests by the State and EPA is required under the CAA to grant them. These actions do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications, reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities. For the aforementioned reasons, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). 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.*). These actions do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) for the following reasons: EPA is required to grant requests by States for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate. Several Indian tribes have reservations located within the boundaries of the SJVAB. EPA is responsible for the implementation of federal Clean Air Act programs in Indian country, including reclassifications. EPA has notified the affected tribal officials and will be consulting with all interested tribes, as provided for by Executive Order 13175 (65 FR 67249, November 9, 2000). EPA will ensure that each tribe is contacted and given the opportunity to enter into consultation on a government-to-government basis. Because EPA is required to grant requests by States for voluntary reclassifications and such reclassifications in and of themselves do not impose any federal intergovernmental mandate, this rule also does not have Federalism implications as 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 is also not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. As discussed above, a voluntary reclassification under section 181(b)(3) of the CAA is based solely on the request of a State and EPA is required to grant such a request. In this context, it would thus be inconsistent with applicable law for EPA, when it grants a State's request for a voluntary reclassification to use voluntary consensus standards. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, National parks, Nitrogen oxides, Ozone, Volatile organic compounds, Wilderness areas.

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

Dated: February 13, 2004.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 04–3823 Filed 2–20–04; 8:45 am]

BILLING CODE 6560–50–P

Information regarding the CCOS is available on-line at *http://www.arb.ca.gov/airways/ccos/ccos.htm.*

[10] See the District's Draft Status Report for the January 6 and 7, 2004 Workshop and related documents.

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–P–7641]

Proposed Flood Elevation Determinations

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities

listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	Range of BFEs Elevation in feet *(NGVD)	
KS	Lansing (City) Leavenworth County	Ninemile Creek North		*771	*817
		North Fork of Ninemile Creek North.		*840	*843
		Sevenmile Creek		*771	*821
		Sevenmile Creek Tributary		*771	*773
Maps are available for inspection at the Community Development Department, 800 1st Terrace, Lansing, Kansas.					
Send comments to The Honorable Kenneth W. Bernard, Mayor, City of Lansing, City Hall, 800 1st Terrace, Lansing, Kansas 66043.					
KS	Leavenworth County (Unincorporated Areas).	Ninemile Creek North (Lower Reach).		*771	*771
		Ninemile Creek North (Upper Reach).		*818	*906
		North Fork of Ninemile Creek.		*834	*891
		Sevenmile Creek (Upper Reach).		*812	*826
		South Fork of Ninemile Creek North.		*837	*892
Maps are available for inspection at the Leavenworth County Courthouse, Planning and Zoning Department, 300 Walnut Street, Leavenworth, Kansas.					
Send comments to Mr. Joe Daniels, Jr., Chairman, Leavenworth County Board of Commissioners, County Courthouse, 300 Walnut Street, Leavenworth, Kansas 66048.					
MO	Wayne County (Unincorporated Areas)	McKenzie Creek		*458	*520

State	City/town/county	Source of flooding	Location	Range of BFEs Elevation in feet *(NGVD)	
Maps are available for inspection at the Wayne County Courthouse, 109 Walnut Street, Greenville, Missouri. Send comments to Commissioner Brian Polk, Presiding Commissioner, Wayne County Courthouse, P.O. Box 48, Greenville, Missouri 63944.					
MO	Piedmont (City) Wayne County	McKenzie Creek		*460	*520
Maps are available for inspection at City Hall, 115 West Green Street, Piedmont, Missouri. Send comments to The Honorable Gaylon Watson, Mayor, City of Piedmont, 115 West Green Street, Piedmont, Missouri 63957.					

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

Dated: February 11, 2004.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–3812 Filed 2–20–04; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–P–7643]

Proposed Flood Elevation Determinations

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

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual-chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Mitigation Division Director of the Emergency Preparedness and Response Directorate has resolved any appeals resulting from this notification.

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Mitigation Division Director of the Emergency Preparedness and Response Directorate certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
	Existing	Modified	
Little Blue River:			
Approximately 6,650 feet downstream of U.S. Highway 81	None	*1,440	Thayer County, NE (Unincorporated Areas).
Approximately 14,320 feet upstream of South First Street	None	*1,459	City of Hebron, NE.

ADDRESSES

Thayer County, Nebraska

Maps are available for inspection at the Thayer County Courthouse, 225 North Fourth Street, Hebron, Nebraska.

Send comments to Mr. Chris Frye, Zoning Administrator, P.O. Box 401, Hebron, Nebraska 68370.

City of Hebron, Nebraska

Maps are available for inspection at City Hall, City of Hebron, 216 Lincoln Avenue, Hebron, Nebraska.

Send comments to Mr. David Farnstrom, Zoning Administrator, 216 Lincoln Avenue, Hebron, Nebraska 68370.

Bear Creek:			
Mouth at Great Miami River	N/A	*704	Village of New Lebanon, OH.
At the confluence of Diehl Run (approximately 5,600 feet upstream of U.S. Highway 35).	N/A	*881	City of Miamisburg, OH. City of Moraine, OH. Montgomery County, OH.
Diehl Run:			
Confluence at Bear Creek	N/A	*881	Village of New Lebanon, OH.
Approximately 35 feet downstream of North Johnsonville Road	N/A	*960	Montgomery County, OH.
Dry Run:			
Just upstream of Free Pike	N/A	*804	City of Clayton, OH. City of Dayton, OH.
Approximately 710 feet upstream of Union Road	N/A	*943	City of Trotwood, OH. Montgomery County, OH.
Garber Run:			
Mouth at Bear Creek	N/A	*856	Montgomery County, OH.
Approximately 6,200 feet upstream of Old Dayton Road	N/A	*934	
Holes Creek:			
Just upstream of CSX Railroad	*725	*722	City of Centerville, OH. City of Moraine, OH.
Approximately 200 feet upstream of Silverlake Drive	N/A	*914	City of W. Carrolton, OH. Montgomery County, OH.
Little Bear Creek:			
Confluence at Bear Creek	N/A	*775	Montgomery County, OH.
Approximately 2,870 feet upstream of Old Dayton Road	N/A	*935	
North Branch Wolf Creek:			
Just upstream of Oakes Road	N/A	*860	City of Clayton, OH. City of Trotwood, OH.
Just downstream of Interstate 70/U.S. Highway 49	N/A	*944	Montgomery County, OH.
Poplar Creek:			
Approximately 250 feet downstream of East Stonequarry Road	*864	*865	City of Vandalia, OH.
Approximately 580 feet upstream of East Stonequarry Road	*874	*875	
Spring Run:			
Confluence at Little Bear Creek	N/A	*819	Montgomery County, OH.
Approximately 2,000 feet upstream of North Snyder Road	N/A	*916	

ADDRESSES

City of Centerville, Ohio

Maps are available for inspection at the Municipal Government Center, 100 West Spring Valley Road, Centerville, Ohio.

Send comments to Mr. Mike Murray, Assistant City Engineer, City of Centerville, 100 West Spring Valley Road, Centerville, Ohio 45458.

City of Clayton, Ohio

Maps are available for inspection at the City Administration Building, 6996 Taywood Road, Englewood, Ohio.

Send comments to Mr. Brian Elkins, Zoning Director, City of Clayton, P.O. Box 280, Clayton, Ohio 45315–0280.

City of Dayton, Ohio

Maps are available for inspection at the Planning and Community Development Office, 101 West Third Street, Dayton, Ohio.

Send comments to Mr. Michael Cromartie, Building Inspection Manager, City of Dayton, 271 West Second Street, Dayton, Ohio 45402.

City of Miamisburg, Ohio

Maps are available for inspection at City Annex Building, 10 North First Street, Miamisburg, Ohio.

Send comments to Mr. John Creech, City Planner, 10 North First Street, Miamisburg, Ohio 45342.

City of Moraine, Ohio

Maps are available for inspection at the Community Development Department, Municipal Building, 4200 Dryden Road, Moraine, Ohio.

Send comments to Mr. Scott Young, Building and Zoning Administrator, City of Moraine, Municipal Building, 4200 Dryden Road, Moraine, Ohio 45439.

Village of New Lebanon, Ohio

Source of flooding and location of referenced elevation	*Elevation in feet (NGVD)		Communities affected
	Existing	Modified	

Maps are available for inspection at the Municipality of New Lebanon Village Offices, 198 South Clayton Road, New Lebanon, Ohio.

Send comments to Mr. Allen Moe, Village Engineer, 3939 Vanco Lane, Vandalia, Ohio 45377.

City of Trotwood, Ohio

Maps are available for inspection at the Department of Public Works, Trotwood Government Center, 4 Strader Drive, Trotwood, Ohio.

Send comments to Mr. Thomas Odenigbo, Public Works Director, Department of Public Works, Trotwood Government Center, 4 Strader Drive, Trotwood, Ohio 45426–2600.

City of Vandalia, Ohio

Maps are available for inspection at the City of Vandalia City Building, 333 James E. Bohanan Memorial Drive, Vandalia, Ohio 45377.

Send comments to Mr. Robert G. Galvin, P.E., Deputy City Engineer, City of Vandalia, City Engineer's Office, 333 James E. Bohanan Memorial Drive, Vandalia, Ohio 45449.

City of West Carrollton, Ohio

Maps are available for inspection at the City of West Carrollton Civic Center, 300 East Central Avenue, West Carrollton, Ohio.

Send comments to Mr. David Humphreys, Director of Planning and Economic Development, City of West Carrollton Civic Center, 300 East Central Avenue, West Carrollton, Ohio 45449.

Montgomery County, Ohio

Maps are available for inspection at Montgomery County Administration Building, 451 West Third Street, Room 800, Dayton, Ohio.

Send comments to Mr. Joseph Litvin, Montgomery County Engineer, Montgomery County Administration Building, 451 West Third Street, Room 800, Dayton, Ohio 45422.

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

Dated: February 11, 2004.

Anthony S. Lowe,

Mitigation Division Director, Emergency Preparedness and Response Directorate.

[FR Doc. 04–3813 Filed 2–20–04; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 27 and 90

[WT Docket No. 03–264; FCC 03–334]

Biennial Regulatory Review—Streamlining and Harmonizing Various Rules Affecting Wireless Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission opens a proceeding to streamline and harmonize licensing provisions in the wireless radio services (WRS) that were identified in part during the Commission's 2000 and 2002 biennial regulatory reviews pursuant to the Communications Act of 1934, as amended (''Communications Act'' or ''Act''). Specifically, the Commission proposes various amendments to the rules to modify or eliminate provisions that treat licensees differently and/or have become outdated as a result of technological change, supervening changes to related Commission rules, and/or increased competition within WRS.

DATES: Comments are due on or before April 23, 2004 and reply comments are due on or before May 24, 2004.

FOR FURTHER INFORMATION CONTACT: Jay Jackson, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Notice of Proposed Rulemaking* (*NPRM*), FCC 03–334, in WT Docket No. 03–264, adopted on December 29, 2003, and released on January 7, 2004. The full text of the *NPRM* is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The complete text may be purchased from the Commission's duplicating contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, (202) 863–2893. The complete text may also be downloaded at: *www.fcc.gov.*

Synopsis of MO&O

1. In the *2000 Biennial Review Report* and *2002 Biennial Review Report*, the Commission supported proposals to streamline, harmonize, and update a number of regulations after reviewing various WRS rule parts pursuant to section 11 of the Act. Section 11 of the Act requires the Commission to review biennially its regulations that are applicable to providers of telecommunications service in order to determine whether any rule is ''no longer necessary in the public interest as the result of meaningful economic competition.'' Following such reviews, the Commission is required to modify or repeal any such regulations that are no longer in the public interest. Since the release of the biennial review reports, the Commission has considered modifying or repealing certain regulations by issuing notices of proposed rulemakings as appropriate. This *NPRM* addresses additional proposals, identified in the 2000 and/or 2002 biennial review reports, to streamline and harmonize WRS rules that may no longer be necessary in the public interest pursuant to section 11 of the Act.

2. To a great extent, technological changes and/or successive changes to various Commission licensing rules have made it appropriate to review whether many of these rules are obsolete and no longer in the public interest. Accordingly, the *NPRM* seeks comment on streamlining and harmonizing these rules if they no longer serve the public interest in their current form notwithstanding any findings regarding the level of competition among existing services. In its *2002 Biennial Review Report*, the Commission clarified the scope and standard of review for future proceedings conducted pursuant to section 11. In so doing, the Commission acknowledged that it has broad discretion to review the continued need for any rule even in the absence of a congressional mandate such as section 11. Accordingly, this *NPRM* seeks comment pursuant to the Commission's broad authority to consider any proposed modifications to or eliminations of these existing rules under the Commission's general public interest standard. Under this broader

standard for review, this *NPRM* generally seeks comment on *inter alia* the appropriateness of certain rules in light of key principles underlying the Commission's approach to spectrum management.

Discussion

3. The Commission solicits comment on various amendments to provisions in parts 1, 22, 24, 27, and 90 of the rules. The Commission seeks comment generally whether these provisions should be (1) streamlined as a result of competitive, technological, or subsequent administrative rule changes and/or (2) harmonized because they treat similarly situated services differently. Although many of these proposals are technical in nature and/or limited in application to particular WRS, they nonetheless are consistent with the Commission's goal to harmonize rules and streamline the licensing obligations for all WRS licensees by eliminating unnecessary rules, as appropriate. In addition, the proposals are consistent with continued Commission efforts to move toward innovative approaches to spectrum policy that are designed to maximize the public interest benefits derived from the use of radio spectrum. The Commission also provides notice of and invites the public to review various administrative corrections that it intends to make at the conclusion of this proceeding to update and/or clarify certain WRS rules. While it is not necessary pursuant to the Administrative Procedure Act to seek comment on all of the proposed rule changes in this item, the Commission does so to facilitate administrative efficiency.

Classification of Part 90 Frequency and/or Transmitter Site Deletions as Minor Modifications Under Part 1

4. Section 1.929(c)(4) of the Commission's rules requires that certain requests for modification to a site-specific part 90 authorization, including changes to the frequencies or locations of base stations, are considered major modifications to the license which require prior Commission approval. Pursuant to § 90.135(b) of the rules, a site-specific part 90 licensee that makes a modification request listed in § 1.929(c)(4) must submit its request to the applicable frequency coordinator, unless the request falls within one of the specific exemptions listed in § 90.175 of the rules.

5. In the 2002 biennial review proceeding, the Cellular Telecommunications & Internet Association (CTIA) asks the Commission to clarify that applications requesting only that a frequency be deleted from an authorization fall under the exemptions of § 90.175(i) and thus are exempt from the coordination process. As support, CTIA argues that the deletion of some frequencies from an authorization is no different than the cancellation of an entire authorization, which currently does not require any frequency coordination before being submitted to the Commission.

6. The American Petroleum Institute (API) makes a similar request that the Commission modify § 1.929(c)(4)(v) and/or § 1.929(k) of the rules to categorize the deletion of a site from a multi-site part 90 authorization as a minor modification which would require neither frequency coordination nor prior Commission approval. In lieu of coordination and prior approval, API advocates that such a change could be achieved by filing a notification through the Universal Licensing System (ULS). API contends that ULS eliminated the traditional reason to inform frequency coordinators when a licensee proposes to delete a site (*i.e.*, so they know when spectrum is available) because they can now access the information immediately in ULS. As a result, API concludes that the requirement is now ''an unnecessary administrative burden upon the licensee, with no corresponding public or private benefit.''

7. In the *2002 BR Staff Report*, Commission staff recommends that the Commission consider both CTIA's and API's proposals to determine whether rule changes are warranted. Staff found that requiring frequency coordination and prior Commission approval for deletions of a frequency or a transmitter site may no longer be in the public interest. For example, staff states that not applying the frequency coordination requirement to frequency deletion could ''reduce the processing burden on both applicants and frequency coordinators in cases in which the frequency coordination function is unnecessary.''

8. The Commission tentatively concludes that a request to delete a frequency or a site from a multi-site authorization under part 90 should be considered a minor modification that requires neither frequency coordination nor the Commission's prior approval. The Commission agrees that frequency coordination in these cases is unnecessary given that ULS now provides frequency coordinators with immediate access to frequency and site information. It would be inconsistent to require coordination for a deletion of a site or a frequency when it is not required for a request to cancel an entire authorization. The Commission therefore proposes to amend its rules such that these actions will be treated as minor modifications under part 1 of the Commission's rules. The Commission invites comment on this tentative conclusion. The Commission also seeks comment on whether there remains any need for licensees to notify the applicable frequency coordinator of any given deletion, if the rules are modified as proposed.

Effective Radiated Power/Equivalent Isotropically Radiated Power

9. In its comments in the 2000 biennial review proceeding, the Wireless Communications Division of the Telecommunications Industry Association (TIA) states that designating FCC power limits in terms of ERP in the Cellular Radiotelephone Service (cellular) rules and EIRP in the broadband Personal Communications Service (PCS) rules is ''confusing to [its members'] customers since it appears that a dual mode phone [transmits] at different power levels at different frequencies.'' TIA argues that having two different types of power limits in the same device could be confusing to those who do not possess a scientific or engineering background. Therefore, TIA requests that the Commission specify all power limits in parts 22 and 24 of the rules in terms of EIRP. TIA further recommends that EIRP be used universally in all parts of the Commission's rules to end any confusion regarding ERP and EIRP.

10. Although the Commission recommended in the *2000 Biennial Review Report* that a rulemaking proposal be initiated to consider using EIRP exclusively in Commission rules, the Commission tentatively concludes that the costs of implementation and potential for greater confusion that would likely be associated with making a wholesale conversion from ERP limits to EIRP limits outweigh the potential benefits to those licensees who do not possess the scientific or engineering expertise to distinguish between the two standards. As TIA notes in its comments, the conversion from ERP to EIRP is a simple calculation and ''manufacturers realize that radio waves propagate differently above and below 1 GHz.'' Such a change in the rules would require extensive modifications, not only for the Commission (*e.g.*, reprogramming the Universal Licensing System (ULS), amending international agreements negotiated in terms of ERP, *etc.*), but also for licensees, frequency coordinators, manufacturers, and others in the wireless industry. Moreover, because an EIRP limit is always a larger number than the equivalent ERP limit, the Commission believes that restating

all ERP limits as EIRP limits could likely cause some entities (*e.g.*, licensees, frequency coordinators, *etc.*) to mistakenly think that the Commission has increased the permitted power. The Commission seeks comment on this tentative conclusion. If parties disagree with this tentative conclusion, they should provide specific examples of how the benefits of such a harmonization outweigh the inevitable costs and potentially greater confusion among the public from such a conversion in the rules.

Part 22 Transmitter Identification

11. Section 22.303 of the Commission's rules provides, *inter alia*, that ''[t]he station call sign must be clearly and legibly marked on or near every transmitting facility, other than mobile transmitters, of the station.'' In the 2002 biennial review proceeding, CTIA and the Rural Cellular Association (RCA) recommend that the Commission eliminate this requirement in the interest of commercial wireless regulatory parity, since wireless services regulated under other parts of the Commission's rules are not subject to a comparable obligation to post call sign information on each transmitter. The Commission agrees with CTIA and RCA that these rules should be harmonized and tentatively concludes to delete the last sentence of § 22.303, thereby eliminating the transmitter-specific posting requirement for cellular and other part 22 licensees. The Commission requests comment on this proposal, including whether the absence of call sign information on transmitting facilities associated with other WRS that are not subject to part 22 has proved problematic to the public or other carriers in any way.

Part 24 Power and Antenna Height Limits

12. Section 24.232(a) of the Commission's rules contains, *inter alia*, power limitations for broadband PCS. Specifically, base stations are limited to 1640 watts peak EIRP with an antenna height up to 300 meters height above average terrain (HAAT) and base station transmitters are limited to 100 watts peak output power. When the Commission adopted the 100 watt transmitter power output limit in 1994, it did so to ensure that broadband PCS licensees utilizing the concurrent increase in EIRP limit for base stations from 100 to 1640 watts would use low power transmitters with high-gain, directional antennas, rather than high power transmitters with low-gain, non-directional antennas. Such use of directional antennas, the Commission stated, would help reduce the likelihood that PCS licensees would deploy base stations that could transmit a strong signal over distances well beyond a mobile unit's capability to respond. The Commission later clarified in 1994 that the power limits contained in 47 CFR 24.232 ''apply to [ ] individual components and not to the sum of all components at the entire base station.''

13. In comments filed in the 2002 biennial review proceeding, Powerwave asserts that the power limitations contained in this rule section are overly restrictive. According to Powerwave, as subscriber growth in PCS has increased dramatically since broadband PCS systems were first authorized, the number of carriers (*i.e.*, the individual electrical signals that carry information) required to provide the additional voice channels has also increased. Powerwave contends that, in order to ''provide the same level of service over more carriers at the same distance, it is necessary to increase power.'' Moreover, Powerwave asserts that the need for higher power levels has also increased because, due to increased local resistance to base station construction, more PCS stations must be collocated with cellular stations and, therefore, are spaced on a cellular design. As a result, PCS licensees, according to Powerwave, are increasingly using multi-carrier power amplifiers (MCPAs) to operate their systems.

14. Powerwave contends that § 24.232(a) generally has the unintended effect of thwarting PCS carriers' response to this increased demand by unfairly penalizing the use of MCPAs because the rule limits power per transmitter rather than per carrier. Powerwave asserts that the Commission's clarification in 1994 supports its position, but that the clarification was not incorporated into the Commission's rules. Therefore, Powerwave requests that the Commission, at the very least, amend § 24.232 to provide that the output power of each carrier must not exceed 100 watts, instead of each transmitter. Powerwave, however, suggests that such a restriction is nevertheless insufficient in today's PCS environment, and instead, proposes that the Commission eliminate the output power restriction entirely and rely solely on the limit on radiated power. Either change, Powerwave contends, would not affect the Commission's intent to prevent PCS licensees from operating a base station with a signal too powerful such that it would ''outrun its mobile units,'' because it is by now recognized that it is in the carrier's self-interest to ''optimally balance the link between its base stations and mobile units.''

15. In the *2002 BR Staff Report,* Commission staff agrees with Powerwave and concludes that § 24.232(a) should be modified in order to regulate PCS base station transmissions in a technologically-neutral manner. Staff believes that ''the current rule may hinder the development and deployment of technologies (*e.g.*, the multi-carrier amplifiers described by Powerwave) that combine signals in innovative ways yet do not increase the potential for harmful interference to neighboring systems.''

16. Given the case presented by Powerwave and subsequent recommendations of staff, the Commission seeks comment on whether to relax the power limitations in § 24.232(a) by either amending the rule to clarify that the output power limit of 100 watts applies on a per carrier basis in the case of MCPAs or eliminating the transmitter output power restriction in its entirety. In view of the Commission's goal to harmonize rules and promote the efficient use of spectrum across comparable WRS, the Commission seeks comment on whether there is any need for the transmitter power output restriction in part 24, and if so, whether it can be modified to increase flexibility for PCS licensees to employ MCPAs. The Commission seeks comment on which approach is more desirable given the potential benefits to the public that would result from implementing either revision to the PCS power limits. The Commission also requests comment on the likelihood of interference or potential impact to the quality of PCS service associated with the two approaches.

17. Parties favoring retaining the output power limit on a ''per carrier'' basis instead of a ''per transmitter'' basis should provide definitions of the term ''carrier'' for a rule that would not be ambiguous for any of the various types of modulation technology that could be used and that can be complied with without difficulty. In this regard, the Commission notes that compliance with the output power rule occurs mainly through the equipment authorization process. This process places the burden of compliance through measurements on equipment manufacturers (such as Powerwave) as opposed to PCS licensees. While compliance with the current rule is easily determined (*i.e.*, measuring the power capability of a transmitter is a well-established laboratory procedure), the Commission is concerned that if the rule were revised to state a limit on a per carrier

basis, it may no longer be possible to determine compliance through the equipment authorization process, because neither the manufacturer, the measurement laboratory, nor the Commission can know in advance how many carriers the future owner of the MCPA (*i.e.*, the PCS licensee) would use. The Commission therefore asks parties to comment on how difficult and expensive it might be for a PCS licensee to monitor the power of each individual carrier to ensure compliance with the rule. In addition, commenters should address whether or not a ''per carrier'' rule would be technology-neutral if it permitted licensees utilizing relatively narrower bandwidth technologies (*e.g.*, GSM) to operate with higher aggregate power across their authorized spectrum than licensees utilizing relative broader bandwidth technologies such as CDMA. In their comments, parties should consider other alternatives, including whether or not a power spectral density limit (*i.e.*, power per unit bandwidth) would be more equitable and thus preferable than a per-carrier wording.

Proposed Modifications to Part 90

Frequency Coordination

18. Section 90.175(i) includes exemptions from the general coordination obligation of part 90 license applications. Among these exceptions, the Commission does not require evidence of frequency coordination to accompany applications for 800 MHz Upper 200 and Lower 80 SMR frequencies. In the 2002 biennial review proceeding, CTIA asks the Commission to expand the exceptions to the coordination requirements to include the 800 MHz General Category frequencies. CTIA argues that because the 800 MHz General Category channels are now subject to competitive bidding and are authorized by exclusive geographic areas, as the 800 MHz Upper 200 and Lower 80 SMR frequencies are, the need for frequency coordination is no longer necessary.

19. In the *2002 BR Staff Report,* Commission staff finds that the frequency coordination requirements of § 90.175 may no longer be in the public interest for certain 800 MHz General Category frequencies. However, staff states that ''the possible conversion of existing site-by-site licensed general category frequencies to a different mode of operation (*e.g.*, from conventional to trunked use), and the potential shared use environment of the frequencies, makes [wholesale] elimination of the coordination requirement a concern.'' Staff also states that frequency coordination ''remains beneficial in a shared use environment to ensure efficient use and prevent interference.'' Therefore, the Commission seeks comment on whether to eliminate the frequency coordination requirement for incumbent licensees operating on 800 MHz General Category frequencies on a non-shared basis, where such licensees propose new and/or modified facilities that do not expand the applicable interference contour. By limiting proposed elimination of the frequency coordination requirement to certain categories, the Commission addresses the staff's concern that a number of shared use systems, including private, public safety and SMR incumbents, are protected. The Commission asks that parties take this into consideration in their comments to the extent they support modification or elimination of the frequency coordination requirement for certain 800 MHz General Category frequencies.

Emission Masks

20. Section 90.210 of the Commission's rules describes several emission masks applicable to part 90 transmitters. In comments in the 2002 biennial review proceeding, Motorola notes that, while the standards imposed by this rule section generally serve the public interest by limiting unwanted emissions outside the authorized bandwidth and thus minimizing adjacent channel interference, Emission Mask G, set forth in § 90.210(g), limits design flexibility without any corresponding value in improved interference control. Motorola recommends that the Commission conform the Emission Mask G rule to the steps it has taken in recent years in adopting modulation-independent masks (emission masks D, E, and F) that place no limitation on the spectral power density profile within the maximum authorized bandwidth. Commission staff agrees with Motorola in its *2002 BR Staff Report* and recommends that the Commission consider adopting Motorola's request in order to potentially enhance design flexibility without diminishing interference protection.

21. The Commission proposes to revise § 90.210(g) to eliminate paragraph (g)(1) and renumber the remaining subsections. Not only will this change afford greater flexibility to equipment manufacturers, but it will conform the Commission's approach for this emission mask with its rules governing a number of other emission masks applicable to part 90 services. The Commission requests comment on the potential benefits to the public of making this change, and whether this proposed revision would, despite its intent, potentially increase interference.

22. In addition, § 90.210(m) specifies a resolution bandwidth of at least 10 kHz when performing measurements under the condition of the unwanted emission being on a frequency below 1 GHz that is more than 50 kHz removed from the edge of the authorized bandwidth. Both Motorola and TIA request that the Commission revise § 90.210(m) to conform the emission mask measurement method to the standards set forth in Appendix S3, Article 10 of the International Telecommunications Union (ITU) Radio Regulations (ITU Regulation S3.10) which became effective on January 1, 2003. According to Motorola, ITU Regulation S3.10 ''serves to control unwanted out-of-band emissions more stringently by increasing the resolution bandwidth under that condition to be 100 kHz, not 10 kHz.'' The Commission tentatively concludes that it should revise § 90.210(m) of its rules to conform to ITU Regulation S3.10, because it believes this revision will provide greater protection against interference. The Commission requests comment on this tentative conclusion.

800 MHz and 900 MHz Supplemental Information

23. Section 90.607 of the Commission's rules describes the supplemental information that must be furnished by applicants for 800 MHz and 900 MHz SMR systems. Under paragraph (a) of this rule, applicants proposing to provide service on a commercial basis in these bands must supply, among other things, a statement of their ''planned mode of operation'' and a statement certifying that only eligible persons would be provided service on the licensee's base station facility.

24. In comments filed in the 2002 biennial review proceeding, PCIA—the Wireless Infrastructure Association (PCIA) advocates eliminating § 90.607(a). Specifically, PCIA states that the system diagrams that were used when the 800 MHz band was originally conceived have not been used by the Commission for years and are no longer necessary. Moreover, PCIA asserts that the eligibility statement is no longer needed because the eligibility rules for SMR end-users have been eliminated. In the *2000 BR Staff Report,* Commission staff recommends the removal of § 90.607(a) because it appears to serve no regulatory purpose and is inconsistent with the Commission's policies regarding the flexible use of spectrum. The Commission believes that meaningful competition among the

various wireless services has rendered such requirements no longer necessary in the public interest because it believes market forces will encourage applicants to operate their facilities in the proper manner without Commission involvement. The Commission, therefore, tentatively concludes that it should delete § 90.607(a) to eliminate the reporting requirements. The Commission invites comment on this tentative conclusion.

800 MHz and 900 MHz Trunked Systems Loading, Construction and Authorization Requirements

25. Section 90.631 of the Commission's rules contains various requirements for the authorization, construction, and loading of 800 MHz and 900 MHz trunked systems. PCIA and CTIA request that the Commission modify two of these requirements that they assert are no longer necessary. Section 90.631(d) of the Commission's rules allows a licensee of an 800 MHz and 900 MHz SMR trunked system to request an additional five channels than it has constructed without meeting the loading requirements if the licensee operates in a ''rural area.'' The rule defines a ''rural area'' as either (1) an area which is beyond the 100-mile radius of the designated center of urbanized areas listed in the rule, or (2) an area that has a ''waiting list.'' In comments in the 2002 biennial review proceeding, PCIA notes that waiting lists for 800 MHz and 900 MHz SMR frequencies were eliminated by the Commission in 1995 when the Commission switched to competitive bidding and geographic area licensing. As a result, PCIA requests that the Commission amend § 90.631(d) to delete the ''waiting list'' exception to the definition of a rural area. The Commission agrees with PCIA and seeks comment on a tentative conclusion to delete this exception to the definition of a rural area. The Commission also seeks comment on eliminating other references to waiting lists contained in § 90.631(d) of the rules.

26. Section 90.631(i) provides that an incumbent (*i.e.*, pre-auction) 900 MHz SMR licensee that has not met the loading requirements set forth in § 90.631(b) at the end of its initial five-year license term will only be granted a renewal period of two years, in which time the licensee must satisfy the loading requirements. CTIA states that the requirement is obsolete because the ''timeframe for site-specific SMR 900 MHz systems to meet the loading requirements has since expired.'' The Commission agrees that the period of renewing incumbent 900 MHz SMR licenses subject to this requirement has ended. Therefore, the Commission tentatively concludes to eliminate paragraph (i) of § 90.631 from its rules, as well as references to paragraph (i) in § 90.631(b) of the rules. The Commission seeks comment on this tentative conclusion.

800 MHz and 900 MHz Power and Antenna Height

27. Section 90.635 of the Commission's rules sets forth the limitations on power and antenna height for 800 MHz and 900 MHz systems. In its comments in the 2002 biennial review proceeding, PCIA asks the Commission to modify or eliminate the restrictions placed on two particular types of 800 MHz and 900 MHz systems—those located in ''suburban'' areas as defined in the rule and those whose service area requirements are less than 32 kilometers (*i.e.*, what PCIA refers to as ''campus-type'' radio systems).

28. First, § 90.635(a) through (c) differentiates between ''urban'' and ''suburban'' conventional (*i.e.*, non-trunked) systems, allowing a greater maximum power (1000 watts vs. 500 watts) and higher maximum antenna height (304 meters vs. 152 meters) for urban conventional systems than suburban conventional systems. PCIA argues that such a distinction ''no longer serves a useful purpose and should be eliminated.'' PCIA justifies this conclusion by asserting that suburban systems frequently must cover larger service areas than urban systems, and therefore, a smaller maximum power limit economically restricts the ability of these licensees to serve the suburban areas. Moreover, PCIA asserts that the restrictions on suburban sites also prevent these licensees from counteracting interference from cellular systems to the same extent as urban sites. The Commission seeks comment on PCIA's proposal to modify § 90.635 to remove the distinction between urban and suburban sites when setting the maximum power and antenna height limits for conventional 800 MHz and 900 MHz systems. The Commission believes there is a significant question as to whether the justification for such distinction remains relevant in today's marketplace.

29. Second, PCIA asks the Commission to eliminate the power restrictions on 800 MHz and 900 MHz systems with an operational radius of less than 32 kilometers in radius, which PCIA refers to as ''campus-type'' radio systems. PCIA states that although it ''appreciates the Commission's original goal to maximize the number of radio systems that could be accommodated on a single frequency, by limiting the ERP of small footprint systems,'' the possibility of additional channel use is effectively prohibited by the requirement in § 90.621(b)(4) that applicants protect all existing stations as if the incumbent system was operating at 1000 watts ERP. PCIA also asserts that the power limitation prevents these smaller systems from limiting interference from cellular systems. Therefore, PCIA requests that the power limitations on 800 MHz and 900 MHz systems with an operational radius below 32 kilometers be eliminated. The Commission seeks comment on this proposal and asks that interested parties address the use of such systems in light of the Commission's original goal of increasing the use of single frequencies, and whether lifting of these restrictions will help eliminate interference from cellular systems.

System Authorization Limit in Geographic Areas

30. Section 90.653 of the rules states that ''[t]here shall be no limit on the number of systems authorized to operate in any one given area except that imposed by allocation limitations.'' The Commission adopted this rule in 1982 pursuant to its decision to not restrict equipment manufacturers from holding 800 MHz SMR licenses. CTIA asserts that ''[t]he rule is redundant and no longer serves any regulatory purpose.'' Based on the fact that s have licensed and will continue to license 800 and 900 MHz SMR frequencies using competitive bidding for geographic-area authorizations, the Commission agrees with CTIA that this rule is no longer in the public interest. Therefore, the Commission tentatively concludes that § 90.653 should be removed. The Commission seeks comment on this tentative conclusion.

Reporting Requirement for Trunked SMR Loading Data

31. Section 90.658 of the Commission's rules provides that site-based licensees of trunked SMR systems licensed before June 1, 1993 must provide loading data in order to either acquire additional channels or renew their authorizations. Both PCIA and CTIA note that all SMR licenses issued prior to June 1, 1993 have now been through at least one renewal period, and therefore, advocate eliminating the rule. In the *2002 BR Staff Report,* Commission staff finds this provision may be an outdated and burdensome requirement on SMR licensees, especially in light of the competition among cellular, PCS, and 800/900 MHz

SMR services. Accordingly, the Commission tentatively concludes that it will eliminate § 90.658 as no longer necessary in the public interest. The Commission seeks comment on this proposal.

220 MHz Phase I Supplemental Progress Reports

32. Section 90.737 of the Commission's rules sets forth the supplemental progress reports that 220 MHz Phase I licensees must file with the Commission. In the *2002 BR Staff Report,* staff recommends that the Commission consider whether certain rules applicable to the 220 MHz Phase I licensees continue to be necessary in the public interest in light of increased competition among CMRS providers. In particular, staff identifies § 90.737 as imposing certain reporting requirements and restrictions on assignments of unconstructed, site-based, 220 MHz Phase I licenses that were intended to prevent speculation and trafficking in licenses awarded by lottery. The Commission tentatively concludes that § 90.737 should be eliminated as no longer necessary in the public interest given recent competitive and other developments. Licensing by lottery has been eliminated in the 220 MHz Service and the Commission believes that these reporting requirements may ''impede the transferability of 220 MHz spectrum'' in a competitive CMRS marketplace. The Commission seeks comment on this tentative conclusion.

Corrections and Updates to WRS Rules

33. In a Report and Order in this proceeding, the Commission intends to correct, update, or eliminate various rules in parts 1, 22, 24, 27, and 90. While the Commission is not seeking specific comment on these changes, it includes them to provide notice to the public. The following are the administrative changes it plans to make:

34. Part 1, subpart F—Title. Correct the term ''Wireless Telecommunications Services'' to read ''Wireless Radio Services.''

35. Section 1.927(g). Replace the cross-reference to § 1.948(h)(2) with § 1.948(i)(2).

36. Section 1.939(b). Eliminate the third sentence which states that manually filed petitions to deny can be filed at the Commission's former office location.

37. Section 1.955(a)(2). Replace the cross-reference to § 1.948(c) with § 1.946(c).

38. Section 22.946(b)(2). Replace the reference to Form 489 with Form 601.

39. Section 22.946(c). Replace the cross-reference to § 22.144(b) with § 1.955.

40. Section 22.947(c). Update the location for filing a cellular system information update (SIU) to ''Federal Communications Commission, Wireless Telecommunications Bureau, Mobility Division, 445 12th Street, SW., Washington, DC 20554.''

41. Section 22.948(d). Delete the cross-reference to § 22.144(a).

42. Section 22.949(d). Replace the cross-reference to § 22.122 with § 1.927.

43. Section 22.953(b). Replace the cross-reference to § 1.929(h) with § 1.929(a)–(b).

44. Section 22.953(c). Replace the cross-reference to § 1.929(h) with § 1.929(k) of the Commission's rules.

45. Section 24.12. Delete the cross-references to §§ 99.202(c) and 99.204.

46. Section 24.843. Delete the entire section because similar ''extension of time to construct'' rules for other wireless services, including narrowband PCS, were consolidated into § 1.946, which applies to all Wireless Radio Services.

47. Section 27.3. Add ''Part 74'' to the list of other applicable rule parts and renumber.

48. Section 90.20(c)(3). Replace limitation 77 with 78 for frequency 35.02; replace limitation 27 with 17 for frequency 42.40; replace limitation 19 with 29 for frequency 152.0075; replace frequency 158.4725 with 159.4725; remove limitation 43 for frequencies 156.165, 156.1725, 156.180, 156.1875, 156.195, 156.2025, 156.225, 156.2325, 156.240, 158.985, 158.9925, 159.000, 159.0075, 159.015, 159.0225, 159.045, 159.0525, 159.060, 159.0675, 159.075, 159.0825, 159.105, 159.1125, 159.120, 159.1275, 159.135, 159.1425, 159.165, 159.1725; and remove the frequency coordinator designation for frequencies 220.8025, 220.8075, 220.8125, 220.8175, 220.8225, 220.8275, 220.8325, 220.8375, 220.8425, 220.8475, 221.8025, 221.8075, 221.8125, 221.8175, 221.8225, 221.8275, 221.8325, 221.8375, 221.8425, 221.8475.

49. Section 90.20(d). Eliminate redundancy by consolidating limitations 10 and 38 and update frequency table(s) accordingly.

50. Section 90.35(b)(3). Eliminate redundancy by deleting one of the two entries for frequency 35.48.

51. Section 90.35(c). Remove limitation 45.

52. Section 90.149. Add ''Except as provided in subpart R of this part,'' to the beginning of Section 90.149(a) and eliminate 90.149(d).

53. Section 90.743(a). Replace the cross-reference to § 90.149 with § 1.949.

54. Section 90.743(c). Update the license term for Phase I non-nationwide licensees from five years to ten years.

Procedural Matters

Initial Regulatory Flexibility Analysis

55. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *NPRM.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided in paragraph 56 of the item. The Commission will send a copy of the *NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).

Need for, and Objectives of, the Proposed Rules

56. The Commission believes that streamlining and harmonizing certain licensing provisions in the wireless radio services (WRS) would further Commission efforts to maintain clear spectrum rights and obligations for these licensees, fulfill the Commission's mandate under section 11 of the Communications Act to conduct biennial reviews, and support recent efforts to maximize the public benefits derived from the use of the radio spectrum. Thus, in the Notice, the Commission seeks comment on proposals—identified in the *2002 Biennial Review Report* and related *2002 BR Staff Report,* as well as the *2000 Biennial Review Report* and related *2000 BR Staff Report*—to streamline and harmonize WRS rules that are no longer in the public interest and/or may be obsolete as the result of increased competition within WRS pursuant to section 11 of the Act. The Commission discusses the potential impact of these on small entities in the paragraphs that follow.

Legal Basis

57. The potential actions on which comment is sought in this Notice would be authorized under sections 1, 4(i), 11, and 303(r), of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, and 303(r).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

58. The RFA requires that an initial regulatory flexibility analysis be prepared for notice-and-comment

rulemaking proceedings, unless the Agency certifies that ''the rule will not, if promulgated, have a significant impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (i) Is independently owned and operated; (ii) is not dominant in its field of operation; and (iii) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This IRFA describes and estimates the number of small entity licensees that may be affected if the proposals in this Notice are adopted.

59. When identifying small entities that could be affected by the Commission's new rules, the Commission provides information describing auctions results, including the number of small entities that are winning bidders. The Commission notes, however, that the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily reflect the total number of small entities currently in a particular service. The Commission does not generally require that applicants provide business size information, except in the context of an assignment or transfer of control application where unjust enrichment issues are implicated. Consequently, to assist the Commission in analyzing the total number of potentially affected small entities, the Commission requests commenters to estimate the number of small entities that may be affected by any rule changes resulting from this Notice.

60. The potential rules on which comment is sought in this *NPRM,* if adopted, would affect small entity licensees of the services identified.

Wireless Radio Services

61. *Cellular Licensees.* The SBA has developed a small business size standard for small businesses in the category ''Cellular and Other Wireless Telecommunications.'' Under that SBA category, a business is small if it has 1,500 or fewer employees. According to the Bureau of the Census, only twelve firms out of a total of 977 cellular and other wireless telecommunications firms that operated for the entire year in 1997 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers are small businesses under the SBA's definition.

62. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to ''Cellular and Other Wireless Telecommunications'' companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. According to the Census Bureau data for 1997, only twelve firms out of a total of 977 such firms that operated for the entire year in 1997, had 1,000 or more employees. If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business standard.

63. *220 MHz Radio Service—Phase II Licensees.* The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is subject to spectrum auctions. The Commission has adopted a small business size standard for defining ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: Three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses. A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses.

64. *Lower 700 MHz Band Licenses.* The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission has defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. Additionally, the lower 700 MHz Service has a third category of small business status that may be claimed for Metropolitan/Rural Service Area (MSA/RSA) licenses. The third category is entrepreneur, which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small size standards. An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses. A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 CMA licenses. Seventeen winning bidders claimed small or very small business status and won sixty licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.

65. *Upper 700 MHz Band Licenses.* The Commission has authorized service in the upper 700 MHz band. This auction, previously scheduled for January 13, 2003, has been postponed.

66. *Paging.* The Commission has adopted a size standard for ''small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment

payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. The SBA has approved this definition. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold. Fifty-seven companies claiming small business status won 440 licenses. An auction of Metropolitan Economic Area (MEA) and Economic Area (EA) licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold. 132 companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs commenced on May 13, 2003, and closed on May 28, 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses. Currently, there are approximately 24,000 Private Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service,* 608 private and common carriers reported that they were engaged in the provision of either paging or ''other mobile'' services. Of these, the Commission estimates that 589 are small, under the SBA-approved small business size standard. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

67. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. For Block F, an additional small business size standard for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 ''small'' and ''very small'' business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reauctioned 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

68. *Narrowband PCS.* The Commission held an auction for Narrowband PCS licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission awarded a total of forty-one licenses, 11 of which were obtained by four small businesses. To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (MTA and nationwide) licenses. Three of these claimed status as a small or very small entity and won 311 licenses.

69. *Specialized Mobile Radio (SMR).* The Commission awards ''small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years. The Commission awards ''very small entity'' bidding credits to firms that had revenues of no more than $3 million in each of the three previous calendar years. The SBA has approved these small business size standards for the 900 MHz Service. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the $15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the $15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band. A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.

70. The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed ''small business'' status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

71. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is established by the SBA.

72. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, the Commission could use the definition for ''Cellular and Other Wireless Telecommunications.'' This definition provides that a small entity is any such entity employing no more than 1,500 persons. The Commission does not

require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. Moreover, because PMLR licensees generally are not in the business of providing cellular or other wireless telecommunications services but instead use the licensed facilities in support of other business activities, the Commission is not certain that the Cellular and Other Wireless Telecommunications category is appropriate for determining how many PLMR licensees are small entities for this analysis. Rather, it may be more appropriate to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.

73. The Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994, there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could potentially impact every small business in the United States.

74. *Fixed Microwave Services.* Fixed microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. Currently, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, the Commission will use the SBA's definition applicable to ''Cellular and Other Wireless Telecommunications'' companies—that is, an entity with no more than 1,500 persons. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are 22,015 or fewer small common carrier fixed licensees and 61,670 or fewer small private operational-fixed licensees and small broadcast auxiliary radio licensees in the microwave services that may be affected by the rules and policies adopted herein. The Commission notes, however, that the common carrier microwave fixed licensee category includes some large entities.

75. *Wireless Communications Services.* This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions. The FCC auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as a small business entity. An auction for one license in the 1670–1674 MHz band commenced on April 30, 2003 and closed the same day. One license was awarded. The winning bidder was not a small entity.

76. *39 GHz Service.* The Commission defines ''small entity'' for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. ''Very small business'' is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these definitions. The auction of the 2,173 39 GHz licenses began on April 12, 2000, and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

77. *Local Multipoint Distribution Service.* An auction of the 986 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998, and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of LMDS auctions have been approved by the SBA. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small business winning bidders that won 119 licenses.

78. *218–219 MHz Service.* The first auction of 218–219 MHz (previously referred to as the Interactive and Video Data Service or IVDS) spectrum resulted in 178 entities winning licenses for 594 Metropolitan Statistical Areas (MSAs). Of the 594 licenses, 567 were won by 167 entities qualifying as a small business. For that auction, the Commission defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. The Commission has defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not exceeding $3 million for the preceding three years. The SBA has approved of these definitions. At this time, the Commission cannot estimate the number of licenses that will be won by entities qualifying as small or very small businesses under its rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small businesses in the subscription television services and message communications industries, the Commission assumes for purposes of this FRFA that in future auctions, many, and perhaps all, of the licenses may be awarded to small businesses.

79. *Location and Monitoring Service (LMS).* Multilateration LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $15 million. A ''very small business'' is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding $3 million. These definitions have been approved by the SBA. An auction for LMS licenses commenced on February 23, 1999, and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses. The

Commission cannot accurately predict the number of remaining licenses that could be awarded to small entities in future LMS auctions.

80. *Rural Radiotelephone Service.* The Commission uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

81. *Air-Ground Radiotelephone Service.* The Commission uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

82. *Offshore Radiotelephone Service.* This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission uses the SBA definition applicable to cellular and other wireless telecommunication companies, *i.e.*, an entity employing no more than 1,500 persons. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition. The Commission assumes, for purposes of this FRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

83. *Multiple Address Systems (MAS).* Entities using MAS spectrum, in general, fall into two categories: (1) Those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses. With respect to the first category, the Commission defines ''small entity'' for MAS licenses as an entity that has average gross revenues of less than $15 million in the three previous calendar years. ''Very small business'' is defined as an entity that, together with its affiliates, has average gross revenues of not more than $3 million for the preceding three calendar years. The SBA has approved of these definitions. The majority of these entities will most likely be licensed in bands where the Commission has implemented a geographic area licensing approach that would require the use of competitive bidding procedures to resolve mutually exclusive applications. The Commission's licensing database indicates that, as of January 20, 1999, there were a total of 8,670 MAS station authorizations. Of these, 260 authorizations were associated with common carrier service. In addition, an auction for 5,104 MAS licenses in 176 EAs began November 14, 2001, and closed on November 27, 2001. Seven winning bidders claimed status as small or very small businesses and won 611 licenses.

84. With respect to the second category, which consists of entities that use, or seek to use, MAS spectrum to accommodate their own internal communications needs, the Commission notes that MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. For the majority of private internal users, the definitions developed by the SBA would be more appropriate. The applicable definition of small entity in this instance appears to be the ''Cellular and Other Wireless Telecommunications'' definition under the SBA rules. This definition provides that a small entity is any entity employing no more than 1,500 persons. The Commission's licensing database indicates that, as of January 20, 1999, of the 8,670 total MAS station authorizations, 8,410 authorizations were for private radio service, and of these, 1,433 were for private land mobile radio service.

85. *Incumbent 24 GHz Licensees.* The rules that the Commission adopts could affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The Commission did not develop a definition of small entities applicable to existing licensees in the 24 GHz band. Therefore, the applicable definition of small entity is the definition under the SBA rules for ''Cellular and Other Wireless Telecommunications.'' This definition provides that a small entity is any entity employing no more than 1,500 persons. The Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commission's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

86. *Future 24 GHz Licensees.* With respect to new applicants in the 24 GHz band, the Commission has defined ''small business'' as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not exceeding $15 million. ''Very small business'' in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these definitions. The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held.

87. *700 MHz Guard Band Licenses.* The Commission has adopted size standards for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $40 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $15 million for the preceding three years. SBA approval of these definitions is not required. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

88. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and Instructional Television Fixed Service.* Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission defined ''small business'' as an entity that, together with its affiliates, has average gross annual revenues that are not more than $40 million for the preceding three calendar years. The SBA has approved

of this standard. The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 claimed status as a small business. At this time, the Commission estimates that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than $40 million and are thus considered small entities.

89. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million, and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies proposed in the Notice.

90. Finally, while SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities. There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, the Commission tentatively concludes that at least 1,932 ITFS licensees are small businesses.

91. *Cable Television Relay Service.* This service includes transmitters generally used to relay cable programming within cable television system distribution systems. The SBA has defined a small business size standard for Cable and other Program Distribution, consisting of all such companies having annual receipts of no more than $12.5 million. According to Census Bureau data for 1997, there were 1,311 firms in the industry category Cable and Other Program Distribution, total, that operated for the entire year. Of this total, 1,180 firms had annual receipts of $10 million or less, and an additional 52 firms had receipts of $10 million or more but less than $25 million. Thus, under this standard, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies proposed in the Notice.

92. *Cable System Operators (Rate Regulation Standard).* The Commission has developed, with SBA approval, its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on the Commission's most recent information, the Commission estimates that there were 1,439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. The Commission's rules define a ''small system,'' for purposes of rate regulation, as a cable system with 15,000 or fewer subscribers. The Commission does not request nor does the Commission collect information concerning cable systems serving 15,000 or fewer subscribers, and thus is unable to estimate, at this time, the number of small cable systems nationwide.

93. *Cable System Operators (Telecom Act Standard).* The Communications Act, as amended, also contains a size standard for a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 68,500,000 subscribers in the United States. Therefore, an operator serving fewer than 685,000 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 685,000 subscribers or less totals approximately 1,450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

94. *Multichannel Video Distribution and Data Service.* MVDDS is a terrestrial fixed microwave service operating in the 12.2–12.7 GHz band. No auction has yet been held in this service, although an action has been scheduled for January 14, 2004. Accordingly, there are no licensees in this service.

Private Wireless Radio Services

95. *Amateur Radio Service.* These licensees are believed to be individuals, and therefore are not small entities.

96. *Aviation and Marine Services.* Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the special small business size standards.

97. *Personal Radio Services.* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under part 95 of its rules. These services include Citizen Band Radio Service (CB), General Mobile Radio Service (GMRS), Radio Control Radio Service

(R/C), Family Radio Service (FRS), Wireless Medical Telemetry Service (WMTS), Medical Implant Communications Service (MICS), Low Power Radio Service (LPRS), and Multi-Use Radio Service (MURS). There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. Under the RFA, the Commission is required to make a determination of which small entities are directly affected by the rules being adopted. Since all such entities are wireless, the Commission applies the definition of cellular and other wireless telecommunications, pursuant to which a small entity is defined as employing 1,500 or fewer persons. Many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities under an SBA definition that might be directly affected by the proposed rules.

98. Despite the paucity, or in some instances, total absence, of information about their status as licensees or regulatees or the number of operators in each such service, users of spectrum in these services are listed here as a matter of Commission discretion in order to fulfill the mandate imposed on the Commission by the Regulatory Flexibility Act to regulate small business entities with an understanding towards preventing the possible differential and adverse impact of the Commission's rules on smaller entities. Further, the listing of such entities, despite their indeterminate status, should provide them with fair and adequate notice of the possible impact of the proposals contained in the Notice.

99. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. There are a total of approximately 127,540 licensees in these services. Governmental entities as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

100. The policies proposals in this *NPRM* could apply to a significant number of Commission licensees of wireless services. Specifically, the *NPRM* proposes various amendments to parts 1, 22, 24, 27, and 90 of the rules to modify or eliminate provisions that (i) have become outdated as a result of technological change, supervening changes to related Commission rules, or increased competition within WRS, and/or (ii) should be harmonized because they treat similarly situated services differently. Although many of these proposals are technical in nature and/or limited in application to specific WRS, they nonetheless are consistent with the Commission's spectrum policy goals to harmonize rules and streamline the licensing obligations for all WRS licensees by eliminating unnecessary rules, as appropriate. The *NPRM* also seeks comment on various administrative corrections to update and/or clarify certain rules affecting a broad range of WRS.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

101. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (ii) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (iii) the use of performance, rather than design, standards; and (iv) an exemption from coverage of the rule, or any part thereof, for small entities.''

102. A number of the Commission's technical, operational and service rules affecting various WRS may be determined to be inconsistent or outdated. Therefore, modifying or eliminating these rules should decrease the costs associated with regulatory compliance for service providers, provide additional flexibility in the provision of service and manufacturing of equipment, and enhance the market demand for some services. The Commission therefore anticipates that, although it seems likely that there will be a significant economic impact on a substantial number of small entities, there will be no adverse economic impact on small entities. In fact, the proposed rule changes may particularly benefit small entities. For example, the Notice proposes to delete the last sentence of § 22.303, thereby eliminating the transmitter-specific posting requirement for cellular and other part 22 licensees. Although adoption of such an amendment would benefit both small and large entities, many of the businesses in these radio services are small entities. The *NPRM* also proposes *inter alia* that a request to delete a frequency or a site from a multi-site authorization under part 90 should be considered a minor modification that requires neither frequency coordination nor the Commission's prior approval. Many part 90 licensees are small entities that could benefit from this rule change.

103. In the *NPRM,* then, the Commission has set forth various options it is considering for each rule, from modifying rules to eliminating them altogether. As discussed in the Notice, the effect of any rule change on the regulatory burden of licensees will be a significant criterion in determining appropriate Commission action. The Commission notes that the entire intent underlying its actions here is to lessen the levels of regulation, consistent with its mandate for undertaking biennial reviews. The Commission seeks comment on any additional appropriate alternatives and especially alternatives that may further reduce economic impacts on small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

104. None.

Initial Paperwork Reduction Act Analysis

105. This *NPRM* contains either a proposed or modified information collection. As part of the continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this *NPRM,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this *NPRM;* OMB comments are due April 23, 2004. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. A copy of any comments on the

information collections contained herein should be submitted to Judith B. Herman, Federal Communications Commission, 445 12th St., SW., Room 1–C804, Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov,* and to Kristy L. LaLonde, OMB Desk Officer, 10236 New Executive Office Building, 724 17th St., NW., Washington, DC 20503, or via the Internet to *Kristy_L.Londe@omb.eop.gov.*

Comment Filing Procedures

106. *Comments and reply comments.* Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments in response to this *NPRM* in WT Docket No. 03–264 on or before April 23, 2004 and reply comments on or before May 24, 2004.

107. *Form of comments.* In order to facilitate staff review of the record in this proceeding, parties that submit comments or reply comments in this proceeding are requested to provide a table of contents with their comments. Such a table of contents should, where applicable, parallel the table of contents of the *NPRM.*

108. *How to file comments.* Comments may be filed either by filing electronically, such as by using the Commission's Electronic Comment Filing System (ECFS), or by filing paper copies.

109. Parties are strongly urged to file their comments using ECFS (given recent changes in the Commission's mail delivery system). Comments filed through the ECFS can be sent as an electronic file via the Internet to <*http://www.fcc.gov/e-file/ecfs.html*>. Only one copy of an electronic submission must be filed. In completing the transmittal screen, the electronic filer should include its full name, Postal Service mailing address, and the applicable docket or rulemaking number, WT Docket No. 03–264. Parties also may submit comments electronically by Internet e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

110. Parties who choose to file by paper may submit such filings by hand or messenger delivery, by U.S. Postal Service mail (First Class, Priority, or Express Mail), or by commercial overnight courier. Parties must file an original and four copies of each filing in WT Docket No. 03–264. Parties that want each Commissioner to receive a personal copy of their comments must file an original plus nine copies. If paper filings are hand-delivered or messenger-delivered for the Commission's Secretary, they must be delivered to the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002–4913. To receive an official ''Office of the Secretary'' date stamp, documents must be addressed to Marlene H. Dortch, Secretary, Federal Communications Commission. (The filing hours at this facility are 8 a.m. to 7 p.m.) If paper filings are submitted by mail through the U.S. Postal Service (First Class mail, Priority Mail, and Express Mail), they must be sent to the Commission's Secretary, Marlene H. Dortch, Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington DC 20554. If paper filings are submitted by commercial overnight courier (*i.e.*, by overnight delivery other than through the U.S. Postal Service), such as by Federal Express or United Parcel Service, they must be sent to the Commission's Secretary, Marlene H. Dortch, Federal Communications Commission, Office of the Secretary, 9300 East Hampton Drive, Capitol Heights, MD 20743. (The filing hours at this facility are 8 a.m. to 5:30 p.m.)

111. Parties may also file with the Commission some form of electronic media submission (*e.g.*, diskettes, CDs, tapes, *etc.*) as part of their filings. In order to avoid possible adverse affects on such media submissions (potentially caused by irradiation techniques used to ensure that mail is not contaminated), the Commission advises that they should not be sent through the U.S. Postal Service. Hand-delivered or messenger-delivered electronic media submissions should be delivered to the Commission's contractor, Natek, Inc., at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002–4913. Electronic media sent by commercial overnight courier should be sent to the Commission's Secretary, Marlene H. Dortch, Federal Communications Commission, Office of the Secretary, 9300 East Hampton Drive, Capitol Heights, MD 20743.

112. Regardless of whether parties choose to file electronically or by paper, they should also send one copy of any documents filed, either by paper or by e-mail, to each of the following: (1) Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, facsimile (202) 863–2898, or e-mail at *qualexint@aol.com;* and (2) Jay Jackson, Mobility Division, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC, 20554, or e-mail at *Jay.Jackson@fcc.gov.*

113. *Availability of documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Information Center, Federal Communications Commission, 445 12th Street, SW., Room CY–A257, Washington, D.C. 20554. These documents also will be available electronically at the Commission's Disabilities Issues Task Force Web site, *www.fcc.gov/dtf,* and from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII text, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *qualexint@aol.com.* This document is also available in alternative formats (computer diskette, large print, audio cassette, and Braille). Persons who need documents in such formats may contact Brian Millin at (202) 418–7426, TTY (202) 418–7365, *Brian.Millin@fcc.gov,* or send an e-mail to *access@fcc.gov.*

Ex Parte Presentations

114. This is a permit-but-disclose rulemaking proceeding, subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the Commission's rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b) of the Commission's rules. Parties submitting written *ex parte* presentations or summaries of oral *ex parte* presentations are urged to use the ECFS in accordance with the Commission rules discussed. Parties filing paper *ex parte* submissions must file an original and one copy of each submission with the Commission's Secretary, Marlene H. Dortch, at the appropriate address for filings sent by either U.S. mail, overnight delivery, or hand or messenger delivery. Parties must also serve the following with

either one copy of each *ex parte* filing via e-mail or two paper copies: (1) Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone (202) 863–2893, facsimile (202) 863–2898, or e-mail at *qualexint@aol.com;* and (2) Jay Jackson, Mobility Division, Wireless Telecommunications Bureau, 445 12th Street, SW., Washington, DC, 20554, or e-mail at *Jay.Jackson@fcc.gov.*

Contact Information

115. The Wireless Telecommunications Bureau contact for this proceeding is Jay Jackson at (202) 418–0620, e-mail at *Jay.Jackson@fcc.gov.* Press inquires should be directed to Lauren K. Patrich, Wireless Telecommunications Bureau, at (202) 418–7944, TTY at (202) 418–7233, or e-mail at *Lauren.Patrich@fcc.gov.*

Ordering Clauses

116. Pursuant to the authority contained in §§ 1, 4(i), 11, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 161, and 303(r), this notice of proposed rulemaking is hereby adopted.

117. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this notice of proposed rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Communications common carriers, Radio, Telecommunications.

47 CFR Part 22

Communications common carriers, Radio, Reporting and recordkeeping requirements.

47 CFR Part 24

Personal Communications Services, Radio.

47 CFR Part 27

Wireless Communications Services.

47 CFR Part 90

Administrative practice and procedure, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–3730 Filed 2–20–04; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 201 and 202

[DFARS Case 2003–D090]

Defense Federal Acquisition Regulation Supplement; Procedures, Guidance, and Information

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to define a companion resource to the DFARS that will contain mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. This new resource, entitled Procedures, Guidance, and Information, is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D090 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Michele Peterson, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D090.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, (703) 602–0311.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule establishes the framework for a new DFARS companion resource, Procedures, Guidance, and Information (PGI), which will contain mandatory and non-mandatory internal DoD procedures, non-mandatory guidance, and supplemental information. PGI will not be published in the Code of Federal Regulations, but will be available electronically at *http://www.acq.osd.mil/dp/dars/dfars.html.* Use of PGI will enable DoD to more rapidly convey internal administrative and procedural information to the acquisition workforce. The HTML version of the DFARS available at *http://www.acq.osd.mil/dp/dars/dfars.html* will contain computerized links to the corresponding PGI sections.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the new DFARS companion resource will contain only procedures, guidance, and information that have no significant effect beyond the internal operating procedures of DoD and no significant cost or administrative impact on contractors or offerors. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D090.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 201 and 202

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 201 and 202 as follows:

1. The authority citation for 48 CFR Parts 201 and 202 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 201—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 201.105–3 is revised to read as follows:

201.105–3 Copies.

The DFARS and the DFARS Procedures, Guidance, and Information (PGI) are available electronically via the World Wide Web at *http://www.acq.osd.mil/dp/dars/dfars.html.*

3. Section 201.201–70 is added to read as follows:

201.201–70 Maintenance of Procedures, Guidance, and Information.

The DAR Council is also responsible for maintenance of the DFARS Procedures, Guidance, and Information (PGI).

4. Section 201.301 is amended by revising paragraph (a) to read as follows:

201.301 Policy.

(a)(1) DoD implementation and supplementation of the FAR is issued in the Defense Federal Acquisition Regulation Supplement (DFARS) under authorization and subject to the authority, direction, and control of the Secretary of Defense. The DFARS contains—

(i) Requirements of law;

(ii) DoD-wide policies;

(iii) Delegations of FAR authorities;

(iv) Deviations from FAR requirements; and

(v) Policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors.

(2) Relevant procedures, guidance, and information that do not meet the criteria in paragraph (a)(1) of this section are issued in the DFARS Procedures, Guidance, and Information (PGI).

* * * * *

PART 202—DEFINITIONS OF WORDS AND TERMS

5. Section 202.101 is amended by adding, in alphabetical order, a definition of ''Procedures, Guidance, and Information (PGI)'' to read as follows:

202.101 Definitions.

* * * * *

Procedures, Guidance, and Information (PGI) means a companion resource to the DFARS that—

(1) Contains mandatory internal DoD procedures. The DFARS will direct compliance with mandatory procedures using imperative language such as ''Follow the procedures at * * *'' or similar directive language;

(2) Contains non-mandatory internal DoD procedures and guidance and supplemental information to be used at the discretion of the contracting officer. The DFARS will point to non-mandatory procedures, guidance, and information using permissive language such as ''The contracting officer may use * * *'' or ''Additional information is available at * * *'' or other similar language;

(3) Is numbered similarly to the DFARS, except that each PGI numerical designation is preceded by the letters ''PGI''; and

(4) Is available electronically at *http://www.acq.osd.mil/dp/dars/dfars.html.*

* * * * *

[FR Doc. 04–3699 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 203, 209, and 252

[DFARS Case 2003–D012]

Defense Federal Acquisition Regulation Supplement; Improper Business Practices and Contractor Qualifications Relating to Debarment, Suspension, and Business Ethics

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to streamline and clarify text pertaining to debarment, suspension, and improper business practices. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D012 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Euclides Barrera, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D012.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, (703) 602–0296.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Consolidation of requirements for reporting violations and suspected violations of certain requirements into a new section at DFARS 203.070. This results in elimination of DFARS sections 203.103, 203.103–2, and 203.104–10; subparts 203.2, 203.3, and 203.4; and sections 203.502 and 203.570–4.

- Streamlining of text at DFARS 203.570–1 and 203.570–2 relating to prohibitions on persons convicted of fraud or other defense-contract-related felonies.

- Revision of the clause at 252.203–7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies, to remove unnecessary references to first-tier subcontracts in

paragraphs (b) and (d). Paragraph (g) of the clause adequately addresses requirements for flow down to first-tier subcontracts.

• Deletion of text at DFARS 203.570–3 relating to internal DoD procedures for waiver of the 5-year period for prohibitions on persons convicted of fraud or other defense-contract-related felonies; and deletion of text at DFARS 209.105–2, 209.406–3, and 209.407–3 containing internal DoD procedures for referral of matters to agency debarment and suspension officials. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule streamlines and clarifies existing regulations, with no substantive change in policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D012.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 203, 209, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 203, 209, and 252 as follows:

1. The authority citation for 48 CFR Parts 203, 209, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 203.070 is added to read as follows:

203.070 Reporting of violations and suspected violations.

Report violations and suspected violations of the following requirements in accordance with 209.406–3 or 209.407–3 and DoDD 7075.5, Coordination of Remedies for Fraud and Corruption Related to Procurement Activities:

(a) Certificate of Independent Price Determination (FAR 3.103).

(b) Procurement integrity (FAR 3.104).

(c) Gratuities clause (FAR Subpart 203.2).

(d) Antitrust laws (FAR 3.303).

(e) Covenant Against Contingent Fees (FAR 3.405).

(f) Anti-kickback Act (FAR 3.502).

(g) Prohibitions on persons convicted of defense-related contract felonies (203.570).

203.103, 203.103–2, and 203.104–10 [Removed]

3. Sections 203.103, 203.103–2, and 203.104–10 are removed.

Subparts 203.2 through 203.4 [Removed]

4. Subparts 203.2 through 203.4 are removed.

203.502 [Removed]

5. Section 203.502 is removed.

6. Sections 203.570–1 and 203.570–2 are revised to read as follows:

203.570–1 Scope.

This subpart implements 10 U.S.C. 2408.

203.570–2 Prohibition period.

DoD has sole responsibility for determining the period of the prohibition described in paragraph (b) of the clause at 252.203–7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies. The prohibition period—

(a) Shall not be less than 5 years from the date of conviction unless the agency head or a designee grants a waiver in the interest of national security. Follow the waiver procedures at PGI 203.570–2(a); and

(b) May be more than 5 years from the date of conviction if the agency head or a designee makes a written determination of the need for the longer period. The agency shall provide a copy of the determination to the address at PGI 203.570–2(b).

203.570–3 and 203.570–4 [Removed]

7. Sections 203.570–3 and 203.570–4 are removed.

203.570–5 [Redesignated as 203.570–3]

8. Section 203.570–5 is redesignated as 203.570–3.

PART 209—CONTRACTOR QUALIFICATIONS

9. Section 209.105–2 is revised to read as follows:

209.105–2 Determinations and documentation.

(a) For guidance on submission of determinations to the appropriate debarring and suspending official, see PGI 209.105–2(a).

10. Section 209.406–3 is revised to read as follows:

209.406–3 Procedures.

Refer all matters appropriate for consideration by an agency debarring and suspending official as soon as practicable to the appropriate debarring and suspending official identified in 209.403. Any person may refer a matter to the debarring and suspending official. Follow the procedures at PGI 209.406–3.

11. Section 209.407–3 is revised to read as follows:

209.407–3 Procedures.

Refer all matters appropriate for consideration by an agency debarring and suspending official as soon as practicable to the appropriate debarring and suspending official identified in 209.403. Any person may refer a matter to the debarring and suspending official. Follow the procedures at PGI 209.407–3.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

12. Section 252.203–7001 is amended by revising the introductory text, clause date, paragraph (b), paragraph (d) introductory text, and paragraph (h) to read as follows:

252.203–7001 Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies.

As prescribed in 203.570–3, use the following clause:

Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (XXX 2004)

* * * * *

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with the DoD is prohibited from serving—

(1) In a management or supervisory capacity on this contract;

(2) On the board of directors of the Contractor;

(3) As a consultant, agent, or representative for the Contractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of the Contractor with regard to this contract.

* * * * *

(d) 10 U.S.C. 2408 provides that the Contractor shall be subject to a criminal penalty of not more than $500,000 if convicted of knowingly—

* * * * *

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with the DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (301) 809–4904.

(End of clause)

[FR Doc. 04–3703 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 205, 226, 235, and 252

[DFARS Case 2003–D016]

Defense Federal Acquisition Regulation Supplement; Publicizing Contract Actions

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to publicizing contract actions. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D016 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D016.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

• Deletion of text at DFARS 205.207(d)(ii) containing a notice to be included in acquisitions being considered for historically black college and university and minority institution (HBCU/MI) set-aside. This notice will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI), with retention of a policy statement in DFARS 205.207 regarding use of the notice, and addition of a policy statement at DFARS 226.7003–2(c) regarding the requirement for an interested HBCU/MI to provide evidence of its capability and eligibility (which is also addressed in the notice). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

• Redesignation of DFARS 205.207(d)(iii) as 205.207(d)(ii), and deletion of text that duplicates policy found in 235.016. A reference to 236.016 has been retained in newly designated 205.207(d)(ii).

• Deletion of unnecessary text at DFARS 205.207(e), 205.470–1, and 205.502. The clause prescription at 205.470–2 is redesignated as 205.470 and amended to include a statutory reference.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule updates and relocates DFARS text, with no substantive change in policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D016.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 205, 226, 235 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 205, 226, 235, and 252 as follows:

1. The authority citation for 48 CFR Parts 205, 226, 235, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 205—PUBLICIZING CONTRACT ACTIONS

2. Section 205.207 is revised to read as follows:

205.207 Preparation and transmittal of synopses.

(d)(i) For acquisitions being considered for historically black college and university and minority institution set-asides under 226.7003—

(A) Cite the appropriate Numbered Note; and

(B) Include the notice at PGI 205.207(d)(i).

(ii) For broad agency announcement notices, see 235.016.

3. Section 205.470 is revised to read as follows:

205.470 Contract clause.

Use the clause at 252.205–7000, Provision of Information to Cooperative Agreement Holders, in solicitations and contracts expected to exceed $500,000. This clause implements 10 U.S.C. 2416.

205.470–1 and 205.470–2 [Removed]

4. Sections 205.470–1 and 205.470–2 are removed.

5. Section 205.502 is revised to read as follows:

205.502 Authority.

(a) *Newspapers.* Heads of contracting activities are delegated authority to approve the publication of paid advertisements in newspapers.

PART 226—OTHER SOCIOECONOMIC PROGRAMS

6. Section 226.7003–2 is amended by revising paragraph (c) to read as follows:

226.7003–2 Set-aside procedures.

* * * * *

(c) Follow the special synopsis instructions in 205.207(d). Interested HBCU/MIs must provide evidence of their capability to perform the contract, and a positive statement of their eligibility, within 15 days of publication of the synopsis in order for the acquisition to proceed as an HCBU/MI set-aside.

* * * * *

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.016 [Amended]

7. Section 235.016 is amended in paragraph (2)(ii) by revising the parenthetical to read ''(see 205.207(d))''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.205–7000 [Amended]

8. Section 252.205–7000 is amended in the introductory text by removing ''205.470–2'' and adding in its place ''205.470''.

[FR Doc. 04–3704 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 206

[DFARS Case 2003–D017]

Defense Federal Acquisition Regulation Supplement; Competition Requirements

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to competition requirements. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D017 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D017.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Revision of DFARS 206.001 to clarify the text.
- Deletion of text at DFARS 206.202(b) regarding documentation needed to support a DoD determination to exclude a particular source from a contact action in order to establish or maintain an alternative source of supplies or services; and deletion of text at DFARS 206.302–2 containing examples of circumstances under which use of other than full and open competition may be appropriate due to unusual and compelling urgency. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.
- Deletion of obsolete text at DFARS 206.302–1(b)(4) and deletion of unnecessary text at DFARS 206.303–1(b) and (c) and 206.303–2.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the DFARS changes are limited to clarifying revisions or deletion of text that is unnecessary or internal to DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D017.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 206

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 206 as follows:

1. The authority citation for 48 CFR part 206 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 206—COMPETITION REQUIREMENTS

2. Section 206.001 is revised to read as follows:

206.001 Applicability.

(a) As authorized by 10 U.S.C. 1091, contracts awarded using the procedures in 237.104(b)(ii) are exempt from the competition requirements of FAR Part 6.

3. Section 206.202 is revised to read as follows:

206.202 Establishing or maintaining alternative sources.

(a) Agencies may use this authority to totally or partially exclude a particular source from a contract action.

(b) The determination and findings (D&F) and the documentation supporting the D&F shall identify the source to be excluded from the contract action. Include the information at PGI 206.202, as applicable, and any other information that may be pertinent, in the supporting documentation.

206.302–1 [Amended]

4. Section 206.302–1 is amended by removing paragraph (b)(4).

5. Section 206.302–2 is revised to read as follows:

206.302–2 Unusual and compelling urgency.

(b) *Application.* For guidance on circumstances under which use of this authority may be appropriate, see PGI 206.302–2(b).

206.303–1 [Amended]

6. Section 206.303–1 is amended by removing paragraphs (b) and (c).

206.303–2 [Removed]

7. Section 206.303–2 is removed.

[FR Doc. 04–3705 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 209 and 252

[DFARS Case 2003–D011]

Defense Federal Acquisition Regulation Supplement; Contractor Qualifications Relating to Contract Placement

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to delete text pertaining to contractor qualification requirements. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D011 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D011.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Deletion of text at 209.103, 209.103–70, and 252.209–7000 pertaining to obsolete Intermediate Range Nuclear Forces (INF) Treaty inspection requirements.
- Deletion of text at DFARS 209.106–1, 209.106–2, and 209.202 containing internal DoD procedures relating to requests for pre-award surveys and approval for use of product qualification requirements. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.
- Deletion of unnecessary first article testing and approval requirements in DFARS Subpart 209.3.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the DFARS text proposed for deletion addresses requirements that are obsolete or unnecessary or that do not have a significant effect beyond the internal operating procedures of DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D011.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 209 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR parts 209 and 252 as follows:

1. The authority citation for 48 CFR parts 209 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 209—CONTRACTOR QUALIFICATIONS

209.103 and 209.103–70 [Removed]

2. Sections 209.103 and 209.103–70 are removed.

3. Section 209.106 is revised to read as follows:

209.106 Preaward surveys.

When requesting a preaward survey, follow the procedures at PGI 209.106.

209.106–1 and 209.106–2 [Removed]

4. Sections 209.106–1 and 209.106–2 are removed.

5. Section 209.202 is revised to read as follows:

209.202 Policy.

(a)(1) When establishing qualification requirements, obtain approval in accordance with PGI 209.202(a)(1).

Subpart 209.3—[Removed]

6. Subpart 209.3 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.209–7000 [Removed and Reserved]

7. Section 252.209–7000 is removed and reserved.

[FR Doc. 04–3702 Filed 2–20–04; 8:45 am]
BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 212

[DFARS Case 2003–D018]

Defense Federal Acquisition Regulation Supplement; Laws Inapplicable to Commercial Subcontracts

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to remove the Trade Agreements Act and the Buy American Act from the list of laws inapplicable to subcontracts for commercial items. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D018 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D018.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, (703) 602–0328.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes amend DFARS 212.504 to remove the Trade Agreements Act (19 U.S.C. 2512) and the Buy American Act (41 U.S.C. 10) from the list of laws inapplicable to subcontracts for the acquisition of commercial items. Inclusion of these laws on the list is unnecessary, because the Government does not apply the restrictions of the Buy American Act or the Trade Agreements Act at the subcontract level. The prime contractor is responsible for providing an end product that meets the requirements of the Acts. The Trade Agreements Act imposes no requirements as to the origin of components. Although the Buy American Act requires that the cost of domestic components exceed 50 percent of the cost of all components, the subcontracts for the components themselves need not comply with the Buy American Act. The domestic components need only to have been manufactured in the United States, without themselves satisfying a component test.

In some cases, inclusion of the Buy American Act on the list of laws inapplicable to subcontracts for commercial items has been misinterpreted to mean that commercial components do not count in the calculation of whether domestic components exceed 50 percent of the value of the components of an end item. This is an erroneous interpretation, because the prime contractor must still comply with the Buy American Act when using commercial components. In addition, inclusion of the Buy American Act and the Trade Agreements Act on the list has been misinterpreted to mean that the prime contractor need not comply with the Acts for subcontracted end items. This is also erroneous because, in accordance with FAR 12.501, waiver of the Buy American Act or the Trade Agreements Act is not applicable if the prime contractor is reselling or distributing commercial items of another contractor without adding value.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because the rule is a clarification of the Government's existing policy of not applying the Buy American Act or the Trade Agreements Act at the subcontract level. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D018.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 212

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 212 as follows:

1. The authority citation for 48 CFR Part 212 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.504 [Amended]

2. Section 212.504 is amended by removing paragraphs (a)(xxiii) and (a)(xxiv) and redesignating paragraph (a)(xxv) as paragraph (a)(xxiii).

[FR Doc. 04–3706 Filed 2–20–04; 8:45 am]
BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 214

[DFARS Case 2003–D076]

Defense Federal Acquisition Regulation Supplement; Sealed Bidding

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to sealed bidding. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D076 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D076.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Deletion of unnecessary text at DFARS 214.201–1, 214.407–3(h), and 214.5.
- Redesignation of DFARS 214.202–5(d) as 214.202–5(c) for consistency with the corresponding FAR text.
- Addition of the Defense Contract Management Agency General Counsel to the list of agency officials authorized to permit correction of mistakes in bid before award.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the DFARS changes are limited to deletion of unnecessary text and administrative updates. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D076.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 214

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 214 as follows:

1. The authority citation for 48 CFR Part 214 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 214—SEALED BIDDING

214.201–1 [Removed]

2. Section 214.201–1 is removed.

214.202–5 [Amended]

3. Section 214.202–5 is amended by redesignating paragraph (d) as paragraph (c).

4. Section 214.407–3 is amended as follows:

a. By adding paragraph (e)(ix); and

b. By removing paragraph (h). The added text reads as follows:

214.407–3 Other mistakes disclosed before award.

(e) * * *

(ix) Defense Contract Management Agency: General Counsel, DCMA.

Subpart 214.5—[Removed]

5. Subpart 214.5 is removed.

[FR Doc. 04–3697 Filed 2–20–04; 8:45 am]
BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 224

[DFARS Case 2003–D038]

Defense Federal Acquisition Regulation Supplement; Protection of Privacy and Freedom of Information

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to delete text pertaining to the applicability of the Freedom of Information Act. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D038 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Euclides Barrera, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D038.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Euclides Barrera, (703) 602–0296.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The rule deletes DFARS 224.102, which specifies that the Freedom of Information Act (5 U.S.C. 552) does not apply to certain contractor records. DoD considers the DFARS text to be unnecessary, because this issue is adequately addressed in DoD 5400.11–R, Department of Defense Privacy Program, which is referenced in DFARS 224.103.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because deletion of the DFARS text does not represent a change in DoD policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D038.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 224

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 224 as follows:

1. The authority citation for 48 CFR Part 224 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 224—PROTECTION OF PRIVACY AND FREEDOM OF INFORMATION

224.102 [Removed]

2. Section 224.102 is removed.

[FR Doc. 04–3693 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 228

[DFARS Case 2003–D037]

Defense Federal Acquisition Regulation Supplement; Insurance

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to insurance requirements. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D037 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Thaddeus Godlewski, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D037.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Thaddeus Godlewski, (703) 602–2202.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes delete DFARS text in the areas addressed below. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

• *DFARS 228.304, Risk-pooling arrangements.* In the early 1950's, DoD teamed with the insurance industry to develop a program that would minimize the cost of workers' compensation and contractor liability charged to Government contracts. The objective was to provide an optional insurance plan to be used if it provided a better deal than what could be purchased on

the open market. The team's solution was the National Defense Projects Rating Plan (NDPRP). The NDPRP defined premiums via a formula based upon average workers' compensation rates throughout the country and adjusted for experience pooled from Defense contractors. This produced premiums without loadings, *e.g.*, commissions, and eliminated the burden of negotiating premiums every year with insurance carriers. Today, there is little cost difference between the NDPRP and the states' workers' compensation program, because the states have adopted the same premium algorithm as the NDPRP and many contractors have adopted self-insurance. The text at DFARS 228.304 may be beneficial in the event of a prolonged surge in Defense contract activity, and should be retained as guidance. Accordingly, DoD proposes to remove this text from the DFARS and relocate it to the new DFARS companion resource, PGI.

• *DFARS 228.305, Overseas workers' compensation and war-hazard insurance.* The Defense Base Act (42 U.S.C. 1651 *et seq.*) extends the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 901) to various classes of employees working outside the United States. When the agency head recommends a waiver to the Secretary of Labor, the Secretary may waive the applicability of the Defense Base Act to any contract, subcontract, work location, or classification of employees. DFARS 228.305 provides the procedures within DoD for submitting such requests for waiver. DoD proposes to remove this procedural text from the DFARS and relocate it to the new DFARS companion resource, PGI.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule deletes DFARS text addressing procedures that are no longer in use or that are internal to DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D037.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 228

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 228 as follows:

1. The authority citation for 48 CFR Part 228 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 228—BONDS AND INSURANCE

2. Sections 228.304 and 228.305 are revised to read as follows:

228.304 Risk-pooling arrangements.

DoD has established the National Defense Projects Rating Plan, also known as the Special Casualty Insurance Rating Plan, as a risk-pooling arrangement to minimize the cost to the Government of purchasing the liability insurance listed in FAR 28.307–2. Use the plan in accordance with the procedures at PGI 228.304 when it provides the necessary coverage more advantageously than commercially available coverage.

228.305 Overseas workers' compensation and war-hazard insurance.

(d) When submitting requests for waiver, follow the procedures at PGI 228.305(d).

[FR Doc. 04–3692 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 231

[DFARS Case 2003–D036]

Defense Federal Acquisition Regulation Supplement; Cost Principles and Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contract cost principles. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D036 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Thaddeus Godlewski, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D036.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Mr. Thaddeus Godlewski, (703) 602–2202.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes—

• Delete the text at DFARS 231.205–10, Cost of money, because it is redundant of the text in DFARS Subpart 230.70, Facilities Capital Employed for Facilities in Use.

• Clarify the text at DFARS 231.205–22, Legislative lobbying costs, to specify that these costs are statutorily unallowable.

• Revise the text at DFARS 231.205–70, External restructuring costs, to—

1. Eliminate unnecessary references to fiscal years 1995, 1997, and 1998 legislation.

2. Delete text at 231.205–70(c)(1)(iv)(A) and (B) regarding business combinations that occurred on or before November 18, 1997. This text is unnecessary, because external restructurings normally must be initiated within 3 years of a business combination.

3. Delete text at 231.205–70(d), Procedures and ACO responsibilities. This text will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule clarifies existing DFARS text or deletes DFARS text that is redundant, outdated, procedural, or internal to DoD. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D036.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 231

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR part 231 as follows:

1. The authority citation for 48 CFR part 231 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 231—CONTRACT COST PRINCIPLES AND PROCEDURES

231.205–10 [Removed]

2. Section 231.205–10 is removed.

3. Section 231.205–22 is revised to read as follows:

231.205–22 Legislative lobbying costs.

(a) Costs associated with preparing any material, report, list, or analysis on the actual or projected economic or employment impact in a particular State or congressional district of an acquisition program for which all research, development, testing, and evaluation has not been completed also are unallowable (10 U.S.C. 2249).

4. Section 231.205–70 is amended by revising paragraphs (a), (c), and (d) to read as follows:

231.205–70 External restructuring costs.

(a) *Scope.* This subsection—

(1) Prescribes policies and procedures for allowing contractor external restructuring costs when savings would result for DoD; and

(2) Implements 10 U.S.C. 2325.

* * * * *

(c) *Limitations on cost allowability.*

(1) Restructuring costs associated with external restructuring activities shall not be allowed unless—

(i) Such costs are allowable in accordance with FAR Part 31 and DFARS Part 231;

(ii) An audit of projected restructuring costs and restructuring savings is performed;

(iii) The cognizant administrative contracting officer (ACO) reviews the audit report and the projected costs and projected savings, and negotiates an advance agreement in accordance with paragraph (d)(8) of this subsection; and

(iv) For business combinations that occur after November 18, 1997, the Under Secretary of Defense (Acquisition, Technology, and Logistics) or the Principal Deputy determines in writing that the audited projected savings for DoD resulting from the restructuring will exceed either—

(A) The costs allowed by a factor of at least two to one; or

(B) The cost allowed, and the business combination will result in the preservation of a critical capability that might otherwise be lost to DoD.

(2) The audit, review, certification, and determination required by paragraph (c)(1) of this subsection shall not apply to any business combination for which payments for restructuring costs were made before August 15, 1994, or for which the cognizant ACO executed an advance agreement establishing cost ceilings based on audit/negotiation of detailed cost proposals for individual restructuring projects before August 15, 1994.

(d) *Procedures and ACO responsibilities.* As soon as it is known that the contractor will incur restructuring costs for external restructuring activities, the cognizant ACO shall follow the procedures at PGI 231.205–70(d).

* * * * *

[FR Doc. 04–3708 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 234, 242, and 252

[DFARS Case 2003–D030]

Defense Federal Acquisition Regulation Supplement; Major Systems Acquisition

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to major systems acquisition, earned value management systems, and cost/schedule status reporting. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D030 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D030.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

• Deletion of the definitions of ''systems'' and ''systems acquisition'' at DFARS 234.001, since these terms are not used within DFARS Part 234.

• Relocation of text on earned value management systems from DFARS Part 234 to Part 242, since earned value management system requirements are not limited to major systems acquisition. The earned value management system thresholds specified in DoDI 5000.2, Operation of the Defense Acquisition System, do not cleanly equate to major or other than major systems. The prescriptions for the Cost/Schedule Status Report clause and provision at DFARS 252.242–7005 and 252.242–7006, respectively, also are amended to remove text that limits their use to other than major systems.

• Deletion of text at DFARS 234.005–70 regarding a requirement for the procuring contracting officer to obtain assistance from the administrative contracting officer when determining the adequacy of a proposed earned value management system plan. Text on this subject will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.

• Updating of references to OMB Circulars and the DoD 5000 series documents.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule updates and relocates DFARS text, with no substantive change in policy. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D030.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 234, 242, and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 234, 242, and 252 as follows:

1. The authority citation for 48 CFR Parts 234, 242, and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 234—MAJOR SYSTEM ACQUISITION

234.001 [Removed]

2. Section 234.001 is removed.

3. Section 234.003 is revised to read as follows:

234.003 Responsibilities.

DoDD 5000.1, The Defense Acquisition System, and DoDI 5000.2, Operation of the Defense Acquisition System, contain the DoD implementation of OMB Circular A–109 and OMB Circular A–11.

4. Section 234.005 is revised to read as follows:

234.005 General requirements.

See 242.1106(a) for information on the use of earned value management systems and the use of cost/schedule status reports.

234.005–70 and 234.005–71 [Removed]

5. Sections 234.005–70 and 234.005–71 are removed.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

6. Section 242.1106 is amended by revising paragraph (a) to read as follows:

242.1106 Reporting requirements.

(a) See DoDI 5000.2, Operation of the Defense Acquisition System, for reporting requirements for defense technology projects and acquisition programs. Table E3.T2. of DoDI 5000.2 specifies the earned value management system (EVMS) thresholds. When an offeror proposes an EVMS plan, follow the review procedures at PGI 242.1106(a). The Defense Acquisition Guidebook provides additional guidance on earned value management and identifies when cost/schedule status reports are applicable.

* * * * *

7. Section 242.1107–70 is revised to read as follows:

242.1107–70 Solicitation provision and contract clause.

(a) When the Government requires contractor compliance with DoD earned value management system criteria—

(1) Use the provision at 252.242–7XXX, Notice of Earned Value Management System, in solicitations; and

(2) Use the clause at 252.242–7YYY, Earned Value Management System, in solicitations and contracts.

(b) Use the clause at 252.242–7005, Cost/Schedule Status Report, in solicitations and contracts that require cost/schedule status reports (*i.e.*, when the Contract Data Requirements List includes DI–MGMT–81467).

(c) Use the provision at 252.242–7006, Cost/Schedule Status Report Plans, in solicitations that require cost/schedule status reports.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.234–7000 and 252.234–7001 [Removed]

8. Sections 252.234–7000 and 252.234–7001 are removed.

9. Sections 252.242–7XXX and 252.242–7YYY are added to read as follows:

252.242–7XXX Notice of Earned Value Management System.

As prescribed in 242.1107–70(a)(1), use the following provision:

Notice of Earned Value Management System (XXX 2004)

(a) The offeror shall provide documentation that the cognizant Administrative Contracting Officer (ACO) has

recognized that the proposed earned value management system (EVMS) complies with the EVMS criteria of DoDI 5000.2, Operation of the Defense Acquisition System, or that the proposed cost/schedule control system has been accepted by the Department of Defense.

(b) If the offeror proposes to use a system that does not meet the requirements of paragraph (a) of this provision, the offeror shall submit a comprehensive plan for compliance with the EVMS criteria.

(1) The plan shall—

(i) Describe the EVMS the offeror intends to use in performance of the contract;

(ii) Distinguish between the offeror's existing management system and modifications proposed to meet the criteria;

(iii) Describe the management system and its application in terms of the 32 EVMS criteria;

(iv) Describe the proposed procedure for administration of the criteria as applied to subcontractors; and

(v) Provide documentation describing the process and results of any third-party or self-evaluation of the system's compliance with EVMS criteria.

(2) The offeror shall provide information and assistance as required by the Contracting Officer to support review of the plan.

(3) The Government will review the offeror's plan for EVMS before contract award.

(c) Offerors shall identify the major subcontractors, or major subcontracted effort if major subcontractors have not been selected, planned for application of the criteria. The prime contractor and the Government shall agree to subcontractors selected for application of the EVMS criteria.

(End of Provision)

252.242–7YYY Earned Value Management System.

As prescribed in 242.1107–70(a)(2), use the following clause:

Earned Value Management System (XXX 2004)

(a) In the performance of this contract, the Contractor shall use an earned value management system (EVMS) that has been recognized by the cognizant Administrative Contracting Officer (ACO) as complying with the criteria provided in DoDI 5000.2, Operation of the Defense Acquisition System.

(b) If, at the time of award, the Contractor's EVMS has not been recognized by the cognizant ACO as complying with EVMS criteria (or the Contractor does not have an existing cost/schedule control system that has been accepted by the Department of Defense), the Contractor shall apply the system to the contract and shall be prepared to demonstrate to the ACO that the EVMS complies with the EVMS criteria referenced in paragraph (a) of this clause.

(c) The Government may require integrated baseline reviews. Such reviews shall be scheduled as early as practicable and should be conducted within 180 calendar days after (1) contract award, (2) the exercise of significant contract options, or (3) the incorporation of major modifications. The objective of the integrated baseline review is for the Government and the Contractor to jointly assess areas, such as the Contractor's planning, to ensure complete coverage of the statement of work, logical scheduling of the work activities, adequate resourcing, and identification of inherent risks.

(d) Unless a waiver is granted by the ACO, Contractor-proposed EVMS changes require approval of the ACO prior to implementation. The ACO shall advise the Contractor of the acceptability of such changes within 30 calendar days after receipt of the notice of proposed changes from the Contractor. If the advance approval requirements are waived by the ACO, the Contractor shall disclose EVMS changes to the ACO at least 14 calendar days prior to the effective date of implementation.

(e) The Contractor agrees to provide access to all pertinent records and data requested by the ACO or duly authorized representative. Access is to permit Government surveillance to ensure that the EVMS complies, and continues to comply, with the criteria referenced in paragraph (a) of this clause.

(f) The Contractor shall require the following subcontractors to comply with the requirements of this clause:

(Contracting Officer to insert names of subcontractors selected for application of EVMS criteria in accordance with 252.242–7XXX(c).)

_____

_____

_____

(End of Clause)

10. Section 252.242–7005 is amended by revising the introductory text, clause date, and paragraph (c) to read as follows:

252.242–7005 Cost/Schedule Status Report.

As prescribed in 242.1107–70(b), use the following clause:

Cost/Schedule Status Report (XXX 2004)

* * * * *

(c) The Contractor may use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer (ACO) as complying with the earned value management system criteria provided in DoDI 5000.2, Operation of the Defense Acquisition System.

* * * * *

11. Section 252.242–7006 is amended by revising the introductory text, clause date, and paragraph (b) to read as follows:

252.242–7006 Cost/Schedule Status Report Plans.

As prescribed in 242.1107–70(c), use the following provision:

Cost/Schedule Status Report Plans (XXX 2004)

* * * * *

(b) If the offeror proposes to use a cost/schedule control system that has been recognized by the cognizant Administrative Contracting Officer as complying with the earned value management system criteria of DoDI 5000.2, Operation of the Defense Acquisition System, the offeror may submit a copy of the documentation of such recognition instead of the written summary required by paragraph (a) of this provision.

(End of Provision)

[FR Doc. 04–3707 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 235

[DFARS Case 2003–D058]

Defense Federal Acquisition Regulation Supplement; Removal of Obsolete Research and Development Contracting Procedures

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to delete obsolete procedures for research and development contracting. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D058 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD (AT&L) DPAP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D058.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS.

The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The rule deletes DFARS Subpart 235.70, Research and Development Streamlined Contracting Procedures. This subpart contains procedures for acquiring research and development using a standard solicitation and contract format and the capabilities of the World Wide Web. These procedures have become obsolete, due to further advances in technology since their creation.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule deletes text that is obsolete and no longer in use. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subpart in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D058.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 235

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Part 235 as follows:

1. The authority citation for 48 CFR Part 235 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

Subpart 235.70—[Removed]

2. Subpart 235.70 is removed.

[FR Doc. 04–3695 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 235 and 252

[DFARS Case 2003–D067]

Defense Federal Acquisition Regulation Supplement; Research and Development Contracting

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to research and development contracting. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003–D067 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D067.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Updating of a statutory reference at DFARS 235.006–70.
- Deletion of unnecessary text at DFARS 235.007 and 235.015.
- Deletion of text at DFARS 235.010 regarding DoD maintenance of scientific and technical reports. Text on this subject will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.
- Updating of administrative information at DFARS 235.017–1 and 252.235–7011.

Although no change is proposed to DFARS 235.015–70, Special use allowance for research facilities acquired by educational institutions, DoD also is seeking comment on the currency and use of this text.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because DFARS changes are limited to updating of administrative information

or deletion of text that is unnecessary or addresses procedural matters. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D067.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 235 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR Parts 235 and 252 as follows:

1. The authority citation for 48 CFR Parts 235 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 235—RESEARCH AND DEVELOPMENT CONTRACTING

235.006–70 [Amended]

2. Section 235.006–70 is amended in the introductory text by removing ''10 U.S.C. 2525(d)'' and adding in its place ''10 U.S.C. 2521(d)''.

235.007 [Removed]

3. Section 235.007 is removed.

4. Section 235.010 is revised to read as follows:

235.010 Scientific and technical reports.

(b) For DoD, the Defense Technical Information Center is responsible for collecting all scientific and technical reports. For access to these reports, follow the procedures at PGI 235.010(b).

235.015 [Removed]

5. Section 235.015 is removed.

235.017–1 [Amended]

6. Section 235.017–1 is amended in paragraph (c)(4) by revising the first parenthetical to read ''(C3I Laboratory operated by the Institute for Defense Analysis, Lincoln Laboratory operated by Massachusetts Institute of Technology, and Software Engineering Institute operated by Carnegie Mellon)''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. Section 252.235–7011 is revised to read as follows:

252.235–7011 Final Scientific or Technical Report.

As prescribed in 235.071(d), use the following clause:

Final Scientific or Technical Report (XXX 2004)

The Contractor shall—

(a) Submit two copies of the approved scientific or technical report delivered under this contract to the Defense Technical Information Center, Attn: DTIC–O, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218;

(b) Include a completed Standard Form 298, Report Documentation Page, with each copy of the report; and

(c) For submission of reports in other than paper copy, contact the Defense Technical Information Center or follow the instructions at *http://www.dtic.mil.*

(End of Clause)

[FR Doc. 04–3696 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Parts 251 and 252

[DFARS Case 2003–D045]

Defense Federal Acquisition Regulation Supplement; Contractor Use of Government Supply Sources

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to update text pertaining to contractor use of Government supply sources. This proposed rule is a result of a transformation initiative undertaken by DoD to dramatically change the purpose and content of the DFARS.

DATES: Comments on the proposed rule should be submitted in writing to the address shown below on or before April 23, 2004, to be considered in the formation of the final rule.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@osd.mil.* Please cite DFARS Case 2003-D045 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite DFARS Case 2003–D045.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326.

SUPPLEMENTARY INFORMATION:

A. Background

DFARS Transformation is a major DoD initiative to dramatically change the purpose and content of the DFARS. The objective is to improve the efficiency and effectiveness of the acquisition process, while allowing the acquisition workforce the flexibility to innovate. The transformed DFARS will contain only requirements of law, DoD-wide policies, delegations of FAR authorities, deviations from FAR requirements, and policies/procedures that have a significant effect beyond the internal operating procedures of DoD or a significant cost or administrative impact on contractors or offerors. Additional information on the DFARS Transformation initiative is available at *http://www.acq.osd.mil/dp/dars/transf.htm.*

This proposed rule is a result of the DFARS Transformation initiative. The proposed changes include—

- Deletion of text at DFARS 251.102 containing procedures for authorizing a contractor to use Government supply sources. Text on this subject will be relocated to the new DFARS companion resource, Procedures, Guidance, and Information (PGI). A proposed rule describing the purpose and structure of PGI is published elsewhere in this issue of the **Federal Register** under DFARS Case 2003–D090, Procedures, Guidance, and Information.
- Deletion of text at DFARS 251.105 regarding contractor payment for purchases from Government supply sources. This subject is addressed in the clause at DFARS 252.251–7000 as amended by this rule.

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD does not expect this rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*,

because the DFARS changes address procedural matters that apply only when a contractor is authorized to use Government supply sources. Therefore, DoD has not performed an initial regulatory flexibility analysis. DoD invites comments from small businesses and other interested parties. DoD also will consider comments from small entities concerning the affected DFARS subparts in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 2003–D045.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not impose any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 251 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, DoD proposes to amend 48 CFR parts 251 and 252 as follows:

1. The authority citation for 48 CFR parts 251 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 251—USE OF GOVERNMENT SOURCES BY CONTRACTORS

2. Section 251.102 is revised to read as follows:

251.102 Authorization to use Government supply sources.

(e) When authorizing contractor use of Government supply sources, follow the procedures at PGI 251.102.

(3)(ii) The contracting officer may also authorize the contractor to use the DD Form 1155 when requisitioning from the Department of Veterans Affairs.

(f) The authorizing agency is also responsible for promptly considering requests of the DoD supply source for authority to refuse to honor requisitions from a contractor that is indebted to DoD and has failed to pay proper invoices in a timely manner.

251.105 [Removed]

3. Section 251.105 is removed.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Section 252.251–7000 is amended as follows:

a. By revising the clause date to read ''(XXX 2004)'';

b. In paragraph (c)(4) by revising the second sentence; and

c. In paragraph (c)(4) by adding a new sentence after the second sentence. The revised and added text reads as follows:

252.251–7000 Ordering From Government Supply Sources.

* * * * *

(c) * * *

(4) * * * For purchases made from DoD supply sources, this means within 30 days of the date of a proper invoice. The Contractor shall annotate each invoice with the date of receipt. * * * * * * * * *

[FR Doc. 04–3694 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2003–16920]

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition for rulemaking.

SUMMARY: NHTSA is denying a petition for rulemaking from the Insurance Institute for Highway Safety (IIHS) to amend current seating position procedures for Federal Motor Vehicle Safety Standard (FMVSS) Nos. 208, ''Occupant crash protection,'' and 214, ''Side impact protection.'' IIHS had petitioned to adopt procedures based upon the University of Michigan Transportation Research Institute (UMTRI) Seating Accommodation Model.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590:

For non-legal issues: Mr. Philip Oh, Office of Crashworthiness Standards, NVS–112, telephone (202) 493–0195, facsimile (202) 493–2290, electronic mail: *philip.oh@nhtsa.dot.gov*

For legal issues: Ms. Rebecca MacPherson, Office of the Chief Counsel, NCC–112, telephone (202) 366–2992, facsimile (202) 366–3820, electronic mail: *rebecca.macpherson@nhtsa.dot.gov*

SUPPLEMENTARY INFORMATION:

Summary of Petition

On December 19, 2002, the agency received a petition from IIHS to amend the requirements of FMVSS No. 214 (S6.3 and S6.4) and FMVSS No. 208 (S8.1.2 and S8.1.3), which specify the positioning of adjustable seats and adjustable seat backs during vehicle testing. Currently, the standards require the seat to be positioned at the full-forward position for the 5th percentile female dummy (FMVSS No. 208 only) and the midtrack position for the 50th percentile male dummy. Also, adjustable seat backs are set to the manufacturers' recommended adjustment angle. IIHS contends that the seating positions used in FMVSS Nos. 208 and 214 do not represent real-world occupant behavior. The petition referred to a study [1] where the mean-selected seating positions of more than 600 adult volunteers were compared with the midtrack positions in 26 vehicles. Results showed that mean-selected seat positions were 46 mm rearward of midtrack for 50th percentile males, and 42 mm rearward of full-forward for 5th percentile females. In addition, IIHS contends that 44 percent of the vehicles tested in the IIHS crashworthiness evaluation program had chest-to-air-bag-module clearance measures of less than 250 mm. They believe this is an inappropriate seating position based on the NHTSA recommended clearance measure of 250 mm. As a result, IIHS petitioned to amend the standards by incorporating a new procedure to set the seat track and seat back adjustment based on the UMTRI Seating Accommodation Model. This model is based upon driver posture and position data collected in 36 different vehicles, each with measurements for 60–120 driver subjects. IIHS stated that the proposed amendments would assure that the dummy test positions more accurately reflect real-world seating positions for all NHTSA-regulated crash tests that are not intended to address specific crash injury risks (*e.g.* out-of-position air bag injuries). Therefore, IIHS also petitioned to incorporate the UMTRI procedure in the New Car Assessment Program (NCAP) crash tests. In addition, IIHS suggested that the agency conduct a study of passenger seating positions to determine the most appropriate dummy placement. NHTSA denies this petition for the reasons described below.

[1] Manary, M.A. *et al.*, ''ATD Positioning Based on Driver Posture and Position.'' SAE Technical Paper Series 983163. Warrendale, PA, Society Of Automotive Engineers, 1998.

Analysis and Conclusion

NHTSA recognizes that current procedures do not replicate all real-world seating positions of occupants similar in size to the 5th and 50th percentile dummies. However, the agency believes that the current procedure appropriately represents positions where 5th and 50th percentile occupants may sit. NHTSA believes the full-forward position is appropriate for the 5th percentile female dummy because it best represents the worst-case scenario for air bag-induced injuries in high severity crashes. Although the full forward position does not replicate all real-world seating positions for small females, the agency believes that some drivers will position their seat full-forward, making it a realistic seating position. Likewise, the agency believes the mid-track positioning of the 50th percentile male dummy is an acceptable position that represents where an adult-sized occupant may sit. A further rearward displacement of the dummy reduces the likelihood that the dummy will significantly interact with the interior of the vehicle, particularly since braking dynamics in most real-world crashes will move the occupant forward of the pre-braking seating position. At present, the 5th and 50th percentile dummies are used in FMVSS No. 208 to assess safety protection for all sizes of occupants.

IIHS does not give compelling evidence to conclude that the UMTRI seating procedure is more reflective of real-world behavior compared to the current agency procedure. Because many results in Appendix D of the petition [2] would place the seat outside the physical limitation of the seat track, the agency believes that the UMTRI results do not accurately depict real-world behavior in many cases. Appendix D shows eight of the fifteen vehicles having seat positions that do not physically exist on the vehicle seat track. For example, according to the UMTRI results, the seating position for a midsize male in a 2001 Dodge Grand Caravan is 64 mm and −10 mm aft and above the reference positions, respectively. This seating position would place the seat vertically below the full-down position, which physically does not exist within the range of seat motion.

Furthermore, in Appendix D, IIHS presents data on the results of the UMTRI seating procedure for fifteen different vehicles. The results are shown solely as a relationship to horizontal and vertical seating reference positions, which is full-forward and down for small females, mid-track and down for midsize males, and full-rear and down for large males. IIHS does not provide any data on real-world occupant seating preferences for these specified vehicles. Therefore, without existing occupant seating preferences for the fifteen vehicles, there is no basis upon which to compare the accuracy of the UMTRI procedure to the current agency procedure.

NHTSA believes that the regression analysis used by UMTRI is an appropriate tool to observe trends in data, but is not by itself sufficient to define a procedure that will affect all vehicles under FMVSS Nos. 208 and 214. Several points support this agency belief. First, the formula representing the regression is based on a finite number of vehicles. Although different sizes of vehicles were included in the study, the formula would change as other vehicle seating positions are studied. Also, the regression formula would change as the fleet characteristics change over time. There is no guarantee that equations derived from data collected in the past would apply to vehicles in the future. Outlying data points in the data today may become more frequent, causing additional practicability issues. Lastly, using the UMTRI regression analysis as the basis for all seating procedures produces a best-fit line through all the vehicles' actual seating preference mean collected by UMTRI. Inherently, a margin of error is produced in the regression line as the actual data set becomes non-linear (scattered). This method does not necessarily provide the most accurate position for each individual vehicle.

Finally, IIHS argues that many vehicles do not meet the NHTSA recommended minimum 250 mm steering wheel hub-to-chest clearance with the current seating procedure. However, the agency has found that IIHS measurement data do not necessarily correspond to measurements taken from NHTSA's NCAP tests. For example, as described in the NCAP frontal report for the model year 2000 Ford Taurus,[3] the steering wheel hub-to-chest measurement is recorded as 298 mm. The IIHS measurement was 228 mm. According to NHTSA's NCAP test reports, the agency has not found any vehicles listed in Appendix B of the petition that have less than 250 mm of clearance, and therefore believes the current procedure is consistent with agency recommendations. Furthermore, the agency believes that some occupants may position themselves closer than the 250 mm steering wheel hub-to-chest clearance, regardless of NHTSA's recommendation.

In conclusion, NHTSA denies this petition for rulemaking based on a lack of compelling beneficial evidence supporting the UMTRI procedure and the agency's views about the adequacy of the current seating procedure. Also, NHTSA declines the suggestion to use the UMTRI procedure in its NCAP testing. The agency has no immediate plans to conduct research on an alternative seating method for either the driver or passenger positions. However, NHTSA may revisit the seat position issue at a later time depending on the agency's future research needs and priorities.

Authority: 49 U.S.C. 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: February 17, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–3756 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–59–P

[2] See Docket Number NHTSA–2002–11398–9.

[3] See Docket Number NHTSA–1999–4962–67.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AH93

Revisions to the Regulations Applicable to Permits Issued Under the Endangered Species Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period for the proposed rule to revise our regulations pertaining to permits issued under the Endangered Species Act. Apparent confusion on the part of the public regarding the scope of this proposed rule has prompted us to reopen the comment period to allow for additional comment. Comments previously submitted need not be resubmitted, as they will be incorporated into the public record and considered in the preparation of the final rule.

DATES: Comments and information will be accepted from all interested parties until 5 p.m. on March 9, 2004. No comments will be accepted after this date.

ADDRESSES: (1) You may submit comments on the proposed rule to Chief, Division of Conservation and

Classification, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 420, Arlington, VA 22203; or (2) you may send comments by electronic mail (e-mail) to *fw9comments@fws.gov.* These comments should not contain any attachments, as they may be stripped from the e-mail. (*See* ''Public Comments Solicited'' section below.)

Comments received will be made available to the public and become part of the file for the proposal. You may examine comments and materials received during normal business hours at the above address in Arlington, VA, after the close of the comment period. You must make an appointment to examine these materials.

FOR FURTHER INFORMATION CONTACT: Chris Nolin, Division of Conservation and Classification, telephone 703/358–2171.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service is reopening the comment period for the proposed rule titled ''Revisions to the Regulations Applicable to Permits Issued Under the Endangered Species Act'' (68 FR 53327, September 10, 2003) (''proposed rule''). The comment period for the proposed rule overlapped part of the comment period on a notice on a different subject, entitled ''Draft Policy for Enhancement-of-Survival Permits for Foreign Species Listed Under the Endangered Species Act'' (68 FR 49512, August 18, 2003) (''draft policy''). This overlap in public comment periods resulted in some apparent confusion among the public on the scope and intent of the proposed rule.

The principal purpose of the proposed rule was to more explicitly describe and accommodate the domestic application of different types of enhancement activities that can be permitted by the Service under authority of section 10(a)(1)(A) of the Act. The Service recognizes that its existing regulations at sections 17.22(a) and 17.32(a) do not clearly describe the full range of activities that enhance species survival, especially those activities which relate to domestic species. Accordingly, we proposed to revise sections 17.22(a) and 17.32(a) to clarify the range of actions that may be permitted. The proposed rule was also intended to clarify that these permits may also be issued in conjunction with Candidate Conservation Agreements with Assurances and Safe Harbor Agreements that contemplate intentional take.

The proposed rule was not intended to make any changes to the regulations for the purposes of administering the draft policy. The proposed rule does not affect or facilitate the procedures described in the draft policy notice, and the status of the proposed rule has no bearing on any subsequent action under the draft policy. At this time, we continue to review the comments received on the draft policy and will determine how to proceed on that policy upon completion of our review of those comments. This determination will be independent of any final action on the proposed rule.

Public Comments Solicited

We are soliciting written comments on the proposed rule from the public, other concerned governmental agencies, the scientific community, industry or any other interested party. Verbal comments will not be accepted. Comments previously submitted on the proposed rule need not be resubmitted, because they will be incorporated into the public record as part of this reopening of the comment period and will be fully considered in the final rule. It is our intent that any final action resulting from our proposed rule be as accurate as possible. As indicated above, comments on the draft policy are not solicited as part of the reopening of the comment period on the proposed rule; only comments addressing the proposed rule will be considered under this open comment period.

If you submit comments by electronic mail (e-mail) please submit them as an ASCII file and avoid the use of special characters, or any form of encryption. In addition, we request that you do not include any attachments as these may get accidentally stripped from your message during the review process. You must also include your name and address in your e-mail message. You will not receive a confirmation from the system.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you would like us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. 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 inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: February 13, 2004.

Paul Hoffman,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–3869 Filed 2–18–04; 4:57 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 04020949–4049–01 ; I.D. 012204B]

RIN 0648–AR83

Pacific Halibut Fisheries; Catch Sharing Plan

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

ACTION: Proposed rule; proposed changes to the Catch Sharing Plan and to domestic Area 2A halibut management measures.

SUMMARY: NMFS proposes, under authority of the Northern Pacific Halibut Act (Halibut Act), to approve and implement changes to the Area 2A Pacific Halibut Catch Sharing Plan (Plan) to: provide more flexibility for Washington inseason sport fishery management; revise the public announcement process for the Puget Sound sport fishery (Washington's inside waters subarea); revise season dates for the Washington North Coast and South Coast sport fisheries; combine the Oregon North Central and South Central subareas; revise the ''additional fishing days'' season structure for Oregon's spring and summer sport fisheries; extend the season closing date for Oregon/California sport fisheries in the South of Humbug Mountain subarea; and change the depth restriction for Oregon's nearshore sport fishery. NMFS also proposes to approve and implement changes to the annual domestic management measures to revise the closed area to non-treaty commercial halibut fishing in Area 2A. NMFS is

proposing measures to implement the portions of the Area 2A Catch Sharing Plan that are not implemented through the International Pacific Halibut Commission (IPHC). These actions are intended to enhance the conservation of Pacific halibut and to protect yelloweye rockfish, and overfished groundfish species, from incidental catch in the halibut fisheries.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received no later than 5 p.m., local time on March 9, 2004.

ADDRESSES: Send written comments or requests for a copy of the Plan and/or the Regulatory Impact Review (RIR)/ Initial Regulatory Flexibility Analysis (IRFA) to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115–0070; or fax to 206–526–6736, care of Jamie Goen; or email PHalibut2004.nwr@noaa.gov. Comments sent via email, including all attachments, must not exceed a 10 megabyte file size. Electronic copies of the Plan, including proposed changes for 2004, and of the draft RIR/IRFA are also available at the NMFS Northwest Region Web site: *http://www.nwr.noaa.gov,* click on ''Pacific Halibut.''

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

SUPPLEMENTARY INFORMATION: The Halibut Act of 1982, at 16 U.S.C. 773c, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada. It requires the Secretary to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and the Halibut Act. Section 773c(c) of the Halibut Act authorizes the Regional Fishery Management Councils to develop regulations governing the Pacific halibut catch in their corresponding U.S. Convention waters that are in addition to, but not in conflict with, regulations of the IPHC. Each year between 1988 and 1995, the Pacific Fishery Management Council (Pacific Council) developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in IPHC regulatory Area 2A (off Washington, Oregon, and California).

In 1995, NMFS implemented the Pacific Council-recommended long-term Plan (60 FR 14651, March 20, 1995). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries. The Plan allocates 35 percent of the Area 2A TAC to Washington treaty Indian tribes in Subarea 2A–1 and 65 percent to non-Indian fisheries in Area 2A. The allocation to non-Indian fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53'18'' N. lat.), Oregon, and California. North of 46°53'18'' N lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the primary limited entry longline sablefish fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into seven geographic subareas, each with separate allocations, seasons, and bag limits.

Pacific Council Recommended Changes to the Plan and Domestic Fishing Regulations

Each year, the states (Washington Department of Fish and Wildlife (WDFW) and Oregon Department of Fish and Wildlife (ODFW)) and tribes consider whether changes to the Plan are needed or desired by their fishery participants. Fishery managers from the states and tribes hold public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2003 Pacific Council meeting, the states recommended several changes to the Plan and the tribes announced that they had no proposal for revising the Plan in 2004. Following the September 2003 Pacific Council meeting, the states again reviewed their proposals with the public and drafted their recommended revisions for review by the Pacific Council.

At its November 3–7, 2003, meeting in Del Mar, CA, the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan and public comments, and made the final recommendations for modifications to the Plan as follows:

(1) Remove the requirement to ''sponsor a public workshop shortly after the IPHC annual meeting'' to develop the season structure for the Puget Sound recreational fishery.

(2) Change the opening date of the Washington North Coast subarea fishery from May 1 to the first Tuesday between May 9 and May 15.

(3) Change the opening date of the Washington North Coast area June fishery from the third Wednesday in June to ''during the third week of June.''

(4) Add a statement to the Washington north coast, Washington south coast, and Columbia River subareas that, subsequent to a closure prior to September 30, if there is insufficient quota remaining to reopen that given subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. In the case of the Columbia River subarea, the transfer would be to another Washington and/or Oregon subarea based on preseason shares of the subarea allocation.

(5) Switch from a 5–day/week fishery to a 7–day/week fishery beginning July 1 for the Washington South Coast subarea.

(6) Combine the Oregon North Central and South Central Coast subareas.

(7) Open the spring Cape Falcon, OR to Humbug Mountain, OR all-depth recreational fishery Thursday through Saturday beginning the second Thursday in May (if the season is 5 or more fishing days) or the second Friday in May (if the season is 4 or fewer fishing days), with exceptions to avoid adverse tidal conditions. Allow any remaining quota from the spring Cape Falcon, OR to Humbug Mountain, OR all-depth recreational fishery to be used by opening every other Friday and Saturday, but allow some weeks to be closed to avoid adverse tidal conditions.

(8) Open the summer Cape Falcon, OR and Humbug Mountain, OR all-depth recreational fishery on every other Friday and Saturday beginning with the first Friday in August, but allow some weeks to be closed to avoid adverse tidal conditions. Allow unused quota to be transferred to Oregon's nearshore fishery.

(9) Change the depth restriction in the Cape Falcon, OR to Humbug Mountain, OR nearshore recreational fishery from 30 fathoms to 40 fathoms for consistency with the 2004 recreational groundfish fishery regulations.

(10) Prohibit possession of Pacific halibut taken in the Cape Falcon, OR to Humbug Mountain, OR nearshore recreational fishery in other areas.

(11) Extend the closing date for the South of Humbug Mountain, OR recreational fishery from September 30 to October 31.

Proposed Changes to the Plan

NMFS is proposing to approve and to make the following changes to the Plan:

In section (f) of the Plan, Sport Fisheries, revise the second to last sentence of paragraph (1)(i) to read from the second to last sentence as follows:

The WDFW will develop recommendations to NMFS on the opening date and weekly structure of the fishery each year. The daily bag limit is one fish per person, with no size limit.

In section (f) of the Plan, Sport Fisheries, revise the fifth through eighth sentences of paragraph (1)(ii) to read as follows:

The fishery will open on the first Tuesday between May 9 and 15, and continue 5 days per week (Tuesday through Saturday) until the May allocation is projected to be taken. The fishery will then reopen during the third week in June and continue until the remaining quota is projected to be taken, 5 days per week (Tuesday through Saturday.) No sport fishing for halibut is allowed after September 30. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen this subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

In section (f) of the Plan, Sport Fisheries, revise paragraph (1)(iii) from the fifth sentence to the end of the paragraph to read as follows:

The fishery will be open Sunday through Thursday in all areas, except where prohibited, and the fishery will be open 7 days per week in the area from Queets River, WA south to 47°00'00'' N. lat. and east of 124°40'00'' W. long. Beginning July 1, the halibut fishery will be open 7 days per week. The fishery will continue until September 30, or until the quota is achieved, whichever occurs first. Subsequent to this closure, if there is insufficient quota remaining to reopen this subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline. The daily bag limit is one halibut per person, with no size limit.

In section (f) of the Plan, Sport Fisheries, insert two sentences after the fourth sentence in paragraph (1)(iv) to read as follows:

Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. The Washington proportion as set preseason would be transferred to another Washington subarea, and the Oregon proportion as set preseason would be transferred to another Oregon subarea.

In section (f) of the Plan, Sport Fisheries, paragraph (1)(v) is revised to read as follows:

(v) *Oregon Central Coast Subarea.*

This subarea extends from Cape Falcon, OR (45°46'00'' N. lat.) to Humbug Mountain, OR (42°40'30'' N. lat.) and is allocated 95.0 percent of the Oregon/California sport allocation. The structuring objectives for this subarea are to provide two periods of fishing opportunity in spring and in summer in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and provide a period of fishing opportunity in the summer for nearshore waters for small boat anglers. Fixed season dates will be established preseason for the spring opening and will not be modified inseason except that the spring opening may be modified inseason if the combined Oregon all-depth spring and summer season total quotas are estimated to be achieved. Recent year catch rates will be used as a guideline for estimating the catch rate for the spring fishery each year. The number of fixed season days established will be based on the projected catch per day with the intent of not exceeding the subarea season quota. ODFW will monitor landings and provide a post-season estimate of catch within 1 week of the end of the fixed season. If sufficient catch remains for an additional day of fishing after the spring season, openings will be provided if possible in May - July. Potential open dates for both the spring (May - July) and summer (August - October) seasons will be announced preseason. If a decision is made inseason to allow fishing on one or more additional days, notice of the opening will be announced on the NMFS hotline (206) 526–6667 or (800) 662–9825. No all-depth halibut fishing will be allowed on the additional dates unless the opening date has been announced on the NMFS hotline. Any poundage remaining unharvested in the spring all-depth subquota will be added to the summer all-depth sub-quota. Any poundage that is not needed to extend the inside 40–fathom (73–m) fishery through to October 31 will be added to the summer all-depth season if it can be used, and any poundage remaining unharvested from the summer all-depth fishery will be added to the inside 40–fathom fishery subquota. The daily bag limit for all seasons is the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length. ODFW will sponsor a public workshop shortly after the IPHC annual meeting to develop recommendations to NMFS on the open dates for each season each year. The three seasons for this subarea are as follows.

A. The first season opens on May 1, only in waters inside the 40–fathom (73–m) curve, and continues daily until the subquota (8 percent of the subarea quota) is taken, or until October 31, whichever is earlier. Poundage that is estimated to be above the amount needed to keep this season open through October 31 will be transferred to the summer all-depth fishery if it can be used. Any overage in the all-depth fisheries would not affect achievement of allocation set aside for the inside 40–fathom curve fishery.

B. The second season is an all-depth fishery with two potential openings. The first opening begins on the second Thursday in May (if the season is 5 or more fishing days) or the second Friday in May (if the season is 4 or fewer fishing days) and is allocated 69 percent of the subarea quota. Fixed season dates for the first opening will be established preseason based on projected catch per day and number of days to achievement of the subquota for this season. The first opening will be structured for 2 days per week (Friday and Saturday) if the season is for 4 or fewer fishing days. The fishery will be structured for 3 days per week (Thursday through Saturday) if the season is for 5 or more fishing days. The fixed season dates will be established preseason and will occur in consecutive weeks starting the second Thursday in May (if the season is 5 or more fishing days) or second Friday in May (if the season is 4 or fewer fishing days), with exceptions to avoid adverse tidal conditions. If, following the ''fixed'' dates, quota for this season remains unharvested, a second opening will be held. The fishery will be open every other week on Friday and Saturday except that week(s) could be skipped to avoid adverse tidal conditions. The potential open Fridays and Saturdays will be identified preseason. The fishery will continue until there is insufficient quota for an additional day of fishing or July 31,

whichever occurs first. Any remaining quota will be added to the summer quota. No inseason adjustments will be made to the established fixed season unless the combined Oregon all-depth spring and summer season total subquotas are estimated to be achieved.

C. The last season is an all-depth fishery that begins on the first Friday in August and is allocated 23 percent of the subarea quota. The fishery will be structured to be open every other week on Friday and Saturday except that week(s) could be skipped to avoid adverse tidal conditions. The potential open Fridays and Saturdays will be identified preseason. The fishery will continue until there is insufficient quota for an additional day of fishing or October 31, whichever occurs first. Any remaining quota will be transferred to the fishery inside the 40–fathom (73–m) curve.

In section (f) of the Plan, Sport Fisheries, paragraph (1)(vi)is deleted and paragraph (1)(vii) is redesignated as paragraph (1)(vi) and the third sentence is revised to read as follows:

(vi) *South of Humbug Mountain Subarea.*

The structuring objective for this subarea is to provide anglers the opportunity to fish in a continuous, fixed season that is open from May 1 through October 31.

In section (f) of the Plan, Sport Fisheries, revise the first sentence of paragraph (5)(iii)(B) to read as follows:

B. Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825 (May through October) and by U.S. Coast Guard broadcasts.

Proposed 2004 Sport Fishery Management Measures

NMFS is proposing sport fishery management measures that are necessary to implement the Plan in 2004. The 2004 TAC for Area 2A will be determined by the IPHC at its annual meeting on January 20–23, 2004, in Juneau, Alaska. Because the 2004 TAC has not yet been determined, these proposed sport fishery management measures use the IPHC's preliminary 2004 Area 2A TAC recommendation of 1,300,000 lb (590 mt), which is slightly lower than the 2003 TAC of 1,310,000 lb (594 mt). The proposed 2004 sport fishery regulations based on the preliminary 2004 Area 2A TAC of 1,300,000 lb (590 mt) are as follows:

Washington Inside Waters (Subarea Puget Sound and Straits)

This subarea would be allocated 62,517 lb (28 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. According to the Plan, the structuring objective for this subarea is to provide a stable sport fishing opportunity and to maximize the season length. In 2003, the fishery in this subarea was 52 days long, from May 8 through July 18 in the Eastern region and May 22 through August 1 in the Western Region, held for 5 days per week (Thursday through Monday). For the 2004 fishing season, the fishery in this subarea would be set to meet the structuring objectives described in the Plan. The final determination of the season dates would be based on the allowable harvest level and projected 2004 catch rates after the 2004 TAC is set by the IPHC. Beginning in 2004, WDFW will no longer hold a public workshop after the IPHC determines the 2004 TAC, but will continue to seek public comment through mail and email lists. The daily bag limit would be one halibut of any size per day, per person.

Washington North Coast Subarea (North of the Queets River, WA)

This subarea would be allocated 113,154 lb (51 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. According to the Plan, the management objective for this subarea is to provide a quality recreational fishing opportunity during May and the latter part of June. Previously, the fishery opened on May 1. Beginning in 2004, the fishery opens on the first Tuesday between May 9 and May 15 (May 11 in 2004), and continues 5 days per week (Tuesday through Saturday) until 72 percent of the quota for the subarea has been taken, 81,471 lb (37 mt). Previously, the fishery re-opened on the third Wednesday in June. For 2004, the fishery will re-open during the third week in June and continue until the remaining quota for the subarea is taken, 31,683 lb (14 mt). Also new for 2004, language will be added to the Plan to allow for any remaining quota after the fishery is closed in this subarea to be transferred inseason to another Washington coastal subarea via an update to the halibut hotline. This transfer in quota could only occur before September 30 and if there were insufficient quota remaining to open the Washington North Coast subarea for another fishing day. The daily bag limit would be one halibut of any size per day per person. A portion of this subarea would be closed to sport fishing for halibut as a yelloweye rockfish conservation area bounded by the following coordinates:

48°18' N. lat.; 125°18' W. long.;
48°18' N. lat.; 124°59' W. long.;
48°11' N. lat.; 124°59' W. long.;
48°11' N. lat.; 125°11' W. long.;
48°04' N. lat.; 125°11' W. long.;
48°04' N. lat.; 124°59' W. long.;
48°00' N. lat.; 124°59' W. long.;
48°00' N. lat.; 125°18' W. long.;
and connecting back to 48°18' N. lat.; 125°18' W. long.

Washington South Coast Subarea

This subarea would be allocated 47,862 lb (22 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. The fishery would open on May 1 and continue 5 days per week (Sunday through Thursday) until September 30, or until the quota is achieved, whichever occurs first. According to the Plan, the structuring objective for this subarea is to maximize the season length, while maintaining a quality fishing experience. The fishery would be open Sunday through Thursday in all areas, except where prohibited, and the fishery will be open 7 days per week in the area from the Queets River, WA south to 47°00'00'' N lat. and east of 124°40'00'' W long. Previously, if the fishery had closed prior to September 30 and there was insufficient quota remaining for an offshore fishery, the nearshore fishery, the area from the Queets River, WA south to 47°00'00'' N lat. and east of 124°40'00'' W long., would re-open 7 days per week until either the remaining subarea quota is estimated to have been taken and the season is closed by the IPHC, or until September 30, whichever occurs first. For 2004, this language is removed and beginning July 1, the halibut fishery opens 7 days per week in the offshore and nearshore fisheries until September 30, or until the quota is achieved, whichever occurs first. Also new for 2004, language will be added to the Plan to allow for any remaining quota after the fishery is closed in this subarea to be transferred inseason to another Washington coastal subarea via an update to the halibut hotline. This transfer in quota could only occur before September 30 and if there were insufficient quota remaining to open the Washington South Coast subarea for another fishing day. The daily bag limit would be one halibut of any size per day, per person.

Columbia River Subarea

This subarea would be allocated 11,787 lb (5 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. The fishery would open on May 1 and continue 7 days per week

until the quota is reached or September 30, whichever occurs first. New for 2004, language will be added to the Plan to allow for any remaining quota after the fishery is closed in this subarea to be transferred inseason to another subarea. Another Washington subarea would get that proportion of the remaining Columbia River quota based on the proportions set preseason for Washington and another Oregon subarea would get that proportion of the remaining Columbia River quota based on the proportions set preseason for Oregon. This transfer of subarea quota would occur via an update to the halibut hotline and could only occur before September 30 and if there were insufficient quota remaining to open the Columbia River subarea for another fishing day. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Oregon Central Coast Subarea

The Oregon North Central and South Central Coast subareas are combined in 2004 into the Oregon Central Coast subarea. The Oregon Central Coast subarea would extend from Cape Falcon, OR south to Humbug Mountain, OR. This subarea would be allocated 246,943 lb (112 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. The structuring objectives for this subarea are to provide two periods of fishing opportunity in spring (May-June) and in summer (August-October) in productive deeper water areas along the coast, principally for charterboat and larger private boat anglers, and to provide a period of fishing opportunity during the summer in nearshore waters for small boat anglers.

The central coast restricted depth fishery, which is moving from inside 30 fathoms to inside 40 fathoms for 2004, would be allocated 19,755 lb (9 mt), starting May 1 through October 31 or until the allocated subquota is attained, whichever occurs first. New for 2004, the ''inside 40 fathoms'' boundary will not follow the depth contour but will be straight lines between a series of latitude and longitude coordinates which approximate the depth contour. Proposed coordinates for the 40–fm (73–m) depth contour between 45°46'00'' N. lat. and 42°40'30'' N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1)45°47.07'N. lat., 124°04.21'N. lat.;
(2)45°44.34'N. lat., 124°05.09'N. lat.;
(3)45°40.64'N. lat., 124°04.90'N. lat.;
(4)45°33.00'N. lat., 124°04.46'N. lat.;
(5)45°32.27'N. lat., 124°04.74'N. lat.;
(6)45°29.26'N. lat., 124°04.22'N. lat.;
(7)45°19.99'N. lat., 124°04.62'N. lat.;
(8)45°17.50'N. lat., 124°04.91'N. lat.;
(9)45°11.29'N. lat., 124°05.19'N. lat.;
(10)45°05.79'N. lat., 124°05.40'N. lat.;
(11)45°05.07'N. lat., 124°05.93'N. lat.;
(12)45°01.70'N. lat., 124°06.53'N. lat.;
(13)44°58.75'N. lat., 124°07.14'N. lat.;
(14)44°51.28'N. lat., 124°10.21'N. lat.;
(15)44°49.49'N. lat., 124°10.89'N. lat.;
(16)44°44.96'N. lat., 124°14.39'N. lat.;
(17)44°43.44'N. lat., 124°14.78'N. lat.;
(18)44°42.27'N. lat., 124°13.81'N. lat.;
(19)44°41.68'N. lat., 124°15.38'N. lat.;
(20)44°34.87'N. lat., 124°15.80'N. lat.;
(21)44°33.74'N. lat., 124°14.43'N. lat.;
(22)44°27.66'N. lat., 124°16.99'N. lat.;
(23)44°19.13'N. lat., 124°19.22'N. lat.;
(24)44°15.35'N. lat., 124°17.37'N. lat.;
(25)44°14.38'N. lat., 124°17.78'N. lat.;
(26)44°12.80'N. lat., 124°17.18'N. lat.;
(27)44°09.23'N. lat., 124°15.96'N. lat.;
(28)44°08.38'N. lat., 124°16.80'N. lat.;
(29)44°01.18'N. lat., 124°15.42'N. lat.;
(30)43°51.60'N. lat., 124°14.68'N. lat.;
(31)43°42.66'N. lat., 124°15.46'N. lat.;
(32)43°40.49'N. lat., 124°15.74'N. lat.;
(33)43°38.77'N. lat., 124°15.64'N. lat.;
(34)43°34.52'N. lat., 124°16.73'N. lat.;
(35)43°28.82'N. lat., 124°19.52'N. lat.;
(36)43°23.91'N. lat., 124°24.28'N. lat.;
(37)43°17.96'N. lat., 124°28.81'N. lat.;
(38)43°16.75'N. lat., 124°28.42'N. lat.;
(39)43°13.98'N. lat., 124°31.99'N. lat.;
(40)43°13.71'N. lat., 124°33.25'N. lat.;
(41)43°12.26'N. lat., 124°34.16'N. lat.;
(42)43°10.96'N. lat., 124°32.34'N. lat.;
(43)43°05.65'N. lat., 124°31.52'N. lat.;
(44)42°59.66'N. lat., 124°32.58'N. lat.;
(45)42°54.97'N. lat., 124°36.99'N. lat.;
(46)42°53.81'N. lat., 124°38.58'N. lat.;
(47)42°49.14'N. lat., 124°39.92'N. lat.;
(48)42°46.47'N. lat., 124°38.65'N. lat.;
(49)42°45.60'N. lat., 124°39.04'N. lat.;
(50)42°44.79'N. lat., 124°37.96'N. lat.;
(51)42°45.00'N. lat., 124°36.39'N. lat.;
(52)42°44.14'N. lat., 124°35.16'N. lat.;
(53)42°42.15'N. lat., 124°32.82'N. lat.; and
(54)42°38.82'N. lat., 124°31.09'N. lat.;

If NMFS changes this boundary for recreational groundfish fishing by an inseason action to the Pacific Coast groundfish regulations during the year to protect overfished groundfish species, NMFS will also take a separate inseason action published in the **Federal Register** to change nearshore recreational halibut regulations for this subarea to mirror the groundfish closure. Language will also be added to the sport management measures for 2004 such that, in times when the all-depth halibut fishery is closed and halibut fishing is permitted only inshore of the 40–fm (73–m) depth contour, halibut possession and retention by vessels operating offshore of 40 fm would be prohibited.

The spring all-depth season would be allocated 170,391 lb (77 mt). Based on an observed catch per day trend in this fishery in recent years, an estimated 11,000 - 32,000 lb (5 - 15 mt) would be caught per day in 2004, resulting in a 5– to 15–day fixed season. In accordance with the Plan, the season would open on Thursday, May 13 and continue on Thursdays through Saturdays through the fixed dates. The fixed dates will be set in March 2004 after ODFW holds public meetings. After the fixed date season, potential additional fishing days for remaining quota in 2004 are structured differently than in previous years. For 2004, if additional quota remains after the fixed season, a second opening would be held for the spring fishery. The second opening would be on every other week on Friday and Saturday except that week(s) could be skipped to avoid adverse tidal conditions. For 2004, the weeks to be skipped due to adverse tidal conditions include June 4 - 5 and July 2 - 3. If a decision is made inseason by NMFS to allow fishing in the potential spring season, notice of an opening will be announced on the NMFS hotline, (206)526–6667 or (800)662–9825. No halibut fishing will be allowed on the reopening dates unless the date is announced on the NMFS hotline. The second spring season would continue until there is insufficient quota for an additional fishing day or until July 31, whichever occurs first.

The summer all-depth fishery would be allocated 56,797 lb (26 mt), and would open on Friday, August 6. For 2004, this fishery's season will be restructured from fixed season dates to being open every other week on Friday and Saturday, except that week(s) may be skipped for adverse tidal conditions. For 2004, no adverse tidal conditions occur during the August through October period. The summer all-depth fishery would continue until there is insufficient quota for an additional fishing day and the fishery is closed by the IPHC or until October 30, whichever occurs first. Any remaining quota would be added to the quota for the fishery inside 40 fathoms.

The final determination of the season dates will be based on the allowable harvest level, projected catch rates, and recommendations developed in a public workshop sponsored by ODFW after the 2004 TAC has been set by the IPHC. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Humbug Mountain, OR through California Subarea

This subarea would be allocated 7,798 lb (3.5 mt) at an Area 2A TAC of 1,300,000 lb (590 mt) in accordance with the Plan. The proposed 2004 sport

season for this subarea would be the same as last year, with a May 1 opening and continuing 7 days per week, except that the season end date is extended until October 31. The daily bag limit would be the first halibut taken, per person, of 32 inches (81.3 cm) or greater in length.

Flexible Inseason Management Provisions in Area 2A

The flexible inseason management provisions in Area 2A have not changed since 2003, except that the NMFS telephone hotline will be maintained from May through October rather than May through September as mentioned in paragraph (3)(b) below. Section 25 of the annual halibut management measures published in the **Federal Register** and section (f)(5) of the Plan will read as follows:

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations.

(a) The action is necessary to allow allocation objectives to be met.

(b) The action will not result in exceeding the catch limit for the area.

(c) If any of the sport fishery subareas north of Cape Falcon, OR are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea.

(d) If any of the sport fishery subareas south of Leadbetter Point, WA are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(a) Modification of sport fishing periods;

(b) Modification of sport fishing bag limits;

(c) Modification of sport fishing size limits;

(d) Modification of sport fishing days per calendar week; and

(e) Modification of subarea quotas north of Cape Falcon, OR.

(3) Notice procedures.

(a) Actions taken under this section will be published in the **Federal Register**.

(b) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206–526–6667 or 800–662–9825 (May through October) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates.

(a) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the **Federal Register**, whichever is later.

(b) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the **Federal Register**. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the **Federal Register**.

(c) Any inseason action issued under this section will remain in effect until the stated expiration date or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(5) Availability of data. The Regional Administrator will compile, in aggregate form, all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA.

Fishery Election in Area 2A

The fishery election process in Area 2A has not changed since 2003, but is republished here to provide opportunity for public comment. Section 26 of the annual halibut management measures published in the **Federal Register** will continue to read as follows:

(1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(a) The sport fishery under Section 24;

(b) The commercial directed fishery for halibut during the fishing period(s) established in Section 8 and/or the incidental retention of halibut during the primary sablefish fishery described at 50 CFR 660.323(a)(2); or

(c) The incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(2) No person shall fish for halibut in the sport fishery in Area 2A under Section 24 from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed halibut fishery during the fishing periods established in Section 8 and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under Section 8 taken on a vessel that, during the same calendar year, has been used in the directed commercial fishery during the fishing periods established in Section 8 and/or retain halibut incidentally taken in the primary sablefish fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in Section 8 in Area 2A.

Area 2A Non-Treaty Commercial Fishery Closed Area

Similar to 2003, large closed areas will apply to commercial vessels operating in the directed non-treaty commercial fishery for halibut in Area 2A. For 2004, the eastern, inshore boundary of the closed area approximating the 27–fm (49–m) depth contour between 46°16' N. lat. and 40°10' N. lat. has been shifted slightly to a boundary line approximating the 30–fm (55–m)depth contour. For 2004, section 27 of the annual halibut management measures will read as follows:

Non-treaty commercial vessels operating in the directed commercial

fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. The closed area follows approximate depth contours. Coordinates for the specific boundaries that approximate the depth contours are as follows:

(1) Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA extends to the shoreline.

(2) Between 46°16' N. lat. and 40°10' N. lat., the RCA is defined along an eastern, inshore boundary approximating 30 fm (55 m). The 30 fm depth contour used between 46°16' N. lat. and 40°10' N. lat. as an eastern boundary for the RCA is defined by straight lines connecting all of the following points in the order stated:

(1) 46°16.00' N. lat., 124°13.13' W. long.;
(2) 46°16.00' N. lat., 124°13.05' W. long.;
(3) 46°07.00' N. lat., 124°07.01' W. long.;
(4) 45°55.95' N. lat., 124°02.23' W. long.;
(5) 45°54.53' N. lat., 124°02.57' W. long.;
(6) 45°50.65' N. lat., 124°01.62' W. long.;
(7) 45°48.20' N. lat., 124°02.16' W. long.;
(8) 45°43.47' N. lat., 124°01.28' W. long.;
(9) 45°40.48' N. lat., 124°01.03' W. long.;
(10) 45°39.04' N. lat., 124°01.68' W. long.;
(11) 45°35.48' N. lat., 124°01.89' W. long.;
(12)45°29.81' N. lat., 124°02.45' W. long.;
(13)45°27.96' N. lat., 124°01.89' W. long.;
(14)45°27.22' N. lat., 124°02.67' W. long.;
(15)45°24.20' N. lat., 124°02.94' W. long.;
(16)45°20.60' N. lat., 124°01.74' W. long.;
(17)45°16.44' N. lat., 124°03.22' W. long.;
(18)45°13.63' N. lat., 124°02.70' W. long.;
(19)45°11.04' N. lat., 124°03.59' W. long.;
(20)45°08.55' N. lat., 124°03.47' W. long.;
(21)45°02.82' N. lat., 124°04.64' W. long.;
(22)44°58.06' N. lat., 124°05.03' W. long.;
(23)44°53.97' N. lat., 124°06.92' W. long.;
(24)44°48.89' N. lat., 124°07.04' W. long.;
(25)44°46.94' N. lat., 124°08.25' W. long.;
(26)44°42.72' N. lat., 124°08.98' W. long.;
(27)44°38.16' N. lat., 124°11.48' W. long.;
(28)44°33.38' N. lat., 124°11.54' W. long.;
(29)44°28.51' N. lat., 124°12.03' W. long.;
(30)44°27.65' N. lat., 124°12.56' W. long.;
(31)44°19.67' N. lat., 124°12.37' W. long.;
(32)44°10.79' N. lat., 124°12.22' W. long.;
(33)44°09.22' N. lat., 124°12.28' W. long.;
(34)44°00.22' N. lat., 124°12.80' W. long.;
(35)43°51.56' N. lat., 124°13.17' W. long.;
(36)43°44.26' N. lat., 124°14.50' W. long.;
(37)43°33.82' N. lat., 124°16.28' W. long.;
(38)43°28.66' N. lat., 124°18.72' W. long.;
(39)43°23.12' N. lat., 124°24.04' W. long.;
(40)43°20.49' N. lat., 124°25.90' W. long.;
(41)43°16.41' N. lat., 124°27.52' W. long.;
(42)43°14.23' N. lat., 124°29.28' W. long.;
(43)43°14.03' N. lat., 124°28.31' W. long.;
(44)43°11.92' N. lat., 124°28.26' W. long.;
(45)43°11.02' N. lat., 124°29.11' W. long.;
(46)43°10.13' N. lat., 124°29.15' W. long.;
(47)43°09.27' N. lat., 124°31.03' W. long.;
(48)43°07.73' N. lat., 124°30.92' W. long.;
(49)43°05.93' N. lat., 124°29.64' W. long.;
(50)43°01.59' N. lat., 124°30.64' W. long.;
(51)42°59.73' N. lat., 124°31.16' W. long.;
(52)42°53.75' N. lat., 124°36.09' W. long.;
(53)42°49.37' N. lat., 124°38.81' W. long.;
(54)42°46.42' N. lat., 124°37.69' W. long.;
(55)42°46.07' N. lat., 124°38.56' W. long.;
(56)42°45.29' N. lat., 124°37.95' W. long.;
(57)42°45.61' N. lat., 124°36.87' W. long.;
(58)42°44.28' N. lat., 124°33.64' W. long.;
(59)42°42.75' N. lat., 124°31.84' W. long.;
(60)42°40.04' N. lat., 124°29.19' W. long.;
(61)42°38.09' N. lat., 124°28.39' W. long.;
(62)42°36.72' N. lat., 124°27.54' W. long.;
(63)42°36.56' N. lat., 124°28.40' W. long.;
(64)42°35.76' N. lat., 124°28.79' W. long.;
(65)42°34.03' N. lat., 124°29.98' W. long.;
(66)42°34.19' N. lat., 124°30.58' W. long.;
(67)42°31.27' N. lat., 124°32.24' W. long.;
(68)42°27.07' N. lat., 124°32.53' W. long.;
(69)42°24.21' N. lat., 124°31.23' W. long.;
(70)42°20.47' N. lat., 124°28.87' W. long.;
(71)42°14.60' N. lat., 124°26.80' W. long.;
(72)42°10.90' N. lat., 124°24.57' W. long.;
(73)42°07.04' N. lat., 124°23.35' W. long.;
(74)42°02.16' N. lat., 124°22.59' W. long.;
(75)42°00.00' N. lat., 124°21.81' W. long.;
(76)41°59.95' N. lat., 124°21.56' W. long.;
(77)41°55.75' N. lat., 124°20.72' W. long.;
(78)41°50.93' N. lat., 124°23.76' W. long.;
(79)41°42.53' N. lat., 124°16.47' W. long.;
(80) 41°37.20' N. lat., 124°17.05' W. long.;
(81) 41°24.58' N. lat., 124°10.51' W. long.;
(82) 41°20.73' N. lat., 124°11.73' W. long.;
(83) 41°17.59' N. lat., 124°10.66' W. long.;
(84) 41°04.54' N. lat., 124°14.47' W. long.;
(85) 40°54.26' N. lat., 124°13.90' W. long.;
(86) 40°40.31' N. lat., 124°26.24' W. long.;
(87) 40°34.00' N. lat., 124°27.39' W. long.;
(88) 40°28.89' N. lat., 124°32.43' W. long.;
(89) 40°24.77' N. lat., 124°29.51' W. long.;
(90) 40°22.47' N. lat., 124°24.12' W. long.;
(91) 40°19.73' N. lat., 124°23.59' W. long.;
(92) 40°18.64' N. lat., 124°21.89' W. long.;
(93) 40°17.67' N. lat., 124°23.07' W. long.;
(94) 40°15.58' N. lat., 124°23.61' W. long.;

(95) 40°13.42' N. lat., 124°22.94' W. long.; and
(96) 40°10.00' N. lat., 124°16.65' W. long.;
(3) Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western, offshore boundary approximating 100 fm (183 m). The 100–fm (183–m) depth contour used north of 40°10' N. lat. as a western boundary for the RCA is defined by straight lines connecting all of the following points in the order stated:
(1) 48°15.00' N. lat., 125°41.00' W. long.;
(2) 48°14.00' N. lat., 125°36.00' W. long.;
(3) 48°09.50' N. lat., 125°40.50' W. long.;
(4) 48°08.00' N. lat., 125°38.00' W. long.;
(5) 48°05.00' N. lat., 125°37.25' W. long.;
(6) 48°02.60' N. lat., 125°34.70' W. long.;
(7) 47°59.00' N. lat., 125°34.00' W. long.;
(8) 47°57.26' N. lat., 125°29.82' W. long.;
(9) 47°59.87' N. lat., 125°25.81' W. long.;
(10) 48°01.80' N. lat., 125°24.53' W. long.;
(11) 48°02.08' N. lat., 125°22.98' W. long.;
(12) 48°02.97' N. lat., 125°22.89' W. long.;
(13) 48°04.47' N. lat., 125°21.75' W. long.;
(14) 48°06.11' N. lat., 125°19.33' W. long.;
(15) 48°07.95' N. lat., 125°18.55' W. long.;
(16) 48°09.00' N. lat., 125°18.00' W. long.;
(17) 48°11.31' N. lat., 125°17.55' W. long.;
(18) 48°14.60' N. lat., 125°13.46' W. long.;
(19) 48°16.67' N. lat., 125°14.34' W. long.;
(20) 48°18.73' N. lat., 125°14.41' W. long.;
(21) 48°19.67' N. lat., 125°13.70' W. long.;
(22) 48°19.70' N. lat., 125°11.13' W. long.;
(23) 48°22.95' N. lat., 125°10.79' W. long.;
(24) 48°21.61' N. lat., 125°02.54' W. long.;
(25) 48°23.00' N. lat., 124°49.34' W. long.;
(26) 48°17.00' N. lat., 124°56.50' W. long.;
(27) 48°06.00' N. lat., 125°00.00' W. long.;
(28) 48°04.62' N. lat., 125°01.73' W. long.;
(29) 48°04.84' N. lat., 125°04.03' W. long.;
(30) 48°06.41' N. lat., 125°06.51' W. long.;
(31) 48°06.00' N. lat., 125°08.00' W. long.;
(32) 48°07.08' N. lat., 125°09.34' W. long.;
(33) 48°07.28' N. lat., 125°11.14' W. long.;
(34) 48°03.45' N. lat., 125°16.66' W. long.;
(35) 47°59.50' N. lat., 125°18.88' W. long.;
(36) 47°58.68' N. lat., 125°16.19' W. long.;
(37) 47°56.62' N. lat., 125°13.50' W. long.;
(38) 47°53.71' N. lat., 125°11.96' W. long.;
(39) 47°51.70' N. lat., 125°09.38' W. long.;
(40) 47°49.95' N. lat., 125°06.07' W. long.;
(41) 47°49.00' N. lat., 125°03.00' W. long.;
(42) 47°46.95' N. lat., 125°04.00' W. long.;
(43) 47°46.58' N. lat., 125°03.15' W. long.;
(44) 47°44.07' N. lat., 125°04.28' W. long.;
(45) 47°43.32' N. lat., 125°04.41' W. long.;
(46) 47°40.95' N. lat., 125°04.14' W. long.;
(47) 47°39.58' N. lat., 125°04.97' W. long.;
(48) 47°36.23' N. lat., 125°02.77' W. long.;
(49) 47°34.28' N. lat., 124°58.66' W. long.;
(50) 47°32.17' N. lat., 124°57.77' W. long.;
(51) 47°30.27' N. lat., 124°56.16' W. long.;
(52) 47°30.60' N. lat., 124°54.80' W. long.;
(53) 47°29.26' N. lat., 124°52.21' W. long.;
(54) 47°28.21' N. lat., 124°50.65' W. long.;
(55) 47°27.38' N. lat., 124°49.34' W. long.;
(56) 47°25.61' N. lat., 124°48.26' W. long.;
(57) 47°23.54' N. lat., 124°46.42' W. long.;
(58) 47°20.64' N. lat., 124°45.91' W. long.;
(59) 47°17.99' N. lat., 124°45.59' W. long.;
(60) 47°18.20' N. lat., 124°49.12' W. long.;
(61) 47°15.01' N. lat., 124°51.09' W. long.;
(62) 47°12.61' N. lat., 124°54.89' W. long.;
(63) 47°08.22' N. lat., 124°56.53' W. long.;
(64) 47°08.50' N. lat., 124°57.74' W. long.;
(65) 47°01.92' N. lat., 124°54.95' W. long.;
(66) 47°01.14' N. lat., 124°59.35' W. long.;
(67) 46°58.48' N. lat., 124°57.81' W. long.;
(68) 46°56.79' N. lat., 124°56.03' W. long.;
(69) 46°58.01' N. lat., 124°55.09' W. long.;
(70) 46°55.07' N. lat., 124°54.14' W. long.;
(71) 46°59.60' N. lat., 124°49.79' W. long.;
(72) 46°58.72' N. lat., 124°48.78' W. long.;
(73) 46°54.45' N. lat., 124°48.36' W. long.;
(74) 46°53.99' N. lat., 124°49.95' W. long.;
(75) 46°54.38' N. lat., 124°52.73' W. long.;
(76) 46°52.38' N. lat., 124°52.02' W. long.;
(77) 46°48.93' N. lat., 124°49.17' W. long.;
(78) 46°41.50' N. lat., 124°43.00' W. long.;
(79) 46°34.50' N. lat., 124°28.50' W. long.;
(80) 46°29.00' N. lat., 124°30.00' W. long.;
(81) 46°20.00' N. lat., 124°36.50' W. long.;
(82) 46°18.00' N. lat., 124°38.00' W. long.;
(83) 46°17.52' N. lat., 124°35.35' W. long.;
(84) 46°17.00' N. lat., 124°22.50' W. long.;
(85)46°16.00' N. lat., 124°20.62' W. long.;
(86) 46°13.52' N. lat., 124°25.49' W. long.;
(87) 46°12.17' N. lat., 124°30.75' W. long.;
(88)46°10.63' N. lat., 124°37.95' W. long.;
(89)46°09.29' N. lat., 124°39.01' W. long.;
(90)46°02.40' N. lat., 124°40.37' W. long.;
(91)45°56.45' N. lat., 124°38.00' W. long.;
(92)45°51.92' N. lat., 124°38.49' W. long.;
(93)45°47.19' N. lat., 124°35.58' W. long.;
(94)45°46.41' N. lat., 124°32.36' W. long.;
(95)45°41.75' N. lat., 124°28.12' W. long.;
(96)45°36.96' N. lat., 124°24.48' W. long.;
(97)45°31.84' N. lat., 124°22.04' W. long.;
(98)45°27.10' N. lat., 124°21.74' W. long.;

(99)45°18.14' N. lat., 124°17.59' W. long.;
(100) 45°11.08' N. lat., 124°16.97' W. long.;
(101) 45°04.38' N. lat., 124°18.36' W. long.;
(102) 44°58.05' N. lat., 124°21.58' W. long.;
(103) 44°47.67' N. lat., 124°31.41' W. long.;
(104) 44°44.55' N. lat., 124°33.58' W. long.;
(105) 44°39.88' N. lat., 124°35.01' W. long.;
(106) 44°32.90' N. lat., 124°36.81' W. long.;
(107) 44°30.33' N. lat., 124°38.56' W. long.;
(108) 44°30.04' N. lat., 124°42.31' W. long.;
(109) 44°26.84' N. lat., 124°44.91' W. long.;
(110) 44°17.99' N. lat., 124°51.03' W. long.;
(111) 44°13.68' N. lat., 124°56.38' W. long.;
(112) 43°56.67' N. lat., 124°55.45' W. long.;
(113) 43°56.47' N. lat., 124°34.61' W. long.;
(114) 43°42.73' N. lat., 124°32.41' W. long.;
(115) 43°30.93' N. lat., 124°34.43' W. long.;
(116) 43°17.45' N. lat., 124°41.16' W. long.;
(117) 43°07.04' N. lat., 124°41.25' W. long.;
(118) 43°03.45' N. lat., 124°44.36' W. long.;
(119) 43°03.90' N. lat., 124°50.81' W. long.;
(120) 42°55.70' N. lat., 124°52.79' W. long.;
(121) 42°54.12' N. lat., 124°47.36' W. long.;
(122) 42°44.00' N. lat., 124°42.38' W. long.;
(123) 42°38.23' N. lat., 124°41.25' W. long.;
(124) 42°33.03' N. lat., 124°42.38' W. long.;
(125) 42°31.89' N. lat., 124°42.04' W. long.;
(126) 42°30.09' N. lat., 124°42.67' W. long.;
(127) 42°28.28' N. lat., 124°47.08' W. long.;
(128) 42°25.22' N. lat., 124°43.51' W. long.;
(129) 42°19.23' N. lat., 124°37.92' W. long.;
(130) 42°16.29' N. lat., 124°36.11' W. long.;
(131) 42°05.66' N. lat., 124°34.92' W. long.;
(132) 42°00.00' N. lat., 124°35.27' W. long.;
(133) 42°00.00' N. lat., 124°35.26' W. long.;
(134) 41°47.04' N. lat., 124°27.64' W. long.;
(135) 41°32.92' N. lat., 124°28.79' W. long.;
(136) 41°24.17' N. lat., 124°28.46' W. long.;
(137) 41°10.12' N. lat., 124°20.50' W. long.;
(138) 40°51.41' N. lat., 124°24.38' W. long.;
(139) 40°43.71' N. lat., 124°29.89' W. long.;
(140) 40°40.14' N. lat., 124°30.90' W. long.;
(141) 40°37.35' N. lat., 124°29.05' W. long.;
(142) 40°34.76' N. lat., 124°29.82' W. long.;
(143) 40°36.78' N. lat., 124°37.06' W. long.;
(144) 40°32.44' N. lat., 124°39.58' W. long.;
(145) 40°24.82' N. lat., 124°35.12' W. long.;
(146) 40°23.30' N. lat., 124°31.60' W. long.;
(147) 40°23.52' N. lat., 124°28.78' W. long.;
(148) 40°22.43' N. lat., 124°25.00' W. long.;
(149) 40°21.72' N. lat., 124°24.94' W. long.;
(150) 40°21.87' N. lat., 124°27.96' W. long.;
(151) 40°21.40' N. lat., 124°28.74' W. long.;
(152) 40°19.68' N. lat., 124°28.49' W. long.;
(153) 40°17.73' N. lat., 124°25.43' W. long.;
(154) 40°18.37' N. lat., 124°23.35' W. long.;
(155) 40°15.75' N. lat., 124°26.05' W. long.;
(156) 40°16.75' N. lat., 124°33.71' W. long.;
(157) 40°16.29' N. lat., 124°34.36' W. long.;
(158) 40°10.00' N. lat., 124°21.12' W. long.; and
(159) 40°10.00' N. lat., 124°21.50' W. long.

NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the proposed domestic fishing regulations. The Area 2A TAC will be set by the IPHC at its annual meeting on January 20–23, 2004, in Juneau, Alaska. NMFS requests comments on the proposed changes to the Plan and domestic fishing regulations after the annual meeting, so that the public will have the opportunity to consider the final Area 2A TAC before submitting comments on the proposed changes. The States of Washington and Oregon will conduct public workshops shortly after the IPHC meeting to obtain input on the sport season dates. After the Area 2A TAC is known and after NMFS reviews public comments and comments from the states, NMFS will issue a final rule for the Area 2A Pacific halibut sport fisheries concurrent with the IPHC regulations for the 2004 Pacific halibut fisheries.

Revision to Halibut Regulations

As part of this proposed rule, NMFS is proposing a revision to the Federal halibut regulations at 50 CFR 300.63, which authorizes vessels with IPHC licenses that are operating in the primary sablefish longline fishery north of Pt. Chehalis, WA to land halibut taken incidentally in that fishery. The revision would alter the regulations to state that, in addition to the prohibition on possessing and landing halibut south of Pt. Chehalis, WA, no halibut taken in this fishery may be purchased south of Pt. Chehalis, WA. This is a minor clarification and has no effect on the environment because it does not change the harvest opportunities for Pacific halibut, but simply clarifies for enforcement purposes that halibut cannot be purchased south of Pt. Chehalis.

This clarification also has no effect on the economy because the prohibition currently does not allow halibut from outside this area to be possessed or landed within this area. Therefore, the prohibition also intended to prohibit purchasing within this area of halibut caught outside the area (i.e., purchasing is not legal if it is illegal for an individual to land the fish in this area). However, the regulation did not explicitly prohibit purchasing, and is now revised to do so. There should be no net change in the selling and purchasing of halibut in the area. This is not a change from what was originally intended with this prohibition and simply clarifies regulatory language for enforcement purposes.

Classification

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan and annual domestic Area 2A halibut management measures. Copies of this document are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The IRFA is available from NMFS (see

ADDRESSES). A summary of the IRFA follows:

A fish-harvesting business is considered a ''small'' business by the Small Business Administration if it has annual receipts not in excess of $3.5 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For marinas and charter/party boats, a small business is one with annual receipts not in excess of $6.0 million. All of the businesses that would be affected by this action are considered small businesses under SBA guidance.

The proposed changes to the Area 2A Plan, which allocates the catch of Pacific halibut among users in Washington, Oregon and California, would: (1) provide more flexibility for Washington inseason sport fishery management; (2) revise the public announcement process for the Puget Sound sport fishery (Washington's inside waters subarea); (3) revise season dates for the Washington North Coast and South Coast sport fisheries; (4) combine the Oregon North Central and South Central subareas; (5) revise the ''additional fishing days'' season structure for Oregon's spring and summer sport fisheries; (6) extend the season closing date for Oregon/California sport fisheries South of Humbug Mountain subarea; and (7) change the depth restriction for Oregon's nearshore sport fishery. The proposed changes to annual domestic Area 2A halibut management measures would revise the eastern, inshore boundary of an area closed to non-treaty commercial halibut fishing. The flexible inseason management provisions and the fishery election process in Area 2A have essentially not changed since 2003, but are included in the proposed rule to provide opportunity for public notice and comment. One minor change in the flexible inseason management provisions for Area 2A is that the NMFS telephone hotline will be maintained from May through October rather than May through September to cover the duration of the commercial and sport halibut seasons in Area 2A.

The purpose of revising the public announcement process for the Puget Sound fishery is to streamline the management process. The Puget Sound fishery (season structure, opening dates, etc) is to remain in place for a few years to evaluate their effectiveness. The public will continue to have an opportunity to comment on the halibut fisheries in the state-run public comment process (email and mail forums and public meetings, as needed) and in the Federal notice-and-comment process. Revising the season dates in Washington's North Coast subarea are intended to move the fishery later in May when the weather tends to be more favorable, to increase the likelihood of the fishery being open on Memorial Day weekend, and to allow for flexibility in picking June openings for days when tidal conditions are more favorable. Revising the season dates in Washington's South Coast subarea are intended to add more fishing opportunity for halibut when the salmon season is open. Combining the Oregon Central Coast subareas is intended to match how the fishery is currently managed, for all practical purposes. Revising the ''additional fishing days'' season structure in the Oregon's Central Coast fisheries is intended to allow fishery participants to harvest the available quota in this area. Extending the season end date for the South of Humbug Mountain, OR subarea is intended to match the season end date for this subarea with the season end dates for the other Oregon subareas. Changing the depth restrictions for Oregon's Central Coast nearshore fishery is intended to better mesh halibut regulations with groundfish regulations to reduce angler confusion and ease enforcement. Other proposed changes to the Plan are intended to provide managers with more flexibility for adjusting fisheries inseason in order to ensure the available quota is taken. The purpose of revising the eastern, inshore boundary of an area closed to non-treaty commercial halibut fishing in the annual domestic Area 2A halibut management measures is to align with the revised boundary for the groundfish fishery in this area. This revised boundary, which only moved 3 fm, is designed to better align with the occurrence of overfished rockfish species, such as yelloweye and canary rockfish, that may be caught with longline gear used in the commercial halibut fishery.

The proposed changes to the Plan and annual domestic Area 2A halibut management measures will affect charter fishing operations, anglers and commercial halibut fishermen who operate off Washington and Oregon. In 2003, IPHC issued 127 licenses to the charterboat fleet, 260 licenses to the commercial directed fishery which includes licenses for vessels retaining halibut caught incidentally to the primary sablefish fishery, and 323 licenses to salmon troll vessels to retain incidentally caught halibut. For 2004, the proposed changes to the Plan and annual domestic Area 2A halibut management measures are non-substantive. These changes are within the Plan's management objective of allocating the TAC in Area 2A, while also allowing commercial, recreational, and tribal fisheries to target halibut in the manner most appropriate for the user's needs within that fishery.

These changes to the Plan and annual domestic Area 2A halibut management measures are authorized under the Pacific Halibut Act and implementing regulations at 50 CFR 300.60–65.

The proposed changes to the Plan and annual domestic Area 2A halibut management measures are expected to result in either no impact at all, or a modest increase in fishing opportunity for commercial and sport halibut fishermen and operators. The proposed sport management measures for 2004 implement the Plan by managing the recreational fishery to meet the differing fishery needs of the various areas along the coast according to the Plan's objectives. The proposed non-treaty commercial management measures for 2004 will allow the fishery access to the commercial portion of the Area 2A TAC while protecting overfished rockfish species that co-occur with halibut. The measures for 2004 will be very similar to last year's management measures. No additional alternatives from status quo were analyzed. There were no significant alternatives that could have similarly improved angler enjoyment of and participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest. These changes do not include any reporting or recordkeeping requirements. These changes will also not duplicate, overlap or conflict with other laws or regulations.

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

Pursuant to Executive Order 13175, the Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. At section 302(b)(5), the Magnuson-Stevens Fishery Conservation and Management Act reserves a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. government formally recognizes that the 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas (described at 50 CFR 660.324). Each of the treaty tribes has the discretion to administer their fisheries

and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

Dated: February 17, 2004.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS,

Subpart E—Pacific Halibut Fisheries

1. The authority citation for 50 CFR part 300, subpart E continues to read as follows:

Authority: 16 U.S.C. 773–773k.

2. In § 300.63, paragraph (b)(3)(ii) is revised to read as follows:

§ 300.63 Catch sharing plans and domestic management measures in Area 2A.

* * * * *

(b) * * *

(3) * * *

(ii) It is unlawful for any person to possess, land or purchase halibut south of 46°53'18'' N. lat. that were taken and retained as incidental catch authorized by this section in the directed longline sablefish fishery.

* * * * *

[FR Doc. 04–3753 Filed 2–20–04; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 69, No. 35
Monday, February 23, 2004

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by a group of freshwater prawn producers from Kentucky for trade adjustment assistance. The Administrator will determine within 40 days whether or not imports of farmed shrimp contributed importantly to a decline in domestic producer prices by more than 20 percent during the marketing period beginning January 2002 and ending December 2002. If the determination is positive, all Kentucky freshwater prawn producers will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, email: *trade.adjustment@fas.usda.gov.*

Dated: February 6, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3804 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the National Alfalfa Alliance, Kennewick, Washington. The alliance represents non-certified (common) alfalfa seed producers in the states of California, Colorado, Idaho, Montana, Nevada, Oregon, Washington, and Wyoming. The Administrator will determine within 40 days whether or not imports of non-certified (common) alfalfa seed contributed importantly to a decline in domestic producer prices by more than 20 percent during calendar year 2002. If the determination is positive, all alfalfa seed producers in the above listed impacted States will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 6, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3802 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the North Carolina Fisheries Association, New Bern, North Carolina, for trade adjustment assistance. The association represents North Carolina shrimpers. The Administrator will determine within 40 days whether or not imports of farmed shrimp contributed importantly to a decline in domestic producer prices by more than 20 percent during the marketing period beginning January 2002 and ending December 2002. If the determination is positive, all North Carolina shrimpers will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance payments based on their shrimp landings.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 6, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3800 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today announced that a group of apple growers in Rappahannock County, Virginia, has filed a petition for trade adjustment assistance. The growers produce apples for processing and have requested a public hearing to present evidence that concentrated apple juice is a like or directly competitive product. A hearing will be held on March 2, 2004, at 2 p.m. e.t. in Room 5066, South Agricultural Building, 1400 Independence Ave, SW., Washington, DC.

SUPPLEMENTARY INFORMATION: The petition maintains that during July 1, 2002, through June 30, 2003, increasing imports of apple juice concentrate contributed importantly to a decline in domestic producer prices by more than 20 percent. To support their contention, the growers submitted published price lists of local processors. Having filed this petition, the Administrator has 40 days to determine whether or not the apple producers are eligible for trade adjustment assistance. If the determination is positive, they will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance payments.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers,

FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 11, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3801 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Southeastern Fisheries Association, Tallahassee, Florida, for trade adjustment assistance. The association represents Florida shrimpers. The Administrator will determine within 40 days whether or not imports of farmed shrimp contributed importantly to a decline in domestic producer prices by more than 20 percent during the marketing period beginning January 2003 and ending December 2003. If the determination is positive, all Florida shrimpers will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance payments based on their shrimp landings, excluding rock shrimp.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 6, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3803 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Tropical Fruit Growers of South Florida, Inc., representing a group of fresh lychee producers from Florida for trade adjustment assistance. The Administrator will determine within 40 days whether or not imports of lychees contributed importantly to a decline in domestic producer prices by more than 20 percent during the marketing period beginning May 2003 and ending July 2003. If the determination is positive, all lychee producers will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 10, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3805 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Trade Adjustment Assistance for Farmers

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

The Administrator, Foreign Agricultural Service (FAS), today accepted a petition filed by the Tropical Fruit Growers of South Florida, Inc., representing a group of fresh longan producers from Florida for trade adjustment assistance. The Administrator will determine within 40 days whether or not imports of longans contributed importantly to a decline in domestic producer prices by more than 20 percent during the marketing period beginning July 2003 and ending September 2003. If the determination is positive, all longan producers will be eligible to apply to the Farm Service Agency for technical assistance at no cost and adjustment assistance.

FOR FURTHER INFORMATION CONTACT: Jean-Louis Pajot, Coordinator, Trade Adjustment Assistance for Farmers, FAS, USDA, (202) 720–2916, e-mail: *trade.adjustment@fas.usda.gov.*

Dated: February 10, 2004.

A. Ellen Terpstra,

Administrator, Foreign Agricultural Service.

[FR Doc. 04–3806 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Invasive Plant Treatment Project—Ochoco and Deschutes National Forests; Oregon

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 document and disclose the potential environmental effects of proposed invasive plant treatment activities on the Ochoco and Deschutes National Forest. This project evaluates site specific treatments of invasive plants, including manual, mechanical, chemical and biological control treatment methods.

DATES: Comments concerning the scope of this analysis should be received no later than April 5, 2004.

ADDRESSES: Submit written comments to: Invasive Plant Team, USDA Forest Service, P.O. Box 3623, Portland, OR 97208–3623.

FOR FURTHER INFORMATION CONTACT: Eugene Skrine, Team Leader, Invasive Plant EIS Project, USDA Forest Service, P.O. Box 3623, Portland, OR 97208–3623 or by calling (503) 808–2685.

SUPPLEMENTARY INFORMATION:

Need for the Proposal

Approximately 10,000 acres of forests and grasslands are degraded on the Ochoco and Deschutes National Forests by infestations of invasive, non-native plants. These infestations are situated on about 2500 individual locations or sites. These infestations have a high potential to expand and further degrade forests and grasslands. Infested areas represent potential seed sources for further invasion onto neighboring lands.

Invasive plants are compromising our ability to manage the National Forests for a healthy native ecosystem. Invasive plants create a host of environmental and other effects, most of which are harmful to native ecosystem processes, including: displacement of native plants; reduction in functionality of habitat and forage for wildlife and livestock; loss of threatened, endangered, and sensitive species; increased soil erosion and reduced water quality; alteration of physical and biological properties of soil, including reduced soil productivity; changes to the intensity and frequency of fires; high cost (dollars spent) of controlling invasive plants; and loss of recreational opportunities.

Proposed Action

The USDA Forest Service Ochoco and Deschutes National Forests, propose to treat areas infested with invasive plants. We estimate the cumulative treatment area to be 10,000 acres, including approximately 3,000 acres by manual treatment, 500 acres by mechanical treatment, and 6,500 acres by chemical treatment. The proposed treatments will be conducted in compliance with Forest Plan direction to enhance our ability to protect native ecosystems from invasive, non-native plants. Some of the treated areas are small in size , while others are somewhat extensive. Treatment methods will employ manual, mechanical, chemical, and biological control methods. Selection of treatment methods is based on information such as the biology of particular invasive plant species, site location, and size of the infestation. Long-term site goals will be established for infested areas, taking into consideration treatment options, monitoring and revegetation feasability.

Proposed Scoping

Public participation is an important part of this analysis. The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, tribes, and other individuals or organizations who may be interested in or affected by the proposed action. Comments submitted during the scoping process should be in writing. They should be specific to the action being proposed and should describe as clearly and completely as possible any issues the commenter has with the proposal. This input will be used in preparation of the draft EIS.

To facilitate public participation additional scoping opportunities will include: a scoping letter, public meetings (dates and locations yet to be determined), newsletters, and a Web site *(www.fs.fed.us/r6/invasiveplant-eis/multiforest-sitespecific-information.htm).*

Preliminary Issues Identified to Date

Preliminary issues associated with the Proposed Action include:

- Human Health—Implementation of treatment methods (particularly herbicides) designed to manage invasive plants may pose risks to the health and safety of workers and the public.
- Threatened, Endangered and Sensitive Species—The treatment of invasive plants can affect Threatened, Endangered, and Sensitive Species.
- Aquatics—The treatment of invasive plants, particularly with herbicides, can affect aquatic ecosystems, including water quality and watershed health.
- Tribes and Treaty Rights—The treatment of invasive plants has potential to affect plants considered culturally important to American Indian Tribes.
- Recreation—The treatment of invasive plants can affect recreation on the Forests.
- Wildlife—The treatment of invasive plants has potential to affect wildlife.

Preliminary Alternatives

The No Action alternative will serve as a baseline for comparison of alternatives. This alternative will offer no treatment of affected sites. It will be fully developed and analyzed. Additional alternatives may be developed around the proposed action to address key issues identified in the scoping and public involvement process. An adaptive management approach may be considered as an alternative.

Estimated Dates for Draft and Final EIS

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be released for public comment by September 2004. The comment period on the draft EIS will end 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS 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. 553 [1978]). Also, environmental objectives that could be raised at the draft EIS stage but that are not raised until after the 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 Heritage, Inc.* v. *Harris,* 490 F. Supp. 1334 [E.D.Wis. 1980]). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period, so that substantive comments and objections are made available to the Forest Service at 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 the comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provision of the National Environmental Policy Act (40 CFR 1503.3) in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may 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 where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

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 February 2005. There will be two responsible officials for this multiforest EIS. Duties of the Responsible Official will be shared between Leslie Weldon, Forest Supervisor of the Deschutes National Forest, and Larry Timchak, Forest Supervisor of the Ochoco National Forest. They will consider comments, responses, and environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies in making a decision regarding this proposed action. The responsible officials will document the decision and rationale for the decision in the Record of Decision. It will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: February 12, 2004.

Jim Golden,

Deputy Regional Forester, Pacific Northwest Region.

[FR Doc. 04–3580 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Invasive Plant Treatment Project—Olympic, Gifford Pinchot, and Mt. Hood National Forests and Columbia River Gorge National Scenic Area; Oregon and Washington

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 document and disclose the potential environmental effects of proposed invasive plant treatment activities. This project evaluates site specific treatment applications on the Olympic, Gifford Pinchot, and Mt. Hood National Forests, and on the Columbia River Gorge National Scenic Area. This action implements a variety of treatment methods, including manual, mechanical, chemical and biological control.

DATES: Comments concerning the scope of this analysis should be received no later than April 5, 2004.

ADDRESSES: Submit written comments to: Invasive Plant Team, USDA Forest Service, P.O. Box 3623, Portland, OR 97208–3623.

FOR FURTHER INFORMATION CONTACT: Eugene Skrine, Team Leader, Invasive Plant EIS Project, USDA Forest Service, P.O. Box 3623, Portland, OR 97208–3623 or by calling (503) 808–2685.

SUPPLEMENTARY INFORMATION:

Need for the Proposal

In recent years invasive plant populations have significantly increased on the Olympic, Gifford Pinchot, and Mt. Hood National Forests, and on the Columbia River Gorge National Scenic Area. Forest inventories indicate that there are approximately 1000 invasive plant sites. These sites occupy about 16,000 acres of National Forest land, approximately 4,000 acres on the Olympic, 3,500 acres on the Gifford Pinchot, 1,000 acres on the Columbia River Gorge National Scenic Area, and 7,500 acres on the Mount Hood. Invasive plants continue to expand every year, and have the potential to increase at rates of up to 8–12 percent per year.

Invasive plants are compromising our ability to manage the National Forests for a healthy native ecosystem. Invasive plants create a host of environmental and other effects, most of which are harmful to native ecosystem processes, including: displacement of native plants; reduction in functionality of habitat and forage for wildlife and livestock; loss of threatened, endangered, and sensitive species; increased soil erosion and reduced water quality; alteration of physical and biological properties of soil, including reduced soil productivity; changes to the intensity and frequency of fires; high cost (dollars spent) of controlling invasive plants; and loss of recreational opportunities.

Proposed Action

The USDA Forest Service, Olympic, Gifford Pinchot, and Mt. Hood National Forests, and the Columbia River Gorge National Scenic Area propose to treat areas infested with invasive plants. We estimate the cumulative treatment area to be about 16,000 acres, including approximately 7,000 acres by manual treatment, 1,500 acres by mechanical treatment, and 7,500 acres by chemical treatment.

The proposed treatments will be conducted in compliance with Forest Plan direction to enhance our ability to protect native ecosystems from invasive, non-native plants. Some of the treated areas are likely to be small in size, while others are somewhat extensive. Treatment methods will employ manual, mechanical and chemical methods. The selection of individual treatment methods is based on information such as the biology of particular invasive plant species, site location, and size of the infestation. The development of long-term site goals and treatment of infested areas will be linked to revegetation and monitoring.

Proposed Scoping

Public participation is an important part of this analysis. The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, tribes, and other individuals or organizations who may be interested in or affected by the proposed action. Comments submitted during the scoping process should be in writing. They should be specific to the action being proposed and should describe as clearly and completely as possible any issues the commenter has with the proposal. This input will be used in preparation of the draft EIS.

To facilitate public participation additional scoping opportunities will include: a scoping letter, public meetings (dates and locations yet to be determined), newsletters, and a Web site with address *(http://www.fs.fed.us/r6/invasiveplant-eis/multiforest-sitespecific-information.htm).*

Preliminary Issues Identified to Date

Preliminary issues associated with the Proposed Action include:

- Human Health—Implementation of treatment methods (particularly herbicides) designed to manage invasive plants may pose risks to the health and safety of workers and the public.
- Threatened, Endangered and Sensitive Species—The treatment of invasive plants can affect Threatened, Endangered, and Sensitive Species.
- Aquatics—The treatment of invasive plants, particularly with herbicides, can affect aquatic ecosystems, including water quality and watershed health.
- Tribes and Treaty Rights—The treatment of invasive plants has potential to affect plants considered culturally important to American Indian Tribes.
- Recreation—The treatment of invasive plants can affect recreation on the Forests.
- Wildlife—The treatment of invasive plants has potential to affect wildlife.

Preliminary Alternatives

The No Action alternative will serve as a baseline for comparison of alternatives. This alternative will offer no treatment of affected sites. It will be fully developed and analyzed. Additional alternatives may be developed around the proposed action to address key issues identified in the scoping and public involvement process.

Estimated Dates for Draft and Final EIS

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public comment by September 2004. The comment period on the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the draft EIS 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. 553 [1978]). Also, environmental objectives that could be raised at the draft EIS stage but that are not raised until after the 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 Heritage, Inc*. v. *Harris*, 490 F. Supp. 1334 [E.D.Wis. 1980]). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period; so that substantive comments and objections are made available to the Forest Service at 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 the comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft EIS or the merits of alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provision of the National Environmental Policy Act (40 CFR 1503.3) in addressing these points.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments may 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 where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

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 February 2005. There will be four responsible officials for this multiforest EIS. Dale Hom, Forest Supervisor of the Olympic National Forest, Claire Lavendel, Forest Supervisor of the Gifford Pinchot National Forest, Gary Larsen, Forest Supervisor of the Mt. Hood National Forest, and Dan Harkenrider, Area Manager of the Columbia River Gorge National Scenic Area will share the duties of responsible official for this project. They will consider comments, responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies in making the decision and rationale for the decision in the Record of Decision. It will be subject to Forest Service Appeal Regulations (36 CFR part 215).

Dated: February 12, 2004.

Jim Golden,

Deputy Regional Forester, Pacific Northwest Region.

[FR Doc. 04–3581 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mendocino Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Mendocino County Resource Advisory Committee (RAC) will meet March 12, 2004, in Willits, California. Agenda items to be covered include: (1) Introductions; (2) Federal Advisory Committee Act (FACA) summary; (3) RAC overview; (4) selection of chair; (5) support role of Forest Service; (6) meeting logistics; (7) public comment; (8) general discussion; and (9) next agenda and meeting date.

DATES: The meeting will be held on March 12, 2004, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at the Mendocino County Museum, located at 400 E. Commercial St. Willits, California.

FOR FURTHER INFORMATION CONTACT: Roberta Hurt, Committee Coordinator, USDA Forest Service, Mendocino National Forest, Covelo Ranger District, 78150 Covelo Road, Covelo CA 95428. (707) 983–6118; E-mail *rhurt@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Persons who wish to bring matters to the attention of the Committee will have the opportunity to address the committee at the meeting.

Dated: February 6, 2004.

James Fenwood,

Forest Supervisor.

[FR Doc. 04–3770 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Appointment to the Advisory Committee on Agriculture Statistics

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notification of appointment to the Advisory Committee on Agriculture Statistics.

SUMMARY: The Office of the Secretary of Agriculture announces members appointed to the Advisory Committee on Agriculture Statistics, in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. II.

FOR FURTHER INFORMATION CONTACT: Carol House, Executive Director, Advisory Committee on Agriculture Statistics, U.S. Department of Agriculture, National Agricultural Statistics Service, Telephone: 202–720–4333, Fax: 202–720–9013, or e-mail: *chouse@nass.usda.gov.*

SUPPLEMENTARY INFORMATION: The appointment for the twenty-five member committee, which has representation across seven categories that covers a broad range of agricultural disciplines and interests, was signed on November 28, 2003. Appointed members, by their associated category are: *Consumer and Information Organizations*—Ross Ronald Racine, Billings, MT; James Dennis Rieck, Winfield, IL; Robert W. Spear, Nobleboro, ME. *Educational Organizations*—R. Edmund Gomez, Alcalde, NM; Ling-Jung (Kelvin) Koong, Corvallis, OR; Bobby Ray Phills, Tallahassee, FL. *Farm Services Organizations*—Jacklyn M. Folsom, Cabot, VT; John Irving Gifford, Rock Island, IL; Jack Charles Mitenbuler, Indianapolis, IN; Ranvir Singh, Marysville, CA; Mark Edward Whalon, East Lansing, MI. *Government Agencies*—Robert Dale Epperson, Fresno, CA. *National Farm Organizations*—Carol Ann Gregg, Grove City, PA; Mark W. Jenner, Mt. Prospect, IL; Sheila Kay Massey, Animas, NM; Ivan W. Wyatt, Cedar Point, KS. *Producer and Marketing Organizations*—Gary Adams, Cordova, TN; Roger M. Cryan, Fairfax, VA; William George Lapp, Omaha, NE.; Lucy C. Meyring, Walden, CO.; Ron Olsen, Idaho Falls, ID; Ron Plain, Columbia, MO; Ira Silvergleit, Alexandria, VA.

Professional Organizations—Walter J. Armbruster, Darien, IL; Ronald C. Wimberley, Raleigh, NC.

The duties of the Committee are solely advisory. The Committee will make recommendations to the Secretary of Agriculture with regards to the agricultural statistics program of the National Agricultural Statistics Service (NASS) and such other matters as it may deem advisable, or which the Secretary of Agriculture, Under Secretary for Research, Education, and Economics, or the Administrator of NASS may request. The Advisory Committee meeting will be held on February 17–18, 2004. All meetings are open to the public. Committee members will be reimbursed for official travel expenses only.

Signed at Washington, DC, February 5, 2004.

R. Ronald Bosecker,

Administrator, National Agricultural Statistics Service.

[FR Doc. 04–3764 Filed 2–20–04; 8:45 am]

BILLING CODE 3410–20–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into the cause of a deadly explosion and the leakage of 26,000 pounds of aqua ammonia into the atmosphere from the DD Williamson & Co., Inc. plant in Louisville, Kentucky on April 11, 2003, the United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 9:30 a.m. local time on March 12, 2004, at the Galt House, 140 North Fourth Street, Louisville, KY, 40202, Telephone: 502–568–5200.

At the meeting CSB staff will present to the Board the results of their investigation into this incident, including an analysis of the incident together with a discussion of the key findings, root and contributing causes, and draft recommendations. The CSB staff presentation will focus on three key safety issues: overpressure protection, hazard evaluation systems, and engineering at small facilities.

This incident occurred at 2:10 a.m. on Friday, April 11, 2003, when a vessel explosion at the DD Williamson plant killed an operator and caused extensive damage to the western end of the facility. As a consequence of the explosion, 26,000 pounds of aqua ammonia (29.4% ammonia solution in water) leaked into the atmosphere, forcing the evacuation of 26 residents. The DD Williamson plant employs approximately 45 people and is located in a mixed industrial and residential neighborhood approximately 1.5 miles east of downtown Louisville.

Recommendations proposed in the investigative report are issued by a vote of the Board and address identified safety deficiencies uncovered during the investigation, and specifies how to correct the situation. Safety recommendations are the primary tool used by the Board to motivate implementation of safety improvements and prevent future incidents. The CSB uses its unique independent accident investigation perspective to identify trends or issues that might otherwise be overlooked. CSB recommendations may be directed to corporations, trade associations, government entities, safety organizations, labor unions and others.

After the staff presentation, the Board will allow a time for public comment. Following the conclusion of the public comment period, the Board will consider whether to vote to approve the final report and recommendations.

All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions or findings should be considered final. Only after the Board has considered the staff presentation and approved the staff report will there be an approved final record of this incident.

The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, at least 5 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board at (202) 261–7600, or visit our Web site at: *http://www.csb.gov.*

Christopher W. Warner,

General Counsel.

[FR Doc. 04–3894 Filed 2–19–04; 10:01 am]

BILLING CODE 6350–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021704D]

North Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The North Pacific Fishery Management Council's (Council) Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BS/AI), King and Tanner, Scallop, plan teams will meet via video conference in 4 locations and by teleconference, telephone: 907–586–7060.

DATES: The meetings will be held on March 8, 2004, from 8 a.m. to 12 noon, 1 p.m. to 4 p.m., Alaska Time); March 9, 2004, from 10:30 a.m. to 12:30 p.m., 1:30 p.m. to 4 p.m., Alaska Time).

ADDRESSES: The listening stations are located in Anchorage, Juneau, Kodiak, AK and Seattle, WA. See **SUPPLEMENTARY INFORMATION** for locations.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Stram, Cathy Coon, North Pacific Fishery Management Council; telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The listening/video stations are as follows:

North Pacific Fishery Management Council, 605 W 4th Avenue, Room 301, Anchorage, AK;

Alaska Fisheries Science Center, 7600 Sand Point Way N.E., Building 4, Conference Room, Seattle, WA;

NMFS, 709 W 9th Street, 4th Floor, Sustainable Fisheries Conference Room, Juneau, AK;

Fishery Industry Technology Center, 301 Research Center, Conference Room, Kodiak, AK.

The meetings will begin at 8 a.m. on March 8. The plan team will review proposals for designation of Habitat Areas of Particular Concern (HAPC), that were submitted to the Council. The plan teams will evaluate the proposals and develop recommendations to assist the Council with development of HAPC designation alternatives.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen,

907–271–2809, at least 5 working days prior to the meeting date.

Dated: February 18, 2004.

Tracey Thompson,

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

[FR Doc. E4–347 Filed 2–20–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021704F]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The Council and its advisory entities will meet March 7–12, 2004. The Council meeting will begin on Tuesday, March 9, at 8 a.m., reconvening each day through Friday. All meetings are open to the public, except a closed session will be held from 8 a.m. until 9 a.m. on Tuesday, March 9 to address litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

ADDRESSES: The meetings will be held at the Sheraton Tacoma Hotel, 1320 Broadway Plaza, Tacoma, WA 98402; telephone: 253–572–3200.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Dr. Donald O. McIsaac, Executive Director; telephone: (503) 820–2280 or (866) 806–7204.

SUPPLEMENTARY INFORMATION: The following items are on the Council agenda, but not necessarily in this order:

A. Call to Order
1. Opening Remarks and Introductions
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Administrative Matters
1. Approval of Council Meeting Minutes
2. Legislative Matters
3. Appointments to Advisory Bodies, Standing Committees, and Other Forums
4. Draft April 2004 Council Meeting Agenda
5. Regional Council Conference: Magnuson-Stevens Act The First 25 Years

C. Salmon Management
1. Update on Pacific Salmon Commission Coho Fishery Regulatory Assessment Model for 2004 Salmon Management
2. Review of 2003 Fisheries and Summary of 2004 Stock Abundance Estimates
3. Inseason Management Recommendations for Seasons Prior to May 1 for the Commercial Fishery Between Horse Mountain and Point Arena (Fort Bragg Area)
4. Identification of Management Objectives and Preliminary Definition of 2004 Salmon Management Options
5. Council Recommendations for 2004 Management Option Analysis
6. Salmon Fishery Management Plan Amendment Issues
7. Update on Mitchell Act Hatchery Needs
8. Council Direction for 2004 Management Options (If Necessary)
9. Adoption of 2004 Management Options for Public Review
10. Salmon Hearings Officers

D. Enforcement Issues
1. Contact-to-Violation Ratio in the Recreational Groundfish Fishery
2. U.S. Coast Guard Fishery Enforcement

E. Groundfish Management
1. NMFS Report
2. Lingcod and Cabezon Stock Assessments for 2005–06
3. Stock Assessment Planning for 2007–08 Fishery Management
4. Status of Groundfish Fisheries and Inseason Adjustments
5. Pacific Whiting Management

F. Pacific Halibut Management
1. NMFS Report
2. Report on International Pacific Halibut Commission Annual Meeting
3. Public Review Options for the 2004 Incidental Catch Regulations in the Salmon Troll and Fixed Gear Sablefish Fisheries

G. Habitat
1. Current Habitat Issues
2. Corals and Living Substrate Report
3. Artificial Reefs in Southern California

H. Marine Protected Areas
1. Marine Reserves in the Federal Waters Portion of the Channel Islands National Marine Sanctuary
2. Scientific and Statistical Committee Review of Marine Reserves Issues
3. Update on Other Marine Protected Area Activities

SCHEDULE OF ANCILLARY MEETINGS

SUNDAY, MARCH 7, 2004		
Groundfish Management Team	2 p.m.	Tacoma 4 Room
MONDAY, MARCH 8, 2004		
Council Secretariat	8 a.m.	Main Hall D
Groundfish Advisory Subpanel	8 a.m.	Tacoma 3 Room
Groundfish Management Team	8 a.m.	Tacoma 4 Room
Klamath Fishery Management Council	8 a.m.	Tacoma 1 Room
Salmon Advisory Subpanel	8 a.m.	Main Hall E
Salmon Technical Team	8 a.m.	Main Hall C
Scientific and Statistical Committee	8 a.m.	Main Hall F
Habitat Committee	1 p.m.	South/Center Room
Legislative Committee	11 a.m.	2nd Floor Boardroom
Tribal Policy Group	As necessary	Tacoma 2 Room
Tribal and Washington Technical Groups	As necessary	Executive Board Room
Washington State Delegation	As necessary	North Room
TUESDAY, MARCH 9, 2004		
Council Secretariat	7 a.m.	Main Hall D
California State Delegation	7 a.m.	Tacoma 3 Room
Oregon State Delegation	7 a.m.	2nd Floor Boardroom
Groundfish Advisory Subpanel	8 a.m.	Tacoma 3 Room
Groundfish Management Team	8 a.m.	Tacoma 4 Room
Habitat Committee	8 a.m.	South/Center Room

SCHEDULE OF ANCILLARY MEETINGS—Continued

Salmon Advisory Subpanel	8 a.m.	Main Hall E
Salmon Technical Team	8 a.m.	Main Hall C
Scientific and Statistical Committee	8 a.m.	Main Hall F
Enforcement Consultants	Immediately following Council session	2nd Floor Boardroom
Klamath Fishery Management Council	As necessary	Tacoma 1 Room
Tribal Policy Group	As necessary	Tacoma 2 Room
Tribal and Washington Technical Groups	As necessary	Executive Board Room
Washington State Delegation	As necessary	North Room
WEDNESDAY, MARCH 10, 2004		
Council Secretariat	7 a.m.	Main Hall D
California State Delegation	7 a.m.	Tacoma 3 Room
Oregon State Delegation	7 a.m.	2nd Floor Boardroom
Groundfish Advisory Subpanel	8 a.m.	Tacoma 3 Room
Groundfish Management Team	8 a.m.	Tacoma 4 Room
Salmon Advisory Subpanel	8 a.m.	Main Hall E
Salmon Technical Team	8 a.m.	Main Hall C
Scientific and Statistical Committee	8 a.m.	Main Hall F
Enforcement Consultants	As necessary	2nd Floor Boardroom
Klamath Fishery Management Council	As necessary	Tacoma 1 Room
Tribal Policy Group	As necessary	Tacoma 2 Room
Tribal and Washington Technical Groups	As necessary	Executive Board Room
Washington State Delegation	As necessary	North Room
THURSDAY, MARCH 11, 2004		
Council Secretariat	7 a.m.	Main Hall D
California State Delegation	7 a.m.	Tacoma 3 Room
Oregon State Delegation	7 a.m.	2nd Floor Boardroom
Groundfish Advisory Subpanel	8 a.m.	Tacoma 3 Room
Groundfish Management Team	8 a.m.	Tacoma 4 Room
Salmon Advisory Subpanel	8 a.m.	Main Hall E
Salmon Technical Team	8 a.m.	Main Hall C
Enforcement Consultants	As necessary	2nd Floor Boardroom
Klamath Fishery Management Council	As necessary	Tacoma 1 Room
Tribal Policy Group	As necessary	Tacoma 2 Room
Tribal and Washington Technical Groups	As necessary	Executive Board Room
Washington State Delegation	As necessary	North Room
FRIDAY, MARCH 12, 2004		
Council Secretariat	7 a.m.	Main Hall D
California State Delegation	7 a.m.	Tacoma 3 Room
Oregon State Delegation	7 a.m.	2nd Floor Boardroom
Salmon Advisory Subpanel	8 a.m.	Main Hall E
Salmon Technical Team	8 a.m.	Main Hall C
Enforcement Consultants	As necessary	2nd Floor Boardroom
Tribal Policy Group	As necessary	Tacoma 1 Room
Tribal and Washington Technical Groups	As necessary	Tacoma 2 Room
Washington State Delegation	As necessary	Executive Board Room

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least 5 days prior to the meeting date.

Dated: February 18, 2004.

Tracey Thompson,

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

[FR Doc. E4–343 Filed 2–20–04; 8:45 am]

BILLING CODE 3510–22–S

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0054, Establishing Procedures To Implement the Notification Requirements for Entities Operating as Exempt Markets

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.,* Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for comment in response to the notice. This notice solicits comments on requirements relating to information collected to assist the Commission in the prevention of market manipulation.

DATES: Comments must be submitted on or before April 23, 2004.

ADDRESSES: Comments may be mailed to Richard Shiltz, Division of Market Oversight, U.S. Commodity Futures

Trading Commission, 1155 21st Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Richard Shiltz, (202) 418–5275; FAX (202) 418–5527; e-mail *rshiltz@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 Section 3506(c)(2)(A), requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality of, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

Establishing Procedures To Implement the Notification Requirements for Entities Operating as Exempt Markets OMB Control No. 3038–0054—Extension

Sections 2(b)(3) through (5) of the Commodity Exchange Act (Act) add exempt commercial markets as markets excluded from the Act's other requirements. The rules implement the qualifying conditions of the exemption. Rule 36.3(a) implements the notification requirements, and rule 36.3(b)(1) establishes information requirements for exempt commercial markets consistent with section 2(h)(5)(B) of the Act. An exempt commercial market may provide the Commission with access to transactions conducted on the facility or it can satisfy its reporting requirements by complying with the Commission's reporting requirements. The Act affirmatively vests the Commission with comprehensive antimanipulation enforcement authority over these trading facilities. The Commission is charged with monitoring these markets for manipulation and enforcing the antimanipulation provisions of the Act. The informational requirements imposed by proposed rules are designed to ensure that the Commission can effectively perform these functions. Section 5d of the Act establishes a category of market exempt from Commission oversight referred to as an ''exempt board of trade.'' Rule 36.2 implements regulations that define those commodities that are eligible to trade on an exempt board of trade. Rule 36.2(b) implements the notification requirements of section 5d of the Act. Rule 36.2(b)(1) requires exempt boards of trade relying on this exemption to disclose to traders that the facility and trading on the facility is not regulated by the Commission. This requirement is necessary to make manifest the nature of the market and to avoid misleading the public.

The Commission estimates the burden of this collection of information as follows:

Estimated Annual Reporting Burden

Number of Respondents: 10.
Total Annual Responses: 10.
Total Annual Hours: 100.

Dated: February 17, 2004.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–3789 Filed 2–20–04; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Renew Collection 3038–0005, Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity futures Trading Commission (CFTC) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et.seq.*, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for comment in response to the notice. This notice solicits comments on requirements relating to information to assist the Commission in the prevention of market manipulations.

DATES: Comments must be submitted on or before April 23, 2004.

ADDRESSES: Comments may be mailed to Kevin Walek, Division of Clearing and Intermediary Oversight, U.S. Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

FOR FURTHER INFORMATION CONTACT: Kevin Walek, (202) 418–5463; FAX (202) 418–5536; e-mail: *kwalek@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(e) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 Section 3506(c)(2)(A), requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed collection of information listed below.

With respect to the following collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality of, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate electronic,

mechanical, or other technological collection techniques or other forms of information technology; *e.g.*, permitting electronic submission of responses.

Rules Relating to the Operations and Activities of Commodity Pool Operators and Commodity Trading Advisors and to Monthly Reporting by Futures Commission Merchants, OMB Control No. 3038–0005–Extension

Part 4 of the Commission's Regulations set forth the Commission's rules regarding the disclosure of risk, the filing of reports, and the keeping of books and records. Each CPO who is registered or required to be registered and solicits prospective participants in a commodity pool must, absent an exemption, deliver to prospective participants, and file with the NFA, a Disclosure Document containing information specified by 4.24 and 4.25 before the CPO may accept funds or other property in exchange for participation in the pool. CTAs also must comply with the disclosure requirements of 4.34 and 4.35 before they may enter into an agreement to direct or to guide a client's commodity interest trading account.

Rule 4.22 requires the CPOs who are registered or required to be registered also must provide pool participants with an unaudited monthly or quarterly Account statement for the pool, and an annual Report for the pool that contains the net asset value of the pool and Statements to Financial Condition, Income (Loss), Changes in Financial Position, and Changes in Ownership Equity. Rule 4.23 for CPOs, and 4.33 for CTAs provide for the types of books and records that must be maintained by these registrants.

The Commission estimates the burden of this collection of information as follows:

Estimated Annual Reporting Burden

Number of Respondents: 7,200.
Total Annual Responses: 17,705
Total Annual Hours: 115,871.

Dated: February 17, 2004.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 04–3790 Filed 2–20–04; 8:45 am]

BILLING CODE 6351–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Sunshine Act Notice

The Corporation for National and Community Service and the President's Council on Service and Civic Participation gives notice of the following meeting:

DATE AND TIME: Tuesday, March 2, 2004, 2:30 p.m.–4:30 p.m.

PLACE: Corporation for National and Community Service, 1201 New York Avenue, NW., 8th Floor, Room 8410, Washington, DC 20525.

STATUS: Open.

MATTERS TO BE CONSIDERED:

I. Chair's Opening Remarks
II. CEO Report
III. Executive Director Report
IV. Panel Discussion
V. Public Comment

ACCOMMODATIONS: Anyone who needs an interpreter or other accommodation should notify the Corporation's contact person by 5 p.m. Thursday, February 26, 2004.

CONTACT PERSON FOR MORE INFORMATION: David Premo, Public Affairs Associate, Public Affairs, Corporation for National and Community Service, 8th Floor, Room 8612C, 1201 New York Avenue, NW., Washington, DC 20525. Phone (202) 606–5000 ext. 278. Fax (202) 565–2784. TDD: (202) 565–2799. E-mail: *dpremo@cns.gov.*

Dated: February 18, 2004.

Frank R. Trinity,

General Counsel.

[FR Doc. 04–3940 Filed 2–19–04; 11:56 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0231]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Mortuary Services Contracts

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through June 30, 2004. DoD proposes that OMB extend its approval for use through June 30, 2007.

DATES: DoD will consider all comments received by April 23, 2004.

ADDRESSES: Respondents may submit comments via the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm*. As an alternative, respondents may e-mail comments to: *dfars@osd.mil*. Please cite OMB Control Number 0704–0231 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0231.

At the end of the comment period, interested parties may view public comments on the Internet at *http://emissary.acq.osd.mil/dar/dfars.nsf*.

FOR FURTHER INFORMATION CONTACT: Ms. Teresa Brooks, (703) 602–0326. The information collection requirements addressed in this notice are available electronically on the World Wide Web at: *http://www.acq.osd.mil/dp/dars/dfars.html*. Paper copies are available from Ms. Teresa Brooks, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION: *Title, Associated Form, and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Subpart 237.70, Mortuary Services, and the associated clause at DFARS 252.237–7011; DD Form 2063, Record of Preparation and Disposition of Remains; OMB Control Number 0704–0231.

Needs and Uses: This requirement provides for the collection of necessary information from contractors regarding the results of the embalming process under contracts for mortuary services. The information is used to ensure proper preparation of the body for shipment and burial.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 400.

Number of Respondents: 114.

Responses Per Respondent: Approximately 7.

Annual Responses: 800.

Average Burden Per Response: .5 hours.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.237–7011, Preparation History, requires that the contractor submit information describing the results of the embalming process on each body prepared for burial under a DoD contract. The contractor uses DD Form 2063 to provide this information to the Government.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 04–3701 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Method for the Purification and Aqueous Fiber Spinning of Spider Silks and Other Structural Proteins

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR Part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,620,917 B1 entitled ''Method for the Purification and Aqueous Fiber Spinning of Spider Silks and Other Structural Proteins'' issued September 16, 2003. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone: (508) 233–4928 or E-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–3825 Filed 2–20–04; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Army is proposing to amend three systems of records notices in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The first amendment consists of changing only the system identifier of 'A0001a US AHRC' to 'A0001a AHRC'. The notice was last published on November 18, 2003, at 68 FR 65045.

The second amendment corrects an administrative error published on January 6, 2004, at 69 FR 811. The system identifier for 'A0601–210 TAPC' was changed to 'A0601–210 AHRC'. However, the rest of the entry was incorrect. The correct notice is published below.

DATES: This proposed action will be effective without further notice on March 24, 2004, unless comments are received which result in a contrary determination.

ADDRESSES: Department of the Army, Freedom of Information/Privacy Act Office, U.S. Army Records Management and Declassification Agency, ATTN: AHRC–PDD–FP, 7798 Cissna Road, Suite 205, Springfield, VA 22153–3166.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–7137/DSN 656–7137.

SUPPLEMENTARY INFORMATION: The first amendment consists of changing only the system identifier of 'A0001a US AHRC' to 'A0001a AHRC'. The notice was last published on November 18, 2003, at 68 FR 65045.

The second amendment corrects an administrative error published on January 6, 2004, at 69 FR 811. The system identifier for 'A0601–210 TAPC' was changed to 'A0601–210 AHRC'. However, the rest of the entry was incorrect. The correct notice is published below.

The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 55a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 13, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0001a US AHRC

SYSTEM NAME:

Office Visitor/Commercial Solicitor Files (November 18, 2003, 68 FR 65045).

CHANGE:

SYSTEM IDENTIFIER:

Replace entry with 'A0001a AHRC'.

A0001a AHRC

SYSTEM NAME:

Office Visitor/Commercial Solicitor Files.

SYSTEM LOCATION:

Segments may be maintained at Headquarters, Department of the Army, staff, field operating agencies, commands, installations, and activities. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Visitors to Army installations/activities and/or commercial solicitors who represent an individual, firm, corporation, academic institution, or other enterprise involved in official or business transactions with the Department of the Army and/or its elements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, Social Security Number, name and address of firm represented, person/office visited, purpose of visit, status of individual as regards past or present affiliation with the Department of Defense, and the results of a law enforcement records check.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army, Army Regulation 210, Commercial Solicitation on Army Installations; and E.O. 9397 (SSN).

PURPOSE(S):

To provide information to officials of the Army responsible for monitoring/controlling visitor's/solicitor's status and determining purpose of visit so as to preclude conflict of interest.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name of visitor/solicitor.

SAFEGUARDS:

Records are maintained in file cabinets with access limited to officials having need therefore.

RETENTION AND DISPOSAL:

Retained for one year after which records are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, United States Army Human Resources Command, 200 Stovall Street, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquires to the commander/supervisor maintaining the information. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

Individual should provide the full name and other information verifiable from the record itself.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the commander/supervisor maintaining the information. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

Individual should provide the full name and other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

A0601–210 AHRC

SYSTEM NAME:

Army Recruiting Prospect System (January 6, 2004, 69 FR 811).

CHANGES:

Delete everything after the System identifier, and replace with the notice below.

* * * * *

A0601–210 AHRC

SYSTEM NAME:

Eligibility Determination Files.

SYSTEM LOCATION:

U.S. Army Human Resources Command, Non-Commissioned Officer In Charge of Eligibility Inquiries Section, 2461 Eisenhower Avenue, Alexandria, VA 22331–0450.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlistment who require a waiver for an adult felony; soldiers requesting continuation on active duty who require waiver for certain disqualifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains requests for enlistment eligibility or waiver of disqualifications for enlistment/reenlistment, requests for grade determination, documents reflecting determinations made thereon, copies or extracted items from basic records, transmittals, and suspense documents needed to assure that requests are acted upon in a timely manner.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 504, Persons not Qualified; 10 U.S.C. 3013, Secretary of the Army; Army Regulation 601–210, Regular Army and Army Reserve Enlisted Program; Army Regulation 635–200, Enlisted Personnel; Army Regulation 601–280, Army Retention Program and E.O. 9397 (SSN).

PURPOSE(S):

To evaluate waiver requests, determine appropriate action and render decision.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and on electronic storage media.

RETRIEVABILITY:

By Social Security Number and surname.

SAFEGUARDS:

Records are maintained in areas accessible only to properly cleared, trained, and authorized personnel. Records are in a secure office in a secure building.

RETENTION AND DISPOSAL:

Enlisted eligibility records are destroyed upon reenlistment of individual. Inquiry records and other related documents are maintained for 7 years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, U.S. Army Human Resources Command, 2461 Eisenhower Avenue, Alexandria, VA 22332–0400.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this records system should address written inquiries to the U.S. Army Human Resources Command, Eligibility Inquiries Section, Retention Management Division, Enlistment Personnel Management Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331–0451.

Individual should provide the full name, Social Security Number, date of separation and service component, if applicable, current address and telelphone number, and signature.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the U.S. Army Human Resources Command, Eligibility Inquiries Section, Retention Management Division, Enlistment

Personnel Management Directorate, 2461 Eisenhower Avenue, Alexandria, VA 22331–0451.

Individual should provide the full name, Social Security Number, date of separation and service component, if applicable, current address and telephone number, and signature.

CONTESTING RECORD PROCEDURES:

The Army's rule for accessing records, and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, official military personnel records; investigative/security dossiers; medical evaluations; Army records and reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–3769 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Availability of the Draft Environmental Impact Statement for the Pike County, KY (Levisa Fork Basin), Section 202 Project

AGENCY: Department of the Army, Army Corps of Engineers, DoD.

ACTION: Extension of comment period.

SUMMARY: The Corps of Engineers is extending the comment period for the Draft Environmental Impact Statement (DEIS) for the Pike County, Kentucky (Levisa Fork Basin), section 202 project published in the **Federal Register,** February 6, 2004 (69 FR 5842). This extension will provide interested persons with additional time to prepare comments on the draft.

DATES: Consideration will be given only to comments that are received on or before April 5, 2004.

ADDRESSES: Send written comments and suggestions concerning this proposed project to S. Michael Worley, PM–PD, U.S. Army Corps of Engineers, Huntington District, 502 Eighth Street, Huntington, WV 25701–2070. Telephone: (304) 399–5636 or fax: (304) 399–5136. Requests for copies of the DEIS or to be placed on the mailing list should also be sent to this address. Submit electronic comments in ASCII, Microsoft Word, or Word Perfect file format to *Stephen.M.Worley@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: To obtain additional information about the proposed project, contact Mr. Mark D. Kessinger, phone: (304) 399–5083. Electronic mail: *Mark.d.kessinger@usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 04–3827 Filed 2–20–04; 8:45 am]

BILLING CODE 3710–GM–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Programmatic Environmental Impact Statement for the Upper Mississippi River—Illinois Waterway System Navigation Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: A Draft Programmatic Environmental Impact Statement (DPEIS) will be prepared to address the restructured Upper Mississippi River—Illinois Waterway System Navigation Study. This is a modification of the notice of intent posted in the **Federal Register** on November 27, 1995 (60 FR 58339).

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft Environmental Impact Statement can be answered by Mr. Kenneth Barr by telephone (309) 794–5349, or by mail: Commander, U.S. Army Engineer District, Rock Island (ATTN: CEMVR–PM–A), Clock Tower Building, P.O. Box 2004, Rock Island, IL 61204–2004.

SUPPLEMENTARY INFORMATION: The restructured Upper Mississippi River—Illinois Waterway System Navigation Study (Navigation Study, study) is being conducted under the authority of section 216 of the Flood Control Act of 1970. The 9-Foot Channel Navigation Project, originally authorized in 1930, is being reviewed for changed physical, economic, and environmental conditions that may warrant structural or non-structural modifications to reduce congestion of commercial navigation traffic and to enhance ecosystem restoration.

1. The initial reconnaissance studies concluded that there was sufficient evidence to suggest there was a Federal interest in conducting more detailed investigations relating to the issue of need and benefits of navigation improvements. Specific investigations were recommended to define the base condition, analyze congestion problems, determine system benefits, and examine environmental impacts. The feasibility study was initiated in 1993 and narrowly focused on investigating a long-term solution to meet increased navigation demands and reduction of delays to commercial traffic caused by a congested system and associated environmental impacts. Study documentation for public review, other than supporting technical reports, was never completed.

2. The Chief of Engineers paused the study in 2001 and formed the Federal Principals Task Force to help define a new direction. The study was restarted in August 2001 under restructuring guidance formulated in consideration of comments received from the National Research Council (NRC) and from the Federal Principals Task Force. The pause allowed the Corps of Engineers to revise the project study plan to address the recommendations of the NRC review, as well as establish regional- and Washington-level interagency collaboration forums to help guide the future direction of the study. The restructured study will address the cumulative environmental effects of navigation and the needs for ecosystem restoration, providing a balanced consideration of fish and wildlife resources, along with navigation improvement planning. The feasibility study will ensure the waterway system continues to be a nationally treasured ecological resource as well as an efficient national transportation system by seeking ways to:

- Provide an efficient National Navigation System;
- Achieve an environmentally and economically sustainable system;
- Address ecosystem and floodplain management needs related to navigation;
- Operate and maintain the system to ensure economic, environmental, and social sustainability.

3. The feasibility study is evaluating both large- and small-scale measures that could be implemented to reduce commercial traffic delays and restore, protect, or preserve essential structures and functions of the natural ecosystem. Navigation improvement measures being evaluated include both structural and non-structural measures. Structural measures include extending the length of existing locks, constructing new locks and moorings (tie-off facilities that allow a waiting tow to wait closer to the lock chamber). Non-structural measures include scheduling and congestion fee systems for traffic management and switchboats (hired vessels permanently

stationed on both upstream and downstream sides of the lock to assist and speed up the lock process). The study is also evaluating ecosystem restoration measures that include island building, fish passage structures at locks and dams, floodplain restoration, water-level management, backwater restoration, side channel restoration, wing dam/dike alteration, island protection, shoreline protection, and increased topographic diversity of the floodplain. An adaptive management framework for integrated system management is also being evaluated. Combinations of these measures, along with the 'no action' alternative, are being evaluated to form an array of alternatives that would eventually result in a recommended dual-purpose plan.

An interim study report, whose contents include the restructuring philosophy of sustainability, brief problem assessments, preliminary scenario evaluation, descriptions of potential measures, and a discussion of implementation issues, was completed in July 2002 and provided a 'blueprint' for moving forward. Further economic and environmental data collection and evaluations have been completed since then.

4. Stakeholders voiced many issues and concerns during the scoping for the original study, conducted formally in 1994. The NRC and Federal Principles Task Force echoed many of the concerns in their reviews and statements. The emphasis in the restructured study on collaboration and a more comprehensive, holistic consideration of the multiple uses of the Upper Mississippi River system aims to address these issues and concerns. Existing coordination bodies, such as the environmental, economic, engineering, and ''Governor's Liaison'' committees have been influential throughout the study. Public involvement has included newsletter distribution to a mailing list of approximately 9,300 persons, a toll-free information phone line, and a Web site *http://www2.mvr.usace.army.mil/umr-iwwsns/*. Since the restructuring of the study, public meetings were held in March 2002 and October 2003.

5. A final study report and DPEIS are anticipated to be completed in April 2004.

Dated: February 2, 2004.

Duane P. Gapinski,

Colonel, EN, Commanding.

[FR Doc. 04–3826 Filed 2–20–04; 8:45 am]

BILLING CODE 3710–HV–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend a system for records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 24, 2004, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, N09B10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6546.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 13, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N03760–1

SYSTEM NAME:

Naval Flight Record Subsystem (NAVFLIRS) (February 8, 2000, 65 FR 6184).

CHANGES:

SYSTEM IDENTIFIER:

Replace entry with 'NM03760 1.–1

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Aircraft reporting custodian; Navy and Marine Corps pilots and enlisted aircrew members; and Individual Flight Activity Reporting System (IFARS) database.'

* * * * *

NM03760–1

SYSTEM NAME:

Naval Flight Record Subsystem (NAVFLIRS).

SYSTEM LOCATION:

Primary database is maintained at the Naval Air Systems Command (Code AIR 3.6.2.3), 47056 Mcleod Road, Building 447, Patuxent River, MD 20670–21626.

Secondary database is maintained at the Naval Safety Center, 375 A Street, Norfolk, VA 23511–4399. Local databases are maintained at Navy and Marine Corps aviation activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All aeronautically designated commissioned Navy and Marine Corps Officers and enlisted members assigned as aircrew members in the operation of an aircraft in accordance with the direction of competent authority.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of each flight submitted to the custodian of the aircraft. Records contain personal identification (name, rank, Social Security Number), and specific technical data related to the flight of naval aircraft.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

Naval Flight Record Subsystem consolidates the collection of naval flight data into a single, locally controlled collection and correction system, and implements a standard data collection source document (the Naval Flight Record OPNAV 3710/4) throughout the Navy and Marine Corps. It further establishes a single control database containing all naval flight data.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's

compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated records.

RETRIEVABILITY:

Individual records are primarily retrieved by a unique document number assigned to each naval flight record. Additionally, each of the data elements such as pilots' Social Security Number, model aircraft and squadron may be used to retrieve individual records.

SAFEGUARDS:

Automated records are password protected and access limited to personnel with an official need to know.

RETENTION AND DISPOSAL:

Primary and secondary database at the Naval Safety Center are permanent. Records in the secondary database at Headquarters, U.S. Marine Corps are erased from tape when the individual is removed from active flight status. Local databases purge all magnetic tape records after six months.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Naval Air Systems Command (AIR 3.6.2.3), 47056 Mcleod Road, Building 447, Patuxent River, MD 20670–1626.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Naval Air Systems Command (AIR 3.6.2.3), 47056 Mcleod Road, Building 447, Patuxent River, MD 20670–1626.

The request should contain full name, Social Security Number, squadron assigned, and address of the individual concerned and should be signed. Personal visitors will be required to produce military or comparable civilian identification cards.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commander, Naval Air Systems Command (AIR 3.6.2.3), 47056 Mcleod Road, Building 447, Patuxent River, MD 20670–1626.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Aircraft reporting custodian; Navy and Marine Corps pilots and enlisted aircrew members; and Individual Flight Activity Reporting System (IFARS) database.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–3767 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to amend systems of records.

SUMMARY: The Department of the Navy is amending three systems of records notices in its existing inventory of records systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on March 24, 2004, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations, N09B10, 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: February 13, 2004.

L.M. Bynum

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N05000–1

SYSTEM NAME:

General Correspondence Files (May 9, 2003, 68 FR 24959).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'NM5000–1'.

* * * * *

SYSTEM LOCATION:

Delete the first paragraph and replace with 'Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*'

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corp; and E.O. 9397 (SSN).'

* * * * *

NM05000–1

SYSTEM NAME:

General Correspondence Files.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

Commander, U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander, U.S. Pacific Command, P.O. Box 64028, Camp H. M. Smith, HI 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have initiated correspondence with the Department of the Navy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence which may include name, address, telephone number, organization, date of birth, and Social Security Number of correspondent and supporting documentation. Files also contain copy of response letter and documentation required to prepare the response.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corp; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain a record of correspondence received and responses made.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name, organization, and date of correspondence.

SAFEGUARDS:

Access is provided on need-to-know basis only. Manual records are maintained in file cabinets under the control of authorized personnel during working hours. The office space in which the file cabinets are located is locked outside of official working hours. Computer terminals are located in supervised areas. Access to computerized data is controlled by password or other user code system.

RETENTION AND DISPOSAL:

Retained for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

The request should contain full name and date individual wrote to the activity or received a response. Request must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

The request should contain full name and date individual wrote to the activity or received a response. Request must be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned and records collected by the activity to respond to the request.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05000–2

SYSTEM NAME:

Administrative Personnel Management System (May 9, 2003, 68 FR 24959).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'NM5000–2'.

SYSTEM LOCATION:

Delete first paragraph and replace with 'Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.'*

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).'

* * * * *

NM05000–2

SYSTEM NAME:

Administrative Personnel Management System.

SYSTEM LOCATION:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

Commander, U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander, U.S. Pacific Command, P.O. Box 64028, Camp H.M. Smith, HI 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All civilian, (including former members and applicants for civilian employment), military and contract employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and correspondence needed to manage personnel and projects, such as Name, Social Security Number, date of birth, photo id, grade and series or rank/rate, etc., of personnel; location (assigned organization code and/or work center code); MOS; labor code; payments for training, travel advances and claims, hours assigned and worked, routine and emergency assignments, functional responsibilities, clearance, access to secure spaces and issuance of keys, educational and experience characteristics and training histories, travel, retention group, hire/termination dates; type of appointment; leave; trade, vehicle parking, disaster control, community relations, (blood donor, etc.), employee recreation programs; retirement category; awards; biographical data; property custody; personnel actions/dates; violations of rules; physical handicaps and health/safety data; veterans preference; postal address; location of dependents and next of kin and their addresses; mutual aid association memberships; union memberships; qualifications; computerized modules used to track personnel data; and other data needed for personnel, financial, line, safety and security management, as appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To manage, supervise, and administer programs for all Department of the Navy civilian and military personnel such as preparing rosters/locators; contacting appropriate personnel in emergencies; training; identifying routine and special work assignments; determining clearance for access control; record

handlers of hazardous materials; record rental of welfare and recreational equipment; track beneficial suggestions and awards; controlling the budget; travel claims; manpower and grades; maintaining statistics for minorities; employment; labor costing; watch bill preparation; projection of retirement losses; verifying employment to requesting banking; rental and credit organizations; name change location; checklist prior to leaving activity; payment of mutual aid benefits; safety reporting/monitoring; and, similar administrative uses requiring personnel data. Arbitrators and hearing examiners in civilian personnel matters relating to civilian grievances and appeals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name, Social Security Number, employee badge number, case number, organization, work center and/or job order, supervisor's shop and code.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Destroy when no longer needed or after two years, whichever is later.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

The request should include full name, Social Security Number, and address of the individual concerned and should be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, employment papers, and other records of the organization, official personnel jackets, supervisors, official travel orders, educational institutions, applications, duty officer, investigations, OPM officials, and/or members of the American Red Cross.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

N05000–3

SYSTEM NAME:

Organization Locator and Social Roster (May 9, 2003, 68 FR 24959).

CHANGES:

SYSTEM IDENTIFIER:

Delete entry and replace with 'NM05000–3'.

* * * * *

SYSTEM LOCATION:

Delete first paragraph and replace with 'Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).'

* * * * *

NM05000–3

SYSTEM NAME:

Organization Locator and Social Roster.

SYSTEM LOCATOR:

Organizational elements of the Department of the Navy. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm.*

Commander, U.S. Joint Forces Command, 1562 Mitscher Avenue, Suite 200, Norfolk, VA 23551–2488.

Commander, U.S. Pacific Command, P.O. Box 64028, Camp H.M. Smith, HI 96861–4028.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian personnel attached to the activity, Departments of the Navy and Defense, or other government agencies; family members; and guests or other invitees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Manual or mechanized records. Includes information such as names, addresses, telephone numbers; official titles or positions and organizations; invitations, acceptances, regrets, protocol, and other information associated with attendants at functions. Locator records of personnel attached to the organization.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To notify personnel of arrival of visitors; recall personnel to duty station when required; locate individuals on routine matters; provide mail distribution and forwarding addresses; compile a social roster for official and non-official functions; send personal greetings and invitations; and locate individuals during medical emergencies, facility evacuations, and similar threat situations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records

or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual and automated records.

RETRIEVABILITY:

Name, Social Security Number, and/or organization code.

SAFEGUARDS:

Documents are marked 'FOR OFFICIAL USE ONLY—PRIVACY SENSITIVE' and are only distributed to those persons having an official need to know. Computerized records are password protected and only accessible by those persons with an official need to know.

RETENTION AND DISPOSAL:

Records are destroyed upon update of roster to add/delete individuals who have arrived/departed the organization.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm*.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm*.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the commanding officer of the activity in question. Official mailing addresses are published in the Standard Navy Distribution List that is available at *http://neds.nebt.daps.mil/sndl.htm*.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and records of the activity.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 04–3768 Filed 2–20–04; 8:45 am]

BILLING CODE 5001–06–M

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold an informational meeting and public hearing on Tuesday, March 2, 2004 and an informal conference followed by a public hearing on Wednesday, March 3, 2004. The subject of the informational meeting and hearing on March 2 will be a proposed ''Resolution to Establish an Experimental Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs for the Period from May 1, 2004 through May 31, 2007.'' The hearing on March 3 will be part of the Commission's regular business meeting. The meetings and hearings on March 2 and 3 are open to the public and will be held at the PPL Lake Wallenpaupack Environmental Learning Center in Hawley, Pennsylvania.

The informational meeting and hearing on March 2 will begin at 2 p.m. The informational meeting will be devoted to a presentation and question-and-answer session. This meeting will last no more than one-and-one-half hours and will not become a part of the Commission's decision-making record. The hearing will begin no later than 3:30 p.m. and will consist of oral testimony for the record. No responses to the oral testimony will be offered at the hearing. Written comment on the proposal will be accepted through March 19. Instructions for submitting written comment are provided at the end of this notice. The proposed resolution is posted on the Commission's web site, *http://www.drbc.state.nj.us*.

The March 3 conference among the commissioners and staff will begin at 10 a.m. Topics of discussion will include: An update on development of the Water Resources Plan for the Delaware River Basin; an update on PCB TMDL matters, including activities of the TMDL Implementation Advisory Committee, development of a PCB minimization planning program, and a report on the status of the budget for the Stage 2 TMDLs for PCBs in the Delaware Estuary; discussion about a proposal to modify provisions of Resolution No. 2002–33 relating to the operation of Lake Wallenpaupack during drought watch, drought warning and drought conditions; and proposed DRBC rulemakings in 2004.

The subjects of the public hearing to be held during the 1:30 p.m. business meeting on March 3 include the dockets listed below:

1. *Plumstead Township D–92–76 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to continue withdrawal of 2.58 million gallons (mg)/30 days to supply the applicant's public water supply distribution system from existing Wells Nos. NB–2, NB–3, and DR–1 in the Stockton and Lockatong Formations. The project is located in the North Branch Neshaminy Creek and the Pine Run Watersheds, Plumstead Township, Bucks County and located in the Southeastern Pennsylvania Ground Water Protected Area.

2. *Avondale Borough Sewer Authority D–2000–66 CP.* An application to upgrade and expand the applicant's 0.3 million gallons per day (mgd) secondary sewage treatment plant (STP) to provide advanced secondary treatment of 0.5 mgd. Located on the east bank of Indian Run, approximately 300 feet upstream of its confluence with the East Branch White Clay Creek in the Borough of Avondale, Chester County, Pennsylvania, the STP will continue to serve the Borough of Avondale and portions of New Garden Township, both in Chester County, Pennsylvania. Treated effluent will continue to discharge to Indian Run in the Christina River Watershed.

3. *Upper Gwynedd-Towamencin Municipal Authority D–2002–29 CP.* An application to rerate a 6.5 mgd STP to 7.3 mgd while continuing to provide advanced secondary treatment. The plant is located on Kriebel Road in Towamencin Township, Montgomery County, Pennsylvania near the northern tip of Worcester Township. The existing plant will continue to serve portions of Upper Gwynedd, Hatfield and Towamencin Townships. No new development is proposed, but the increased flow will enable the applicant to meet discharge permit objectives, while an infiltration and inflow (I&I) reduction program is being implemented. STP effluent will continue to be discharged to Towamencin Creek, a tributary of Skippack Creek in the Schuylkill River Watershed.

4. *Pennsylvania Suburban Water Company D–2003–33 CP.* An application to transfer up to 0.5 million

gallons per day (mgd) (15 mg/30 days) of potable water from Downingtown Municipal Authority (DMUA) to the applicant's distribution system via a proposed interconnection. DMUA has adequate capacity to meet the applicant's needs within their existing 2.5 mgd water allocation from the East Branch Brandywine Creek, as supported by releases from Marsh Creek Reservoir. The project 0.5 mgd water transfer represents an alternative to and is proposed in lieu of the use of water supply from the applicant's previously approved Cornog Quarry project (approved under DRBC Docket No. D–98–11 CP on April 3, 2002). The proposed docket will consolidate all the applicant's sources in the UGS Northern Division distribution system, including those previously approved under Dockets Nos. D–98–11 CP and D–2002–5 CP, including the use of Kay Wells B and C on other than a seasonal basis. As a condition for approval of this docket, Dockets Nos. D–98–11 CP and D–2002–5 CP will be rescinded. The project will serve portions of East Brandywine, West Brandywine and Caln Townships, all located in Chester County, Pennsylvania.

5. *East Rockhill Township D–2004–5 CP.* An application for approval of a ground water withdrawal project to supply up to 5.47 mg/30 days of water for supplemental irrigation of the applicant's proposed golf course from new Wells Nos. PW–1, PW–2 and PW–3 located in the Brunswick and Lockatong Formations, and to limit the existing withdrawal from all wells to 5.47 mg/30 days. The project is located in the Tohickon-Three Mile Run Watershed in East Rockhill Township, Bucks County located in the Southeastern Pennsylvania Ground Water Protected Area.

The Commission's 1:30 p.m. business meeting on March 3 also will include: adoption of the Minutes of the January 21, 2004 business meeting; announcements; a report on Basin hydrologic conditions; a report by the executive director; and a report by the Commission's general counsel.

Draft dockets scheduled for public hearing on March 3, 2004 are posted on the Commission's Web site, *http://www.drbc.net,* where they can be accessed through the Notice of Commission Meeting and Public Hearing. Additional documents relating to the dockets and other items may be examined at the Commission's offices. Please contact William Muszynski at 609–883–9500 ext. 221 with any docket-related questions.

Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how the Commission may accommodate your needs.

Written comment on the Proposed Resolution to Establish an Experimental Augmented Conservation Release Program for the New York City Delaware Basin Reservoirs for the Period from May 1, 2004 through May 31, 2007 will be accepted through March 19, 2004. Comment may be submitted by e-mail to: *FisheriesDocket@drbc.state.nj.us* or by U.S. Mail to: Fisheries Docket, Delaware River Basin Commission, P.O. Box 7360, West Trenton, NJ 08628–0360. Please do not send comments for the record directly to staff members or commissioners.

Dated: February 17, 2004.

Pamela M. Bush,

Commission Secretary.

[FR Doc. 04–3792 Filed 2–20–04; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Office of Science; Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Monday, March 29, 2004, 9 a.m. to 6 p.m.; Tuesday, March 30, 2004, 9 a.m. to 12 noon.

ADDRESSES: The Marriott Gaithersburg Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878, USA.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, Office of Fusion Energy Sciences, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–1290; telephone: 301–903–4927.

SUPPLEMENTARY INFORMATION: *Purpose of the Meeting:* The purpose of this meeting is to complete work on the charges dealing with Workforce Development, the review of Inertial Fusion Energy program, and the Committee of Visitors' review of the theory and computations program. A preliminary report from the Panel dealing with the process for setting program priorities is also scheduled.

Tentative Agenda:

Monday, March 29, 2004.

- Office of Science Perspective;
- Office of Fusion Energy Sciences Perspective;
- Final report from the Workforce Development Panel;
- Final report from the Committee of Visitors—Theory and Computations Program;
- Final report from the Inertial Fusion Energy Review Panel;
- Public comments.

Tuesday, March 30, 2004.

- Preliminary report from the Panel Dealing with the Process for Setting Program Priorities;
- ITER Project Status.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or *albert.opdenaker@science.doe.gov* (e-mail). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: We will make the minutes of this meeting available for public review and copying within 30 days at the Freedom of Information Public Reading Room, IE–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on February 18, 2004.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 04–3818 Filed 2–20–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

Operational Alternative for Post-2004 Operations

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of final decision.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing administration within the Department of Energy (DOE), markets Federal power from the Central Valley and Washoe projects through the Sierra Nevada Region (SNR). Western published its Notice of Intent announcing the operational alternatives it was considering for post-2004 operations in the **Federal Register** on June 24, 2003. Western held public meetings in July 2003 and accepted comments through August 8, 2003. On December 2, 2003, Western published its proposed decision to implement a contract-based sub-control area and stated it would approach the California Independent System Operator (ISO) and the Sacramento Municipal Utility District (SMUD) to collect data and initiate discussions. Western's final decision is to proceed to implement a contract-based sub-control area.

DATES: This final decision on an operational alternative for post-2004 operations shall become effective 30 days after publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Tom Carter, Power Operations Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, (916) 353–4427, or by e-mail at *tcarter@wapa.gov*.

SUPPLEMENTARY INFORMATION:

Authorities

The selection of an alternative for post-2004 operations is made under the authorities contained in the Department of Energy Organization Act (42 U.S.C. 7101–7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388) as amended and supplemented by subsequent laws, particularly section 9(c) of the Reclamation Act of 1939 (43 U.S.C. 485h(c)); and other acts that specifically apply to the projects involved.

Introduction

On December 31, 2004, a number of existing transmission contracts between Western and the Pacific Gas and Electric Company (PG&E) expire. When these contracts expire, Western will become responsible for arranging and meeting most of its own supplemental power and transmission needs. This new responsibility will require Western to adopt and implement a preferred post-2004 operational configuration, as well as to select a preferred control area operator to host Western's operations. Under existing contracts, PG&E provides Western with the ISO interface services. The preferred post-2004 operational configuration must ensure Western will be able to implement its 2004 Power Marketing Plan and allow it to fulfill its statutory obligations to the Bureau of Reclamation (Reclamation) as well as meet its contractual obligations to its Preference Power customers. The final decision to implement sub-control area operations is based on the alternative meeting all five of the evaluation criteria; *i.e.*, flexibility, certainty, durability, operational transparency, and cost-effectiveness, presented in the June 24, 2003, **Federal Register** and finalized in the December 2, 2003, **Federal Register**.

Public Process

Western published its Notice of Intent to consider certain post-2004 operational alternatives in the **Federal Register** (68 FR 37484) on June 24, 2003. The notice described each alternative and the factors Western would use in making a decision on which alternative to select. On July 9, 2003, Western held a Public Information Forum where each alternative was described, and the evaluation factors that would be used by Western when making its proposed decision were presented. Navigant Consulting, Inc., presented results from its comparative economic benefits study performed on behalf of Reclamation and Western, which compared the net benefits of each alternative.

Western held a Public Comment Forum in Folsom, California, on July 30, 2003, during which representatives from 12 entities commented on the proposed alternatives, the decision-making factors, and the comparative economic benefits study. The comment period closed on August 8, 2003. Western received written comments from twenty-six (26) different entities. Western considered these comments and published its proposed decision in the December 2, 2003, **Federal Register** (68 FR 67417) on a post-2004 operational alternative.

Summary of Western's Proposed Decision

Summary of Comments on Western's Proposed Decision

After Western published its proposed decision on December 2, 2003, twenty-three (23) different entities submitted written comments. These letters may be viewed at: *http://www.wapa.gov/sn/initiatives/post2004/opScenarios/Comments01–02–04/*. Sixteen (16) comments indicated general support for Western's contract-based sub-control area approach. Four (4) comments recommended Western forego discussions with the ISO or SMUD and proceed directly to the formation of a Federal control area. Many comments recognized the need for Western to avoid the no action alternative and move as expeditiously as possible to select and initiate steps to implement a post-2004 operational solution. Fourteen (14) comments recommended Western proceed simultaneously on a parallel track with control area formation activities as a contingency in the event negotiations to form a contract-based sub-control area with the ISO or SMUD are not successful. Ten (10) comments recommended Western consider forming a customer support committee to assist Western in analyzing the differences between the ISO's and SMUD's contract-based sub-control area proposals and to ensure that customer needs are adequately considered.

In addition to providing comments on Western's proposed action, many comments also repeated the same issues and concerns raised earlier during the public process, which closed on August 8, 2003. These previous comments may be viewed at: *http://www.wapa.gov/sn/initiatives/post2004/opScenarios/Comments08–08–03/*. The ISO communicated its appreciation at seeing a contract-based sub-control area option with the ISO as one of the preferred approaches to meeting Western's objectives. The ISO indicated, however, it continues to have the same operational concerns it previously expressed about the formation of a Federal control area should Western choose to become a sub-control area with SMUD. In addition to operational issues, the ISO continued to express reservations about cost shift issues. Finally, the ISO expressed reservations related to the selection of an approach (contract-based sub-control area agreement with SMUD), which in its judgment did not follow Western's public process. The ISO requested Western consider a separate public process to evaluate a contract-based sub-control area arrangement with SMUD. PG&E expressed three general concerns related to the environmental documentation for the proposed action, clarification of the proposed action to either acquire existing facilities or construct new facilities at specific interconnection points, and concern about the relative lack of specific details related to the proposed action of implementing a contract-based sub-control area.

Western's Response to Comments on its Proposed Decision

As part of preparing this document, Western reviewed and considered all comments it received as part of this process in making its final decision. Western concurs with the comments that an accelerated approach is needed in its discussions with the ISO and SMUD. Because of the impending termination of existing contracts, Western concurs that a contingency plan is desirable if discussions with the ISO and SMUD to form a contract-based sub-control area are not successful.

Because of the pre-decisional nature of its discussions with the ISO and SMUD, Western considers these deliberations privileged and confidential. As such, Western does not believe it is appropriate to include third parties while the negotiations are actively under way. Western, however, welcomes any advice, assistance, and support that stakeholders may be willing to furnish as part of implementing the final decision. Once Western completes its negotiations, it anticipates sharing non-business sensitive information concerning its deliberations with interested stakeholders.

Western's process has been open and allowed stakeholders to participate in the identification and consideration of other alternatives. As such, whenever new approaches are presented, Western has the discretion to consider them to ensure that its decision-making process encompasses the full range of possible choices. Although Western may not have initially contemplated forming a contract-based sub-control area arrangement with SMUD, once this implementation approach was proposed by stakeholders, Western has the discretion to consider it as an alternative as part of its decision-making process. In fact, Western included the approach of executing a contract-based sub-control area agreement with SMUD as a means to accomplish its proposed decision in the December 2, 2003, **Federal Register** and sought comments on the different ways to implement this alternative. As negotiations proceed with the ISO and SMUD, Western anticipates collecting sufficient data to make an informed judgment as to the merits of each host control area operator's proposal.

Comments about cost-shift issues provided by the ISO are outside the scope of this process and will be considered by Western in its Rate Process for implementation of its post-2004 Operational Alternative and the 2004 Power Marketing Plan.

Western finalized an environmental assessment on January 21, 2004, on its proposed action and determined that it qualifies for a categorical exclusion. As discussions with the ISO and SMUD proceed, the relative merits of these different ways to implement Western's final decision and the actions Western may need to undertake with respect to its transmission boundaries will emerge. Western will implement only those actions which are prudent, are consistent with the factors used in evaluating the post-2004 operational alternatives, allow it to fully implement its 2004 Power Marketing Plan, and ensure it meets its statutory obligations to Reclamation and contractual obligations to the Preference Power customers.

Decision-Making Criteria

Finalized criteria used by Western to reach its proposed decision were published in the December 2, 2003, **Federal Register**. Western defined the five criteria it would use to evaluate alternatives in the June 24, 2003, **Federal Register**. The criteria are flexibility, certainty, durability, operating transparency, and cost-effectiveness.

Evaluation of Approaches

ISO Sub-Control Area Approach

To implement the sub-control area alternative through a contract with the ISO, Western would execute a non-tariff-based agreement, with specific terms and conditions acknowledging the Federal statutory obligations under which Reclamation and Western operate the water and hydropower generation and transmission facilities of the Central Valley Project (CVP). Since the CVP is primarily an irrigation project, Project Use energy requirements have first priority for the hydropower generated from the facilities. Hydropower generation in excess of Project Use energy requirements is available for sale to CVP Preference Power customers. Reclamation and Western would continue to retain responsibility and operational control over their respective facilities. Western would retain operational control over switching operations and the maintenance and replacement of its transmission facilities, while Reclamation would continue to retain responsibility and operational control over its hydropower generation facilities, as well as any ongoing maintenance and replacement, since responsibility and operational control over the water and power operations of the CVP cannot be impaired.

Operating Scenario To Evaluate the ISO Sub-Control Area Approach

Under the contract-based ISO sub-control area approach, Western would establish a physically defined contiguous system. Western contemplates using a segregated approach when implementing its proposed sub-control area. Under a segregated sub-control area operation, Western would provide reserves and regulation associated with its direct-connected customers and firm exports. In addition, Western would regulate hourly to a net scheduled interchange quantity with a host control area. As a sub-control area operator, Western would manage the net power flows through its interconnection points with the ISO, the Bonneville Power Administration, the proposed Turlock Irrigation District control area, and SMUD under reliability criteria and guidelines issued by the Western Electricity Coordinating Council (WECC) and the North American Electric Reliability Council (NERC). Western would be responsible for scheduling energy deliveries to Project Use loads, First Preference customers, and other customers within its sub-control area boundaries and in other control areas. In addition, Western would match its generation and load, provide reserves, provide frequency support for the WECC interconnection under NERC and WECC criteria, and submit generation schedules developed in coordination with Reclamation to the host control area.

Western would self-provide imbalance energy and ancillary services and may participate in the ISO markets whenever generation or reserves in excess of its needs are available. Although off-system customers would not be included in the initial phase of sub-control area development, Western intends to dynamically schedule off-system customers with the ISO after it gains sufficient experience as a sub-control area operator and the ability of Reclamation's generation to dynamically follow loads is ascertained.

Western's customers directly connected to Western's system would not be subject to use of the ISO grid for Federal power deliveries. However, off-system Project Use loads and Preference customers would incur all of the ISO transmission and related charges associated with the Federal power deliveries. Western would market transmission service on its system to its customers on an open access and non-discriminatory basis.

From an operational perspective, Western would have a 24-hour

Merchant Desk to purchase energy required for Western's Variable Resource and Full Load Service customers and would act as the Scheduling Coordinator (SC) for Reclamation's generation and Project Use loads, as well as for interested customers. The 24-hour staffing of the Merchant Desk is required by the ISO for Western to maintain its SC status, as well as to implement its 2004 Power Marketing Plan. Western would also maintain a 24-hour Switching Desk to perform switching for outages of system elements (such as transmission lines and breakers) for maintenance, repair, or replacement or to assist the interconnected systems in restoring the system following a disturbance. Since Western would schedule the use of its transmission system and those elements of the California Oregon Intertie (COI) it owns or is responsible for under contract, Western would also maintain a 24-hour Transmission Scheduling Desk. To provide regulation for the sub-control area, Western would need to maintain a 24-hour Automatic Generation Control Desk.

Western anticipates the ISO would continue to remain the single path operator for the three-line COI system. Scheduling activities and maintenance outages would be coordinated closely with the ISO.

From an organizational perspective, Western would continue to need a power accounting, billing, and settlements function to account for services purchased and sold, reconcile billings from the ISO and others to the accounting records, and issue invoices to Western's customers and the ISO. Staff would be required to verify the accuracy and integrity of the accounting records and issue invoices to Western's customers and the ISO. Depending on the nature and complexity of the future financial settlements, this function could require additional staffing above current levels.

Evaluation of the Flexibility Criteria Under the ISO Sub-Control Area Approach

Under the contract-based ISO sub-control area approach, Western would establish transmission boundaries. Western contemplates implementing a segregated sub-control area operation. Under a segregated sub-control area operation, Western would provide reserves and regulation associated with its direct-connected customers and firm exports. In addition, Western would regulate hourly to a net scheduled interchange quantity with a host control area. This operational configuration will allow Western the maximum flexibility to remain intact and become responsible for its own internal operations and to retain the capability of joining a Regional Transmission Organization (RTO) in the future as a separate and distinct entity.

Western contemplates a 12-month termination window in its contract-based sub-control area agreement. When, and if, Western chooses to join an RTO, it could do so as a stand-alone entity with only minimal disruptions to its operation. Because this option preserves Western's ability to join an RTO of its own choice in the future, Western concludes the sub-control area approach meets the flexibility criteria.

Evaluation of the Certainty Criteria Under the ISO Sub-Control Area Approach

Under the contract-based ISO sub-control area approach, neither Western nor the direct-connected customers would be assessed ISO charges except for those services purchased from the ISO. Western, however, would charge the direct-connected customers for capacity, energy, transmission, and ancillary services with rates determined through a public process. Western's off-system Project Use loads and Preference customers would be subject to the ISO charges for transmission and delivery of Federal power and ancillary services. Western intends to dynamically schedule off-system loads after it has sufficient experience operating as a sub-control area. Consequently, non-direct connected customers may be able to avoid some of the imbalance energy and reserve charges of the ISO shortly after the sub-control area is established and operational.

Costs associated with the sub-control area approach for direct connected Project Use and Preference Power customers are expected to be reasonably predictable and include charges for labor and equipment to operate, maintain, and replace the CVP transmission facilities of Western and the costs allocated to hydropower generation facilities owned and operated by Reclamation. These costs have historically been included in the CVP power rates established by Western. The CVP rates are cost based and established at the lowest possible rates consistent with sound business principles. Additional costs associated with operating a sub-control area include purchased power costs. Such costs are necessary to balance sub-control area operations during the fall and winter months when insufficient generation is available to meet Project Use and First Preference loads. Power purchased for these purposes is expected to be purchased in the forward markets as blocks, rather than purchased on the spot market, to reduce price volatility and ensure stable rates. With the ongoing development of generation optimization tools, Western expects the timing and quantity of purchased power amounts to be predictable within reasonable certainty after the existing resource integration contract with PG&E expires. Western concludes that for its sub-control area participants, the contract-based sub-control area approach with the ISO meets the certainty criteria.

The ISO is in the midst of implementing new operating guidance for its market redesign initiative (MD02). This new initiative would implement the concept of locational marginal pricing to deal with transmission congestion. If MD02 is implemented in its current format, during congestion periods the ISO would re-dispatch all generation based on economic factors. Under this approach, the CVP Preference customers and Project Use loads remaining in the ISO control area could potentially end up paying a different price than the cost-of-service rates associated with the delivery of Federal hydropower resources. Non-Federal entities on the ISO-controlled system could potentially end up receiving deliveries based on Federal cost-of-service rates. This potential inconsistency with Reclamation law may require Western to consider alternative mitigation measures.

Evaluation of the Durability Criteria Under the ISO Sub-Control Area Approach

Under the contract-based ISO sub-control area, Western would continue to be responsible for responding to industry-wide changes to its business and operating practices promulgated by NERC and WECC. Since a contract-based sub-control area would be subject to mutual amendment and not unilateral revision as under a tariff, this approach would meet the durability criteria.

Evaluation of the Operating Transparency Criteria Under the ISO Sub-Control Area Approach

As a sub-control area operator with the ISO, Western would operate under NERC and WECC operating criteria and guidelines. These criteria and guidelines require Western to operate its system so that it does not negatively affect the operation of the host control area as well as adjacent control areas. Western concludes the sub-control area approach with the ISO meets the operating transparency criteria.

Evaluation of the Cost-Effectiveness Criteria Under the ISO Sub-Control Area Approach

As discussions progress with the ISO and SMUD, Western anticipates collecting sufficient cost data to make an informed judgment as to which option makes the best business case. Western anticipates comparing and contrasting each option to determine which best allows Western to fulfill its statutory and contractual obligations in a manner which is economic, financially prudent, and best meets the needs of its customers. If neither contractual approach appears to be economically and financially prudent, Western would not seek to implement them.

A contract-based sub-control area agreement provides the long-range business stability needed by Western, Reclamation, and its customers to engage in long-range planning and enter into long-term business arrangements. This business stability is not readily available in many of the other alternatives considered by Western.

Summary Analysis of the ISO Sub-Control Area Approach

Implementing the contract-based ISO sub-control area approach would allow the Federal transmission system to operate as one physically distinct unit. Project Use loads and customers directly connected to Western's system would not be assessed the ISO charges for transmission and related services but would incur similar charges from Western. Off-system Project Use loads and Preference customers would, however, incur the ISO transmission and related charges. These charges represent a significant increase in costs to off-system Project Use loads and Preference customers.

From an infrastructure standpoint, the sub-control area alternative would still require the development and implementation of all of the systems described previously in the December 2, 2003, **Federal Register** in the section entitled, ''Implementing the post-2004 Power Marketing Plan.'' Western intends to fill the vacant positions from within its organization to the maximum extent possible to minimize the need for new staff and to continue transforming its organization to meet the needs of its new Marketing Plan.

The relative ratings for the ISO Sub-Control Area are as follows:

ISO SUB-CONTROL AREA EVALUATION SUMMARY

Evaluation factors	Meets	Almost meets	Does not meet
Flexibility	XX		
Certainty	XX		
Durability	XX		
Operating Transparency	XX		
Cost-effectiveness	XX		

SMUD Sub-Control Area Approach

A contract-based sub-control area with SMUD is similar in concept to the ISO sub-control area approach, except the signatory would be SMUD instead of the ISO. Western would execute an agreement with specific terms and conditions acknowledging the Federal statutory obligations under which Reclamation and Western operate the water and hydropower generation and transmission facilities of the CVP. Reclamation and Western would continue to retain responsibility and operational control over their respective facilities. Western would retain operational control over switching operations and the maintenance and replacement of its transmission facilities, while Reclamation would continue to retain responsibility and operational control over its hydropower generation facilities, as well as any ongoing maintenance and replacement since responsibility and operational control over the water and power operations of the CVP cannot be impaired.

Operating Scenario To Evaluate the SMUD Sub-Control Area Approach

Western anticipates the operating scenario under this approach would be similar in scope to the one described earlier for the ISO. Under this approach, the ISO would remain the single path operator for the three-line COI system. Scheduling and maintenance outages would be closely coordinated with the ISO and SMUD.

Evaluation of the Flexibility Criteria Under the SMUD Sub-Control Area Approach

Western contemplates implementing a segregated sub-control area operation. Implementing this sub-control area operation will allow Western maximum flexibility to remain intact and become responsible for its internal operations and to retain the capability of joining an RTO in the future as a separate and distinct entity.

In forming its contract-based SMUD sub-control area, Western would undertake the same steps identified earlier under the ISO contractual approach. Western contemplates a 12-month termination window in its contract-based sub-control agreement. When, and if, Western chooses to join an RTO, it could do so as a stand-alone entity, with only minimal disruptions to its operations. Because this option preserves Western's ability to join an RTO of its own choice in the future, Western concludes the SMUD sub-control approach meets the flexibility criteria.

Evaluation of the Certainty Criteria Under the SMUD Sub-Control Area Approach

Under the contract-based SMUD sub-control area approach, Western would be subject to control area operator charges from SMUD as set forth in the contract. Western would charge the direct-connected customers for capacity, energy, transmission, and ancillary services with rates determined through a public process. Costs associated with SMUD's administration of the control area, as well as any services provided to Western, will also be assessed. Western's off-system Project Use loads and Preference customers would continue to be assessed charges by the ISO for transmission and delivery of Federal power and ancillary services. Western intends to implement dynamic scheduling after it has sufficient experience operating as a sub-control area. Consequently, non-direct connected customers may be able to avoid some of the ISO's imbalance energy and reserve charges shortly after the sub-control area is established and operational.

Costs associated with the SMUD sub-control area approach for direct-connected Project Use and Preference Power customers are expected to be fairly predictable and include charges for labor and equipment to operate,

maintain, and replace the CVP transmission facilities of Western and the costs allocated to hydropower generation facilities owned and operated by Reclamation. These costs have historically been included in CVP power rates established by Western. CVP rates are cost based and established at the lowest possible rates consistent with sound business principles. Additional costs associated with operating a SMUD sub-control area are purchased power costs necessary to balance the sub-control area during the fall and winter months when insufficient generation is available to meet Project Use and First Preference loads. Power purchased for these purposes is expected to be purchased in the forward markets as blocks, rather than purchased on the spot market, to reduce price volatility and ensure stable rates.

The ISO is in the midst of implementing new operating guidance under MD02. This new initiative would implement the concept of locational marginal pricing to deal with transmission congestion. If MD02 is implemented in its current format, during congestion periods the ISO would re-dispatch all generation based on economic factors. Under this approach, the CVP Preference customers and Project Use loads remaining in the ISO control area could potentially end up paying a different price than the cost-of-service rates associated with the delivery of Federal hydropower resources. Non-Federal entities on the ISO-controlled system could potentially end up receiving deliveries based on Federal cost-of-service rates. This potential inconsistency with Reclamation law may require Western to consider alternative mitigation measures. Western concludes that for its sub-control area participants, the contract-based sub-control area approach with SMUD meets the certainty criteria.

Evaluation of the Durability Criteria Under the SMUD Sub-Control Area Approach

Under the contract-based SMUD sub-control area approach, Western would need to respond to industry-wide changes in NERC- and WECC-issued operating protocols and business practices. Under a contract-based approach, any changes would have to be mutually agreed to and could not be unilaterally imposed by either party. Western concludes the SMUD sub-control area approach meets the durability criteria.

Evaluation of Operating Transparency Criteria Under the SMUD Sub-Control Area Approach

As a SMUD sub-control area operator, Western would operate under applicable NERC and WECC operating criteria and guidelines. Since the criteria require Western to operate its system so it does not negatively impact the host control area and its adjacent neighbors, by definition, Western concludes the SMUD sub-control area approach meets the operating transparency criteria.

Evaluation of the Cost-Effectiveness Criteria Under the SMUD Sub-Control Area Approach

As discussions progress with the ISO and SMUD, Western anticipates sufficient cost data will become available to make an informed business decision as to the economic and financial impacts of each option. Western anticipates comparing and contrasting each option to determine which best allows Western to fulfill its statutory and contractual obligations in a manner which is economic, financially prudent, and best meets the needs of its customers. If neither contract-based approach appears to be economically and financially prudent, Western would not seek to implement them.

A contract-based sub-control area agreement provides the long-range business stability needed by Western, Reclamation, and its customers to engage in long-range planning and enter into long-term business arrangements. This business stability is not readily available in many of the other alternatives considered by Western.

Summary Analysis of the SMUD Sub-Control Area Approach

Implementing the SMUD sub-control area approach would allow the Federal transmission system to be operated as a physically distinct unit. Western's summary is the same as that shown under the contract-based ISO sub-control area option. The ratings for the sub-control area approach with SMUD are as follows:

SMUD Sub-Control Area Evaluation Summary

Evaluation factors	Meets	Almost meets	Does not meet
Flexibility	XX		
Certainty	XX		
Durability	XX		
Operating transparency	XX		
Cost-effectiveness	XX		

Conclusion

Western's Final Decision

On December 31, 2004, a number of existing transmission contracts with PG&E expire. Western will then become responsible for arranging and meeting most of its own supplemental power and transmission needs. This new responsibility will require Western to select and implement a post-2004 operational configuration and select a preferred control area operator to host Western's operations. Under existing contracts, PG&E provides Western with interface services with the ISO. The preferred post-2004 operational configuration must ensure Western will be able to implement its 2004 Power Marketing Plan and allow it to fulfill its statutory obligations to Reclamation as well as meet its contractual obligations to its Preference Power customers. The final decision to implement sub-control area operations is based on the alternative meeting all five of the evaluation criteria; *i.e.*, flexibility, certainty, durability, operational transparency, and cost-effectiveness, presented in the June 24, 2003, **Federal Register** and finalized in the December 2, 2003, **Federal Register**.

Western will proceed with its effort to establish a contract-based sub-control area. Western does not intend to form a new control area at this time. However, if Western is unable to negotiate a mutually acceptable agreement to implement a contract-based sub-control operation before the expiration of existing contracts, Western will initiate all reasonably prudent steps to ensure Western fulfills its statutory responsibilities and meets the requirements of its customers.

Other Considerations

Consistency With Federal Law

As Western proceeds with negotiations with the ISO and SMUD, it will evaluate how Federal law will affect the implementation of each potential contract. Western will evaluate each approach to ensure that Western can continue to meet and fulfill its statutory and contractual obligations. For example, Federal Reclamation law requires Federal power be sold to Preference customers. Western implements such sales through a Federal marketing plan developed under the Administrative Procedure Act. The final CVP marketing plan was published on June 25, 1999 (64 FR 34417). The sale of Federal power must not impair the CVP's primary purposes. The marketing plans have the full force and effect of law. Implementation of Western's operational decision must be consistent with Western's obligations under Federal law including Western's Marketing Plan. Consequently, any agreement that Western may execute with either the ISO or SMUD cannot impair Western's ability to deliver Federal power to Project Use loads and Federal Preference Power to Preference Power customers.

Regulatory Procedure Requirements

Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601, *et seq.*) requires Federal agencies to perform a regulatory flexibility analysis if a final rule is likely to have a significant economic impact on a substantial number of small entities and there is a legal requirement to issue a general notice of proposed rulemaking. Western has determined this action does not require a regulatory flexibility analysis since it is a rulemaking involving services applicable to public property.

Environmental Compliance

Under the National Environmental Policy Act (NEPA) (42 U.S.C. 4321. *et seq.*), Council on Environmental Quality NEPA implementing regulations (40 CFR 1500–1508), and DOE NEPA implementing regulations (10 CFR 1021), Western completed an environmental impact statement (EIS) on its Energy Planning and Management Program. The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995).

Western also completed the 2004 Power Marketing Program EIS (2004 EIS). The Record of Decision was published in the **Federal Register** (62 FR 22934, April 28, 1997). The Marketing Plan falls within the range of alternatives considered in the 2004 EIS. This NEPA review identified and analyzed environmental effects related to the Marketing Plan. Available reservoir storage and water releases controlled by Reclamation influences marketable CVP and Washoe project electrical capacity and energy. Reclamation completed a programmatic environmental impact statement (PEIS) under the CVP Improvement Act of 1992 (Pub. L. 102–575, Title 34) in October 1999. Actions based on the PEIS may result in modifications to CVP facilities and operations that would affect the timing and quantity of electric power generated by the CVP. Such changes may affect electric power products and services marketed by SNR. The Marketing Plan has the flexibility to accommodate these changes. Western was a cooperating agency in Reclamation's PEIS process. The proposed action was also evaluated under a categorical exclusion analysis finalized by Western on January 21, 2004.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866. No clearance of this notice by the Office of Management and Budget is required.

Small Business Regulatory Enforcement Fairness Act

Western has determined this rule is exempt from congressional notification requirements under 5 U.S.C. 801 because the action is a rulemaking relating to services and involves matters of procedure.

Dated: February 13, 2004.

Michael S. Hacskaylo,

Administrator.

[FR Doc. 04–3819 Filed 2–20–04; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Application for Student Educational Employment Program.''

DATES: Comments must be submitted on or before April 23, 2004.

ADDRESSES: Interested parties are invited to submit written comments to Leneta G. Gregorie, Counsel, (202) 898–3719, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to ''Application for Student Educational Employment Program.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (Fax number: (202) 898–3838; email: *comments @ fdic.gov.*)

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Leneta G. Gregorie, Counsel, Legal Division, at (202) 898–3719.

SUPPLEMENTARY INFORMATION: Proposal to establish the following new collection of information:

Title: Application for Student Educational Employment Program.

OMB Number: New collection.

Frequency of Response: Occasional.

Affected Public: Students seeking employment with the FDIC under the Student Educational Employment Program.

Estimated Number of Respondents: 1,500.

Estimated Time per Response: 0.33 hour.

Estimated Total Annual Burden: 500 hours.

General Description of Collection: The collection will provide the FDIC with a means of gathering information from program applicants to determine whether they meet the government-wide criteria established by OPM for participation in the program, as well as the additional criteria established by the FDIC in its implementation of the program.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b)

the accuracy of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's request to OMB for approval of this collection. All comments will become a matter of public record.

Dated in Washington, DC this 17th day of February, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 04–3797 Filed 2–20–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that, at 10:20 a.m. on Tuesday, February 17, 2004, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's resolution, enforcement, and corporate activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Vice Chairman John M. Reich, concurred in by Director Thomas J. Curry, Ms. Julie Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Dated: February 18, 2004.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E4–342 Filed 2–20–04; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

Special Executive Session

DATE & TIME: Tuesday, February 17, 2004, at 2 p.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting was closed to the public pursuant to 11 CFR 2.4(b)(7).

DATE & TIME: Thursday, February 26, 2004, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED: Correction and approval of minutes.

Draft Advisory Opinion 2004–02: National Committee for an Effective Congress by counsel, Judith L. Corley.

Future meeting dates.

Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Robert W. Biersack, Acting Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 04–4008 Filed 2–19–04; 2:45 pm]

BILLING CODE 6215–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 9, 2004.

A. Federal Reserve Bank of Minneapolis (Jacqueline G. Nicholas, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Martha A. Soter, Tucson, Arizona; Fred J. Christenson, Fairfield, Connecticut; Molly A. Hershede, Phoenix, Arizona; John W. Thomson, Sioux Falls, individually and as trustee of the Nane A. Thomson Trust; Nane A. Thomson, Sioux Falls; the Nane A. Thomson Trust, Sioux Falls; James R. Thomson, Centerville, individually and as trustee of the Sarah A. Thomson Trust, the Christopher Thomson Trust, the Alex B. Cole Trust, and the Erin T. Cole Trust; the Sarah A. Thomson Trust, Centerville; the Christopher Thomson Trust, Centerville, all in South Dakota; John E. Lindahl, Wayzata, as trustee of the Sarah A. Thomson Trust, the Christopher Thomson Trust, the Alex B. Cole Trust, and the Erin T. Cole Trust; John L. Thomson, Minneapolis, individually and as trustee of the John Lubar Thomson Trust, the Maddie C. Thomson Trust and the Joseph N. Thomson Trust; Kristine L. Thomson, Minneapolis, all of Minnesota; as trustee of the John Lubar Thomson Trust, the Maddie C. Thomson Trust and the Joseph N. Thomson Trust; David J. Lubar, Milwaukee, Wisconsin, as trustee of the John Lubar Thomson Trust, the Maddie C. Thomson Trust and the Joseph N. Thomson Trust; the John Lubar Thomson Trust, Minneapolis; the Maddie C. Thomson Trust, Minneapolis; the Joseph N. Thomson Trust, Minneapolis, all in Minnesota; Ann L. Cole, Sioux Falls; the Alex B. Cole Trust, Centerville; and the Erin T. Cole Trust, Centerville, all in South Dakota; to acquire additional voting shares of Thomson Holdings, Inc., Centerville, South Dakota, and thereby to indirectly acquire additional voting shares of First Midwest Bank, Centerville, South Dakota.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Ms. Dianne Jaggars Stone, Hico, Texas; to acquire additional voting shares of First National Bancshares of Hico, Inc., Hico, Texas, and thereby indirectly acquire additional voting shares of The First National Bank of Hico, Hico, Texas.

Board of Governors of the Federal Reserve System, February 18, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–3854 Filed 2–20–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than March 8, 2004.

A. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Robert J. Barmann, Jr., Maryville, Missouri; James L. Baber, Weston, Missouri; and Robert M. McGinness, Platte City, Missouri; to acquire control of Wells Bancshares, and thereby indirectly acquire control of Wells Bank of Platte City, both of Platte City, Missouri.

Board of Governors of the Federal Reserve System, February 17, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E4–345 Filed 2–20–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 19, 2004.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. LDF, Inc., Chicago, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Labe Bank, Chicago, Illinois.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Bancorp IV, Inc., Stilwell, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of the Bank of Montgomery County, Wellsville, Missouri.

2. Bank of the Ozarks, Inc., Little Rock, Arkansas; to acquire 100 percent of the voting shares of Sun Bank, Sunray, Texas.

3. Security Bancorp of Tennessee, Inc., Halls, Tennessee; to acquire 44.93 percent of the voting shares of Patriot of Tennessee Corporation, Millington, Tennessee, and thereby indirectly acquire Patriot Bank, Millington, Tennessee.

Board of Governors of the Federal Reserve System, February 18, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–3853 Filed 2–20–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 18, 2004.

A. Federal Reserve Bank of Richmond (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. American Community Bancshares, Inc., Charlotte, North Carolina; to merge with FNB Bancshares, Inc., Gaffney, South Carolina, and thereby indirectly acquire voting shares of First National Bank of the Carolinas, Gaffney, South Carolina.

Board of Governors of the Federal Reserve System, February 17, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E4–344 Filed 2–20–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 2004.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. FirstTrust Corporation, New Orleans, Louisiana; to acquire FBT Advisors, Inc., New Orleans, Louisiana, and thereby engage in financial and investment advisory activities, pursuant to section 225.28(b)(6)(i) of Regulation Y, and indirectly acquire FBT Investments, Inc., New Orleans, Louisiana, and thereby engage in agency transactional services for customer investments, pursuant to section 225.28(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, February 17, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E4–346 Filed 2–20–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below 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 for AHRQ NRSA Predoctoral Fellowship for Minority Student (F31) and NRSA Postdoctoral Fellowship (F32) Awards are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: AHRQ NRSA Predoctoral Fellowship for Minority Student (F31) and NRSA, Postdoctoral Fellowship (F32) Awards.

Date: March 2, 2004 (Teleconference Review).

Place: John M. Eisenberg Building, 540 Gaither Road, Room 2020, Rockville, Maryland 20850.

Time: 2 p.m.–5 p.m.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the meeting due to the time constraints of reviews and funding cycles.

Dated: February 13, 2004.

Carolyn M. Clancy,

Director.

[FR Doc. 04–3759 Filed 2–20–04; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry (ATSDR)

Public Meeting of the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Public meeting of the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12 p.m.–3 p.m., March 9, 2004.

Place: This is a conference call. Telephone toll-free (866) 687–0087.

Status: Open to the public, limited only by the space available on the conference call. The call can accomodate up to 50 participants. Please call the Executive Secretary or Committee Management Specialist to obtain the passcode for the conference call.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in September 2000 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles.

In addition, under an MOU signed in December 1990 with DOE and replaced

by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Community Involvement is a critical part of ATSDR's and CDC's energy-related research and activities, and input from members of the ORRHES is part of these efforts.

Purpose: The purpose of this meeting is to address issues that are unique to community involvement with the ORRHES, and agency updates.

Matters to be Discussed: Agenda items will include a presentation and discussion from the Public Health Assessment Workgroup on the Public Health Assessment for White Oak Creek Radionuclide Release from the DOE Oak Ridge Reservation, and a recommendation and endorsement from ORRHES to release it for public comment, and agency updates.

Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Lorine Spencer, Executive Secretary, or Marilyn Horton, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., M/S E–32, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR (28737), fax 404–498–1744.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: February 17, 2004.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–3795 Filed 2–20–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Public Meeting of the Citizens Advisory Committee on Public Health Service (PHS) Activities and Research at Department of Energy (DOE) Sites: Oak Ridge Reservation Health Effects Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Public meeting of the Citizens Advisory Committee on PHS Activities and Research at DOE Sites: Oak Ridge Reservation Health Effects Subcommittee (ORRHES).

Time and Date: 12 p.m.–8 p.m., April 13, 2004.

Place: Kingston Community Center, 201 Patton Ferry Road, Kingston, TN 37763. Telephone: (865) 376–9476.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 75 people.

Background: A Memorandum of Understanding (MOU) was signed in October 1990 and renewed in September 2000 between ATSDR and DOE. The MOU delineates the responsibilities and procedures for ATSDR's public health activities at DOE sites required under sections 104, 105, 107, and 120 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or ''Superfund''). These activities include health consultations and public health assessments at DOE sites listed on, or proposed for, the Superfund National Priorities List and at sites that are the subject of petitions from the public; and other health-related activities such as epidemiologic studies, health surveillance, exposure and disease registries, health education, substance-specific applied research, emergency response, and preparation of toxicological profiles. In addition, under an MOU signed in December 1990 with DOE and replaced by an MOU signed in 2000, the Department of Health and Human Services (HHS) has been given the responsibility and resources for conducting analytic epidemiologic investigations of residents of communities in the vicinity of DOE facilities, workers at DOE facilities, and other persons potentially exposed to radiation or to potential hazards from non-nuclear energy production and use. HHS has delegated program responsibility to CDC.

Community Involvement is a critical part of ATSDR's and CDC's energy-related research and activities, and input from members of the ORRHES is part of these efforts.

Purpose: The purpose of this meeting is to address issues that are unique to community involvement with the ORRHES, and agency updates.

Matters to be Discussed: Agenda items will include a presentation and discussion, updates and recommendations from the Public Health Assessment, Communications and Outreach, Agenda, Guidelines and Procedures, the Health Education Needs Assessment Workgroups, and agency updates. Agenda items are subject to change as priorities dictate.

FOR FURTHER INFORMATION CONTACT: Lorine Spencer, Executive Secretary, or Marilyn Horton, Committee Management Specialist, Division of Health Assessment and Consultation, ATSDR, 1600 Clifton Road, NE., M/S E–32, Atlanta, Georgia 30333, telephone 1–888–42–ATSDR (28737), fax 404/498–1744.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and ATSDR.

Dated: February 17, 2004.

Joseph E Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04–3796 Filed 2–20–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families, Family and Youth Services Bureau

Notice of a Funding Opportunity

Funding Opportunity Title: Mentoring Children of Prisoners.

Announcement Type: Competitive Grant—Initial.

Funding Opportunity Number: HHS–2004–ACF–ACYF–CU–0001.

CFDA Number: 93.616.

DATES: April 23, 2004.

I. Funding Opportunity Description

The Family and Youth Services Bureau (FYSB) within the Administration for Children and Families (ACF) announces the

availability of financial assistance and the request for applications for the FY 2004 Mentoring Children of Prisoners Program activities under section 439, Title IV–B, subpart 2 of the Social Security Act, as amended. The purpose of this program is to make competitive grants to applicants in urban, suburban, rural, and tribal populations with substantial numbers of children of incarcerated parents and to support the establishment or expansion of programs using a network of public and private entities to provide mentoring services to these children.

Background on Mentoring Children of Prisoners

Across our Nation, many Americans are responding to the call to service by mentoring a child in need. By offering love, guidance, and encouragement, mentors put hope in children's hearts, and help ensure that young people realize their full potential.

President George W. Bush, January 2003.

Witnessing and living with the arrest and incarceration of a parent is devastating for children and families. The living conditions, family configurations, and problems faced by the parents make it likely that significant numbers of children of prisoners will suffer emotional and behavioral difficulties. Economic, social, and emotional burdens are often placed on families and caretakers, especially children. Family relationships are strained and any existing stability is compromised. As a result, the majority of these children experience multiple changes of caregivers and/or living arrangements.

What Are the Effects of Incarceration on the Child?

Research has found that long term physical absence of a parent has profound effects on child development. Children of incarcerated parents are seven times more likely to become involved in the juvenile and adult criminal justice systems. Parental arrest and confinement often lead to stress, trauma, stigmatization, and separation problems which may be compounded by existing poverty, violence, substance abuse, high-crime environments, child abuse and neglect, multiple caregivers, and/or prior separations. These children are more likely to develop attachment disorders and often exhibit broad varieties of behavioral, emotional, health, and educational problems. Many children of incarcerated parents are angry and lash out at others leading to confrontations with law enforcement. Lacking the support of families, schools, and other community institutions, they often do not develop values and social skills leading to the formation of successful relationships.

Who Are the Children?

Between 1991 and 1999, the number of children with a parent in a Federal or State correctional facility increased by more than 100 percent, from approximately 900,000 to approximately 2,000,000. Like their parents, children of criminal offenders reflect the racial differences of the incarcerated populations. Seven percent of African American children have an incarcerated parent; almost three percent of Hispanic children have an incarcerated parent, while less than one percent of white children have an incarcerated parent.

Who Are the Parents?

According to the 2001 national data from the Bureau of Justice Statistics, 3.5 million parents were supervised by the correctional system. Prior to incarceration, 64 percent of female prisoners and 44 percent of male prisoners in State facilities lived with their children. During incarceration nearly 90 percent of children of incarcerated fathers lived with their mothers and 79 percent of children of incarcerated mothers lived with a grandparent or other relative. Although research has indicated that parents and children should visit one another, less than 50 percent of prisoners receive visits from their children. In a number of cases, the caregiver may not allow the child to visit the inmate and prisons are often located far away from the urban areas where most children of prisoners live. According to the Bureau of Prisons, there is evidence to suggest that inmates who are connected to their children and families are more likely to avoid negative incidents and have reduced sentences.

Who Are the Mentors?

Mentors are recruited from a variety of sources including congregations, religious non-profit organizations, community-based organizations, service organizations, Senior Corps, and the business community. Research has shown that the health and productivity of mentors is enhanced by their connection to a child in need.

How Can Mentoring Help?

It has been demonstrated that mentoring is a potent force for improving youth outcomes. Mentoring increases the likelihood of regular school attendance and academic achievement. It also decreases the chances of engaging in self-destructive or violent behavior. A trusting relationship with a caring adult will provide stability and often have a profound, life-changing effect on the child. Mentoring provides the incarcerated parent with the assurance that somebody is there to look after the best interests of their child.

What Are Possible Outcomes?

Research confirms the societal benefits of mentoring efforts with children. Specifically, data indicates that mentoring programs have reduced first time drug use by almost 50 percent and first-time alcohol use by 33 percent. Also, caregiver and peer relationships are shown to improve. In addition, mentored youth displayed greater confidence in their schoolwork and improved their academic performance.

How Are Matches Initiated and Monitored?

Parents, incarcerated parents, caretakers, schools, courts, social service organizations, or congregations will identify children in need of a mentor and initiate the referral to a mentoring organization. The mentoring organization will facilitate and monitor the match by allowing parents and other stakeholders opportunities to provide feedback on the match. The mentoring organization will develop and distribute status reports to appropriate interested parties.

What Happens When Parents Return Home From Prison?

Mentors are not meant to be ''replacement parents.'' In situations where incarcerated parents were actively engaged in the mentoring process, through visits, phone conversations or letters, reunification is a natural process with realistic expectations. Mentors can help facilitate a smooth reentry by helping parents reconnect with their child and are often invited to continue to be a supportive resource well after the return of the parent.

What Is the Family and Youth Services Bureau?

For over 30 years, the Family and Youth Services Bureau (FYSB) within the Administration for Children and Families (ACF) has provided grants at the local level to Community and Faith-based organizations serving a population of vulnerable youth, including runaway, homeless, and street youth.

Definitions

Children of Prisoners: Children, where one or both parents are incarcerated in a Federal, State or local correctional facility, on parole or on

probation. A child whose parent is on parole or probation is eligible to participate in the mentoring program if the linkage is made while the parent is still incarcerated. Children of persons incarcerated in local facilities become eligible for the mentoring program only in the unfortunate instance that the parent is remanded to custody or the State department of corrections. Children must be 4 years to 14 years of age when they begin to receive services.

Mentoring: A structured, managed program in which children are appropriately matched with screened and trained adult volunteers for one-to-one relationships. This involves meetings and activities on a regular basis between the mentors and children to support a child's need for a caring and supportive adult in his life.

Prisoner: Adult who is incarcerated in a Federal or State correctional facility or is being held in a local facility but is remanded to the custody of a State department of corrections.

Caretaker: The parent or legal guardian charged with the responsibility of caring for a child while the parent is incarcerated.

Mentoring Organization: The community or faith-based organization that coordinates local entities participating in the provision of mentoring services and the mentoring support network. Mentoring organizations will be responsible for the application and performance of the grant. They also will be responsible for providing the cash or in-kind contribution.

Mentoring Services: Those services and activities that support a structured, managed program of mentoring, including the management by trained personnel of outreach to and screening of eligible children; outreach to, education, and training of and liaison with sponsoring local organizations; screening and training of adult volunteers; matching of children with suitable adult volunteer mentors; support and oversight of the mentoring relationship; and establishment of goals and evaluation of outcomes for mentored children.

Projects Funded Under This Program Must Do the Following Things

(a) Link children with mentors who have:

- Received training and support in mentoring;
- Completed screening and reference checks, including child and domestic abuse records checks and criminal background checks; and
- Expressed an interest in working with children in disadvantaged situations.

(b) Incorporate the elements of Positive Youth Development by providing youth with:

- Safe and trusting relationships;
- Healthy messages about life and social behavior;
- Guidance from a positive adult role model;
- Increased and enhanced participation in education for positive outcomes;
- Participation in civic service and community activities.

(c) Coordinate with partnering groups to develop a plan for the whole family:

- Connect the child with the imprisoned parent with permission from the other spouse or guardian;
- Coordinate support services to siblings and families;
- Support caregivers with training and help navigating the services provided by the mentoring network.

II. Award Information

Funding Instrument Type: Grant.

Anticipated total Priority Area Funding: $50,000,000.

Anticipated Number of Awards: 150–200.

Ceiling on amount of individual Awards: $ 1,000,000.

Floor of Individual Award Amounts: None.

Average projected Award Amount: $100,000 to $1,000,000; Funds are pending appropriation action by the Congress.

Project Periods for Awards: 36 month project periods with 12 month budget periods.

III. Eligibility Information

1. Eligible Applicants

County governments, City or township governments, Special district governments, Independent school districts, State controlled institutions of higher education, Native American tribal governments(Federally recognized), Public housing authorities/Indian housing authorities, Native American tribal organizations (other than Federally recognized tribal governments), Non-profits having a 501(C)3 status, and Non-profits that do not have 501(C)3 status.

Additional Information on Eligibility: Those eligible to apply for funding under this grant competition include faith and community-based organizations, tribal governments or consortia, and State and local governments where substantial numbers of children of prisoners live as compared to the national average. Applicants must apply to establish new programs or to expand existing programs utilizing a network of public and private community entities to provide mentoring services for children of prisoners. Collaboration among eligible entities is strongly encouraged. All eligible organizations, including faith-based organizations, are eligible to compete on equal footing for Federal financial assistance used to support social services programs. No organizations can be discriminated against on the basis of religion in the administration or distribution of Federal financial assistance under social service programs. Faith-based organizations are eligible to compete for Federal financial assistance while retaining their identity, mission, religious references, and governance. However, faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Applicants are cautioned that the ceiling for individual awards is $1,000,000. Applications exceeding the $1,000,000 threshold will be returned without review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

2. Cost Sharing or Matching

For the first and second years of the grant, grantees must provide at least 25

percent of the total Federal funds awarded. In the third year of the grant, the grantee must account for at least 50 percent of the total project budget. The total approved cost of the project is the sum of the Federal share and the non-Federal share. If the total project cost is $200,000, then the applicant must demonstrate a commitment of at least a $50,000 match and request funding of $150,000 from the Federal government. The Federal share may be matched by cash or in-kind contributions, although applicants are encouraged to meet their requirement through cash contributions. In determining the amount of the non-Federal share, the fair market value will be attributed to goods, services (excluding mentoring time and services) and facilities contributed from non-Federal sources. Mentoring time and services are not allowable as in-kind costs. Grantees will be held accountable for commitments of non-Federal resources even if they are over the amount of the required match. The failure to provide the amount required will result in disallowance of Federal share.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

3. Other (if Applicable)

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*http://www.Grants.gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Applications exceeding the $1,000,000 threshold will be returned without review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

Program Guidance: To be eligible for funding, a project must propose mentoring programs and activities to serve the children of prisoners in areas with a comparative severity of need for mentoring services, taking into consideration data on the numbers of children (particularly of low-income children) with an incarcerated parent (or parents/family) from the service delivery area.

Applicants are cautioned that the ceiling for individual awards is $1,000,000.

IV. Application and Submission Information

1. Address to Request Application Package

ACYF Operations, The Dixon Group, ATTN: Sylvia Johnson, 118 Q Street, NE., Washington DC 20002–2132; Telephone: (866) 796–1591. E-mail address: *FYSB@dixongroup.com.*

2. Content and Form of Application Submission

An original and two copies of the complete application are required. The original and 2 copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget.

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the *http://www.Grants.Gov* apply site. If you use Grants.Gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.Gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.Gov.

- Electronic submission is voluntary
- When you enter the Grants.Gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.Gov.
- To use Grants.Gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in paper format.
- You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.Gov that contains a Grants.Gov tracking number. The Administration for Children and Families will retrieve your application from Grants.Gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on *http://www.Grants.Gov*. You must search for the downloadable application package by the CFDA number.

Application Requirements: Each application must be submitted in accordance with the guidance provided below.

(a) The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by terms and conditions of the grant award.

(b) If more than one agency is involved in submitting a single application, one entity must be identified as the applicant organization that will have legal responsibility for the grant.

Forms and Certifications: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for

an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A–B) and Certifications may be found at: *http://www.acf.hhs.gov/programs/ofs/forms.htm* under new announcements. Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants.'' The forms are located on the Web at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Project Summary Abstract: Provide a one page (or less) summary of the project description with reference to the funding request.

Full Project Description Requirements: Describe the project clearly in 30 pages or less (not counting supplemental documentation, letters of support or agreements) using the following outline and guidelines. Applicants are required to submit a Full Project Description and must prepare the project description statement in accordance with the following instructions. The pages of the project description must be numbered and are limited to 30 typed pages starting on page 1 of ''Objectives and Need of Assistance''. The description must be doubled-spaced, printed on only one side, with at least ½ inch margins. Pages over the limit will be removed from the competition and will not be reviewed.

It is in the applicant's best interest to ensure that the project description is easy to read, logically developed in accordance with the evaluation criteria and adheres to page limitations. In addition, applicants should be mindful of the importance of preparing and submitting applications using language, terms, concepts and descriptions that are generally known by both the targeted youth and the broader youth services field. The maximum number of pages for supplemental documentation is 10 pages. The supplemental documentation, subject to the 10-page limit, must be numbered and might include brief resumes, position descriptions, proof of non-profit status (if applicable), news clippings, press releases, etc. Supplemental documentation over the 10-page limit will not be reviewed.

Applicants must include letters of support or agreement, if appropriate or applicable, in reference to the project description. Letters of support are not counted as part of the 30-page project description limit or the 10-page supplemental documentation limit. (**Note:** Applicable agreements are those between grantees and sub-grantees or sub-contractors or other cooperating entities which support or complement the provision of mandated services to children of prisoners.)

Application Assurances: In addition to the standard assurances of safety, applicants must provide the following assurances:

- Mentors will not be assigned more children than can be served without undermining the mentor's ability to be effective.
- Grantees will recruit mentors who are committed to spending at least one hour per week with assigned children for a period of at least one year.
- The mentoring program will provide children with emotional and academic support as well as exposure to a variety of experiences that they might not otherwise encounter.
- The program will be monitored to ensure that each child benefits from the match. If the match is not found to be beneficial to the child a new mentor will be assigned.
- The program will cooperate with any research or evaluation efforts sponsored by the Administration for Children and Families.
- The program will submit quarterly program reports and annual financial reports, as instructed by FYSB.
- The program will set aside funding for travel to inform FYSB and meet with other grantees at an annual sharing and technical assistance meeting.

3. Submission Dates and Times

The closing date for submission of applications is April 23, 2004. Mailed applications postmarked after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are postmarked on or before April 23, 2004 or sent on or before the deadline date and received by ACF in time for the independent review. Applications must be mailed to the following address: ACYF Operations, The Dixon Group, ATTN: Sylvia Johnson, 118 Q Street, NE., Washington, DC 20002–2132.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of a timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private Metered postmarks shall not be acceptable as proof of timely mailing. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., e.s.t., at ACYF Operations, The Dixon Group, ATTN: Sylvia Johnson, 118 Q Street, NE., Washington, DC 20002–2132, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note ''ATTN: Sylvia Johnson''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late applications: Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms:

What to submit	Required content	Required form or format	When to submit
Narrative	Described in Section I of this Announcement.	Format described in Section V	By application due date.
SF 424, SF 424A, and SF 424B.	Per required form	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

What to submit	Required content	Required form or format	When to submit
Certification regarding Lobbying and associated Disclosure of Lobbying Activities (SF LLL).	Per required form	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.
Environmental Tobacco Smoke Certification.	Per required form	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.	By application due date.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants''.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm*.	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR Part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. As of June 20, 2001, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372:

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming have elected to participate in the Executive Order process and have established Single Point of Contacts (SPOCs). Applicants from these twenty-five jurisdictions need take no action regarding Executive Order 12372.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them about the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the ''accommodate or explain'' rule.

Comments should be submitted directly to Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. A list of the Single Points of Contact for each State and Territory is included with the application materials for this announcement.

5. Funding Restrictions

Applicants are cautioned that the ceiling for individual awards is $1,000,000. Applications exceeding the $1,000,000 threshold will be returned without review.

6. Other Submission Requirements

Submission by Mail: An Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 5 p.m. Eastern Standard Time on or before the closing date. Applications should be mailed to:

ACYF Operations, The Dixon Group, ATTN: Sylvia Johnson, 118 Q Street, NE., Washington, DC 20002–2132.

For Hand Delivery: Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 4:30 p.m. eastern standard time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations, The Dixon Group, ATTN: Sylvia Johnson, 118 Q Street, NE.,Washington, DC 20002–2132. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description (UPD)

The following are instructions and guidelines on how to prepare the ''project summary/abstract'' and ''Full Project Description'' sections of the application. Under the evaluation criteria section, note that each criterion is preceded by the generic evaluation requirement under the ACF Uniform Project Description (UPD). The UPD was approved by the Office of Management and Budget (OMB), Control Number 0970–0139, expiration date 03/31/04. The generic UPD requirement is followed by the evaluation criterion specific to the Promoting Safe and Stable Families Act.

Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected

Identify the results and benefits to be derived. For example, when applying for a grant to serve children of incarcerated parents, describe who will receive services, where and how the services will be provided, and how the services will benefit the youth, their families and the community.

Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quarterly reports of accomplishments achieved for each function or activity such as the number of people served and the number of activities achieved. When activity or function cannot quantify accomplishments, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any collection of information that is conducted or sponsored by ACF.

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Staff and Position Data and Organizational Profile

Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any nonprofit organization submitting an application must submit proof of its application at the time of submission. The nonprofit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(C)(3) of the IRS code, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of new employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, *etc.*

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in

accordance with organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy, which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, *etc.* Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11)(currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids; independent cost estimates, *etc.*

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Indirect Charges

Description: Total amount of indirect costs. The Department of Health and Human Services (HHS) or another cognizant Federal agency should use this category only when the applicant currently has an indirect cost rate approval.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application that contain this information.

Non-Federal Resources

Description: Amounts on non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Self-explanatory.

Assurance of Non-Construction

Application requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications.

Approach in determining the quality of the project design or approach the following factors are considered: (30 points)

- The detailed plan designed to identify, screen, and recruit mentors. The description of detailed volunteer screening procedures to ensure that the mentor poses no safety risk to the child and has the necessary skills to participate in a mentoring relationship. (10 points)
- The resources that will be coordinated to support the needs of caretakers and other children in the family setting. Also, when appropriate, the extent that the program proposes to partner with identified programs supporting incarcerated parents and addresses their re-entry. (5 points)
- The training process for mentors based on best practices which will ensure their ability to successfully mentor this special population. (5 points)
- The quality of the mechanism that will be used to match children with mentors, demonstrating sensitivity to the diverse needs of the children and the support provided for mentors in order to sustain long-term mentoring relationships. (5 points)
- The level of supervision, oversight, and monitoring of the child and mentor relationships and activities. The description of the expected ratio of staff to mentors. The detailed plan for collecting, on a monthly basis, data documenting meetings and activities by trained volunteer coordinators to ensure personal oversight and safety of the children and their mentors. (5 points)

Results and benefits expected in determining the quality of expected benefits the following factors are considered: (20 points)

- The extent to which goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable. (10 points)
- The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes. (5 points)
- The extent to which outcomes reflect gains in positive social behaviors, youth engagement, and asset acquisition. (5 points)

Staff and position data and organizational profile in reviewing the required staff and position data and the organizational profile, the following factors are considered: (20 points)

- A demonstrated history of providing services to youth and families in disadvantaged situations, along with the ability to partner and build coalitions at the community level along with specific definition of the area where services are to be delivered. (Maps and graphic aids may be attached

as part of the supplementary documentation.) (10 points)

• The extent to which community stakeholders, including parents, incarcerated parents, local community organizations, schools, government, caretakers and children, have participated in the project design. The list and description of how these partners will contribute to the mentoring network. (5 points)

• The quality of skills, knowledge, and experience of the project director and project staff. This includes job descriptions, as well as a description of staff training and specific cultural diversity training related to mentoring the target population. (5 points)

Objectives and need for assistance in determining the need of assistance for the proposed project, the following factors are considered: (15 points)

• The conditions and characteristics of youth and families affected by incarceration in the service delivery area. The description must demonstrate an awareness of the special needs of this population, including service delivery gaps and the magnitude of the problem within the service delivery area. (5 points)

• The calculation of the number of children with parents in prison and projection of the number of mentor-child matches proposed to be established and maintained annually under the program. (5 points)

• The extent to which there are existing support services for this population of youth, with specific references to coordination of courts, health and mental health care, social services, school, and child welfare. It must be clear that the mentoring program will complement and enhance, not duplicate available services and that the mentoring program will work in conjunction with these services to produce better outcomes for children and families. (5 points)

Budget and budget justification in determining the soundness of the budget and budget justification, the following factors are considered: (15 points)

• The extent to which costs of the proposed program are reasonable and justified in terms of numbers of children of prisoners, types and quantities of services to be provided, and the anticipated results and benefits. Discussion should refer to the budget information presented on Standard Form 424 and 424A and the applicant's budget justification. (10 points)

• Identification of fiscal control and accounting procedures that will be used to ensure the prudent use, proper disbursement, and accurate accounting of federal funds received, as well as the accounting of cash and in-kind for the non-federal match. (5 points)

2. Review and Selection Process

All applications which are complete and conform to the requirements of this program announcement will be subject to a competitive review and evaluation against the specific grant program criteria outlined in this announcement. This review will be conducted in Washington, DC, by panels of non-Federal experts knowledgeable in the areas related to children of prisoners, child development and human services. The overall panel review is managed by Federal staff.

Application review panels will assign a score to each application, identifying its strengths and weaknesses. Central office staff will conduct administrative reviews of those applications within funding range. After all reviews have been completed, FYSB staff will recommend the application for funding to the Commissioner, ACYF. The Commissioner will make the final selection of the applications to be funded.

Please note that here will be a 5 percent set aside specifically for tribes and tribal consortia.

VI. Award Administration Information

1. Award Notices

The successful applicants will be notified through the issuance of a Financial Assistance Award document which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer.

Organizations whose applications will not be funded will be notified in writing by the Administration on Children, Youth and Families.

2. Administrative and National Policy Requirements

45 CFR Part 74 and 45 CFR Part 92.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements or regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under the Program Narrative Statement by OMB (Approval Number 0980–0204).

3. Reporting

Programatic Reports: Quarterly.

Financial Reports: Semi-Annually.

Reporting Requirements: All grantees are required to submit quarterly program reports; grantees are also required to submit semi-annual expenditure reports using the required financial standard form (SF–269) which is located on the Internet at: *http://forms.psc.gov/forms/sf/SF–269.pdf*. A suggested format for the program report will be sent to all grantees after the awards are made.

VII. Agency Contacts

Program Office Contact: Linda V. Barnett, 370 L'Enfant Promenade, SW., Washington, DC 20447, (202) 401–9358, *lbarnett@acf.hhs.gov*.

Grants Management Office Contact: Sylvia Johnson, 370 L'Enfant Promenade, SW., Washington, DC 20447, (202) 401–2344, *SYJohnson@acf.hhs.gov*.

General: The Dixon Group, ACYF Operations Center, 118 Q Street, NE., Washington, DC 20002–2132, Telephone: (800) 351–2293 or (202) 245–9111 ext. 201.

VIII. Other Information

Additional information about this program and its purpose can be located on the following websites: *http://www.ncfy.com*, *http://www.manynet.org*, *http://www.dhhs.gov/fbci*.

Dated: February 18, 2004.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 04–3844 Filed 2–20–04; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Cancer Institute Special Emphasis Panel, February 18, 2004, 7 p.m. to February 20, 2004, 1 p.m., Hilton Houston Plaza at Medical Center, 6633 Travis Street, Houston, TX, 77030 which was published in the **Federal Register** on January 22, 2004, 69 FR 3157–3158.

The meeting is being amended due to meeting location changed from Hilton Houston Plaza at Medical Center

Houston, TX, to Radisson Hill Country Resort & Spa San Antonio, TX. The meeting is closed to the public.

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3838 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, SBIR Topics 200 & 201 (Cancer Communications).

Date: March 25, 2004.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Resources Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892, (301) 594–1286, *peguesj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3840 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Programs for Genomic Application (PGAs).

Date: March 4–5, 2004.

Time: 7 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Keith a Mintzer, Ph.D., Scientific Review Administrator, Review Branch, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, Room 7186, MSC 7924, Bethesda, MD 20892, 301–435–0280.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Review of Granulomatous Lung Inflammation in Sacroidosis (R21s).

Date: March 17, 2004.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Arthur N. Freed, Ph.D., Review Branch, Room 7186, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892, (301) 435–0280.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, national Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3834 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Committee.

Date: March 4–5, 2004.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alicja L. Markowska, PhD., DSC, Scientific Review Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7703, *markowsa@nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Epidemiology of Dementia.

Date: March 7–8, 2004.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ramesh Vemuri, PhD., National Institute on Aging, the Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Biological Aging Review Committee.

Date: March 8–9, 2004.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Alessandra M. Bini, PhD., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–7708.

Name of Committee: National Institute on Aging Initial Review Group, Behavior and Social Science of Aging Review Committee.

Date: March 10–12, 2004.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alfonso R. Latoni, Ph.D., Scientific Review Administrator, Scientific Review Office, National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301/496–9666, *latonia@mail.nih.gov.*

Name of Committee: National Institute on Aging Initial Review Group, Neuroscience of Aging Review Committee.

Date: March 10–11, 2004.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Louise L. Huse, Ph.D., The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666, *hsul@exmur.nia.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Chaperones, ROS Systems & IGF–I: Roles in Vascular Aging.

Date: March 14–15, 2004.

Time: 5 p.m. to 8 p.m.

Agenda: To review and evaulate grant applications.

Place: Sheraton Chapel Hill, One Europa Drive, Chapel Hill, NC 27517.

Contact Person: Alfonso R. Latoni, Ph.D., Scientific Review Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C212, Bethesda, MD 20892, 301/496–9666, *latonia@mail.nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Clinical Trial of Clioquinol.

Date: March 18, 2004.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave., 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

Name of Committee: National Institute on Aging Special Emphasis Panel, Studies in Early Alzheimer's Disease.

Date: March 19, 2004.

Time: 1 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Building, Suite 2C212, 7201 Wisconsin Ave., Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Louise L. Hsu, Ph.D., The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–7705.

Name of Committee: National Institute on Aging Special Emphasis Panel, Genetics of Longevity.

Date: March 22–23, 2004.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Alessandra M. Bini, Ph.D., Health Scientist Administrator, Scientific Review Office, National Institute on Aging, National Institutes of Health, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7708.

Name of Committee: National Institute on Aging Special Emphasis Panel, National Alzheimer's Coordinating Center.

Date: March 26, 2004.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Ave., 2C212, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Ramesh Vemuri, Ph.D., National Institute on Aging, The Bethesda Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3835 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Virtual Reality for the Neurobiological Study of Drug-Brain-Behavior Interactions and Drug Abuse Treatment''.

Date: February 25, 2004.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6101 Executive Boulevard, Room 220, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Eric Zatman, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Boulevard, Bethesda, MD 20892–8401, (301) 435–1438.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3836 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Cooperative Review Agreement II.

Date: February 26, 2004.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Martha Ann Carey, PhD, RN, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6151, MSC 9608, Bethesda, MD 20892–9608, 301–443–1606, *mcarey@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3837 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Initial Review Group Function, Integration, and Rehabilitation Sciences Subcommittee.

Date: March 15, 2004.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Anne Krey, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., room 5B01, Bethesda, MD 20892, 301–435–6908, *ak41o@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3841 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Neural Basis of Psychopathology, Addictions and Sleep Disorders Study Section, February 26, 2004, 8:30 a.m. to February 27, 2004, 5 p.m. Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036 which was published in the **Federal Register** on January 30, 2004, 69 FR 4526–4528.

The meeting will be held at the St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036. The dates and time remain the same. The meeting is closed to the public.

Dated: February 13, 2004.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04–3839 Filed 2–20–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2004 Funding Opportunity

AGENCY: Center for Substance Abuse Prevention, Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of intent to award a single source grant to the District of Columbia (DC) State Incentive Grant (SIG) Program.

SUMMARY: This notice is to inform the public that the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP), intends to award approximately $300,000 (total costs) for a one-year project period to the District of Columbia (DC) State Incentive Grant (SIG) Program. This is not a formal request for applications. Assistance will be provided only to the District of Columbia (DC) State Incentive Grant (SIG) Program based on the receipt of a satisfactory application that is approved by an independent review group.

Funding Opportunity Title: SP 04–009.

Catalog of Federal Domestic Assistance (CFDA) Number: 93.243.

Authority: Section 516 of the Public Health Service Act, as amended.

Justification: Only the District of Columbia (DC) State Incentive Grant (SIG) Program is eligible to apply. The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Prevention (CSAP), is seeking to award a single source supplemental grant to the DC SIG to support the expansion and bring to scale the Best Friends Foundation's Best Friends and Best Men Youth Development Program by reaching a larger number of youth and schools. It has been shown that youth in DC experience a large number of risk factors that impact significantly on their health, safety, and future productivity. SAMHSA's SIG programs provide States with an opportunity to focus resources to address risk and protective factors and achieve positive outcomes by implementing programs that work. The DC SIG has previously supported the Best Friends Programs by implementing the programs in 13 DC Public Schools, reaching 188 youth. A supplemental award to the DC SIG will build on the initial investment and enable the Best Friends Program to be expanded to reach more youth through its curriculum and activities. This supplement will facilitate funds being awarded more expeditiously so the program can be implemented in 2004. Since Best Friends has demonstrated positive outcomes, it furthers the goals and objectives of the DC SIG by engaging community based organizations to improve prevention services for youth. It will address risk and protective factors for DC youth and help achieve positive outcomes.

Contact: Sheri Rucker, SAMHSA/CSAP, Division of State & Community Systems Development, 5600 Fishers

Lane, Rockwall II, 9th Floor, Rockville, MD 20857; telephone: (301) 443–2288; e-mail: *srucker@samhsa.gov.*

Dated: February 13, 2004.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04–3766 Filed 2–20–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Extension of Receipt Dates and Planned Republication of SAMHSA Grant Announcements SM 04–003, Statewide Consumer Network Grants, and SM 04–004, Statewide Family Network Grants; and Planned Republication of Standing Grant Program Announcements

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA), for Fiscal Year 2004, published four standard grant announcements, which established mandatory formatting requirements for all applications that would be processed in accordance with the terms of those standing announcements. The standard grant announcements did not directly solicit any applications. Rather, they are to be used in conjunction with Notices of Funding Availability (NOFAs), which solicit applications for specific opportunities pursuant to the standard announcements.

Upon further consideration, SAMHSA believes the formatting requirements common to those announcements, and motivated by SAMHSA's desire to assure equitable opportunity and a ''level playing field'' to all applicants, will not best serve the public until we revise and republish them. Accordingly, we will quickly revise the identical formatting discussions of all four standing grant program announcements and republish them in their entirety for ease of the users. These formatting requirements are used for preliminary screening out of noncomplying applications in order to assure some applicants do not obtain a competitive advantage through failure to comply. The revised screening criteria will be more lenient, permitting a greater number of applications to be reviewed. We had already solicited applications under two NOFAs, which we will now also revise to address the revised announcements and their interdependent screening requirements.

In accordance with the above considerations, and in order to afford the benefits intended from the republication of the program announcements and NOFAs to those already planning to apply under the two NOFAs identified, SAMHSA hereby notifies the public, and particularly those who planned to apply in response to those NOFAs, that the receipt date for both programs will now be March 31, 2004, and the NOFAs will be republished to reflect the screening revisions and new receipt dates. Since all applications, whenever submitted, will be processed under the revised standards, those applying under either of those NOFAs should await and study the revised documents before submitting their applications. Any applicant who has already applied may request return of the application and by the new receipt date resubmit a revised one, or submit a revised application with a cover letter telling us it is a replacement for one previously submitted.

FOR FURTHER INFORMATION CONTACT: For the CMHS Statewide Consumer Network Grants, Risa Fox, SAMHSA/Center for Mental Health Services, 5600 Fishers Lane, Room 11C–22, Rockville, MD 20857; 301–443–3653; e-mail: *rfox@samhsa.gov.*

For the CMHS Statewide Family Network Grants, Elizabeth Sweet, SAMHSA/CMHS, Child, Adolescent and Family Branch, Center for Mental Health Services, 5600 Fishers Lane, Room 11C–16, Rockville, MD 20857; 301–443–1333; e-mail: *esweet@samhsa.gov.* For grants management issues, Kimberly Pendleton, SAMHSA/OPS/DGM, 5600 Fishers Lane, Rockwall II, Room 630, Rockville, MD 20857; 301–443–6133; e-mail: *kpendlet@samhsa.gov.*

Dated: February 13, 2004.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04–3765 Filed 2–20–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

Agency Information Collection Activities: Proposed Collection; Comment Request

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

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a proposed revised information collection. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)), this notice seeks comments concerning the standardization and consistent use of FEMA grant administrative forms for disaster and non-disaster federal assistance.

SUPPLEMENTARY INFORMATION: This information collection is in accordance with the requirements in 44 CFR, part 13, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Government (subpart B, 13.10, and subpart C, 13.32, 13.33, 13.40, 13.41, and subpart D, 13.50). This is FEMA's implementation of the Common Rule for grant programs.

The Senior Procurement Executive (SPE) has determined that in order to have consistent implementation of FEMA grant administrative policies, it is necessary to standardize the particular forms that FEMA uses in the various grant programs throughout the agency.

Collection of Information

Title: FEMA Grant Administrative Forms.

Type of Information Collection: Revision of a currently approved collection.

OMB Number: 1660–0025.

Form Numbers: SF 424, Application for Federal Assistance; FF 20–10, Financial Status Report; FF 20–15, Budget Information-Construction Programs; FF 20–16, A,B,C Summary Sheet for Assurances and Certifications, FF 20–17, Outlay Report and Request for Reimbursement for Construction Programs; FF 20–18, Report of Government Property; FF 20–19, Reconciliation of Grants and Cooperative Agreements; FF 20–20, Budget Information-Non-construction Programs; and FF 76–10A, Obligating Document for Award/Amendment.

Abstract: The collection of information focuses on the standardization and consistent use of standard and FEMA forms associated with grantees requests for disaster and non-disaster Federal assistance submission of financial and

administrative reporting, and record keeping. The use of the forms will minimize burden on the respondents and enable FEMA to continue to improve in its grants administration practices. The following FEMA grants are included in this collection:

• Individual and Family Grants (IFG)—To provide funds for the necessary expenses and serious needs of disaster victims which cannot be met through other forms of disaster assistance or through other means such as insurance.

• Public Assistance Grants (PA)—To provide supplemental assistance to States, local governments, and political subdivisions to the State, Indian Tribes, Alaskan Native Villages, and certain nonprofit organizations in alleviating suffering and hardship resulting from major disasters or emergencies declared by the President.

• Crisis Counseling (SCC)—To provide immediate crisis counseling services, when required, to victims of a major Federally-declared disaster for the purpose of relieving mental health problems caused or aggravated by a major disaster or its aftermath.

• Hazard Mitigation Grant (HMGP)—To provide States and local governments financial assistance to implement measures that will permanently reduce or eliminate future damages and losses from natural hazards through safer building practices and improving existing structures and supporting infrastructure.

• Flood Mitigation Assistance (FMA)—To assist States and communities in implement measures to reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures insurable under the National Flood Insurance Program (NFIP).

• Pre-Disaster Mitigation (PDM)—To provide States and communities with a much needed source of pre-disaster mitigation funding for cost-effective hazard mitigation activities that are part of a comprehensive mitigation program, and that reduce injuries, loss of life, and damage and destruction of property.

• National Urban Search and Rescue (US&R) Response System—To develop an immediately deployable, national response capability to locate and extricate, and medically stabilize victims of structural collapse during a disaster, while simultaneously enhancing the US&R response capabilities of State and local governments.

• Community Assistance Program-State Support Services Element (CAP–SSSE)—To ensure that communities participating in the National Flood Insurance Program (NFIP) are achieving flood loss reduction measures consistent with program direction. The CAP–SSSE is intended to identify, prevent and resolve floodplain management issues in participating communities before they develop into problems requiring enforcement action.

• Chemical Stockpile Emergency Preparedness Program (CSEPP)—To enhance emergency preparedness capabilities of the States and local communities at each of the eight chemical agent stockpile storage facilities. The purpose of the program is to assist States and local communities in efforts to improve their capacity to plan for and respond to accidents associated with the storage and ultimate disposal of chemical warfare materials.

• National Dam Safety Program (NDSP)—To encourage the establishment and maintenance of effective State programs intended to ensure dam safety, to protect human life and property, and to improve State dam safety programs.

• Emergency Management Performance Grants (EMPG)—To encourage the development of comprehensive emergency management, including for terrorism consequence management, at the State and local level and to improve emergency planning, preparedness, mitigation, response, and recovery capabilities.

• Community Emergency Response Teams (CERT)—The purpose of the CERT program is to assist State and local efforts to start or expand CERT training and activities that contribute to the strengthening of homeland security by enhancing individual, community, family, and workplace preparedness.

• Interoperable Communications Equipment (ICE)—To provide funding to jurisdictions across the nation for demonstration projects on uses of equipment and technologies to increase communications interoperability among the fire service, law enforcement, and emergency medical service communities. These projects will illustrate and encourage the acceptance of new technologies and operating methods to assist communities in achieving interoperability.

• Cooperating Technical Partners (CTP)—To increase local involvement in, and ownership of, the development and maintenance of flood hazard maps produced for the National Flood Insurance Program (NFIP).

Affected Public: State, Local or Tribal Government.

Estimated Total Annual Burden Hours: 2,480,148.5 for disaster grants and 15,426.7 for non-disaster grants for a total of 2,495,575.2 burden hours. A breakdown of the burden is as charted below:

DISASTER PROGRAMS

Disaster program data collections	Number of respondents	Number of responses	Hour burden per response	Total burden hours × 50 disasters annually
IFG:				
SF 424	56	1	45 minutes	2,100
FF 20–20	56	1	9.7 hours	27,300
FF 20–16,A,B,C	56	1	1.7 hours	4,900
FF 20–10	56	1	1 hour	2,800
Total	56	4		37,100
PA:				
SF 424	56	1	45 minutes	2,100
FF 20–20	56	1	9.7 hours	27,300
FF 20–16,A,B,C,	56	1	1.7 hours	4,900
FF 20–10	56	1	1 hour	2,800
Total	56	4		37,100

DISASTER PROGRAMS—Continued

Disaster program data collections	Number of respondents	Number of responses	Hour burden per response	Total burden hours × 50 disasters annually
SCC:				
SF 424	17	1	45 minutes	637.5
FF 20–16,A,B,C	17	1	1.7 hours	1,487.5
FF 20–10 (SF 269)	17	1	1 hour	850
SF LLL	17	1	10 minutes	141.5
Total	17	4		3,116.5
HMGP:				
SF 424	52	1	45 minutes	1,950
FF 20–20	52	15	9.7 hours	380,250
FF 20–16,A,B,C	52	1	1.7 hours	4,550
FF 20–10	52	4	1 hour	10,400
FF 20–17	52	15	17.2 hours	672,750
FF 20–18	52	6	4.2 hours	66,300
FF 20–19	52	6	5 minutes	1,300
SF LLL	52	1	10 minutes	433
Total	52	49		1,137,933
FMA:				
SF 424	56	3	45 minutes	6,300
FF 20–20	56	3	9.7 hours	81,900
FF 20–16,A,B,C	56	1	1.7 hours	4,900
FF 76–10A	56	3	1.2 hours	10,500
FF 20–10	56	4	1 hour	11,200
FF 20–18	56	1	4.2 hours	11,900
FF 20–19	56	1	5 minutes	233
SF LLL	56	1	10 minutes	466.5
Total	56	17		127,399.5
PDM:				
SF 424	56	2	45 minutes	4,200
FF 20–15	56	1	17.2 hours	48,300
FF 20–20	56	2	9.7 hours	54,600
FF 76–10A	56	2	1.2 hours	7,000
FF 20–16,A,B,C	56	2	1.7 hours	9,800
FF 20–10	56	8	1 hour	22,400
FF 20–17	56	20	17.2 hours	966,000
FF 20–18	56	2	4.2 hours	23,800
FF 20–19	56	2	5 minutes	466.5
SF LLL	56	2	10 minutes	933
Total	56	43		1,137,499.5

NON-DISASTER PROGRAMS

Non-disaster program data collection	Number of respondents	Number of responses	Hour burden per response	Total burden hours
US&R:				
SF 424	28	1	45 minutes	21
FF 20–20	28	1	9.7 hours	7,644
FF 20–16,A,B,C	28	1	1.7 hours	49
FF 76–10A	28	1	1.2 hours	35
FF 20–10 (SF 270)	28	1	1 hour	28
SF LLL	28	1	10 minutes	4.7
Total	28	6		7,781.7
CAP-SSSE:				
SF 424	56	1	45 minutes	42
FF 20–20	56	1	9.7 hours	546
FF 20–15	56	1	17.2 hours	966
FF 20–16,A,B,C	56	1	1.7 hours	98
FF 76–10A	56	1	1.2 hours	70
FF 20–10	56	1	1 hour	56
FF 20–18	56	1	4.2 hours	238
FF 20–19	56	1	5 minutes	4.7

NON-DISASTER PROGRAMS—Continued

Non-disaster program data collection	Number of respondents	Number of responses	Hour burden per response	Total burden hours
SF LLL	56	1	10 minutes	9.5
Total	56	9		2,030.2
CSEPP:				
SF 424	10	1	45 minutes	7.5
FF 20–20	10	1	9.7 hours	97.5
FF 20–10	10	1	1 hour	10
FF 20–16,A,B,C	10	1	1.7 hour	17.5
FF 76–10A	10	1	1.2 hour	12.5
FF 20–10	10	1	1 hour	10
FF 20–18	10	1	4.2 hours	42.5
FF 20–19	10	1	5 minutes	*50
SF LLL	10	1	10 minutes	1.7
Total	10	9		200
NDSP:				
SF 424	51	1	45 minutes	38.2
FF 20–20	51	1	9.7 hours	497.2
FF 20–16,A,B,C	51	1	1.7 hours	89.2
FF 76–10A	51	1	1.2 hours	63.7
FF 20–10 (SF 270)	51	1	1 hour	51
SF LLL	51	1	10 minutes	8.5
Total	51	6		748
EMPG:				
SF 424	56	1	45 minutes	42
FF 20–20	56	1	9.7 hours	546
FF 20–15	56	1	17.2 hours	966
FF 20–16,A,B,C	56	1	1.7 hours	98
FF 76–10A	56	1	1.2 hours	70
FF 20–10	56	2	1 hour	112
FF 20–17	56	1	17.2 hours	966
FF 20–18	56	1	4.2 hours	238
FF 20–19	56	1	5 minutes	4.7
SF LLL	56	1	10 minutes	9.5
Total	56	11		3,052.2
CERT:				
SF 424	56	1	45 minutes	42
FF 20–20	56	1	9.7 hours	546
FF 20–16,A,B,C	56	1	1.7 hours	98
FF 20–10	56	1	1 hour	56
SF LLL	56	1	10 minutes	9.5
Total	56	5		751.5
ICE:				
SF 424	17	1	45 minutes	12.7
FF 20–20	17	1	9.7 hours	165.7
FF 20–16,A,B,C	17	1	1.7 hours	29.7
FF 76–10A	17	1	1.2 hours	21.2
FF 20–10	17	1	1 hour	17
SF LLL	17	1	10 minutes	3
Total	17	6		249.5
CTP:				
SF 424	20	1	45 minutes	15
FF 20–20	20	1	9.7 hours	195
FF 20–15	20	1	17.2 hours	345
FF 20–16,A,B,C	20	1	1.7 hours	35
FF 20–10	20	1	1 hour	20
SF LLL	20	1	10 minutes	3.5
Total	20	6		613.5

* Minutes.

Estimated Cost: See Table below.

DISASTER PROGRAMS

FEMA forms	Number of respondents	Hours per response	Average hourly wage rate	Estimated annual cost
SF 424	56	2,100	21.62	$45,402.00
FF 20–20	56	27,300	21.62	590,226.00
FF 20–15	56	48,300	21.62	1,044,246.00
FF 20–16,A,B,C	56	4,900	21.62	105,938.00
FF 76–10A	56	70	21.62	1,513.40
FF 20–10	56	2,800	21.62	60,536.00
FF 20–17	56	48,300	21.62	1,044,246.00
FF 20–18	56	11,900	21.62	257,278.00
FF 20–19	56	233.2	21.62	5,042.86
SF LLL	56	466.5	21.62	10,085.73
Total	56	146,369.7	.....	3,164,513.99

NON-DISASTER PROGRAMS

FEMA forms	Number of respondents	Hours per response	Average hourly wage rate	Estimated annual cost
SF 424	56	42	21.62	$908.04
FF 20–20	56	546	21.62	11,804.52
FF 20–15	56	966	21.62	20,884.92
FF 20–16,A,B,C	56	98	21.62	2,118.76
FF 76–10A	56	70	21.62	1,513.40
FF 20–10	56	56	21.62	1,210.72
FF 20–17	56	966	21.62	20,884.92
FF 20–18	56	238	21.62	5,145.56
FF 20–19	56	4.7	21.62	102.69
SF LLL	56	9.5	21.62	205.39
Total	56	2,996.2	.....	64,778.92

Approximate annual salary of State and local person completing form is $40,000. Approximate hourly rate of pay ($40,000 divided by 1850 hours) is $21.62. The total cost to respondents is estimated to be $3,229,292.91 (149,366 hours x $21.62).

Comments: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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. Comments must be received on or before April 23, 2004.

ADDRESSES: Interested persons should submit written comments on the proposed information collection to Muriel B. Anderson, Chief, Records Management Branch, FEMA at 500 C Street, SW., Room 316, Washington, DC 20472, facsimile number (202) 646–3347, or email address *InformationCollections@fema.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Arlene Ramsey, Grants Management Specialist, Grants Management Branch, 202–646–4531, for additional information. You may contact Ms. Anderson for copies of the proposed information collection (*see* **ADDRESSES** information above).

Dated: February 12, 2004.

Edward W. Kernan,

Division Director, Information Resources Management Division, Information Technology Services Directorate.

[FR Doc. 04–3808 Filed 2–20–04; 8:45 am]

BILLING CODE 9110–07–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1505–DR]

California; Amendment No. 1 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA–1505–DR), dated January 13, 2004, and related determinations.

EFFECTIVE DATE: February 6, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for

this disaster is closed effective February 6, 2004.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–3810 Filed 2–20–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1507–DR]

Ohio; Amendment No. 2 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Ohio (FEMA–1507–DR), dated January 26, 2004, and related determinations.

EFFECTIVE DATE: February 11, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Ohio is hereby amended to include the Hazard Mitigation Grant Program for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 26, 2004:

All counties in the State of Ohio are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–3811 Filed 2–20–04; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1503–DR]

Virgin Islands; Amendment No. 1 to Notice of a Major Disaster Declaration

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

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Virgin Islands, (FEMA–1503–DR), dated December 9, 2003, and related determinations.

EFFECTIVE DATE: February 10, 2004.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that special conditions are warranted regarding the cost-sharing arrangements concerning Federal funds provided under the authority of Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). Therefore, consistent with the Insular Areas Act, 48 U.S.C. 1469a(d), and the President's declaration letter dated December 9, 2003, Federal funding for the Hazard Mitigation Grant Program is authorized at 100 percent of total eligible costs for the Virgin Islands. This cost share is effective as of the date of the President's major disaster declaration.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program)

Michael D. Brown,

Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.

[FR Doc. 04–3809 Filed 2–20–04; 8:45 am]

BILLING CODE 6718–02–P

DEPARTMENT OF HOMELAND SECURITY

National Communications System

AGENCY: National Communications System (NCS), DHA.

ACTION: Notice of closed meeting.

SUMMARY: A meeting of the President's National Security Telecommunications Advisory Committee (NSTAC) will be held via conference call on Thursday, March 4, 2004, from 1 p.m. to 2 p.m. The NSTAC is subject to the Federal Advisory Committee Act (FACA), Public Law 92–463, as amended (5 U.S.C. App. II.) The conference call will be closed to the public to allow for discussion of:

• Financial Services Infrastructure Update.

Since discussion regarding vulnerabilities of the financial services infrastructure could reveal company proprietary information, it is necessary to close this meeting. Closing this meeting is consistent with 5 U.S.C. 552(b)(4).

FOR FURTHER INFORMATION CONTACT: Call Ms. Kiesha Gebreyes, (703) 607–6134, or write the Manager, National Communications System, 701 South Court House Road, Arlington, Virginia 22204–2198.

Peter M. Fonash,

Federal Register Liaison Officer, National Communications System.

[FR Doc. 04–3829 Filed 2–20–04; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4912–N–03]

Notice of Intent To Prepare a Draft Environmental Impact Statement for the Marysville Hotel Demolition Project, City of Marysville, CA

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The Department of Housing and Urban Development gives notice to

the public, agencies, and Indian tribes that the City of Marysville, CA, intends to prepare an Environmental Impact Statement (EIS)/Environmental Impact Report (EIR) (EIS/EIR) for the Marysville Hotel Demolition Project located in Marysville, CA. The City of Marysville, CA, will prepare the EIS/EIR acting under its authority as the responsible entity for compliance with the National Environmental Policy Act (NEPA) in accordance with 42 U.S.C. 5304(g) and HUD regulations at 24 CFR 58.4, and under its authority as lead agency in accordance with the California Environmental Quality Act (CEQA). The EIS/EIR will be a joint NEPA and CEQA document. The EIR will satisfy requirements of the CEQA (Public Resources Code 21000 *et seq.*) and State CEQA Guidelines (14 California Code of Regulations 15000 *et seq.*), which require that all state and local government agencies consider the environmental consequences of projects over which they have discretionary authority before acting on those projects. Because federal Community Development Block Grant (CDBG) funds (under Title I of the Housing and Community Development Act of 1974) would be used, the proposed action is also subject to NEPA. This notice is given in accordance with the Council on Environmental Quality regulations at 40 CFR parts 1500–1508. All interested federal, state, and local agencies, Indian tribes, groups, and the public are invited to comment on the scope of the EIS.

ADDRESSES: Comments relating to the scope of the EIS are requested and will be accepted by the contact person listed below. Parties interested in receiving future notices to comment on the published Draft EIS should also notify the contact person.

FOR FURTHER INFORMATION CONTACT: Gary Price, Community Development Coordinator, City of Marysville Planning Department, P.O. Box 150, CA 95901; telephone (530) 749–3902, Fax (530) 749–3991.

SUPPLEMENTARY INFORMATION: This notice seeks public input on issues that should be addressed in the EIS/EIR and solicits input from potentially affected agencies and interested parties regarding the scope and content of the EIS/EIR. The Draft EIS/EIR will be published and distributed on or about February 17, 2004. After February 17, 2004, copies for review by the public will be available at the Yuba County Library at 303 Second Street, Marysville, CA. Copies of the document may be obtained from Copy City at 515 D Street, Marysville, phone (530) 743–8400, for the cost of reproduction.

The proposed project site is the Marysville Hotel. The Marysville Hotel is located in the central business district of downtown Marysville on an approximately .5 acre lot at the northwest corner of the block bounded by Fifth Street to the north, D Street to the east, Fourth Street to the south, and E Street to the west. The site address is 418 Fifth Street (APN: 010–176–014–000). The City's Redevelopment Plan and General Plan both call for the removal of blight from the downtown area and the redevelopment of buildings for commercial or mixed uses whenever possible. The purpose of this project is to remove a source of blight to improve the appearance of the downtown core and to redevelop the area either for parking or for mixed uses.

The following alternatives will be considered:

- *Alternative 1 (the proposed action):* Acquisition and Demolition. The Marysville Hotel would be acquired and demolished.
- *Alternative 2:* Reuse for Mixed Commercial/Residential Use. The Marysville Hotel would be refurbished for reuse with commercial and residential uses.
- *Alternative 3:* Reuse for Commercial/Senior Affordable Housing. The Marysville Hotel would be refurbished for reuse with commercial and senior affordable housing uses.
- *No Project—No Action.* No action would be taken and the hotel would remain in its current condition.

The EIS/EIR will address, among others, the following environmental issues: air quality, cultural resources, flood hazard, noise, toxics, traffic, land use and environmental justice.

Questions may be directed to the individual named in this notice under the heading **FOR FURTHER INFORMATION CONTACT.**

Dated: February 11, 2004.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 04–3760 Filed 2–20–04; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4800–FA–08]

Housing Counseling Program Announcement of Funding Awards for Fiscal Year 2003

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a SuperNOFA competition for funding of HUD-approved counseling agencies to provide counseling services. This announcement contains the names and addresses of the agencies selected for funding and the award amounts. Additionally, this announcement outlines noncompetitive housing counseling grants made by the Department.

FOR FURTHER INFORMATION CONTACT: Loyd LaMois, Director, Program Support Division, Room 9274, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–0317. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service on 1–800–877–8339 or (202) 708–9300. (With the exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). The Catalog of Federal Domestic Assistance number for the Housing Counseling program is 14.169. HUD enters into agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. The services include providing information, advice and assistance to renters, first-time homebuyers, homeowners, and senior citizens in areas such as pre-purchase counseling, financial management, property maintenance and other forms of housing assistance to help individuals and families improve their housing conditions and meet the responsibilities of tenancy and homeownership.

HUD funding of approved housing counseling agencies is not guaranteed and when funds are awarded, a HUD grant does not cover all expenses incurred by an agency to deliver housing counseling services. Counseling agencies must actively seek additional funds from other sources such as city, county, state and federal agencies and from private entities to ensure that they have sufficient operating funds. The availability of Housing Counseling

grants depends upon appropriations and the outcome of the award competition.

The 2003 grantees announced in Appendix A of this notice were selected for funding through a competition announced in a Notice of Funding Availability published in the **Federal Register** on April 25, 2003, (68 FR 21002) for the housing counseling program. Submitted applications were scored and selected for funding on the basis of selection criteria contained in the notice. HUD awarded $37,561,000 in housing counseling grants to 363 housing counseling organizations nationwide: 330 local agencies, 17 intermediaries, and 16 State housing finance agencies. A total of $2.7 million was awarded to four intermediaries, three State housing finance agencies (SHFAs) and thirty one local housing counseling agencies (LHCAs) for the purpose of combating predatory lending. A total of $2 million was awarded to four intermediaries, four SHFAs and thirty-one LHCAs for counseling in conjunction with HUD's Section 8 Homeownership Voucher Program. HUD also awarded 2 competitive housing counseling grants, totaling $250,000, to provide counseling services to families and individuals living in the Colonias, unincorporated communities in the southwest border region of the United States. These grants were awarded to West Tennessee Legal Services in the amount of $220,000 and Community Development Corporation of Brownsville, TX in the amount of $30,000.

Finally, HUD awarded two noncompetitive grants totaling $1,038,638. HUD awarded $998,638 to the American Association of Retired Persons (AARP) to provide housing counseling services related to the HUD's Home Equity Conversion Mortgage (HECM) Program. The award satisfies a Congressional mandate to improve counseling in the HECM program. In 1999, Congress mandated that HUD set aside up to $1 million a year of the housing counseling funding for HECM counseling. The year 2003 was the last year of set-aside. An additional $40,000 was awarded to the Cabarrus County Community Development Corporation, a HUD-approved Housing Counseling Agency in Concord, North Carolina to help families affected by the closing of the Pillowtex textile manufacturing plant in Kannapolis, North Carolina.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and award amounts as provided in Appendix A.

Dated: February 2, 2004.

Sean Cassidy,

General Deputy Assistant Secretary for Housing—Federal Housing, Commissioner.

Appendix A—Fiscal Year 2003 Funding Awards for the Housing Counseling Program

Intermediary Organizations (17)

AARP Foundation
601 E. Street, NW, Washington, DC 20049.
Grant Type: Comprehensive
Amount Awarded: $894,161.00
Grant Type: HECM
Amount Awarded: $998,638.00

Acorn Housing Corporation
846 N. Broad Street, Philadelphia, PA 19130.
Grant Type: Comprehensive
Amount Awarded: $2,024,511.00

Catholic Charities USA
1731 King Street, Suite 200, Alexandria, VA 22314.
Grant Type: Comprehensive
Amount Awarded: $1,019,756.00

Citizens' Housing and Planning Association, Inc.
18 Tremont Street, Suite 401, Boston, MA 02108.
Grant Type: Comprehensive
Amount Awarded: $750,000.00

Community Housing Services, Inc.
1012 N. Street, NW, Washington, DC 20001.
Grant Type: Comprehensive
Amount Awarded: $266,189.00

HomefreeUSA, Inc.
318 Riggs Road, NE, Washington, DC 20011.
Grant Type: Comprehensive
Amount Awarded: $391,783.00

Housing Opportunities, Inc.
133 Seventh Avenue, P.O. Box 9, McKeesport, PA 15132.
Grant Type: Comprehensive
Amount Awarded: $888,600.00

Mission of Peace Housing Counseling Agency
877 East Fifth Avenue, Flint, MI 48503.
Grant Type: Comprehensive
Amount Awarded: $894,161.00

National Association of Real Estate Brokers
1301 East 85th Avenue, Oakland, CA 94621–1605.
Grant Type: Comprehensive
Amount Awarded: $517,378.00

National Council of La Raza
1111 19th Street, NW, Suite 1000, Washington, DC 20036.
Grant Type: Comprehensive
Amount Awarded: $1,647,728.00

National Credit Union Foundation
601 Pennsylvania Avenue, NW, Suite 600, South Building, Washington, DC 20004.
Grant Type: Comprehensive
Amount Awarded: $266,214.00

National Foundation for Credit Counseling
801 Roeder Road, Suite 900, Silver Spring, MD 20910.
Grant Type: Comprehensive
Amount Awarded: $2,401,294.00

National Urban League
120 Wall Street, New York, NY 10005.
Grant Type: Comprehensive
Amount Awarded: $894,161.00

Neighborhood Reinvestment Corporation
1325 G Street, NW, Suite 800, Washington, DC 20005.
Grant Type: Comprehensive
Amount Awarded: $2,150,106.00

Structured Employment Economic Development Corporation—SEEDCO
915 Broadway, 17th Floor, New York, NY 10010.
Grant Type: Comprehensive
Amount Awarded: $768,566.00

The Housing Partnership Network, Inc.
160 State Street, 5th Floor, Boston, MA 02109.
Grant Type: Comprehensive
Amount Awarded: $1,898,917.00

West Tennessee Legal Services, Inc.
27–A Brentshire Square, P.O. Box 2066, Jackson, TN 38301–2066.
Grant Type: Comprehensive
Amount Awarded: $487,500.00

State Housing Finance Agencies (16)

Atlanta (SHFA)

Georgia Housing and Finance Authority
60 Executive Park South, NE, Atlanta, GA 30329–2231.
Grant Type: Comprehensive
Amount Awarded: $147,388.00

Kentucky Housing Corporation
1231 Louisville Road, Frankfort, KY 40601.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

Mississippi Home Corporation
P.O. Box 23369, 735 Riverside Drive, Jackson, MS 39225–3369.
Grant Type: Comprehensive
Amount Awarded: $115,200.00

North Carolina Housing Finance Agency
P.O. Box 28066, 3508 Bush Street, Raleigh, NC 27611–8066.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Tennessee Housing Development Agency
404 James Robertson Pkwy, Suite 1114, Nashville, TN 37243–0900.
Grant Type: Comprehensive
Amount Awarded: $75,000.00

Denver (SHFA)

North Dakota Housing Finance Agency
P.O. Box 1535, Bismarck, ND 58502–1535.
Grant Type: Comprehensive
Amount Awarded: $85,000.00

South Dakota Housing Development Authority
P.O. Box 1237, Pierre, SD 57501–1237.
Grant Type: Comprehensive
Amount Awarded: $100,000.00

Philadelphia (SHFA)

Connecticut Housing Finance Agency
999 West Street, Rocky Hill, CT 06067.
Grant Type: Comprehensive
Amount Awarded: $28,263.00

Maine State Housing Authority
353 Water Street, Augusta, ME 04330–4633.
Grant Type: Comprehensive
Amount Awarded: $94,575.00

Maryland Department of Housing and Community Development
100 Community Place, Crownsville, MD 21032.

Grant Type: Comprehensive
Amount Awarded: $28,263.00

New Hampshire Housing Finance Authority
32 Constitution Drive, Hillsborough, NH 03110.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Pennsylvania Housing Finance Agency
2101 North Front St., Harrisburg, PA 17105.
Grant Type: Comprehensive
Amount Awarded: $57,500.00

Rhode Island Housing and Mortgage Finance Corporation
44 Washington St., Providence, RI 02903.
Grant Type: Comprehensive
Amount Awarded: $128,000.00

State of Michigan
735 E. Michigan, P.O. Box 30044–MSHDA, Lansing, MI 48909.
Grant Type: Comprehensive
Amount Awarded: $100,000.00

Virginia Housing Development Authority
601 S. Belvidere St., Richmond, VA 23220.
Grant Type: Comprehensive
Amount Awarded: $114,469.00

Santa Ana (SHFA)

Washington State Housing Finance Commission
1000 Second Ave., Suite 2700, Seattle, WA 98104–1046.
Grant Type: Comprehensive
Amount Awarded: $334,776.00

Local Organizations (330)

Atlanta (HOC)

Access Living of Metropolitan Chicago
614 West Roosevelt Road, Chicago, IL 60607.
Grant Type: Comprehensive
Amount Awarded: $35,303.00

Affordable Housing Coalition
34 Wall Street, Suite 607, Asheville, NC 28801.
Grant Type: Comprehensive
Amount Awarded: $58,091.00

Affordable Housing Corporation
601 S. Adams Street, Marion, IN 46953.
Grant Type: Comprehensive
Amount Awarded: $24,687.00

Alabama Council on Human Relations
P.O. Drawer 1632, 319 West Glenn Avenue, Auburn, AL 36831–1632.
Grant Type: Comprehensive
Amount Awarded: $18,000.00

Anderson Housing Authority
528 West 11th Street, Anderson, IN 46016.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Appalachian Housing and Redevelopment Corporation
800 North 5th Ave., Rome, GA 30162.
Grant Type: Comprehensive
Amount Awarded: $41,007.00

Cabarrus County CDC
P.O. 1095, Concord, NC 28026.
Grant Type: Comprehensive
Amount Awarded: $43,000.00

Campbellsville Housing and Redevelopment Authority
P.O. Box 597, 400 Ingram Ave., Campbellsville, KY 42718.
Grant Type: Comprehensive
Amount Awarded: $18,980.00

Carolina Regional Legal Services, Inc.
279 West Evans Street, Florence, SC 29503–0479.
Grant Type: Comprehensive
Amount Awarded: $44,832.00

Catholic Charities, Inc.
1325 Jefferson Avenue, Memphis, TN 38104.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

CCCS of Northwest Indiana, Inc.
3637 Grant Street, Gary, IN 46408.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

CCCS/Family Services
4925 Lacross Road, Suite 215, North Charleston, SC 29406.
Grant Type: Comprehensive
Amount Awarded: $31,573.00

CEFS Economic Opportunity Corporation
1805 S. Banker Street, P.O. Box 928, Effingham, IL 62401.
Grant Type: Comprehensive
Amount Awarded: $20,200.00

CEIBA Housing and Economic Development Corporation
Ave. Lauro Pinero #252 (Altos), P.O. Box 203, Ceiba, PR 00735.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Central Florida Community Development Corp.
P.O. Box 15065, Daytona Beach, FL 32115.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Chicago Commons Housing Resource
3645 West Chicago Avenue, Chicago, IL 60651.
Grant Type: Comprehensive
Amount Awarded: $18,315.00

Choanoke Area Development Association of NC, Inc.
P.O. Box 530, Rich Square, NC 27869.
Grant Type: Comprehensive
Amount Awarded: $34,887.00

Citizens For Affordable Housing, Inc.
1719 West End Avenue, Suite 322W, Nashville, TN 37203.
Grant Type: Comprehensive
Amount Awarded: $18,315.00

City of Albany, Georgia
230 S. Jackson St., Suite 315, Albany, GA 31701.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

City of Bloomington Housing
P.O. Box 100, 401 North Morton Street, Bloomington, IN 47402.
Grant Type: Comprehensive
Amount Awarded: $35,812.00

Cobb Housing, Inc.
700 Sandy Plains Road, Suite B–8, Marietta, GA 30066.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Community Action & Community Development Agency
P.O. Box 1788, 207 Commerce Circle, SW, Decatur, AL 35601.
Grant Type: Comprehensive
Amount Awarded: $77,979.00

Community Action Agency of Northwest Alabama
745 Thompson Street, Florence, AL 35630.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Community Action Partnership, Huntsville/Madison
P.O. Box 3975, 3516 Stringfield Road, Huntsville, AL 35810.
Grant Type: Comprehensive
Amount Awarded: $41,228.00

Community and Economic Development Assoc. of Cook County
208 South LaSalle, Suite 1900, Chicago, IL 60604–1001.
Grant Type: Comprehensive
Amount Awarded: $71,350.00

Community Enterprise Investments, Inc.
302 N. Barcelona Street, Pensacola, FL 32501.
Grant Type: Comprehensive
Amount Awarded: $23,000.00

Community Housing Initiative, Inc.
P.O. Box 410522, Melbourne, FL 32941–0522.
Grant Type: Comprehensive
Amount Awarded: $18,870.00

Community Investment Corporation of Decatur, Inc.
2121 S. Imboden Court, Decatur, IL 62521.
Grant Type: Comprehensive
Amount Awarded: $31,573.00

Community Service Programs of West Alabama, Inc.
601 17th Street, Tuscaloosa, AL 35401.
Grant Type: Comprehensive
Amount Awarded: $34,887.00

Consumer Credit Counseling Service of Central Indiana
615 N. Alabama Street, Suite 134, Indianapolis, IN 46204–1477.
Grant Type: Comprehensive
Amount Awarded: $48,147.00

Consumer Credit Counseling Service of Florida Gulf Coast, Inc.
200 S. Hoover, Tampa, FL 33609.
Grant Type: Comprehensive
Amount Awarded: $87,100.00

Consumer Credit Counseling Service of Forsyth County, Inc.
8064 North Point Boulevard, Suite 204, Winston-Salem, NC 27106.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Consumer Credit Counseling Service of Western North Carolina
50 South French Broad Ave., Suite 227, Asheville, NC 28801.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Cooperative Resource Center, Inc.
191 Edgewood Avenue SE, Atlanta, GA 30303.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Cumberland Community Action Program, Inc.
P.O. Box 2009, 316 Green Street, Fayetteville, NC 28302.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Davidson County Community Action, Inc.
P.O. Box 389, 701 South Salisbury Street, Lexington, NC 27292–0389.
Grant Type: Comprehensive
Amount Awarded: $24,945.00

DeKalb Fulton Housing Counseling Center, Inc.

4151 Memorial Drive, Suite 107–E, Decatur, GA 30032.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

DuPage Homeownership Center, Inc.
1333 North Main Street, Wheaton, IL 60187.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

East Athens Development Corporation, Inc.
410 McKinley Drive, Suite 101, Athens, GA 30601.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Economic Opportunity for Savannah-Chatham County Area, Inc.
618 West Anderson Street, P.O. Box 1353, Savannah, GA 31415.
Grant Type: Comprehensive
Amount Awarded: $51,460.00

Elizabeth City State University
1704 Weeksville Road, Campus Box 761, Elizabeth City, NC 27909.
Grant Type: Comprehensive
Amount Awarded: $35,516.00

Family and Children's Services of Chattanooga, Inc.
5704 Marlin Road, Suite 2300, Chattanooga, TN 37411.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Family Counseling Center
220 Coral Sands Drive, Rockledge, FL 32955.
Grant Type: Comprehensive
Amount Awarded: $39,960.00

Family Service Center
1800 Main Street, Columbia, SC 29201.
Grant Type: Comprehensive
Amount Awarded: $54,777.00

Gainesville-Hall County Neighborhood Revitalization
P.O. Box 642, 924 Athens Street, Gainesville, GA 30503.
Grant Type: Comprehensive
Amount Awarded: $39,000.00

Goldenrule Housing & Community Development
417 East 2nd Street, Sanford, FL 32771.
Grant Type: Comprehensive
Amount Awarded: $58,091.00

Goodwill Industries Manastoa, Inc.
8490 Lockwood Ridge Road, Sarasota, FL 34243.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Greater Ocala Community Development Corp.
P.O. Box 5582, Ocala, FL 34478.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Greensboro Housing Coalition, Incorporated
122 N. Elm Street, Suite 608, Greensboro, NC 27401.
Grant Type: Comprehensive
Amount Awarded: $44,832.00

Greenville County Human Relations Commission
301 University Ridge, Suite 1600, Greenville, SC 29601.
Grant Type: Comprehensive
Amount Awarded: $51,460.00

Gulf Coast Community Action Agency, Inc.
500 24th Street, P.O. Box 519, Gulfport, MS 39502–0519.
Grant Type: Comprehensive
Amount Awarded: $38,203.00

Gwinnett Housing Resource Partnership, Inc.
2825 Breckinridge Boulevard, Suite 160, Duluth, GA 30096.
Grant Type: Comprehensive
Amount Awarded: $54,777.00

Hammond Housing Authority
7329 Columbia Circle—West, Hammond, IN 46324.
Grant Type: Comprehensive
Amount Awarded: $31,573.00

Haven Economic Development, Inc.
8606 State Road 84, Davie, FL 33324.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

HCP of Illinois, Inc.
407 S. Dearborn, Suite 1735, Chicago, IL 60605.
Grant Type: Comprehensive
Amount Awarded: $36,000.00

Highland Family Resource Center, Inc.
P.O. Box 806, Gastonia, NC 28053.
Grant Type: Comprehensive
Amount Awarded: $36,000.00

Homekeeping Mortgage Default Counseling
414 Martin Luther King Jr. Drive, Greensboro, NC 27406.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

Homes In Partnership, Inc.
235 E. Fifth Street, P.O. Box 761, Apopka, FL 32704–0761.
Grant Type: Comprehensive
Amount Awarded: $43,000.00

Hoosier Uplands Economic Development Corporation
521 West Main Street, Mitchell, IN 47446.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Hope of Evansville, Inc.
608 Cherry Street, Evansville, IN 47713.
Grant Type: Comprehensive
Amount Awarded: $31,573.00

Housing and Economic Leadership Partners, Inc.
485 Huntington Road, Suite 200, Athens, GA 30606.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

Housing and Neighborhood Dev. Serv of Central Florida
6900 S. Orange Blossom Trail, Orlando, FL 32809.
Grant Type: Comprehensive
Amount Awarded: $48,147.00

Housing Authority of the Birmingham District
1826 3rd Avenue South, Birmingham, AL 35233.
Grant Type: Comprehensive
Amount Awarded: $44,832.00

Housing Authority of the City of Fort Wayne
2013 South Anthony Boulevard, Fort Wayne, IN 46803.
Grant Type: Comprehensive
Amount Awarded: $33,899.00

Housing Authority of the County of Lake
33928 North Route 45, Grayslake, IL 60030.
Grant Type: Comprehensive
Amount Awarded: $19,967.00

Housing Development Corporation of St. Joseph County
1200 County City Building, South Bend, IN 46601.
Grant Type: Comprehensive
Amount Awarded: $22,475.00

Housing Education and Economic Development
3405 Medgar Evers Blvd., Jackson, MS 39213.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

Indianapolis Urban League
777 Indiana Avenue, Indianapolis, IN 46202.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Jefferson County Committee for Economic Opportunity
300 Eighth Ave. West, Birmingham, AL 35204–3039.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Jefferson County Housing Authority
3700 Industrial Parkway, Birmingham, AL 35217.
Grant Type: Comprehensive
Amount Awarded: $31,573.00

Johnston-Lee Community Action, Inc.
P.O. Drawer 711, 1102 Massey Street, Smithfield, NC 27577.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Lake County
2293 North Main Street, Crown Point, IN 46307.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Latin American Association
2750 Buford Hwy., Atlanta, GA 30324.
Grant Type: Comprehensive
Amount Awarded: $18,315.00

Latin United Community Housing Association
3541 W. North Avenue, Chicago, IL 60647.
Grant Type: Comprehensive
Amount Awarded: $51,460.00

Legal Assistance Foundation of Chicago
111 West Jackson Blvd., Chicago, IL 60604.
Grant Type: Comprehensive
Amount Awarded: $54,777.00

Lincoln Hills Development Corporation
302 Main Street, P.O. Box 336, Tell City, IN 47586.
Grant Type: Comprehensive
Amount Awarded: $15,380.00

Manatee Coalition for Affordable Housing, Inc.
319 6th Avenue West, Bradenton, FL 34205.
Grant Type: Comprehensive
Amount Awarded: $18,315.00

Manatee Opportunity Council, Inc.
369 6th Avenue West, Bradenton, FL 34205–8820.
Grant Type: Comprehensive
Amount Awarded: $43,240.00

Memphis Area Legal Services
109 N. Main, Suite 200, Memphis, TN 38103–5013.
Grant Type: Comprehensive
Amount Awarded: $68,035.00

Miami Beach Community Development Corporation
945 Pennsylvania Avenue, 2nd Floor, Miami Beach, FL 33139.
Grant Type: Comprehensive

Amount Awarded: $38,203.00

Mid-Florida Housing Partnership, Inc.
330 North Street, Daytona Beach, FL 32114.
Grant Type: Comprehensive
Amount Awarded: $37,000.00

Middle Georgia Community Action Agency, Inc.
P.O. Box 2286, 121 Prince Street, Warner Robins, GA 31099.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Mobile Housing Board
151 South Claiborne Street, P.O. Box 1345, Mobile, AL 36602–1345.
Grant Type: Comprehensive
Amount Awarded: $48,147.00

Monroe-Union County Community
349 East Franklin Street, P.O. Box 887, Monroe, NC 28111.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Muncie Homeownership and Development Center
407 South Walnut Street, Muncie, IN 47305.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Neighborhood Housing Opportunities, Inc.
1548 Poplar Avenue, Memphis, TN 38104.
Grant Type: Comprehensive
Amount Awarded: $12,000.00

Neighborhood Housing Services of Chicago, Inc.
1279 N. Milwaukee, 5th Floor, Chicago, IL 60622.
Grant Type: Comprehensive
Amount Awarded: $34,887.00

Northwestern Regional Housing Authority
P.O. Box 2510, 869 Hwy. 105 Ext., Boone, NC 28607.
Grant Type: Comprehensive
Amount Awarded: $40,848.00

Ocala Housing Authority
233 S.W. 3rd Street, Ocala, FL 34474.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Olive Hill Comm ECO Dev Corp, Inc
P.O. Box 4008, Morganton, NC 28680.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

Organized Community Action Program
P.O. Box 908, Troy, AL 36081.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Purchase Area Housing Corporation
P.O. Box 158, 1002 Medical Drive, Mayfield, KY 42066.
Grant Type: Comprehensive
Amount Awarded: $24,945.00

Reach, Inc
126 North Broadway, Lexington, KY 40507.
Grant Type: Comprehensive
Amount Awarded: $48,147.00

Realtor-Community Housing Foundation
2250 Regency Road, Lexington, KY 40503.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

River City Community Development Corporation
501 E. Main Street, Elizabeth City, NC 27909.
Grant Type: Comprehensive
Amount Awarded: $21,629.00

Rogers Park Community Development
1530 W. Morse Avenue, Chicago, IL 60626.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Sacred Heart Southern Missions Housing Corp.
6144 Highway 161 North, P.O. Box 365, Walls, MS 38680.
Grant Type: Comprehensive
Amount Awarded: $41,518.00

Sandhills Community Acton Program, Inc.
103 Saunders Street, P.O. Box 937, Carthage, NC 28327.
Grant Type: Comprehensive
Amount Awarded: $61,405.00

South Suburban Housing Center
18220 Harwood Avenue, Suite 1, Homewood, IL 60430.
Grant Type: Comprehensive
Amount Awarded: $36,000.00

Statesville Housing Authority
110 West Allison Street, Statesville, NC 28677.
Grant Type: Comprehensive
Amount Awarded: $28,259.00

Tallahassee Lenders' Consortium Inc.
1114 East Tennessee Street,
Tallahassee, FL 32308.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Tallahassee Urban League, Inc.
923 Old Bainbridge Road, Tallahassee, FL 32303.
Grant Type: Comprehensive
Amount Awarded: $38,203.00

Tenant Services & Housing Counseling, Inc.
258 Clark Street, Lexington, KY 40507.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

The Center For Affordable Housing, Inc.
2524 S. Park Drive, Sanford, FL 32773.
Grant Type: Comprehensive
Amount Awarded: $33,000.00

The Housing Authority of the City of Montgomery
1020 Bell Street, Montgomery, AL 36104–3056.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Trident United Way
6296 Rivers Avenue, P.O. Box 63305, North Charleston, SC 29419.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

TSP Hope, Inc.
1507 E. Cook Street, Springfield, IL 62703.
Grant Type: Comprehensive
Amount Awarded: $18,315.00

Unified Government of Athens-Clarke County
P.O. Box 1868, 375 Satula Ave., Athens, GA 30601.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Vollintine Evergreen Community Association (VECA)—CDC
1680 Jackson Avenue, Memphis, TN 38107.
Grant Type: Comprehensive
Amount Awarded: $38,203.00

Wateree Community Action, Inc.
13 South Main Street, Sumter, SC 29150.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

West Perrine Community Development Corporation
17785 Homestead Avenue, Miami, FL 33157.
Grant Type: Comprehensive
Amount Awarded: $28,259.00

Western Piedmont Council of Governments
P.O. Box 9026, Hickory, NC 28603.
Grant Type: Comprehensive
Amount Awarded: $25,350.00

Will County Center For Community Concerns
304 N. Scott Street, Joliet, IL 60432.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Wilmington Housing Finance and Development
P.O. Box 547, 310 North Front Street, Wilmington, NC 28402.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Wilson Community Improvement Association, Inc.
504 E. Green Street, Wilson, NC 27893.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Woodbine Community Organization
222 Oriel Avenue, Nashville, TN 37210.
Grant Type: Comprehensive
Amount Awarded: $62,150.00

Colonias

Community Development Corp. of Brownsville
901 E. Levee St., Brownsville, TX 78520.
Grant Type: Colonias
Amount Awarded: $30,000.00

West Tennessee Legal Services
27–A Brentshire Square, P.O. Box 2066, Jackson, TN 38302.
Grant Type: Colonias
Amount Awarded: $220,000.00

Denver (HOC)

Adams County Housing Authority
7190 Colorado Blvd., Commerce City, CO 80022.
Grant Type: Comprehensive
Amount Awarded: $120,000.00

Avenida Guadalupe Association
1327 Guadalupe Street, San Antonio, TX 78207.
Grant Type: Comprehensive
Amount Awarded: $33,732.00

Avenue Community Development Corporation
2505 Washington Avenue, Suite 400, Houston, TX 77007.
Grant Type: Comprehensive
Amount Awarded: $45,000.00

Boulder County Housing Authority
P.O. Box 471, Boulder, CO 80306.
Grant Type: Comprehensive
Amount Awarded: $65,000.00

Carver County Housing & Redevelopment Authority
705 North Walnut Street, Chaska, MN 55318.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

CCCS of Central Oklahoma, Inc.
3230 N. Rockwell Avenue, Bethany, OK 73008.
Grant Type: Comprehensive
Amount Awarded: $45,000.00

CCCS of Salina
1201 West Walnut, Salina, KS 67401.
Grant Type: Comprehensive
Amount Awarded: $45,000.00

Chickasaw Nation
Division of Housing, P.O. Box 788, Ada, OK 74821–0788.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

City of Aurora—Home Ownership Assistance Program
9801 E. Colfax Ave., Aurora, CO 80010.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

City of Fort Worth
Housing Department, 1000 Throckmorton Street, Fort Worth, TX 76102.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

City of San Antonio
115 Plaza de Armas, Suite 230, San Antonio, TX 78205.
Grant Type: Comprehensive
Amount Awarded: $76,937.00

City of St. Paul—Planning & Economic Development
25 West Fourth Street, Room 1100, St. Paul, MN 55102.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Colorado Rural Housing Development Corp
3621 West 73rd Avenue, Suite C, Westminster, CO 80030.
Grant Type: Comprehensive
Amount Awarded: $75,000.00

Community Action Agency of Oklahoma City and OK/CN Counties
1900 NW 10th Street, Oklahoma City, OK 73106.
Grant Type: Comprehensive
Amount Awarded: $20,975.00

Community Action For Suburban Hennepin
33 Tenth Avenue South, Suite 150, Hopkins, MN 55343.
Grant Type: Comprehensive
Amount Awarded: $145,000.00

Community Action Project of Tulsa County
717 S. Houston Ave, Suite 200, Tulsa, OK 74127.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Community Action Services
257 East Center Street, Provo, UT 84606.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Community Action, Inc. of Rock and Walworth Counties
2300 Kellogg Avenue, Janesville, WI 53546.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Community Development Authority of the City of Madison
215 Martin Luther King Jr Blvd, Ste 318, P.O. Box 1785, Madison, WI 53701–1785.
Grant Type: Comprehensive
Amount Awarded: $100,666.00

Community Development Corporation of Brownsville
901 East Levee Street, Brownsville, TX 78520.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Crawford-Sebastian Community Development Council, Inc.
4831 Armour, P.O. Box 4069, Fort Smith, AR 72914.
Grant Type: Comprehensive
Amount Awarded: $11,010.00

Dakota Plains Legal Services, Inc.
528 Kansas City Street, Rapid City, SD 57709.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

District 7 Human Resources Development Council
7 North 31st Street, P.O. Box 2016, Billings, MT 59103.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Family Housing Advisory Services, Inc.
2416 Lake Street, Omaha, NE 68111.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

Family Life Center/Utah State University
493 North 700 East, Logan, UT 84321.
Grant Type: Comprehensive
Amount Awarded: $65,999.00

Family Management Credit Counselors, Inc. (FMCCI)
1409 W. 4th Street, Waterloo, IA 50702.
Grant Type: Comprehensive
Amount Awarded: $26,000.00

Family Service Agency
4504 Burrow Drive, P.O. Box 16615, North Little Rock, AR 72116.
Grant Type: Comprehensive
Amount Awarded: $27,000.00

Greater Kansas City Housing Information Center
6285 Paseo, Kansas City, MO 64110.
Grant Type: Comprehensive
Amount Awarded: $44,085.00

HBC Services, Inc.
217 Wisconsin Ave, Suite 207, Waukesha, WI 53186.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Housing and Credit Counseling, Inc.
1195 SW Buchanan, Suite 101, Topeka, KS 66604–1183.
Grant Type: Comprehensive
Amount Awarded: $110,000.00

Housing Options Provided for the Elderly
4265 Shaw, St. Louis, MO 63110.
Grant Type: Comprehensive
Amount Awarded: $29,000.00

Housing Partners of Tulsa, Inc.
P.O. Box 6369, Tulsa, OK 74148.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Housing Solutions for the SW
295 Girard Street, Durango, CO 81303.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Idabel Housing Authority
P.O. Box 838, Idabel, OK 74745.
Grant Type: Comprehensive
Amount Awarded: $41,719.00

Interfaith of Natrona County, Inc.
1514 East 12th Street, #303, Casper, WY 82601.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Iowa Citizens for Community Improvement
2005 Forest Avenue, Des Moines, IA 50311.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Justine Petersen Housing and Reinvestment Corp.
5031 Northrup Ave., St. Louis, MO 63110.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

Ki Bois Community Action Foundation, Inc.
P.O. Box 727, Stigler, OK 74462.
Grant Type: Comprehensive
Amount Awarded: $35,510.00

LaFayette Consolidated Government
P.O. Box 4017–C, Lafayette, LA 70502.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Legal Services of Eastern Missouri, Inc.
4232 Forest Park Avenue, St. Louis, MO 63108.
Grant Type: Comprehensive
Amount Awarded: $75,000.00

Neighbor to Neighbor, Inc.
424 Pine Street, Suite 203, Fort Collins, CO 80524.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

New Mexico Legal Aid, Inc.
P.O. Box 25486, Albuquerque, NM 87125–5486.
Grant Type: Comprehensive
Amount Awarded: $39,310.00

Norman Housing Authority
700 N. Berry Rd., Norman, OK 73069.
Grant Type: Comprehensive
Amount Awarded: $55,000.00

Northeast Denver Housing Center
1735 Gaylord St., Denver, CO 80206.
Grant Type: Comprehensive
Amount Awarded: $45,000.00

Northeast Kansas Community Action Program (NEK–CAP, Inc.)
P.O. Box 380, Hiawatha, KS 66434.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Oglala Sioux Tribe Partnership for Housing, Inc.
P.O. Box 3001, Pine Ridge, SD 57770.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Senior Housing, Inc.
2021 East Hennipin, Suite 372, Minneapolis, MN 55413.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Southeastern North Dakota Community Action Agency
3233 South University Drive, P.O. Box 2683, Fargo, ND 58104.
Grant Type: Comprehensive
Amount Awarded: $14,000.00

Southern Minnesota Regional Legal Service
46 East Fourth Street, St. Paul, MN 55101.
Grant Type: Comprehensive
Amount Awarded: $75,000.00

St. Martin, Iberia, LaFayette Community Action Agency, Inc.
501 St. John Street, P.O. Box 3343, Lafayette, LA 70501.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Texas Rural Legal Aid
2201 Post Road, Suite 104, Austin, TX 78704.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

United Neighbors, Inc.
808 Harrison Street, Davenport, IA 52803.

Grant Type: Comprehensive
Amount Awarded: $42,500.00

Universal Housing Development Corp.
P.O. Box 846, Russellville, AR 72811.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Women's Opportunity and Resource Development
127 N. Higgins, Suite 307, Missoula, MT 59802.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Your Community Connection
2261 Adams, Ogden, UT 84401.
Grant Type: Comprehensive
Amount Awarded: $18,000.00

Philadelphia (HOC)

Affordable Homes of Millville Ecumenical (AHOME), Inc.
P.O. Box 241, Millville, NJ 08332.
Grant Type: Comprehensive
Amount Awarded: $26,001.00

Albany County Rural Housing Alliance, Inc.
P.O. Box 407, 24 Martin Road, Voorheesville, NY 12186.
Grant Type: Comprehensive
Amount Awarded: $25,623.00

Arundel Community Development Services, Inc.
2666 Riva Road, Suite 210, Annapolis, MD 21224.
Grant Type: Comprehensive
Amount Awarded: $44,337.00

Asian Americans for Equality, Inc.
111 Division Street, New York, NY 10002.
Grant Type: Comprehensive
Amount Awarded: $31,502.00

Berks Community Action Program/Budget Counseling Center
Post Office Box 22, Berks County, Reading, PA 19603–0022.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Berkshire County Regional Housing Authority
150 North Street, Suite 28, Pittsfield, MA 01201.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Better Housing League of Greater Cincinnati
2400 Reading Road, Cincinnati, OH 45202.
Grant Type: Comprehensive
Amount Awarded: $24,168.00

Better Neighborhoods, Inc.
986 Albany Street, Schenectady, NY 12307.
Grant Type: Comprehensive
Amount Awarded: $38,000.00

Bishop Sheen Ecumenical Housing Foundation, Inc.
935 East Avenue, Suite 300, Rochester, NY 14607.
Grant Type: Comprehensive
Amount Awarded: $22,334.00

Bucks County Housing Group, Inc.
2324 Second Street Pk, Ste. 17, Wrightstown, PA 18940.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

Burlington County Community Action Program
718 Route 130 South, Burlington, NJ 08016.
Grant Type: Comprehensive
Amount Awarded: $40,400.00

Center City Neighborhood Development Corporation
1824 Main Street, Niagara Falls, NY 14305.
Grant Type: Comprehensive
Amount Awarded: $31,502.00

Center for Family Services, Inc.
213 Center Street, Meadville, PA 16335.
Grant Type: Comprehensive
Amount Awarded: $32,000.00

Central Vermont Community Action Council
195 U.S. Route 302—Berlin, Barre, VT 05641.
Grant Type: Comprehensive
Amount Awarded: $40,670.00

Chautauqua Opportunities, Inc.
17 West Courtney Street, Dunkirk, NY 14048.
Grant Type: Comprehensive
Amount Awarded: $49,838.00

Chester Community Improvement Project
412 Avenue of the States, Chester, PA 19016.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Children's and Family Service
535 Marmion Avenue, Youngstown, OH 44502.
Grant Type: Comprehensive
Amount Awarded: $13,253.00

Citizen Action of New Jersey
400 Main Street, Hackensack, NJ 07601.
Grant Type: Comprehensive
Amount Awarded: $49,838.00

City of Frederick
100 South Market Street, Frederick County, Frederick, MD 21701.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Coastal Economic Development Corp.
34 Wing Farm Parkway, Bath, ME 04530.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Coastal Enterprises, Inc.
36 Water Street, P.O. Box 268, Wiscasset, ME 04578.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Commission on Economic Opportunity
165 Amber Lane, P.O. Box 1127, Wilkes-Barre, PA 18703.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Community Action Commission of Belmont Co.
410 Fox-Shannon Place, St. Clairsville, OH 43950.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Community Action Committee of the Lehigh Valley, Inc.
1337 E. Fifth Street, Bethlehem, PA 18018.
Grant Type: Comprehensive
Amount Awarded: $19,122.00

Community Action Program—Madison County
3 East Main Street, P.O. Box 249, Morrisville, NY 13408.
Grant Type: Comprehensive
Amount Awarded: $30,575.00

Community Action Southwest
150 West Beau Street, Suite 304, Washington, PA 15301.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Community Assistance Network, Inc.
7701 Dunmanway, Baltimore, MD 21222.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Community Development Corporation of Long Island
2100 Middle Country Road, Centereach, NY 11720.
Grant Type: Comprehensive
Amount Awarded: $18,667.00

Community Housing, Inc.
613 Washington Street, Wilmington, DE 19801.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Community Service Network Inc.
52 Broadway, Stoneham, MA 02180.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Consumer Credit and Budget Counseling, Inc.
299 S. Shore Road, U.S. Route 9, Cape May, NJ 08223.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

Cortland Housing Assistance Council, Inc.
159 Main Street, Cortland, NY 13045.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

County Commissioners of Carroll County
10 Distillery Drive, Suite 101, Westminster, MD 21157–5194.
Grant Type: Comprehensive
Amount Awarded: $20,501.00

Credit Counseling Centers, Inc.
111 Westcott Road, South Portland, ME 04106.
Grant Type: Comprehensive
Amount Awarded: $38,836.00

Cypress Hills Local Development Corp.
625 Jamaica Avenue, Kings County, Brooklyn, NY 11208.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Detroit Non-Profit Housing Corporation
1200 Sixth Street, Suite 200, Detroit, MI 48226.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Fair Housing Contact Service
333 South Main Street—Suite 300, Akron, OH 44308.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Fair Housing Council of Northern New Jersey
131 Main Street, Hackensack, NJ 07601.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Fair Housing Resource Center, Inc.
54 S. State Street, Suite 303, Painesville, OH 44060.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Family and Children's Association
336 Fulton Avenue, Hempstead, NY 11550.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Fayette County Community Action Agency, Inc.
140 N. Beeson Avenue, Uniontown, PA 15401.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

First State Community Action Agency, Inc.
308 North Railroad Avenue, P.O. Box 877, Georgetown, DE 19947.

Grant Type: Comprehensive
Amount Awarded: $38,280.00

Garden State Consumer Credit Counseling, Inc.
225 Willowbrook Road, Freehold, NJ 07728.
Grant Type: Comprehensive
Amount Awarded: $20,197.00

Garfield Jubilee Association, Inc.
5138 Penn Avenue, Pittsburgh, PA 15224.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Garrett County Community Action Committee, Inc.
104 E. Center Street, Oakland, MD 21550.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Greater Boston Legal Services, Inc.
197 Friend Street, Boston, MA 02114.
Grant Type: Comprehensive
Amount Awarded: $38,836.00

Greater Eastside Community Association
2804 N. Franklin Avenue, Flint, MI 48506.
Grant Type: Comprehensive
Amount Awarded: $22,334.00

Hill Development Corporation of New Haven
649 Howard Avenue, New Haven, CT 06519.
Grant Type: Comprehensive
Amount Awarded: $48,004.00

Home Partnership, Inc.
1221 B Brass Mill Road, Belcamp, MD 21017.
Grant Type: Comprehensive
Amount Awarded: $20,501.00

Homes on the Hill Community Development Corporation
12 South Terrace Avenue, Columbus, OH 43204.
Grant Type: Comprehensive
Amount Awarded: $18,667.00

Housing Authority of the City of Paterson
60 Van Houten Street, P.O. Box H, Paterson, NJ 07505.
Grant Type: Comprehensive
Amount Awarded: $29,669.00

Housing Authority of the County of Butler
114 Woody Drive, Butler, PA 16001.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

Housing Council in the Monroe County Area, Inc.
183 E. Main Street, Suite 1100, Rochester, NY 14604.
Grant Type: Comprehensive
Amount Awarded: $46,171.00

Housing Council of York, Inc.
35 South Duke Street, York County, York, PA 17403.
Grant Type: Comprehensive
Amount Awarded: $36,000.00

Housing Counseling Services, Inc.
2430 Ontario Road, NW., Washington, DC 20009.
Grant Type: Comprehensive
Amount Awarded: $53,505.00

Housing Initiative Partnership, Inc.
4310 Gallatin Street, 3rd Floor, Hyattsville, MD 20781.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Housing Opportunities Made Equal of Richmond, Inc.
2201 West Broad Street, Suite 200, Richmond, VA 23220.
Grant Type: Comprehensive
Amount Awarded: $55,339.00

Housing Partnership for Morris County, Inc.
22 East Blackwell Street, Dover, NJ 07801.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Inner City Christian Federation
515 Jefferson SE, Grand Rapids, MI 49503.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Intercultural Family Services
4225 Chestnut Street, Philadelphia, PA 19104.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Isles, Inc.
10 Wood Street, Trenton, NJ 08618.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Jersey Counseling & Housing Development Inc.
1840 South Broadway, Camden City, NJ 08104.
Grant Type: Comprehensive
Amount Awarded: $36,000.00

Kanawha Institute for Social Research and Action
124 Marshall Avenue, Dunbar, WV 25064.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

Kiryas Joel Community Housing Development Organization, Inc.
51 Forest Road, Suite 360, Monroe, NY 10950.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Laconia Area Community Land Trust, Inc.
658 Union Avenue, P.O. Box 6104, Laconia, NH 03247.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Lighthouse Community Development
46156 Woodward Avenue, Pontiac, MI 48342.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Long Island Housing Services, Inc.
3900 Veterans Memorial Highway, Suite 251, Bohemia, NY 11716.
Grant Type: Comprehensive
Amount Awarded: $53,505.00

Lutheran Housing Corporation
13944 Euclid Avenue, Suite 208, East Cleveland, OH 44112.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Lynchburg Community Action Group, Inc.
926 Commerce Street, Lynchburg, VA 24504.
Grant Type: Comprehensive
Amount Awarded: $42,503.00

Marshall Heights Community Development Organization
3939 Benning Road, NE., Washington, DC 20019.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

Metro Interfaith Services, Inc.
21 New Street, Binghamton, NY 13903.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Michigan Housing Counselors, Inc.
237 S.B. Gratiot Avenue, Mt. Clemens, MI 48043.
Grant Type: Comprehensive
Amount Awarded: $27,000.00

Mid-Ohio Regional Planning Commission
285 East Main Street, Franklin County, Columbus, OH 43215–5572.
Grant Type: Comprehensive
Amount Awarded: $18,667.00

Monmouth County Board of Chosen Freeholders
P.O. Box 3000, Freehold, NJ 07728.
Grant Type: Comprehensive
Amount Awarded: $25,107.00

Ncall Research, Inc.
363 Saulsbury Road, Dover, DE 19904.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Near Northeast Community Improvement Corporation
1326 Florida Avenue, NE., Washington, DC 20002.
Grant Type: Comprehensive
Amount Awarded: $28,962.00

Neighborhood House, Inc.
1218 B Street, New Castle County, Wilmington, DE 19801.
Grant Type: Comprehensive
Amount Awarded: $29,669.00

Neighborhood Housing Services of New Britain, Inc.
223 Broad Street, New Britian, CT 06053.
Grant Type: Comprehensive
Amount Awarded: $44,337.00

Neighbors Helping Neighbors, Inc.
443 39th Street, Brooklyn, NY 11232.
Grant Type: Comprehensive
Amount Awarded: $48,004.00

Northfield Community LDC OF SI, Inc.
160 Heberton Avenue, Staten Island, NY 10302.
Grant Type: Comprehensive
Amount Awarded: $37,003.00

Northwest Counseling Service, Inc.
5001 North Broad Street, Philadelphia, PA 19141.
Grant Type: Comprehensive
Amount Awarded: $42,500.00

Northwest Michigan Human Services Agency, Inc.
3963 Three Mile Rd, Traverse City, MI 49686.
Grant Type: Comprehensive
Amount Awarded: $49,838.00

Oakland County Michigan
1200 North Telegraph Road, Oakland County, Pontiac, MI 48341–0414.
Grant Type: Comprehensive
Amount Awarded: $38,836.00

Office of Human Affairs
6060 Jefferson Avenue., Suite 12C, P.O. Box 37, Newport News, VA 23607.
Grant Type: Comprehensive
Amount Awarded: $9,466.00

Opportunities For Chenango, Inc.
P.O. Box 470, 44 West Main Street, Norwich, NY 13815–0470.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Oswego Housing Development Council
2822 State Rte. 69, P.O. Box 147, Parish, NY 13131.
Grant Type: Comprehensive
Amount Awarded: $19,000.00

People Incorporated of Southwest Virginia
1173 West Main Street, Abington, VA 24210.
Grant Type: Comprehensive

Amount Awarded: $35,000.00

Peoples Regional Opportunity Program (PROP)
510 Cumberland Avenue, Portland, ME 04101.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Philadelphia Council for Community Advancement
100 North 17th Street, Suite 700, Philadelphia, PA 19103.
Grant Type: Comprehensive
Amount Awarded: $29,000.00

Phoenix Non-Profit Housing Corp.
1640 Porter Street, Detroit, MI 48216.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Piedmont Housing Alliance
2000 Holiday Drive, Suite 200, Charlottesville, VA 22901.
Grant Type: Comprehensive
Amount Awarded: $38,836.00

Pine Tree Legal Assistance, Inc.
88 Federal St., Portland, ME 04112.
Grant Type: Comprehensive
Amount Awarded: $19,946.00

Plymouth Redevelopment Authority
11 Lincoln Street, Plymouth, MA 02360.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Pro-Home, Inc.
45 School Street, Taunton, MA 02780.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Putnam County Housing Corporation
11 Seminary Hill Road, Carmel, NY 10512.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Quincy Community Action Programs, Inc.
1509 Hancock Street, Norfolk County, Quincy, MA 02169.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Rockland Housing Action Coalition, Inc.
95 New Clarkstown Road, Nanuet, NY 10954.
Grant Type: Comprehensive
Amount Awarded: $30,000.00

Rural Sullivan Housing Corporation
P.O. Box 1497, Monticello, NY 12701.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Rural Ulster Preservation Company, Inc.
289 Fair Street, Ulster County, Kingston, NY 12401.
Grant Type: Comprehensive
Amount Awarded: $33,431.00

Schuylkill Community Action
206 North Second Street, Pottsville, PA 17901.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Senior Citizens United Community Services of CC, Inc.
146 Black Horse Pike, Mt. Ephraim, NJ 08059.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Skyline Cap, Inc.
P.O. Box 588, Madison, VA 22727.
Grant Type: Comprehensive
Amount Awarded: $37,003.00

Somerset County Coalition on Affordable Housing
One West Main Street, 2nd Floor, Somerville, NJ 08876.
Grant Type: Comprehensive
Amount Awarded: $45,000.00

Southeast Community Development Corporation
10 South Wolfe Street, Baltimore, MD 21231.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Southwest Michigan Community Action Agency
185 E. Main, Suite 200, Benton Harbor, MI 49022–4432.
Grant Type: Comprehensive
Amount Awarded: $8,920.00

St. James Community Development Corporation
402 Broad Street, Newark, NJ 07104.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Stark Metropolitan Housing Authority
400 E. Tuscarawas, Canton, OH 44702.
Grant Type: Comprehensive
Amount Awarded: $23,535.00

Strycker's Bay Neighborhood Council, Inc.
63 West 87th Street, New York, NY 10024.
Grant Type: Comprehensive
Amount Awarded: $35,169.00

Tabor Community Services Inc.
439 East King St., Lancaster, PA 17602.
Grant Type: Comprehensive
Amount Awarded: $42,503.00

Telamon Corporation
4913 Fithzhugh Avenue, Suite 202, Richmond, VA 23230.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

The Way Home
214 Spruce Street, Manchester, NH 03103.
Grant Type: Comprehensive
Amount Awarded: $53,505.00

Three Rivers Center for Independent Living Services (TRCIL)
900 Rebecca Avenue, Wilkinsburg, PA 15221.
Grant Type: Comprehensive
Amount Awarded: $18,667.00

Total Action Against Poverty (TAP)
145 Campbell Avenue, S.W., P.O. Box 2868, Roanoke, VA 24001–2868.
Grant Type: Comprehensive
Amount Awarded: $34,506.00

TRI County Housing Council
143 Hibbard Road, P.O. Box 451, Chemung, NY 14814.
Grant Type: Comprehensive
Amount Awarded: $28,727.00

United Neighborhood Centers of Lackawanna County, Inc.
425 Alder Street, Scranton, PA 18505.
Grant Type: Comprehensive
Amount Awarded: $42,503.00

University Legal Services
300 I Street, NE, Suite 130, Washington, DC 20002.
Grant Type: Comprehensive
Amount Awarded: $27,835.00

Urban League of Rhode Island, Inc.
246 Prairie Avenue, Providence County, Providence, RI 02905.
Grant Type: Comprehensive
Amount Awarded: $33,245.00

Virginia Cooperative Extension, Prince William
8033 Ashton Avenue, Suite 105
Manassas, VA 20109.
Grant Type: Comprehensive
Amount Awarded: $38,836.00

Virginia Eastern Shore Economic Empowerment and HSG. Corp.
P.O. Box 814, Nassawadox, VA 23413.
Grant Type: Comprehensive
Amount Awarded: $10,000.00

Washington County Community Housing Resource Board, Inc.
21 E. Franklin Street, Hagerstown, MD 21740.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Westchester Residential Opportunities, Inc.
470 Mamaroneck Avenue, Suite 410
White Plains, NY 10605.
Grant Type: Comprehensive
Amount Awarded: $22,334.00

WSOS Community Action Commission, Inc.
109 South Front Street, Fremont, OH 43420.
Grant Type: Comprehensive
Amount Awarded: $33,336.00

YWCA of New Castle County
233 King Street, Wilmington, DE 19801.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Santa Ana (HOC)

Access, Inc.
3630 Aviation Way, P.O. Box 4666, Medford, OR 97537.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Administration of Resources and Choices
209 S. Tucson Blvd., P.O. Box 86802, Tucson, AZ 85754.
Grant Type: Comprehensive
Amount Awarded: $50,465.00

CCCS of Alaska
209 East 4th Avenue, Municipality of Anchorage, Anchorage, AK 99501.
Grant Type: Comprehensive
Amount Awarded: $95,352.00

CCCS of Mid Counties
2575 Grand Canal Blvd., Suite 100, Stockton, CA 95207.
Grant Type: Comprehensive
Amount Awarded: $150,000.00

CCCS of Orange County
1920 Old Tustin Avenue, Santa Ana, CA 92711–1330.
Grant Type: Comprehensive
Amount Awarded: $77,889.00

CCCS of Southern Nevada
3650 S. Decatur, Suite 30, Las Vegas, NV 89103.
Grant Type: Comprehensive
Amount Awarded: $100,000.00

City of Anaheim Housing Authority
201 S. Anaheim Blvd. Suite 203, Anaheim, CA 92805.
Grant Type: Comprehensive
Amount Awarded: $68,567.00

City of Vacaville, Office of Housing and Redevelopment
40 Eldridge Avenue, Suite 2, Vacaville, CA 95688.
Grant Type: Comprehensive
Amount Awarded: $15,000.00

Community Action Partnership
124 New 6TH Street, Lewiston, ID 83501
Grant Type: Comprehensive

Amount Awarded: $55,000.00

Community Housing and Credit Counseling Center (CHCCC)
1001 Willow St., Chico, CA 95928.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Consumer Counseling Northwest
11306 Bridgeport Way SW, Tacoma, WA 98499.
Grant Type: Comprehensive
Amount Awarded: $20,000.00

Consumer Credit Counselors of Kern County, Inc.
5300 Lennox Avenue, Suite 200, Bakersfield, CA 93309,
Grant Type: Comprehensive
Amount Awarded: $68,567.00.

County of Santa Cruz Housing Authority
2160 41st Avenue, Capitola, CA 95010–2060.
Grant Type: Comprehensive
Amount Awarded: $30,000.

East LA Community Corporation
530 South Boyle Avenue,
Los Angeles, CA 90033.
Grant Type: Comprehensive
Amount Awarded: $49,777.00

Eden Council For Hope and Opportunity
770 A Street,
Hayward, CA 94541.
Grant Type: Comprehensive
Amount Awarded: $67,230.00

Fair Housing Council of Orange County
201 So. Broadway,
Santa Ana, CA 92701.
Grant Type: Comprehensive
Amount Awarded: $63,000.00

Family Housing Resources, Inc.
3002 N. Campbell Avenue, Suite 200, Tucson, AZ 85719.
Grant Type: Comprehensive
Amount Awarded: $58,000.00

Fremont Public Association
P.O. Box 31151, Seattle, WA 98103.
Grant Type: Comprehensive
Amount Awarded: $90,000.00

Inland Fair Housing and Mediation Board
1005 Begonia Avenue, Ontario, CA 91762.
Grant Type: Comprehensive
Amount Awarded: $137,551.00

Institute of Human Services, Inc.
546 Ka'haahi Street, Honolulu, HI 96817.
Grant Type: Comprehensive
Amount Awarded: $34,000.00

Labor's Community Service Agency
5818 N. 7th Street. #100, Phoenix, AZ 85014.
Grant Type: Comprehensive
Amount Awarded: $54,784.00

Legal Aid Society of Hawaii
924 Bethel Street,
Honolulu, HI 96813.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Neighborhood House Association
5660 Copley Drive, San Diego, CA 92111.
Grant Type: Comprehensive
Amount Awarded: $100,171.00

Open Door Counseling Social Service
34420 SW Tualatin Valley Highway, Hillsboro, OR 97123.
Grant Type: Comprehensive
Amount Awarded: $50,000.00

Pierce County Department of Community Services
8811 South Tacoma Way, Suite 201,
Lakewood, WA 98499–4588.
Grant Type: Comprehensive
Amount Awarded: $35,000.00

Portland Housing Center
3233 NE Sandy Boulevard,
Portland, OR 97232.
Grant Type: Comprehensive
Amount Awarded: $60,000.00

San Diego Home Loan Counseling Service
3180 University Ave., Suite 430, San Diego, CA 92104.
Grant Type: Comprehensive
Amount Awarded: $100,000.00

Spokane Neighborhood Action Program
2116 East First Avenue,
Spokane, WA 99202.
Grant Type: Comprehensive
Amount Awarded: $107,000.00

Springboard, Non-Profit Consumer Credit Management
6370 Magnolia Ave., Suite 200, Riverside, CA 92056
Grant Type: Comprehensive
Amount Awarded: $150,000.00

TMM Family Services, Inc.
3127 East Adams St., Tucson, AZ 85716.
Grant Type: Comprehensive
Amount Awarded: $25,000.00

Umpqua Community Action Network
2448 W. Harvard, Roseburg, OR 97470.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Washoe County Dept. of Senior Services
1155 East Ninth Street, Reno, NV 89511.
Grant Type: Comprehensive
Amount Awarded: $40,000.00.

Washoe Legal Services
650 Tahoe Street, Reno, NV 89509.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Women's Development Center,
953 E. Sahara Suite #201, Las Vegas, NV 89104.
Grant Type: Comprehensive
Amount Awarded: $40,000.00

Predatory Lending (38)

Acorn Housing Corporation
846 N. Broad St., Philadelphia, PA 19130.
Grant Type: Predatory Lending
Amount Awarded: $380,282.00

Anaheim Housing Authority
201 S. Anaheim Blvd., Suite 203, Anaheim, CA 92805.
Grant Type: Predatory Lending
Amount Awarded: $25,351.00

Carver County Housing and Redevelopment Authority
705 N. Walnut Street, Chaska, MN 55318.
Grant Type: Predatory Lending
Amount Awarded: $25,000.00

Catholic Community Services, Inc.
1416 Cumming Ave, Superior, WI 54880.
Grant Type: Predatory Lending
Amount Awarded: $20,000.00

Citizen Action of New Jersey
400 Main Street, Hackensack, NJ 07601.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

City of San Antonio
115 Plaza De Armas, Suite 230, San Antonio, TX 78205.
Grant Type: Predatory Lending
Amount Awarded: $39,176.00

Commission on Economic Opportunity
165 Amber Lane, P. O. Box 1127, Wilkes-Barre, PA 18703–1127.
Grant Type: Predatory Lending
Amount Awarded: $15,000.00

Community Action Services
815 South Freedom Blvd., Suite 100, Provo, UT 84601.
Grant Type: Predatory Lending
Amount Awarded: $7,965.00

Community and Economic Development Association
208 S. LaSalle Street, Suite 1900, Chicago, IL 60604.
Grant Type: Predatory Lending
Amount Awarded: $30,707.00

Community Development Corp. of Brownsville
901 E. Levee St., Brownsville, TX 78520.
Grant Type: Predatory Lending
Amount Awarded: $25,000.00

Community Service Network Inc.
52 Broadway, Stoneham, ME 02180–1003.
Grant Type: Predatory Lending
Amount Awarded: $15,000.00

Family Housing Advisory Services, Inc.
2416 Lake Street, Omaha, NE 68111.
Grant Type: Predatory Lending
Amount Awarded: $37,843.00

Fremont Public Association
P.O. Box 31151, Seattle, WA 98103–1151.
Grant Type: Predatory Lending
Amount Awarded: $37,843.00

Housing Council in the Monroe County Area, Inc.
183 E. Main Street, Suite 1100, Rochester, NY 14604.
Grant Type: Predatory Lending
Amount Awarded: $36,059.00

Housing Council of York
35 S. Duke Street, York, PA 17403.
Grant Type: Predatory Lending
Amount Awarded: $30,707.00

Housing Opportunities Made Equal of Richmond, Inc.
2201 West Broad Street, Suite 200, Richmond, VA 23220.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

Justine Petersen Housing and Reinvestment
5031 Northrup Ave., St. Louis, MO 63110.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

Legal Aid Society of Hawaii
924 Bethel, Honolulu, HI 96813.
Grant Type: Predatory Lending
Amount Awarded: $22,858.00

Legal Assistance Foundation of Metropolitan Chicago
111 West Jackson Blvd., Chicago, IL 60604.
Grant Type: Predatory Lending
Amount Awarded: $39,627.00

Legal Services of Eastern Mo, Inc.
4232 Forest Park Ave., St.Louis, MO 63108.
Grant Type: Predatory Lending
Amount Awarded: $36,059.00

Memphis Area Legal Services, Inc.
109 N. Main, 2nd Floor, Memphis, TN 38103.
Grant Type: Predatory Lending
Amount Awarded: $36,059.00

Mobile Housing Board

151 S. Claiborne St., Mobile, AL 36602.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

Nareb Investment Div. INC.—HCA
1301 85th Ave., Oakland, CA 94621.
Grant Type: Predatory Lending
Amount Awarded: $367,605.00

National Foundation For Credit Counseling, Inc.
801 Roder Road, #900, Silver Spring, MD 20910.
Grant Type: Predatory Lending
Amount Awarded: $371,831.00

NHS of New Britain, Inc.
223 Broad Street, New Britain, CT 06053.
Grant Type: Predatory Lending
Amount Awarded: $5,157.00

Northwest Counseling Services, Inc.
5001 N. Broad St., Philadelphia, PA 19141.
Grant Type: Predatory Lending
Amount Awarded: $32,490.00

Oglala Sioux Tribe Partnership for Housing, Inc.
P. O. Box 3001, Pine Ridge, SD 57770.
Grant Type: Predatory Lending
Amount Awarded: $28,922.00

Phoenix Housing and Counseling Non-Profit Inc.
1640 Porter, Detroit, MI 48216.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

Piedmont Housing Alliance, Inc.
2000 Holiday Drive, Suite 200, Charlottesville, VA 22901.
Grant Type: Predatory Lending
Amount Awarded: $40,000.00

Rhode Island Housing and Mortgage Finance
44 Washington Street, Providence, RI 02903.
Grant Type: Predatory Lending
Amount Awarded: $110,810.00

Southeast Community Development Corp.
10 South Wolfe Street, Baltimore, MD 21231.
Grant Type: Predatory Lending
Amount Awarded: $25,467.00

St. Martin Center, Inc.
1701 Parade Street, Erie, PA 16503.
Grant Type: Predatory Lending
Amount Awarded: $25,000.00

Structured Employment Economic Development Corporation
915 Broadway 17th Floor, New York, NY 10010.
Grant Type: Predatory Lending
Amount Awarded: $380,282.00

Tabor Community Services Inc.
439 E. King St, Lancaster, PA 17602.
Grant Type: Predatory Lending
Amount Awarded: $26,000.00

Utah State University Family Life Center
493 N. 700 East, Logan, UT 84321–4231.
Grant Type: Predatory Lending
Amount Awarded: $7,788.00

Washington State Housing Finance Commission
1000 Second Ave., Suite 2700, Seattle, WA 98104–1046.
Grant Type: Predatory Lending
Amount Awarded: $94,595.00

West Tennessee Legal Services
27–A Brentshire Square, P. O. Box 2066, Jackson, TN 38302–2066.
Grant Type: Predatory Lending
Amount Awarded: $94,595.00

Westchester Residential Opportunities Inc.
470 Mamaroneck Ave, Suite 410, White Plains, NY 10605.
Grant Type: Predatory Lending
Amount Awarded: $28,922.00

Section 8 (39)

Acorn Housing Corporation
846 N. Broad Street, Philadelphia, PA 19130.
Grant Type: Section 8
Amount Awarded: $250,962.00

Anahein Housing Authority
201 South Anaheim Blvd. Suite 203, Anaheim, CA 92805.
Grant Type: Section 8
Amount Awarded: $31,305.00

Appalachian Housing and Redevelopment Corporation
800 North Fifth Avenue, Rome, GA 30162.
Grant Type: Section 8
Amount Awarded: $15,600.00

Arundel Community Development Services
2666 Riva Road Suite 210, Annapolis, MD 21224.
Grant Type: Section 8
Amount Awarded: $15,000.00

Belmont Shelter Corp.
1195 Main Street, Buffalo, NY 14209.
Grant Type: Section 8
Amount Awarded: $40,363.00

Better Neighborhoods, Inc.
986 Albany Street, Schenectady, NY 12307.
Grant Type: Section 8
Amount Awarded: $15,000.00

Citizen Action of New Jersey
400 Main Street, Hackensack, NJ 07601.
Grant Type: Section 8
Amount Awarded: $36,740.00

Coastal Enterprises, Inc.
36 Water Street, P.O. Box 268, Wiscasset, ME 04578.
Grant Type: Section 8
Amount Awarded: $16,000.00

Commission on Economic Opportunity
165 Amber Lane, P.O. Box 1127, Luzerne, PA 18703–1127.
Grant Type: Section 8
Amount Awarded: $10,000.00

Community Action Agency of Northwest AL, Inc.
745 Thompson Street, Florence, AL 35630.
Grant Type: Section 8
Amount Awarded: $15,000.00

Community Action Project of Tulsa County
717 S. Houston, Suite 200, Tulsa, OK 74127.
Grant Type: Section 8
Amount Awarded: $18,000.00

Community Development Corp. of Brownsville
901 E. Levee Street, Brownsville, TX 78520.
Grant Type: Section 8
Amount Awarded: $30,000.00

Community Development Program Center of Nevada
2009 Alta Driva, Las Vegas, NV 89106.
Grant Type: Section 8
Amount Awarded: $47,610.00

Consumer Credit Counselors of Kern County
5300 Lennox Avenue, Suite 200, Bakersfield, CA 93309.
Grant Type: Section 8
Amount Awarded: $17,400.00

Dupage Homeownership Center, Inc.
1333 North Main Street, Wheaton, IL 60187.
Grant Type: Section 8
Amount Awarded: $10,000.00

Family Counseling Service, Inc.
1639 Atlantic Blvd., Jacksonville, FL 32207.
Grant Type: Section 8
Amount Awarded: $25,000.00

Georgia Housing and Finance Authority
60 Executive Park South, NE, Atlanta, GA 30329–2231.
Grant Type: Section 8
Amount Awarded: $21,280.00

Housing Authority of the City of Fresno
1331 Fulton Mall, P.O. Box 11985, Fresno, CA 93776–1985.
Grant Type: Section 8
Amount Awarded: $36,740.00

Housing Authority of the City of Paterson
60 Van Houten Street, P.O. Box H, Paterson, NJ 07505.
Grant Type: Section 8
Amount Awarded: $36,740.00

Housing Authority of the County of Butler
114 Woody Drive, Butler, PA 16001.
Grant Type: Section 8
Amount Awarded: $33,116.00

Inner City Christian Federation
515 Jefferson SE, Gran Rapids, MI 49503.
Grant Type: Section 8
Amount Awarded: $30,000.00

Latin United Community Housing Association
3541 W. North Avenue, Chicago, IL 60647.
Grant Type: Section 8
Amount Awarded: $29,493.00

Legal Aid Society of Hawaii
924 Bethel, Honolulu, HI 96813.
Grant Type: Section 8
Amount Awarded: $23,050.00

Louisville Urban League
1535 West Broadway, Louisville, KY 40203.
Grant Type: Section 8
Amount Awarded: $42,175.00

Mobile Housing Board
151 S. Claiborne Street, Mobile, AL 36602.
Grant Type: Section 8
Amount Awarded: $45,798.00

National Council of La Raza
1111 19th Street, NW., Suite 1000, Washington, DC 20036.
Grant Type: Section 8
Amount Awarded: $203,846.00

National Credit Union Foundation
601 Pennsylvania Avenue NW., Suite 600, South Building, Washington, DC 20004.
Grant Type: Section 8
Amount Awarded: $224,038.00

Neighborhood Housing Services of NYC
307 West 36th Street, 12 Fl., New York, NY 10018.
Grant Type: Section 8
Amount Awarded: $33,116.00

Neighborhood Reinvestment Corporation
1325 G Street, NW., Suite 800, Washington, DC 20005.
Grant Type: Section 8
Amount Awarded: $271,154.00

New Hampshire Housing Finance Authority
32 Constitutition Drive, Bedford, NH 03110.
Grant Type: Section 8
Amount Awarded: $46,134.00

North Dakota Housing Finance Agency

1500 East Capitol Avenue, P.O. Box 1535, Bismarck, ND 58502.
Grant Type: Section 8
Amount Awarded: $20,000.00

Philadelphia Council for Community Advancement
100 North 17th Street, Suite 700, Philadelphia, PA 19103.
Grant Type: Section 8
Amount Awarded: $42,754.00

Rural Ulster Preservation Company, Inc.
289 Fair Street, Kingston, NY 12401.
Grant Type: Section 8
Amount Awarded: $19,336.00

Sandhills Community Action Program, Inc.
103 Saunders Street, Carthage, NC 28327.
Grant Type: Section 8
Amount Awarded: $31,305.00

Spanish Coalition for Housing
4035 West North Avenue, Chicago, IL 60639.
Grant Type: Section 8
Amount Awarded: $43,986.00

Tabor Community Services, Inc.
439 East King Street, Lancaster, PA 17602.
Grant Type: Section 8
Amount Awarded: $43,986.00

The Housing Partnership, Inc.
333 Guthrie Green, Suite 404, Lousiville, KY 40202.
Grant Type: Section 8
Amount Awarded: $43,986.00

Twin Rivers Opportunities, Inc.
318 Craven Street, New Bern, NC 28563.
Grant Type: Section 8
Amount Awarded: $21,401.00

Washington State Housing Finance Comission
1000 Second Avenue, Suite 2700, Seattle, WA 98104–1046.
Grant Type: Section 8
Amount Awarded: $62,586.00

Cabarrus County Community Development Corporation
P.O. Box 1095, Concord, NC 28026.
Grant Type:
Amount Type: $40,000.00

[FR Doc. 04–3761 Filed 2–20–04; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application and Availability of an HCP (White) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: John White (applicant) has applied for an incidental take permit (TE–082706–0) pursuant to section 10(a) of the Endangered Species Act, as amended (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction of multi-family residential units (four-plexes or apartments) on a 2.398-acre property in the Tahitian Village Subdivision, Bastrop County, Texas.

DATES: To ensure consideration, written comments must be received on or before April 23, 2004.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request or by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas Office. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–082706–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin, Texas Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species when the taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy or non-jeopardy to the species and a decision pursuant to the National Environmental Policy Act (NEPA) will not be made until at least 60 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and NEPA regulations (40 CFR 1506.6).

Applicant: John White plans to construct multi-family residential units, within 5 years, on a 2.398-acre property in the Tahitian Village Subdivision in Bastrop County, Texas. This action will eliminate 2.398 acres or less of Houston toad habitat and result in indirect impacts within the lot. The applicant proposes to compensate for this incidental take of the Houston toad by providing $4,796.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Authority: 16 U.S.C. 1531, *et seq.*

Bryan Arroyo,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 04–3794 Filed 2–20–04; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Meeting of the Trinity Adaptive Management Working Group

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Trinity Adaptive Management Working Group (TAMWG). The TAMWG affords stakeholders the opportunity to give policy, management, and technical input concerning Trinity River restoration efforts to the Trinity Management Council. Primary objectives of the meeting will include: discuss strategic plan for Trinity River Restoration Program, program evaluation, election of officers, charter renewal and member appointments, TAMWG operations and subcommittees, annual flow schedule, and a tentative field trip. The agenda items are approximate and are dependent on the amount of time each item takes. The meeting could end early if the agenda has been completed. The meeting is open to the public.

DATES: The Trinity Adaptive Management Working Group will meet from 1 p.m. to 5 p.m. on Thursday April 1, and 8 a.m. to 5 p.m. on Friday April 2, 2004.

ADDRESSES: The meeting will be held at the Weaverville Victorian Inn, 1709 Main Street, Weaverville, CA 96093. Telephone: (530) 623–4432.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Ellen Mueller of the U.S. Fish and Wildlife Service, California/Nevada Operations Office, 2800 Cottage Way, W–2606, Sacramento, California 95825, (916) 414–6464. Dr. Mary Ellen Mueller is the designee of the committee's Federal Official—Steve Thompson, Manager of the U.S. Fish and Wildlife

Service, California/Nevada Operations Office.

SUPPLEMENTARY INFORMATION: For background information and questions regarding the Trinity River Restoration Program, please contact Douglas Schleusner, Executive Director, Trinity River Restoration Program, P.O. Box 1300, 1313 South Main Street, Weaverville, California 96093, (530) 623–1800.

Dated: February 13, 2004.

Mary Ellen Mueller,

Acting Manager, California/Nevada Operations Office, Sacramento, CA.

[FR Doc. 04–3686 Filed 2–20–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–04–1420–BJ]

Notice of Filing Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

SUPPLEMENTARY INFORMATION:

Indian Meridian, Oklahoma

T. 10 N., R. 27 E., approved December 10, 2003, for Group 61 OK;
T. 11 N., R. 27 E., approved December 12, 2003, for Group 61 OK;
T. 25 N., R. 9 E., approved December 27, 2003, for Group 102 OK;

New Mexico Principal Meridian, New Mexico

T. 5 S., R. 18 W., approved October 27, 2003, for Group 915 NM;
T. 12 N., R. 4 E., approved September 30, 2003, for Group 999 NM;
T. 32 N., R. 10 W., approved September 5, 2003, for Group 1008 NM;

Sixth Principal Meridian, Kansas

T. 34S., R. 40 W., approved September 3, 2003, for Group 25 KS;

Protraction Diagrams for

T. 24 N., R. 2 E., approved September 30, 2003, NM;
T. 24 N., R. 3 E., approved September 30, 2003, NM;
T. 25 N., R. 1 W., approved September 30, 2003, NM;
T. 20 N., R. 11 E., approved September 30, 2003, NM;
T. 20 N., R. 12 E., approved September 30, 2003, NM;
T. 26 N., R. 1 W., approved September 24, 2003, NM;
T. 21 N., R. 13 E., approved September 24, 2003, NM;
T. 21 N., R. 14 E., approved September 30, 2003, NM;

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of a protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: December 29, 2003.

Jay M. Innes,

Acting Chief Cadastral Surveyor.

[FR Doc. 04–3820 Filed 2–20–04; 8:45 am]

BILLING CODE 4310–FB–M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–487]

Certain Agricultural Vehicles and Components Thereof; Notice of Commission Decision To Extend the Time To Determine Whether To Review an Initial Determination and To Extend the Target Date

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has decided to extend to March 29, 2004, the time to determine whether to review the presiding administrative law judge's (''ALJ's'') final initial determination (''ID'') finding a violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation. The Commission has also decided to extend the target date for completing the investigation to May 13, 2004.

FOR FURTHER INFORMATION CONTACT: Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3090. Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 13, 2003, based on a complaint filed by Deere & Company (''Deere'') of Moline, Illinois. 68 FR 7388 (February 13, 2003). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain agricultural vehicles and components thereof by reason of infringement and dilution of U.S. Registered Trademarks Nos. 1,254,339; 1,502,103; 1,503,576; and 91,860.

On August 27, 2003, the Commission issued notice that it had determined not to review Order No. 14, granting complainant's motion to amend the complaint and notice of investigation to add U.S. Trademark Registration No. 2,729,766.

On November 14, 2003, the Commission issued notice that it had determined not to review Order No. 29, granting complainant's motion for summary determination that complainant had met the technical prong of the domestic industry requirement.

Twenty-four respondents were named in the Commission's notice of investigation. Several of these have been terminated from the investigation on the basis of consent orders. Several other respondents have been found to be in default.

On January 13, 2004, the ALJ issued his final initial determination finding a violation of section 337. He also recommended the issuance of remedial orders. Two groups of respondents have petitioned for review of the ID. Complainant and the Commission investigative attorney have filed oppositions to those petitions.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and sections 210.42 and 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.42, 210.51).

Issued: February 18, 2004.

By order of the Commission.

Marilyn R. Abbott,

Secretary.

[FR Doc. 04–3845 Filed 2–20–04; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1070 (Preliminary)]

Certain Tissue Paper Products and Crepe Paper Products From China

AGENCY: International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–1070 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that 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 imports from China of certain tissue paper products and crepe paper products that are alleged to be sold in the United States at less than fair value. The tissue paper products and crepe paper products subject to this investigation do not have specific classification numbers assigned to them under the Harmonized Tariff Schedule of the United States (HTS) and appear to be imported under one or more of several different residual or ''basket'' categories, including but not necessarily limited to the following subheadings: 4802.30; 4802.54; 4802.61; 4802.62; 4802.69; 4804.39; 4806.40; 4808.30; 4808.90; 4811.90; 4823.90; and 9505.90.40. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by April 2, 2004. The Commission's views are due at Commerce within five business days thereafter, or by April 9, 2004.

For further information concerning the conduct of this investigation 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 B (19 CFR part 207).

EFFECTIVE DATE: February 17, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or *fruggles@usitc.gov*), 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 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 this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted in response to a petition filed on February 17, 2004, by Seaman Paper Company of Massachusetts, Inc. (''Seaman''), American Crepe Corporation (''American Crepe''), Eagle Tissue LLC (''Eagle''), Flower City Tissue Mills Co. (''Flower City''), Garlock Printing & Converting, Inc. (''Garlock''), Paper Service Ltd. (''Paper Service''), Putney Paper Co., Ltd. (''Putney''), and the Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO, CLC (''PACE'').

Participation in the investigation and public service list. Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

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 this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on March 9, 2004, at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than March 5, 2004, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions. As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before March 12, 2004, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must 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 rules, each document filed by a party to the investigation must be served on all other parties to the investigation (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: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: February 18, 2004.
By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–3799 Filed 2–20–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 017–2003]

Privacy Act of 1974; Computer Matching Agreement

AGENCY: Department of Justice.

ACTION: Notice–computer matching between the Department of Justice and the Internal Revenue Service, Department of Treasury.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 published June 19, 1989), OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' and OMB Circular No. A–130, Revised February 8, 1996, ''Management of Federal Information Resources'', the Department of Justice is issuing a public notice of its intent to conduct a computer matching program with the Internal Revenue Service, Department of Treasury. Under this matching program, entitled Taxpayer Address Request, the IRS will provide information relating to taxpayers' mailing addresses to the DOJ for the purposes of enabling DOJ to locate debtors to initiate litigation and/or enforce the collection of debts owed by the taxpayers to the United States.

DATES: Effective date: The matching program will become effective 40 days after a copy of the agreement, as approved by the Data Integrity Board of each agency, is sent to Congress and the Office of Management and Budget, or 30 days after publication of this notice in the **Federal Register,** whichever is later. The matching program will continue for 18 months after the effective date and may be extended for an additional 12 months, if the conditions specified in 5 U.S.C. 552a(o)(2)(D) have been met.

REPORTING:

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503), Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818 published June 19, 1989), OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' and OMB Circular No. A–130, Revised February 8, 1996, ''Management of Federal Information Resources'', copies of this Notice and report are being provided to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget.

AUTHORITY:

This matching program is being conducted under the authority of the Internal Revenue Code (IRC) 6103(m)(2). This provides for disclosure, upon written request, of a taxpayer's mailing address for use by officers, employees, or agents of a Federal agency for the purpose of locating such taxpayer to collect or compromise a Federal claim against the taxpayer in accordance with sections 3711, 3717, and 3718 of title 31 of the United States Code, statutory provisions which authorize DOJ to collect debts on behalf of the United States through litigation.

OBJECTIVES TO BE MET BY THE MATCHING PROGRAM:

The purpose of this program is to provide DOJ with the most current addresses of taxpayers to notify debtors of legal actions that may be taken by DOJ and the rights afforded them in the litigation to enforce collection of debts owed to the United States.

RECORDS TO BE MATCHED:

DOJ will provide records from the Debt Collection Management System, JUSTICE/JMD–006, last published at 58 FR 60058–60060 (November 12, 1993). This system of records contains information on persons indebted to the United States who have allowed their debts to become delinquent and whose debts have been sent by client Federal agencies to DOJ for enforced collection through litigation. DOJ records will be matched against records contained in the Privacy Act System of Records: Individual Master File (IMF), Treasury/IRS 24.030, last published at 66 FR 63800 (December 10, 2001), which contains taxpayer entity records and tax modular records which contain all records relative to specific tax returns for each applicable tax period or year.

CATEGORIES OF RECORDS/INDIVIDUALS INVOLVED:

DOJ will submit the nine digit Social Security Number (SSN) and four character Name Control (the first four letters of the surname) of each individual whose current address is requested. IRS will provide an address for each taxpayer whose SSN and Name Control matches the records submitted by DOJ. IRS will provide a code explaining the type of error, if any, encountered during processing if no address information is provided, or no match is found.

NOTICE PROCEDURES:

IRS provides direct notice to taxpayers in the instructions to Forms 1040, 1040A, and 1040EZ, that information provided on U.S. Individual Income Tax Returns may be given to other Federal agencies, as provided by law. For the records involved in this match, both IRS and DOJ have provided constructive notice to records subjects through the publication, in the **Federal Register**, of system of record notices that contain routine uses permitting disclosures for this matching program.

ADDRESS FOR RECEIPT OF PUBLIC COMMENTS OR INQUIRIES:

Interested persons are invited to submit written comments regarding this notice to Imogene McCleary, Deputy Director, Debt Collection Management, Justice Management Division, 325 7th Street NW., 2nd Floor South, Washington, DC 20530.

Dated: February 13, 2004.

Paul R. Corts,

Assistant Attorney General for Administration.

[FR Doc. 04–3793 Filed 2–20–04; 8:45 am]

BILLING CODE 4410–CN–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP) Docket No. 1393]

Program Announcement for the Nonparticipating State Program, Wyoming

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Justice.

ACTION: Notice of solicitation.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), pursuant to the provisions of the Juvenile Justice and Delinquency Prevention (JJDP) Act, is issuing the following program announcement and solicitation for applications from local public and private nonprofit agencies currently operating in the State of Wyoming. Because Wyoming does not participate in the JJDP Act, the state is not eligible to receive fiscal year (FY) Formula Grants program allocations, which total $1,229,200.[1] However, these funds are available to be competitively awarded through the Nonparticipating State Program. Eligible applicants include public and private nonprofit agencies operating in Wyoming that propose alternatives to secure confinement settings that do not adhere to the core requirements of the JJDP Act. These proposed programs must reflect the core requirements of the JJDP Act. Applicants are eligible to receive assistance awards for a 2-year period. Of the total amount of funds available, a minimum of $983,360 must be used by the grantee to contract with local public or private nonprofit agencies to provide delinquent and status offender populations with local community-based placement alternatives to adult jails and lockups. Up to $245,840 may be retained by the grantee to manage the contracts and to coordinate and provide technical assistance and training to the local contractors funded under the Nonparticipating State Program.

The grantee will be required to contract with American Indian tribes for at least the same amount ($29,838) that the State of Wyoming would have been required to disburse to tribes under the JJDP Act. The financial assistance provided by this program requires no matching contribution in accordance with Part C of Title II of the JJDP Act.

[1] This total is based on state allocations of $647,000 (FY 2001) and $646,000 (FY 2002), minus $63,800, which has been awarded directly to the Wyoming Department of Family Services to support the activities of the Wyoming State Advisory Group Council on Juvenile Justice.

DATES: Applications must be received by March 24, 2004.

FOR FURTHER INFORMATION CONTACT: Dennis Mondoro, Compliance Monitoring Coordinator, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, at 202–307–5924 or *Mondorod@ojp.usdoj.gov.*

SUPPLEMENTARY INFORMATION:

Purpose

The JJDP Act, as amended through 2002, establishes four core requirements:

(1) Deinstitutionalizing status offenders.

(2) Removing juveniles from adult jails and lockups.

(3) Separating juveniles and adults in institutions.

(4) Addressing disproportionate minority contact (DMC), when it exists.

Meeting these core requirements is essential to creating a fair and equitable juvenile justice system that advances the goals of the JJDP Act. The purpose of this program is to help Wyoming develop a range of secure and nonsecure alternatives to confinement and revise associated policies to ensure compliance with the core requirements of the JJDP Act.

Background

Wyoming historically has not been able to successfully address the core requirements of the JJDP Act due to state laws that sanction violations, a lack of local policies that promote the coordination of available resources, and a limited number of alternative resources available to communities. Because of Wyoming's inability to address the core requirements of the JJDP Act, the state did not submit a Formula Grants Program plan for the FY 2001 and FY 2002 Formula Grants Program allocations. The statutory requirements pertaining to states that do not submit a Formula Grants Program plan are as follows:

Pursuant to section 223(d) of the JJDP Act of 2002, if a state chooses not to submit a Formula Grants Program plan, fails to submit a plan, or submits a plan that does not meet the requirements of the JJDP Act, the OJJDP Administrator shall make the Formula Grants Program fund allotment available, under section 222(a) of the JJDP Act, to public or private nonprofit agencies within the state. The funds must be used solely for the purpose of achieving compliance with the following core requirements of the JJDP Act:

Section 223(a)(11) requires that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, alien juveniles in custody, and nonoffenders such as dependent or neglected children, shall not be placed in secure detention facilities or secure correctional facilities. This section does not pertain to juveniles who are charged with a violation of section 922(x) of Title 18 or a similar state law, juveniles who are charged with or who have committed a violation of a valid court order, or juveniles who are held in accordance with the Interstate Compact on Juveniles.

Section 223(a)(12) provides that juveniles alleged or found to be delinquent, and those within the purview of section 223(a)(11) above, shall not be detained or confined in any institution in which they have contact with adults incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges.

Section 223(a)(13) provides that no juvenile shall be detained or confined in any jail or lockup for adults. The OJJDP Administrator may, however, declare exceptions with regard to the detention of juveniles accused of nonstatus offenses who are awaiting an initial court appearance, provided that such exceptions are limited to areas that are in compliance with section 223(a)(12). Such exceptions are also limited to areas that are outside a standard metropolitan statistical area; have no existing acceptable alternative placement available; are located where travel conditions (*e.g.*, a long distance or a lack of highway, road, or other ground transportation) do not allow for court appearances within 48 hours, so that a brief (not to exceed 48 hours) delay is excusable; or are located where unsafe conditions exist (*e.g.*, severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel.

Section 223(a)(22) provides that states address juvenile delinquency prevention efforts and system-improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come in contact with the juvenile justice system.

For more information about the regulatory exceptions to the provisions of sections 223(a)(11), (12), (13), and (22), please contact Dennis Mondoro, Compliance Monitoring Coordinator, State Relations and Assistance Division, Office of Juvenile Justice and

Delinquency Prevention, at 202–307–592 or *Mondorod@ojp.usdoj.gov.*

Goal

In accordance with section 223(d) of the JJDP Act, the goal of this program is to help Wyoming develop a range of secure and nonsecure alternatives to confinement and revise associated policies to ensure that the core requirements of the JJDP Act are met.

Objectives

Local jurisdictions may be using secure facilities to detain or confine juveniles in a manner inconsistent with sections 223(a)(11), (12), and (13) of the JJDP Act. To address this issue, the following actions may be appropriate:

- Develop local and statewide policies regarding juveniles in secure confinement that are consistent with sections 223(a)(12) and (13) and that address violations of section 223(a)(11) of the JJDP Act.
- Increase coordination and cooperation within the juvenile justice system by involving schools, law enforcement officials, prosecutors, judges, jail and corrections officials, public and private service providers, and local public interest groups in reform efforts. A lack of coordination and cooperation often contributes to the placement of juveniles in jails and lockups in violation of sections 223(a)(11), (12), and (13) of the JJDP Act.
- Create a flexible network of services and programs that responds to local jurisdictions' needs and capabilities. This network should focus on jurisdictions with the most difficult barriers to meeting the core requirements of the JJDP Act.
- Create alternative services that can be sustained over time with local resources. These services include, but are not limited to, the following:
- The availability of appropriate secure juvenile facilities for the detention of juvenile offenders.
- Intensive supervision in a child's home as a placement alternative and the use of home detention, including electronic monitoring, when safe and appropriate.
- Emergency foster care, shelter care, group care, and independent living arrangements.
- Crisis intervention services, short-term residential crisis intervention programs, and nonsecure holdovers that can be used for conflict mediation, emergency holding, and the provision of emergency attention for youth with physical or emotional problems.

The JJDP Act of 2002 requires states to address juvenile delinquency prevention efforts and system-improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system. Recognizing the complexity of this issue, OJJDP requires that when a state determines that disproportionate minority contact (DMC) exists, the state must provide in its Formula Grants Comprehensive 3-Year Plan and Plan Updates a description of specific delinquency prevention and system-improvement efforts that are designed to reduce DMC within its juvenile justice system, including law enforcement, courts, and corrections. In lieu of a 3-Year Plan, the applicant should describe the extent of the DMC problem, if one exists, in the state and describe activities to be undertaken during the project period to reduce DMC.

Eligibility Requirements

Eligible applicants include public and private nonprofit agencies operating in Wyoming that propose alternatives to secure confinement settings that do not adhere to the core requirements of the JJDP Act.

Application Procedures

The Office of Justice Programs (OJP) requires that applications be submitted through its online Grants Management System (GMS). This online application system is designed to streamline the processing of requests for funding. A toll-free telephone number (888–549–9901) is available to provide applicants with technical assistance as they work through the online application process.

Beginning October 1, 2003, a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number must be included in every application for a new award or renewal of an award. An application will not be considered complete until a valid DUNS number is provided by the applicant. Individuals who would personally receive a grant or cooperative agreement from the federal government are exempt from this requirement.

Organizations should verify that they have a DUNS number or take the steps necessary to obtain one as soon as possible. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS number request line at 800–333–0505.

Applicants should use the following application guidelines when preparing their application for this cooperative agreement. Applications must be electronically submitted to OJP through GMS no later than 5 p.m., ET, on March 24, 2004. However, in order to allow adequate time to register with GMS, applicants must create a ''user profile'' before March 9, 2004. Applicants who have previously registered with GMS and have a GMS password should log on to GMS prior to March 9, 2004 to determine whether the password is still valid. If the password has expired, follow the on-screen instructions or call the GMS Hotline (888–549–9901). OJJDP will begin accepting applications immediately. Applications submitted via GMS must be in the following word processing formats: Microsoft Word (''.doc''), PDF files (''.pdf''), or Text Documents (''.txt'').

Selection Criteria

All applications will be peer reviewed. OJJDP will review peer review results, and the U.S. Department of Justice will make the final award determinations. Applicants will be evaluated and rated by a peer review panel according to the following criteria:

- Budget (10 points).
- Problem To Be Addressed (15 points).
- Goals and Objectives (15 points).
- Project Design, including Coordination of Federal Efforts (30 points).
- Management and Organizational Capability (30 points).

A completed application will include the following program attachments:

Attachment #1: Budget Detail Worksheet

Budget (10 points): The proposed 24-month budget must be complete, detailed, reasonable, allowable, and cost-effective in relation to the activities described in this solicitation.

Attachment #2: Program Narrative

The narrative portion of this application must not exceed 25 pages.

Problem To Be Addressed (15 points): The applicant must demonstrate a clear understanding of the core requirements of the JJDP Act of 2002 and the manner in which they are currently being addressed or not addressed in jurisdictions throughout the state.

Goals and Objectives (15 points): The applicant must clearly outline the specific goals and objectives to be achieved by the project. Simply restating the goals and objectives given in this solicitation is not adequate.

Project Design (including Coordination of Efforts) (30 points): The project design must describe how the applicant will have an effect on the following:

- State laws affecting the placement of juveniles in adult jails and lockups,

status offenders and nonoffenders in secure detention or correctional facilities, and the issues surrounding the removal of such juveniles from those facilities.

• State and local jurisdictions' compliance in relation to the measurable core requirements of the JJDP Act involving the development of alternative placements to adult jails and lockups.

• State legislative, judicial, and executive branch activities related to the supervision and protection of status offenders and nonoffenders and jail removal.

• The implementation of delinquency prevention and system-improvement efforts to reduce disproportionate minority contact (DMC) within the juvenile justice system, and the ability to evaluate the effectiveness of such efforts and to monitor DMC trends over time.

• The establishment and maintenance of a working relationship between the applicant, the Wyoming State Advisory Group, and the Wyoming Department of Family Services, Division of Juvenile Services, to coordinate and enhance the project's statewide efforts to meet the JJDP Act's core requirements.

Coordination of Federal Efforts. To encourage better coordination among federal agencies in addressing state and local needs, the U.S. Department of Justice (DOJ) is requiring applicants to provide information on the following: (1) Active federal grant award(s) supporting this or related efforts, including awards from DOJ; (2) any pending application(s) for federal funds for this or related efforts; and (3) plans for coordinating any funds described in item (1) or (2) with the funding sought by this application. For each federal award, applicants must include the program or project title, the federal grantor agency, the amount of the award, and a brief description of its purpose.

The term ''related efforts'' is defined for these purposes as one of the following:

• Efforts for the same purpose (*i.e.*, the proposed award would supplement, expand, complement, or continue activities funded with other Federal grants).

• Another phase or component of the same program or project (*e.g.*, to implement a planning effort funded by other Federal funds or to provide a substance abuse treatment or education component within a criminal justice project).

• Services of some kind (*e.g.*, technical assistance, research, or evaluation) to the program or project described in the application.

Attachment #3: Other Program Attachments

Management and Organizational Capability (30 points): Applicants must demonstrate that they are eligible to compete for an award on the basis of eligibility criteria established in this solicitation.

Organizational experience. Applicants must concisely describe their experience with respect to the eligibility criteria. Applicants must demonstrate how their experience and capabilities will enable them to achieve the goals and objectives of this initiative.

Capability of working with other organizations in the state. Applicants must demonstrate that they have discussed this program with local and state-elected public officials or their staffs; the Wyoming State Advisory Group; the Wyoming Department of Family Services, Division of Juvenile Services; key decisionmakers in the juvenile justice system such as juvenile court judges, associations of those involved in juvenile justice, the boards of public and private youth-service providers; and other groups whose cooperation or participation is essential to the success of the program. The applicant must describe how it will obtain the aforementioned cooperation or participation.

Financial Capability. OJP requires each private nonprofit applicant to demonstrate that its organization has or can establish fiscal controls and accounting procedures that ensure that federal funds available under this announcement are properly disbursed and accounted for.

Project and Award Period

This project will be funded as a cooperative agreement for a 2-year budget and project period.

Award Amount

A cooperative agreement in the amount of $1,229,200 is available for the 2-year budget and project period.

Performance Measurement

To ensure compliance with the Government Performance and Results Act, Public Law 103–62, this solicitation notifies applicants that they will be required to collect and report on data that measure the results of the program implemented by this grant. To ensure the accountability of these data, for which OJP is responsible, grantees are required to provide the following data:

• The grantee will reduce Wyoming's Deinstitutionalization of Status Offender violations by 10 percent from the number of violations, as reported in the 2002 Compliance Monitoring Report, by the end of the project period.

• The grantee will reduce Wyoming's Sight and Sound Separation violations by 10 percent from the number of violations, as reported in the 2002 Compliance Monitoring Report, by the end of the project period.

• The grantee will reduce Wyoming's Jail Removal violations by 10 percent from the number of violations, as reported in the 2002 Compliance Monitoring Report, by the end of the project period.

Additional objectives leading to these outcomes should include:

• Development and/or support of alternatives to secure confinement for delinquent and status offending youth in those localities that inappropriately hold the majority of juveniles in the counties of Campbell and Natrona.

• Proposing and ultimately adopting a Wyoming statute that changes minors in possession of alcohol from a criminal offense to a status offense, and legislation that disallows the secure custody of juveniles in jails and prohibits the sight and sound contact between juvenile and adults in secure facilities.

Your assistance in obtaining this information will facilitate future program planning and will allow OJP to provide Congress with measurable program results of federally funded programs.

Faith-based and Community Organizations

It is OJP policy that faith-based and community organizations that statutorily qualify as eligible applicants under OJP programs are invited and encouraged to apply for assistance awards. Faith-based and community organizations will be considered for an award on the same basis as any other eligible applicants and, if they receive assistance awards, will be treated on an equal basis with non faith-based and community organization grantees in the administration of such awards. No eligible applicant or grantee will be discriminated against on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization.

Limited English Proficiency

National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the

Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to assist them in complying with Title VI requirements. The guidance document can be accessed on the internet at *http://www.lep.gov,* or by contacting OJP's Office for Civil Rights at 202–307–0690, or by writing to the following address: Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW., Eighth Floor, Washington, DC 20531.

Lobbying

The Anti-Lobbying Act, 18 U.S.C. 1913, recently was amended to expand significantly the restriction on use of appropriated funding for lobbying. This expansion also makes the anti-lobbying restrictions enforceable via large civil penalties, with civil fines between $10,000 and $100,000 per each individual occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying and lobbying disclosure restrictions imposed by 31 U.S.C. 1352.

The Office of Management and Budget (OMB) is currently in the process of amending the OMB cost circulars and the common rule (codified at 28 CFR part 69 for DOJ grantees) to reflect these modifications. However, in the interest of full disclosure, all applicants must understand that no federally appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification or adoption of any law, regulation, or policy, at any level of government, without the express approval by OJP. Any violation of this prohibition is subject to a minimum $10,000 fine for each occurrence. This prohibition applies to all activity, even if currently allowed within the parameters of the existing OMB circulars.

Catalog of Federal Domestic Assistance (CFDA) Number

For this program, the CFDA number, which is required on Standard Form 424, is 16.541.

Due Date

Applicants are responsible for ensuring that the application is received by 5 p.m. ET on March 24, 2004.

Dated: February 17, 2004.

J. Robert Flores,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 04–3821 Filed 2–20–04; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–025)]

NASA Advisory Council, Task Force on International Space Station Operational Readiness; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration announces an open meeting of the NASA Advisory Council (NAC), Task Force on International Space Station Operational Readiness (IOR).

DATES: Tuesday, April 6, 2004, 2 p.m.–3 p.m. Eastern Standard Time.

ADDRESSES: NASA Headquarters, 300 E Street, SW., Room 7U22, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Todd F. McIntyre, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4621.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. Five seats will be reserved for members of the press. The agenda for the meeting is as follows:

—To assess the operational readiness of the International Space Station to support a new crew.

—To assess the American and Russian flight team's preparedness to accomplish the Expedition Nine mission.

—To assess the health and flight readiness of the Expedition Nine crew.

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Todd F. McIntyre via email at *Todd.McIntyre-1@nasa.gov* or by telephone at (202) 358–4621.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Michael F. O'Brien,

Assistant Administrator, Office of External Relations, National Aeronautics and Space Administration.

[FR Doc. 04–3762 Filed 2–20–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–028)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Face International Corporation, of 427 W. 35th Street, Norfolk, Virginia 23508, has applied for an exclusive license to practice the invention described in U.S. Patent No. 5,632,841, entitled ''Thin Layer Composite Unimorph Ferroelectric Driver and Sensor,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by March 9, 2004.

FOR FURTHER INFORMATION CONTACT: Robin W. Edwards, Patent Attorney, Mail Stop 212, NASA Langley Research Center, Hampton, VA 23681–2199. Telephone 757–864–3230; fax 757–864–9190.

Dated: February 17, 2004.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 04–3848 Filed 2–20–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–027)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Luna Innovations, Incorporated, of 2851 Commerce Street, Blacksburg, Virginia 24060, has applied for an exclusive license to practice the inventions described and claimed in U.S. Patent No. 5,150,620 entitled ''Method of Recertifying a Loaded Bearing Member''; U.S. Patent No. 5,214,955 entitled ''Constant Frequency Pulsed PhaseLocked Loop Measuring Device''; U.S. Patent No. 5,617,873 entitled ''Non-Invasive Method and Apparatus for Monitoring Intracranial Pressure and Pressure Volume Index in Humans''; U.S. Patent No. 5,841,032 entitled ''Variable And Fixed Frequency Pulsed PhaseLocked Loop''; U.S. Patent No. 6,413,227 entitled ''Method and Apparatus for Assessment of Changes in Intracranial Pressure''; U.S. Patent No. 6,475,147 entitled ''Ultrasonic Apparatus and Technique to Measure Changes in Intracranial Pressure''; and the inventions disclosed in NASA Case No. LAR 15854–1 entitled ''Method and Apparatus for Non-Invasive Measurement of Changes in Intracranial Pressure''; NASA Case No. LAR 15943–1 entitled ''Method and Apparatus for Determining Changes in Intracranial Pressure Utilizing Measurement of the Circumferential Expansion or Contraction of a Patient's Skull''; NASA Case No. LAR 16440–1 entitled ''Non-Invasive Method of Determining Diastolic Intracranial Pressure''; and NASA Case No. LAR 16510–1 entitled ''Non-Invasive Method of Determining Absolute Intracranial Pressure''; for which U.S. Patent Applications were filed, all of which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to NASA Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by March 9, 2004.

FOR FURTHER INFORMATION CONTACT: Helen M. Galus, Patent Attorney, Mail Stop 212, NASA Langley Research Center, Hampton, VA 23681–2199. Telephone 757–864–3227; fax 757–864–9190.

Dated: February 17, 2004.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 04–3847 Filed 2–20–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (04–026)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that STC Catalysts, Inc., of 10 Basil Sawyer Drive, Hampton, VA 23666–1340, has applied for an exclusive license to practice the invention described in NASA Case Number LAR–15851–1–CU entitled ''Process For Coating Substrates With Catalyst Materials'' for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Langley Research Center. NASA has not yet made a determination to grant the requested license and may deny the requested license even if no objections are submitted within the comment period.

DATES: Responses to this notice must be received by March 9, 2004.

FOR FURTHER INFORMATION CONTACT: Helen M. Galus, Patent Attorney, Langley Research Center, Mail Stop 212, Hampton, VA 23681–2199. Telephone 757–864–3227; fax 757–864–9190.

Dated: February 17, 2004.

Robert M. Stephens,

Deputy General Counsel.

[FR Doc. 04–3846 Filed 2–20–04; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974, as Amended; System of Records Notices

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice to add a new Privacy Act system of records and modify an existing system of records.

SUMMARY: The National Archives and Records Administration (NARA) proposes to add a system of records notice to its existing inventory of systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. In this notice, NARA publishes NARA 38—Project Management Records, for comment.

EFFECTIVE DATES: The establishment of the new system NARA 38 will become effective without further notice on March 22, 2004, unless comments received on or before that date cause a contrary decision. If changes are made based on NARA's review of comments received, a new final notice will be published.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- Mail: Send comments to: Privacy Act Officer, Office of General Counsel (NGC), Room 3110, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.
- Fax: Submit comments by facsimile transmission to: 301–837–0293.
- E-mail: Send comments to *http://www.regulations.gov.* You may also comment via e-mail to *comments@nara.gov. See* **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Ramona Branch Oliver, Privacy Act Officer, 301–837–2024 (voice) or 301–837–0293 (fax).

SUPPLEMENTARY INFORMATION: NARA last published a comprehensive set of Privacy Act system notices in the **Federal Register** on April 2, 2002 (67 FR 15592). NARA published two additional systems: NARA 35 and NARA 36, in the **Federal Register** on October 17, 2002 (67 FR 64142). NARA also published one additional system NARA 37 and a revised version of the existing system NARA 25, in the **Federal Register** on October 21, 2003 (68 FR 60121).

NARA is proposing to add NARA 38—Project Management Records, to its existing inventory of systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. NARA 38 covers persons who work on NARA projects.

The notice for the new system of records states the following:

- Name and the location of the record system;
- Authority for and manner of its operation;

• Categories of individuals that it covers;
• Types of records that it contains;
• Sources of information in these records;
• Proposed ''routine uses'' of each system of records; and
• Business address of the NARA official who will inform interested persons of the procedures they must follow to gain access to and correct records pertaining to themselves.

One of the purposes of the Privacy Act, as stated in section 2(b)(4) of the Act, is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies to disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information. NARA intends to follow these principles in transferring information to another agency or individual as a ''routine use'', including assurance that the information is relevant for the purposes for which it is transferred.

Dated: February 13, 2004.

John W. Carlin,

Archivist of the United States.

Accordingly, we are publishing the proposed new system of records notice NARA 37 as follows:

NARA 38

SYSTEM NAME:

Project Management Records.

SYSTEM LOCATION:

This system is located at the National Archives and Records Administration (NARA) in College Park, MD.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include NARA employees and NARA contractors who work on NARA projects.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual files may contain some or all of the following information about NARA employees and NARA contractors: name, job title, work organization, supervisor, project assignments, work experience, and work availability.

Project files consist of a list of NARA approved projects and related information about these projects. These files will contain some or all of the following information: work tasks, planned and actual start and finish dates, resource requirements, dependencies and deliverables.

Work files consist of information reported by an individual that shows, by task: resource expenditures in hours and dollars, remaining effort to complete the task, date of completion, risk assessments, issues and documentation that shows work progress.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 31 U.S.C. 1115, and 40 U.S.C. 1423.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

NARA maintains this information to effectively manage NARA's project portfolio. This includes defining projects and, within them, activities, tasks, milestones, and deliverables and assigning individuals to projects, measuring performance of on-going projects against established baselines, assessing the availability of resources to begin new projects and determining the capital costs of completed projects. Records will be disclosed for these uses both to authorized NARA staff and to contractors assisting NARA in these activities. These records may also be used to evaluate the performance of individuals, both NARA staff and contractors, against goals established by project managers and/or contract managers.

Records from this system of records may be disclosed as a routine use to an agency or official of the U.S. Government exercising oversight over an activity covered by the system, or over the methods or manner in which NARA manages these activities, the resources committed to them, and their results. Such disclosures are limited to the extent necessary for them to exercise their oversight authority. Oversight agencies include, but are not limited to, the NARA Inspector General, GAO or other entities evaluating, auditing, or reviewing NARA's project management, capital investments, and earned value management. They may include officials of other agencies who are partners of NARA in one or more of the projects covered by the system.

The routine use statements A, C, D, E, F, and G described in Appendix A published at 67 FR 15592, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic and paper.

RETRIEVABILITY:

Information in employee related files will be retrieved by the name of the individual.

SAFEGUARDS:

Electronic records are accessible to authorized personnel via password from terminals owned by NARA and maintained in NARA attended offices. After business hours, buildings have security guards and/or secured doors, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

The disposition of the project management records is under consideration. Accordingly, the records generated cannot be destroyed until a records schedule is approved by the Archivist. Once the disposition is determined, retention and disposal of the records will be governed in accordance with the applicable disposition instructions in the NARA records schedule contained in FILES 203, the NARA Files Maintenance and Records Disposition Manual. Individuals may request a copy of the disposition instructions from the NARA Privacy Act Officer.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for project management records is the Assistant Archivist for Human Resources and Information Technology. The address for this location is published at 67 FR 15592.

NOTIFICATION PROCEDURE:

Individuals interested in inquiring about their records should notify the NARA Privacy Act Officer at the address listed in Appendix B published at 67 FR 15592.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should submit their request in writing to the NARA Privacy Act Officer at the address listed in Appendix B published at 67 FR 15592.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR part 1202.

RECORD SOURCE CATEGORIES:

Information about individuals in the records is obtained primarily from NARA employees and NARA contractors who work on NARA projects. Addition information may be obtained from NARA supervisors, other personnel, NARA operational records and information provided by contractors

who provide staff to work on NARA projects.

[FR Doc. 04–3763 Filed 2–20–04; 8:45 am]

BILLING CODE 7515–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

[*Extension:* Rules 8b–1 to 8b–32, SEC File No. 270–135, OMB Control No. 3235–0176.]

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, 450 Fifth Street, NW., Washington, DC 20549.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

• Rules under section 8(b) of the Investment Company Act of 1940.

Rules 8b–1 to 8b–32 under the Investment Company Act of 1940 [15 U.S.C. 80a] (the ''Act'') are the procedural rules an investment company must follow when preparing and filing a registration statement. These rules were adopted to standardize the mechanics of registration under the Act and to provide more specific guidance for persons registering under the Act than the information contained in the statute. For the most part, these procedural rules do not require the disclosure of information. Two of the rules, however, require limited disclosure of information.[1] The information required by the rules is necessary to ensure that investors have clear and complete information upon which to base an investment decision. The Commission uses the information that investment companies provide on registration statements in its regulatory, disclosure review, inspection and policy-making roles. The respondents to the collection of information are investment companies filing registration statements under the Act.

The Commission does not estimate separately the total annual reporting and recordkeeping burden associated with rules 8b–1 to 8b–32 because the burden associated with these rules are included in the burden estimates the Commission submits for the investment company registration statement forms (*e.g.*, Form N–1A, Form N–2, Form N–3, and Form N–4). For example, a mutual fund that prepares a registration statement on Form N–1A must comply with the rules under section 8(b), including rules on riders, amendments, the form of the registration statement, and the number of copies to be submitted. Because the fund only incurs a burden from the section 8(b) rules when preparing a registration statement, it would be impractical to measure the compliance burden of these rules separately. The Commission believes that including the burden of the section 8(b) rules with the burden estimates for the investment company registration statement forms provides a more accurate and complete estimate of the total burdens associated with the registration process.

Investment companies seeking to register under the Act are required to provide the information specified in rules 8b–1 to 8b–32 if applicable. Responses will not be kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 13, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3772 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

[*Extension:* Rule 206(3)–2, SEC File No. 270–216, OMB Control No. 3235–0243.]

Upon written request, copies available from: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Rule 206(3)–2, which is entitled ''Agency Cross Transactions for Advisory Clients,'' permits investment advisers to comply with section 206(3) of the Investment Advisers Act of 1940 (''Advisers Act'') by obtaining a client's blanket consent to enter into agency cross transactions (*i.e.*, a transaction in which an adviser acts as a broker to both the advisory client and the opposite party to the transaction). Rule 206(3)–2 applies to all registered investment advisers. In relying on the rule, investment advisers must provide certain disclosures to their clients; advisory clients can use the disclosures to monitor agency cross transactions. The Commission also uses the information required by rule 206(3)–2 in connection with its investment adviser inspection program to ensure that advisers are in compliance with the rule. Without the information collected under the rule, advisory clients would not have information available for monitoring their adviser's handling of their accounts and the Commission would be less efficient and effective in its inspection program.

The information requirements of the rule consist of the following: (1) Prior to obtaining the client's consent, appropriate disclosure must be made to the client as to the practice of, and the conflicts of interest involved in, agency cross transactions; (2) at or before the completion of any such transaction, the client must be furnished with a written confirmation containing specified information and offering to furnish upon request certain additional information; and (3) at least annually, the client must be furnished with a written statement or summary as to the total number of transactions during the period covered by the consent and the total amount of commissions received by the adviser or its affiliated broker-dealer attributable to such transactions.

The Commission estimates that approximately 780 respondents use the rule annually, necessitating about 32 responses per respondent each year, for a total of 24,960 responses. Each response requires about .5 hours, for a total of 12,480 hours. The estimated average burden hours are made solely

[1] Rule 8b–3 [17 CFR 270.8b–3] provides that whenever a registration form requires the title of securities to be stated, the registrant must indicate the type and general character of the securities to be issued. Rule 8b–22 [17 CFR 270.8b–22] provides that if the existence of control is open to reasonable doubt, the registrant may disclaim the existence of control, but it must state the material facts pertinent to the possible existence of control.

for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms.

This collection of information is found at 17 CFR 275.206(3)–2 and is necessary in order for the investment adviser to obtain the benefits of rule 206(3)–2. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The collection of information requirements under the rule is mandatory. Information subject to the disclosure requirements of rule 206(3)–2 does not require submission to the Commission; and, accordingly, the disclosure pursuant to the rule is not kept confidential.

Commission-registered investment advisers are required to maintain and preserve certain information required under rule 206(3)–2 for five (5) years. The long-term retention of these records is necessary for the Commission's inspection program to ascertain compliance with the Advisers Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (2) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within thirty (30) days of this notice.

Dated: February 13, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3773 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–26353; 812–13018]

Hennion & Walsh, Inc., et al.; Notice of Application

February 17, 2004.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under: (i) Section 6(c) of the Investment Company Act of 1940 (''Act'') for exemptions from sections 2(a)(32), 2(a)(35), 14(a), 19(b), 22(d), and 26(a)(2)(C) of the Act and from rules 19b–1 and 22c–1 under the Act; (ii) sections 11(a) and 11(c) of the Act for approval of certain exchange and rollover privileges and conversion offers; and (iii) sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain unit investment trusts (''UITs'') to: (i) Impose sales charges on a deferred basis and waive the deferred sales charge in certain cases; (ii) offer unitholders certain exchange and rollover privileges and conversion offers; (iii) publicly offer units without requiring the sponsor to take for its own account or place with others $100,000 worth of units; (iv) distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt; and (v) sell portfolio securities of a terminating series of a UIT to a new series of that UIT.

APPLICANTS: Hennion & Walsh, Inc. (''Sponsor'' or ''Hennion & Walsh''), Smart Trust, EST Symphony Trust, The Pinnacle Family of Trusts, Equity Securities Trust, Schwab Trusts, any future registered UIT sponsored or co-sponsored by Hennion & Walsh or an entity controlled by or under common control with Hennion & Walsh (the future UITs, together with the above-specified UITs are ''Trusts'') and any presently outstanding or subsequently issued series of each Trust (each, a ''Series'').

FILING DATES: The application was filed on September 12, 2003 and amended on February 9, 2004.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 12, 2004 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC, 20549–0609; Applicants: Peter J. DeMarco, c/o Hennion & Walsh, Inc., 2001 Route 46, Waterview Plaza, Parsippany, New Jersey 07054.

FOR FURTHER INFORMATION CONTACT: Emerson S. Davis, Sr., Senior Counsel, at (202) 942–0714 or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC, 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Hennion & Walsh, a broker-dealer registered under the Securities Exchange Act of 1934, is the sponsor of the Trusts. Each Trust is or will be a UIT registered under the Act.[1] Each Series is or will be created by a trust indenture among the Sponsor, a banking institution or trust company as trustee (''Trustee''), and, for those Series that the Trustee does not also serve as evaluator, the evaluator.

2. The Sponsor acquires a portfolio of securities, which it deposits with the Trustee in exchange for certificates representing units of fractional undivided interest in the deposited portfolio (''Units''). The Units are then offered to the public through the Sponsor, underwriters and dealers at a public offering price which, during the initial offering period, is based upon the aggregate market value (the aggregate offering side evaluation for fixed income securities) of the underlying securities plus a front-end sales charge. The sales charge currently ranges from 1.25% to 5.5% of the public offering price, generally depending upon the terms of the underlying securities.

3. The Sponsor maintains a secondary market for Units and continually offers to purchase Units at prices based upon the market value (the bid side evaluation for fixed income securities) of the underlying securities. Investors may purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If the Sponsor discontinues maintaining such a market at any time for any Series,

[1] All presently existing Trusts that currently intend to rely on the requested order have been named as applicants. Any other existing Trust or any Trust organized in the future that relies on the requested order will comply with the terms and conditions of the application.

holders of the Units (''Unitholders'') of that Series may redeem their Units through the Trustee.

A. Deferred Sales Charge and Waiver of Deferred Sales Charge Under Certain Circumstances

1. Applicants request an order to the extent necessary to permit them to impose a sales charge on a deferred basis (''deferred sales charge'' or ''DSC''). For each Series, its prospectus will set a maximum sales charge per Unit as a dollar amount and/or as a percentage of the initial offering price, a portion of which may be collected ''up front'' (*i.e.*, at the time an investor purchases the Units). The DSC would be collected subsequently in installments (''Installment Payments'') from Unitholders'' distributions on the Units.

2. In order to ensure that sufficient cash is available to make Installment Payments, a Series may hold securities, the proceeds from the maturity or sale of which may be used to make payments. Installment Payments will be collected from Unitholders by withholding the payment amount from Unitholders' distributions on Units, from proceeds of Unit redemptions or sales by the Unitholder, or by reducing the number of Units held by the Unitholder. The Installment Payment will be passed by the Trustee to the Sponsor at the time it is collected. The Trustee may advance an Installment Payment if, for example, it is due immediately before a dividend or interest payment is due on portfolio securities. The Trustee will be reimbursed when the Installment Payment is collected from the Unitholder.

3. When a Unitholder redeems or sells Units, the Sponsor intends to deduct any unpaid DSC from the redemption or sale proceeds. When calculating the amount due, the Sponsor will assume that Units held for the longest time are redeemed or sold first. Applicants represent that the DSC collected at the time of redemption or sale, together with the Installment Payments and any amount collected up front, will not exceed the maximum sales charge per Unit. Under certain circumstances, the Sponsor may waive the collection of any unpaid DSC in connection with redemptions or sales of Units. These circumstances will be disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d–1 under the Act.

4. Each Series offering Units subject to a DSC will state the maximum charge per Unit in its prospectus. In addition, the prospectus for such Series will include the table required by item 3 of Form N–1A (modified as appropriate to reflect the difference between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment, along with the duration of the collection period. The prospectus for that Series also will disclose that portfolio securities may be sold to pay an Installment Payment if distribution income is insufficient, and that securities will be sold pro rata or a specific security will be designated for sale.

B. Exchange Privilege, Rollover Privilege, and Conversion Offer

1. Applicants propose to offer an exchange privilege to Unitholders of the Trusts at a reduced sales charge (''Exchange Privilege''). Unitholders would be able to exchange any or all of their Units in a Series of a Trust for Units in one or more available Series of the Trusts (''Exchange Series''). Applicants also propose a conversion offer (''Conversion Offer'') pursuant to which Unitholders may elect to redeem Units of any Series in which there is no active secondary market (''Redemption Series'') and apply the proceeds to the purchase of available Units of one or more Series of the Trusts (''Conversion Series''). In addition, applicants propose to offer a rollover privilege to Unitholders of the Trusts at a reduced sales charge (''Rollover Privilege''). Unitholders would be able to ''roll over'' their Units in a Series which is terminating (''Terminating Series'') for Units in one or more new Series of the Trusts (''Rollover Series'').

2. To exercise the Exchange Privilege or Rollover Privilege, a Unitholder must notify the Sponsor. In order to exercise the Conversion Offer, a Unitholder must notify his or her retail broker. The Conversion Offer will be handled entirely through the Unitholder's retail broker and the retail broker must tender the Units to the Trustee of the Redemption Series for redemption and then apply the proceeds toward the purchase of Units of a Conversion Series. Exercise of the Exchange Privilege or Rollover Privilege is subject to the following conditions: (i) The Sponsor must be maintaining a secondary market in Units of the available Exchange Series or Rollover Series; (ii) at the time of the Unitholder's election to participate, there must be Units of the Exchange Series or Rollover Series to be acquired available for sale, either under the initial primary distribution or in the Sponsor's secondary market; (iii) exchanges will be in whole Units only; and (iv) for certain Series, Units may be obtained in blocks of certain sizes only.

3. Unitholders who wish to exchange Units under the Exchange Privilege, the Rollover Privilege or the Conversion Offer within the first five months of purchase will not be eligible for the reduced sales charge. Such Unitholders will be charged a sales load equal to the greater of: (i) The reduced sales load, or (ii) an amount which, when added to the sales charge paid by the Unitholder upon his or her original purchase of Units of the applicable Series, would equal the sales charge applicable to the direct purchase of the newly acquired Units, determined as of the date of purchase.

C. Purchase and Sale Transactions Between a Terminating Series and a New Series

1. Certain Terminating Series will have a date (''Rollover Date'') by which Unitholders of that Series may, at their option, redeem their Units and receive in return Units of a subsequent Series of the same type (''New Series''). The New Series will be created on or about the Rollover Date and will have a portfolio that contains securities, many, if not all, of which are actively traded (*i.e.*, have had an average daily trading volume in the preceding six months of at least 500 shares equal in value to at least U.S. $25,000) on an exchange (a ''Qualified Exchange'') that is either (i) a national securities exchange that meets the qualifications of section 6 of the Securities Exchange Act of 1934, (ii) a foreign securities exchange meeting the qualifications set forth in the proposed amendments to rule 12d3–1(d)(6) under the Act [2] and releasing daily closing prices or (iii) the Nasdaq-National Market System (securities meeting the preceding tests are referred to as ''Qualified Securities'').

2. Applicants anticipate that there will be some overlap in the Qualified Securities selected for the portfolios of a Terminating Series and the related New Series. Absent the requested relief, a Terminating Series would, upon termination, sell its Qualified Securities

[2] Investment Company Act Rel. No. 17096 (Aug. 3, 1989) (proposing amendments to Rule 12d3–1). The proposed amended rule defined a ''Qualified Foreign Exchange'' as a stock exchange in a country other than the United States where: (i) Trading generally occurred at least four days per week, (ii) there were limited restrictions on the ability of acquiring companies to trade their holdings on the exchange, (iii) the exchange had a trading volume in stocks for the previous year of at least U.S. $7.5 billion, and (iv) the exchange had a turnover ratio for the preceding year of at least 20% of its market capitalization. The version of the amended rule that was adopted did not include the part of the proposed amendment defining the term ''Qualified Foreign Exchange.''

on the applicable Qualified Exchange. Likewise, a New Series would acquire its Qualified Securities on the applicable Qualified Exchange. This procedure would result in Unitholders of both the Terminating Series and the New Series incurring brokerage commissions on the same Qualified Securities. Applicants accordingly request an order to the extent necessary to permit a Terminating Series to sell its Qualified Securities to a New Series and to permit the New Series to purchases those securities.

Applicants' Legal Analysis

A. DSC and Waiver of DSC Under Certain Circumstances

1. Section 4(2) of the Act defines a ''unit investment trust'' as an investment company that issues only redeemable securities. Section 2(a)(32) of the Act defines a ''redeemable security'' as a security that, upon its presentation to the issuer, enables the holder to receive approximately his or her proportionate share of the issuer's current net assets or the cash equivalent of those assets. Rule 22c–1 under the Act requires that the price of a redeemable security issued by a registered investment company for purposes of sale, redemption or repurchase be based on the security's current net asset value (''NAV''). Because the collection of any unpaid DSC may cause a redeeming Unitholder to receive an amount less than the NAV of the redeemed Units, applicants request relief from section 2(a)(32) and rule 22c–1.

2. Section 22(d) of the Act and rule 22d–1 under the Act require a registered investment company and its principal underwriter and dealers to sell securities only at the current public offering price described in the investment company's prospectus, with the exception of sales of redeemable securities at prices that reflect scheduled variations in the sales load. Section 2(a)(35) of the Act defines the term ''sales load'' as the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Applicants request relief from sections 2(a)(35) and 22(d) to permit waivers, deferrals or other scheduled variations of the sales load.

3. Under section 6(c) of the Act, the Commission may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their proposal meets the standards of section 6(c). Applicants state that the provisions of section 22(d) are intended to prevent (i) riskless trading in investment company securities due to backward pricing, (ii) disruption of orderly distribution by dealers selling shares at a discount, and (iii) discrimination among investors resulting from different prices charged to different investors. Applicants assert that the proposed DSC program will present none of these abuses. Applicants further state that all scheduled variations in the sales load will be disclosed in the prospectus of each Series and applied uniformly to all investors, and that applicants will comply with all the conditions set forth in rule 22d–1.

4. Section 26(a)(2)(C) of the Act, in relevant part, prohibits a trustee or custodian of a UIT from collecting from the trust as an expense any payment to the trust's depositor or principal underwriter. Because the Trustee's payment of the DSC to the Sponsor may be deemed to be an expense under section 26(a)(2)(C), applicants request relief under section 6(c) from section 26(a)(2)(C) to the extent necessary to permit the Trustee to collect Installment Payments and disburse them to the Sponsor. Applicants submit that the relief is appropriate because the DSC is more properly characterized as a sales load.

B. Exchange Privilege, Conversion Offer and Rollover Privilege

1. Sections 11(a) and (c) of the Act prohibit any offer of exchange by a UIT for the securities of another investment company unless the terms of the offer have been approved in advance by the Commission. Applicants request an order under sections 11(a) and 11(c) for Commission approval of the Exchange Privilege, the Conversion Offer and the Rollover Privilege.

2. Applicants state that the Exchange Privilege and Rollover Privilege provide investors with a convenient means of transferring their interests at a reduced sales charge into Exchange Series and Rollover Series which suit their current investment objectives. Further, applicants state that the Conversion Offer provides Unitholders of a Series in which there is no active secondary market to redeem those Units and invest the proceeds at a reduced sales charge into Units of the Conversion Series in which there is an active secondary market. Applicants state that absent the Exchange Privilege, Rollover Privilege and Conversion Offer, Unitholders would be required to dispose of their Units, either in the secondary market (in the case of the Exchange Privilege and Rollover Privilege) or through redemption, and to reinvest, at the then fully applicable sales charge, into the chosen Series.

3. Applicants represent that Unitholders will not be induced or encouraged to participate in the Exchange Privilege, Rollover Privilege, or Conversion Offer through an active advertising or sale campaign. The Sponsor recognizes its responsibility to its investors against generating excessive commissions through churning and asserts that the sales charge collected will not be a significant economic incentive to salesmen to promote inappropriately the Exchange Privilege, Rollover Privilege or the Conversion Offer. Applicants state that the reduced sales charge will fairly and adequately compensate the Sponsor and the participating underwriters and brokers for their services and expenses in connection with the administration of the programs. Applicants further believe that the Exchange Privilege, Rollover Privilege, and Conversion Offer are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

C. Purchase and Sale Transactions Between a Terminating Series and a New Series

1. Section 17(a) of the Act prohibits an affiliated person of a registered investment company from selling securities to, or purchasing securities from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person directly or indirectly controlling, controlled by, or under common control with the other person. Hennion & Walsh is or will be the sponsor of each Series. Since the sponsor of a Series may be deemed to control the Series, all of the Series may be deemed to be affiliated persons of each other.

2. Rule 17a–7 under the Act was designed to permit registered investment companies which might be deemed affiliated persons by reason of common investment advisers, directors and/or officers, to purchase securities from or sell securities to one another at an independently determined price, provided that certain conditions are met. Paragraph (e) of the rule requires an investment company's board of directors (''Board'') to adopt and monitor procedures to assure compliance with the rule. Paragraph (f) of the rule requires that: (i) Directors who are not interested persons under section 2(a)(19) of the Act constitute a majority of the Board; (ii) such directors

select and nominate any other directors who are not interested persons under the Act; and (iii) any legal counsel for such directors be an ''independent legal counsel,'' as defined in rule 0–1(a)(6) under the Act. Because UITs do not have Boards, the Series would be unable to comply with these requirements. Applicants represent that they will comply with all of the provisions of rule 17a–7, other than paragraphs (e) and (f).

3. Section 17(b) of the Act provides that the Commission will exempt a proposed transaction from section 17(a) if evidence establishes that: (i) The terms of the transaction are reasonable and fair and do not involve overreaching; (ii) the transaction is consistent with the policies of each registered investment company involved; and (iii) the transaction is consistent with the general purposes of the Act. Applicants request relief under sections 6(c) and 17(b) to permit a Terminating Series to sell Qualified Securities to a New Series and permit the New Series to purchase the Qualified Securities.

4. Applicants believe that the proposed transactions satisfy the requirements of sections 6(c) and 17(b). Applicants represent that purchases and sales between the Terminating and New Series will be consistent with the policies of each Series. Applicants further state that permitting the proposed transactions would result in savings on brokerage fees for the Terminating and New Series.

5. Applicants state that the condition that the Qualified Securities must be actively traded on a Qualified Exchange protects against overreaching. In addition, applicants state that the Sponsor will certify to the Trustee, within five days of each sale of Qualified Securities from a Terminating Series to a New Series: (i) That the transaction is consistent with the policy of both the Terminating Series and the New Series, as recited in their respective registration statements and reports filed under the Act; (ii) the date of the transaction; and (iii) the closing sales price on the Qualified Exchange for the sale date of the Qualified Securities. The Trustee will then countersign the certificate, unless, in the unlikely event that the Trustee disagrees with the closing sales price listed on the certificate, the Trustee immediately informs the Sponsor orally of such disagreement and returns the certificate within five days to the Sponsor with corrections duly noted. Upon the Sponsor's receipt of a corrected certificate, if the Sponsor can verify the corrected price by reference to an independently published list of closing sales prices for the date of the transactions, the Sponsor will ensure that the price of the Units of the New Series, and the distributions to Unitholders of the Terminating Series, accurately reflect the corrected price. To the extent that the Sponsor disagrees with the Trustee's corrected price, the Sponsor and the Trustee will jointly determine the correct sales price by reference to a mutually agreeable, independently published list of closing sales prices for the date of the transaction.

C. Net Worth Requirements

1. Section 14(a) of the Act requires that registered investment companies have $100,000 of net worth prior to making a public offering. Applicants believe that each Series will comply with this requirement because the Sponsor will deposit substantially more than $100,000 of debt and/or equity securities, depending on the objective of the particular Series. Applicants assert, however, that the Commission has interpreted section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Series would not satisfy section 14(a) because of the Sponsor's intention to sell all of the Units of the Series.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, including that the UIT invest only in ''eligible trust securities,'' as defined in the rule. Applicants submit that they may not rely on rule 14a–3 because certain Series (collectively, ''Equity Series'') may invest in equity securities which do not satisfy the definition of eligible trust securities.

3. Consequently, applicants seek an exemption under section 6(c) of the Act to exempt the Equity Series from the net worth requirement of section 14(a) of the Act. Applicants state that the Series and the Sponsor will comply in all respects with the requirements of rule 14a–3, except that the Equity Series will not restrict their portfolio investments to ''eligible trust securities.''

D. Capital Gains Distribution

Section 19(b) of the Act and rule 19b–1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b–1(c), under certain circumstances, except a UIT investing in ''eligible trust securities'' (as defined in rule 14a–3) from the requirements of rule 19b–1. Because the Equity Series do not limit their investments to ''eligible trust securities,'' the Equity Series do not qualify for the exemption in paragraph (c) of rule 19b–1. Therefore, applicants request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the sale of portfolio securities to be distributed to Unitholders along with the Equity Series' regular distributions. Applicants state that their proposal meets the standards of section 6(c). Applicants assert that any sale of portfolio securities would be triggered by the need to meet Series' expenses, Installment Payments or by requests to redeem Units, events over which the Sponsor and the Equity Series have no control. Applicants further state that, because principal distributions must be clearly indicated in accompanying reports to Unitholders as a return of principal and will be relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. DSC and Waiver of DSC Under Certain Circumstances

1. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required in Form N–1A relating to deferred sales charges, modified as appropriate to reflect the differences between UITs and open-end investment companies, and a schedule setting forth the number and date of each installment payment.

2. Any DSC imposed on Units issued by a Series will comply with the requirements of subparagraphs (1), (2) and (3) of rule 6c–10(a) under the Act.

B. Exchange Privilege, Conversion Offer and Rollover Privilege

1. The prospectus of each Series offering exchanges, rollovers, or conversions and any sales literature or advertising that mentions the existence of the Exchange Privilege, Conversion Offer or Rollover Privilege will disclose that the Exchange Privilege, Conversion Offer or Rollover Privilege is subject to modification, termination or suspension without notice, except in limited cases.

2. Whenever the Exchange Privilege, Conversion Offer or Rollover Privilege is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the

impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to make one or more New Series eligible for the Exchange Privilege, Conversion Offer or Rollover Privilege, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Series under section 22(e) of the Act and the rules and regulations promulgated under that section, or (ii) a Series temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with applicable investment objectives, policies, and restrictions.

3. An investor who purchases Units under the Exchange Privilege, Conversion Offer or Rollover Privilege will pay a lower sales charge than that which would be paid for the Units by a new investor.

D. Net Worth Requirements

Applicants will comply in all respects with the requirements of rule 14a–3, except that the Series will not restrict their portfolio investments to ''eligible trust securities.''

E. Purchase and Sale Transactions Between a Terminating Series and a New Series

1. Each sale of Qualified Securities by a Terminating Series to a New Series will be effected at the closing price of the securities sold on a Qualified Exchange on the sale date, without any brokerage charges or other remuneration except customary transfer fees, if any.

2. The nature and conditions of such transactions will be fully disclosed to investors in the appropriate prospectus of each Terminating Series and New Series.

3. The Trustee of each Terminating Series and New Series will review the procedures discussed in the application relating to the sale of securities from a Terminating Series and the purchase of those securities for deposit in a New Series, and make such changes to the procedures as the Trustee deems necessary to ensure compliance with paragraphs (a) through (d) of rule 17a–7.

4. A written copy of these procedures and a written record of each transaction pursuant to this order will be maintained as provided in rule 17a–7(g).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3830 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49239; File No. SR–Amex–2004–02])

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendment No. 1 Thereto by the American Stock Exchange LLC Relating to the Listing and Trading of Notes Linked to the Performance of the Select Utility Index

February 12, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 8, 2004, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On February 12, 2004, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade notes, the return on which is based upon a modified market capitalization-weighted portfolio of 20 dividend paying common stocks selected from the Standard & Poor's (''S&P'') Utilities Sector, as reconstituted from time to time in the manner set forth below (the ''Select Utility Index'' or ''Index'').

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Jeffrey P. Burns, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated February 11, 2004 (''Amendment No. 1''). In Amendment No. 1, the Amex clarified its earlier comparison of the Select Utility Index proposed herein with an existing index, the Select Sector Utilities Index. The Amex also included a representation that the Exchange would consult with the Commission in the event that the number of Index components falls to ten (10) or fewer stocks.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under Section 107A of the Amex Company Guide (''Company Guide''), the Exchange may approve for listing and trading securities which cannot be readily categorized under the listing criteria for common and preferred stocks, bonds, debentures, or warrants.[4] The Amex proposes to list for trading under Section 107A of the Company Guide notes, the performance of which is linked to the Select Utility Index (the ''Select Utility Index Notes'' or ''Notes''). The Select Utility Index will be calculated and maintained solely by the Amex.[5]

The Notes will initially conform to the listing guidelines under Section 107A[6] and continued listing guidelines

[4] *See* Securities Exchange Act Release No. 27753 (March 1, 1990), 55 FR 8626 (March 8, 1990) (order approving File No. SR–Amex–89–29).

[5] Subject to the criteria in the prospectus regarding the construction of the Index, the Exchange has sole discretion regarding changes to the Index due to reconstitutions and adjustments to the Index and the multipliers of the individual components. Amex represents that it maintains and enforces appropriate policies and trading restrictions that address the use of non-public information by its employees, such as non-public knowledge derived in the component selection and maintenance of the Select Utilities Index. Telephone Conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission, on February 10, 2004.

[6] The initial listing standards for the Notes require: (1) A minimum public distribution of one million units; (2) a minimum of 400 shareholders; (3) a market value of at least $4 million; and (4) a term of at least one year. In addition, the listing guidelines provide that the issuer have assets in excess of $100 million, stockholder's equity of at least $10 million, and pre-tax income of at least $750,000 in the last fiscal year or in two of the three prior fiscal years. In the case of an issuer which is unable to satisfy the earning criteria stated in Section 101 of the Company Guide, the Exchange will require the issuer to have the following: (1) Assets in excess of $200 million and stockholders' equity of at least $10 million; or (2) assets in excess

Continued

under Sections 1001–1003 [7] of the Company Guide. The Notes are senior non-convertible debt securities of Merrill Lynch & Co., Inc. (''Merrill Lynch''). The Notes will have a term of not less than one nor more than ten years. The Notes will entitle the owner at maturity to receive an amount based upon the percentage change of the Index over the term of the Notes. The starting value (the ''Starting Value'') of the Select Utility Index initially will be set to 100 on the date the Notes are priced for initial sale to the public (the ''Origination Date''). The ending value (the ''Ending Value'') is the value of the Select Utility Index over a period of five business days shortly before the expiration of the Notes. The Ending Value will be used in calculating the amount owners will receive upon maturity (the ''Redemption Amount''). The Notes will not have a minimum principal amount that will be repaid and, accordingly, payments on the Notes prior to or at maturity may be less than the original issue price of the Notes. During an approximately two-week period in the designated month each year, investors will have the right to require the Issuer to repurchase the Notes at an amount based on the value of the Index at such repurchase date. The Notes are not callable by the issuer.

The Notes are cash-settled in U.S. dollars and do not give the holder any right to receive a portfolio security or any other ownership right or interest in the portfolio of securities comprising the Index. The Notes are designed for investors who want to participate or gain exposure to specific securities within the S&P Utilities Sector and who are willing to forego market interest payments on the Notes during such term. The Commission has previously approved the listing of the Utilities Select Sector SPDR Fund based on the Utilities Select Sector Index.[8] Although the Select Sector Utilities Index and the proposed Select Utility Index are similar by providing exposure to the utility industry sector of the economy, the methodology of each index differs so that the number of index components as well as the component stocks are not the same.[9] The Exchange also lists and trades options on the Utilities Select Sector SPDR Fund.

The securities contained in the Select Utility Index (the ''Select Utility Stocks'') initially were determined on December 17, 2003 (the ''Initial Determination Date'').[10] The Index will thereafter be reconstituted quarterly in January, April, July and October (each a ''Reset Period'') on the second business day prior to the start of the Reset Period (each a ''Determination Date''). A weighting will be assigned to each Select Utility Stock based upon the market capitalization of such stock relative to the other newly determined Select Utility Stocks, subject to a maximum weighting for any single stock of no more than 10% of the aggregate market capitalization of the newly determined Select Utility Stocks (the ''Select Utility Portfolio''). The market capitalization will be the product of the total number of shares outstanding for the Select Utility Stocks, as published by S&P, and the closing market price for such stock on the Determination Date. The aggregate amount, if any, by which all Select Utility Stocks are reduced due to this 10% limitation will be redistributed proportionately across the remaining stocks that represent less than 10% of the aggregate market capitalization. If any other stock comes to exceed this 10% limit as a result of such redistribution, the weights for such stock will be set to 10% of the aggregate market capitalization, and the redistribution will be repeated. The ''Share Multiplier'' for each Select Utility Stock will be determined over five business days included in any Reset Period or the Origination Period.[11] Each Share Multiplier will be determined by using the weighting of each Select Utility Stock fixed on a Determination Date and the applicable closing prices of such Select Utility Stock observed on each day during any Reset Period or Origination Period. After any Reset Period or Origination Period, each Share Multiplier will remain constant unless adjusted for quarterly dividends, quarterly reconstitutions or certain corporate events.

The stocks included in the Select Utility Portfolio will be stocks determined by the Amex to be Qualifying Stocks having the twenty (20) highest Combined Dividend Scores [12] on the relevant Determination Date. ''Qualifying Stocks'' are all stocks in the S&P Utilities Sector, a subset of the S&P Composite 1500 Index composed of stocks classified by S&P's as GICS® Utilities Sector companies, except for (i) stocks which have not paid dividends in the prior calendar year, (ii) stocks which have an Expected Dividend Growth Estimate of zero or less and (iii) stocks which have an average daily value traded over the prior 30 calendar days less than $5,000,000. In the event that less than twenty (20) of the S&P Utilities Sector stocks are Qualifying Stocks, the Select Utility Index will operate with less than twenty Select Utility Stocks until such time that twenty or more Qualifying Stocks are identified on a Determination Date. In addition, the Amex represents that if the number of Index components falls to ten (10) or fewer stocks, Amex will consult with the Commission.[13] The ''Expected Dividend Growth Estimate'' for each S&P Utilities Sector stock will equal the quotient of the expected dividend for the subsequent fiscal year, published by Institutional Brokers' Earnings System, over the Current Dividend minus one.

Initial Value of the Select Utility Index

The Select Utility Index will not fully reflect changes in the value of the Select

of $100 million and stockholders' equity of at least $20 million.

[7] The Exchange's continued listing guidelines are set forth in Sections 1001 through 1003 of Part 10 to the Exchange's Company Guide. Section 1002(b) of the Company Guide states that the Exchange will consider removing from listing any security where, in the opinion of the Exchange, it appears that the extent of public distribution or aggregate market value has become so reduced to make further dealings on the Exchange inadvisable. With respect to continued listing guidelines for distribution of the Notes, the Exchange will rely, in part, on the guidelines for bonds in Section 1003(b)(iv). Section 1003(b)(iv)(A) provides that the Exchange will normally consider suspending dealings in, or removing from the list, a security if the aggregate market value or the principal amount of bonds publicly held is less than $400,000.

[8] *See* Securities Exchange Act Release No. 40749 (December 4, 1998), 63 FR 68483 (December 11, 1998) and Investment Company Act Release No. 23492 (October 20, 1998), 63 FR 57332 (October 27, 1998).

[9] The proposed Select Utility Index is comprised of twenty (20) dividend paying securities of the S&P Utilities Sector while the Select Sector Utilities Index is comprised of thirty-seven (37) utility Securities that may or may not be included within the S&P Utilities Sector.

[10] As of the Initial Determination Date, the Select Utility Index consisted of the following stocks: Atmos Energy Corporation (ATO); Black Hills Corporation (BKH); Consolidated Edison Inc. (ED); Constellation Energy Group (CEG); Energy East Corporation (EAS); FirstEnergy Corp. (FE); FPL Group, Inc. (FP); National Fuel Gas Company (NFG); Nicor Inc. (GAS); NiSource Inc. (NI); Northeast Utilities System (NU); NSTAR (NST); Oneok, Inc. (OKE); Pinnacle West Capital Corporation (PNW); PPL Corporation (PPL); Progress Energy, Inc. (PGN); Questar Corporation (STR); SCANA Corporation (SCG); The Southern Company (SO); and TXU Corporation (TXU).

[11] The Origination Period is a five (5) day period commencing on the Origination Date and lasting for the next four (4) business days when the Index is calculated or published.

[12] The ''Combined Dividend Score'' for each Qualifying Stock will equal the sum of the Dividend Yield and the Expected Dividend Growth Estimate for such common stock, represented as a percentage. The ''Dividend Yield'' for each S&P Utilities Sector stock will be determined by annualizing the last quarterly or semi-annual ordinary cash dividend for which the ex-dividend date has occurred, excluding any dividend which is deemed by the Index Calculation Agent in its sole discretion to constitute an extraordinary dividend (the ''Current Dividend''), and dividing the result by the last available sale price for such stock on its primary exchange on the Determination Date.

[13] *See* Amendment No. 1, *supra* n. 3.

Utility Portfolio until the end of the Origination Period. During the Origination Period, the Select Utility Index will be calculated as though it tracked the value of (a) a decreasing pool of cash and (b) an increasing investment in the Select Utility Stocks. The Select Utility Portfolio Value will be allocated to the Select Utility Portfolio over a period of five (5) business days, with 20% of the value being so allocated at the close of business on each such day.

For example, at the close of business on the Origination Date, the first Origination Period Day, the Select Utility Index will be calculated as though it tracked the value of, for instance, an initial $100 investment, $80 of which remained in cash and $20 of which was deemed to have been invested in the Select Utility Stocks at the close of the market on such day and in proportion to the respective weight for each Select Utility Stock. At the close of business on the next, or second, Origination Period Day, the Select Utility Index will be calculated as though it tracked the value of the same initial $100 investment, $60 of which remained in cash, $20 of which was deemed to have been invested in the Select Utility Stocks at the close of the market on such day and $20 of which had been previously purchased at the previous day's closing price. At the close of business on the third business day, the Select Utility Index will be calculated as though it tracked the value of the same initial $100 investment, $40 of which remained in cash, $20 of which was deemed to have been invested in the Select Utility Stocks at the close of the market on such day and $40 of which had been previously purchased at the prior closing prices. At the close of business on the fourth business day, the Select Utility Index will be calculated as though it tracked the value of the same initial $100 investment, $20 of which remained in cash, $20 of which was deemed to have been invested in the Select Utility Stocks at the close of the market on such day and $60 of which had been purchased at the prior closing prices. At the close of business on the fifth business day, the Select Utility Index will be calculated as though it tracked the value of the same initial $100 investment, $0 of which remained in cash, $20 of which was deemed to have been invested in the Select Utility Stocks at the close of the market on such day and $80 of which had been purchased at the prior closing prices. In this way, only on the sixth business day and thereafter will the Select Utility Index fully reflect full exposure to the changes in the values of the Select Utility Portfolio.

On any Origination Period Day, the value of the Select Utility Index will equal (i) The sum of the products of the current market price for each of the Select Utility Stocks and the applicable interim Share Multiplier, plus (ii) the value of the hypothetical pool of cash, plus (iii) an amount equal to Current Quarter Dividends,[14] and less (iv) a pro rata portion of the annual Index Adjustment Factor.[15] Each interim Share Multiplier will equal the number of shares of the related Select Utility Stock included in the Select Utility Portfolio. The Share Multiplier for any Select Utility Stock will be determined as follows, continuing the example provided in the paragraph above. Of the daily $20 investment in the Select Utility Stocks to be made at the close of business on the first Origination Period Day, a percentage of such daily investment equal to the percentage weighting of the specific Select Utility Stock will be used to purchase the number of shares of that Select Utility Stock that can be purchased at the closing market price of that Select Utility Stock on such Origination Period Day. The number of shares purchased is the Share Multiplier for the first Origination Period Day. This process will be repeated on each day during the Origination Period and the sum of such deemed stock purchases on any Origination Period Day and previously determined interim Share Multiplier will equal the interim Share Multiplier for that Select Utility Stock. In this way, the interim Share Multiplier will increase at the close of business on each Origination Period Day, and at the end of the Origination Period, the Share Multiplier will thereafter be fixed until adjusted for quarterly dividends, quarterly reconstitutions or certain corporate events.

Quarterly Index Reconstitution

The Select Utility Index will be reconstituted quarterly after a fixed date in January, April, July and October of each year during the term of the Notes (each a ''Reset Date''). The Exchange will select the twenty (20) Qualifying Stocks having the highest Combined Dividend Scores (the ''New Stocks'') on the sixth scheduled business day prior to the applicable Reset Date (the ''Quarterly Determination Date'') using the methodology described above.

The Select Utility Index will not fully reflect changes in the Select Utility Portfolio until the end of the Reset Period. Each Reset Period begins on the fourth business day prior to the Reset Date and ends on the Reset Date. During the Reset Period, the Select Utility Stocks comprising the Select Utility Portfolio for the quarter ending on such Reset Date (the ''Old Stocks'') will be sold at the close of business each day in an amount equal to approximately 20% of the position represented by the applicable Share Multipliers as of the commencement of the Reset Period. The proceeds from such deemed daily stock sales, the value of which will equal the product of one-fifth of the Share Multiplier for each of the Old Stocks and the closing price of such Old Stock on such day, will be invested in the New Stocks through a deemed daily purchase of such New Stocks, based upon the percentage weighting of each New Stock determined on the Quarterly Determination Date and the closing prices of each New Stock observed on the applicable Reset Period Day (as the initial Select Utility Stocks were deemed to have been purchased as described above). Therefore, during the Reset Period, the Select Utility Index will be calculated as though it tracked the value of (a) a decreasing investment in the Old Stocks and (b) an increasing investment in the New Stocks.

On any business day, except during the Origination Period, the value of the Index will equal (i) the sum of the products of the current market price for each of the Select Utility Stocks and the applicable Share Multiplier, plus (ii) an amount equal to Current Quarter Dividends less (iii) a pro rata portion of the annual Index Adjustment Factor.

Merrill Lynch proposes to initially constitute and reconstitute the Select Utility Index in this manner in order reduce the market impact. In addition, this process will also provide a better process for the Issuer to hedge its market risk in connection with the Notes. Although we believe that there will be limited change in the component stocks of the Index, there may be significant changes in the weightings of the Index components. Accordingly, the process of constitutions and reconstitutions described above, should help to alleviate both market impact and Issuer risk.

[14] ''Current Quarter Dividends'' for any day will be determined by the Exchange and will equal the sum of the products for each Select Utility Stock of the cash dividend paid by an issuer on one share of stock during the quarterly period containing the day for which the applicable Current Quarter Dividends are being determined multiplied by the Share Multiplier applicable to that stock on the ex-dividend date.

[15] The Index Adjustment Factor is 1.5% per annum and will reduce the value of the Select Utility Index each day by the pro rata amount. The Exchange will use an index divisor to reduce the Select Utility Index daily by the pro rata portion of the Index Adjustment Factor.

The Exchange will calculate the Select Utility Index and, similar to other stock index values published by the Exchange, the value of the Select Utility Index will be calculated continuously and disseminated every fifteen (15) seconds on the Consolidated Tape Association's Network B.

Because the Select Utility Index Notes are linked to a portfolio of equity securities, the Amex's existing equity floor trading rules will apply to the trading of the Notes. First, pursuant to Amex Rule 411, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[16] Second, the Notes will be subject to the equity margin rules of the Exchange.[17] Third, the Exchange will, prior to trading the Notes, distribute a circular to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes and highlighting the special risks and characteristics of the Notes. With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of such transaction. In addition, Merrill Lynch will deliver a prospectus in connection with the initial sales of the Notes.

The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Notes. Specifically, the Amex will rely on its existing surveillance procedures governing equities, which have been deemed adequate under the Act. In addition, the Exchange also has a general policy, which prohibits the distribution of material, non-public information by its employees.

2. Statutory Basis

The Exchange believes that the proposed rule change, as amended is consistent with section 6 of the Act[18] in general and furthers the objectives of section 6(b)(5)[19] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not receive any written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–Amex–2004–02. The file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the File No. SR–Amex–2004–02 and should be submitted by March 15, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3780 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

[16] Amex Rule 411 requires that every member, member firm or member corporation use due diligence to learn the essential facts, relative to every customer and to every order or account accepted.

[17] *See* Amex Rule 462 and Section 107B of the Company Guide.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49240; File No. SR–Amex–2003–21]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment Nos. 1, 2, 3, and 4 Thereto by the American Stock Exchange LLC Relating to At-the-Close Orders and Auxiliary Opening Procedures

February 12, 2004.

On March 27, 2003, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to (1) to adopt Amex Rule 131A to set forth Exchange rules and procedures regarding at-the-close orders; (2) to amend Amex Rules 131 and 156 relating to at-the-close orders; (3) to implement additional procedures, relating to daily at-the-close procedures and expiration day auxiliary opening procedures; and (4) to adopt Amex Rule 118(m) to reflect procedures applicable to at-the-close orders in Nasdaq securities traded on the Exchange pursuant to unlisted trading privileges. On September 10, 2003, the Amex amended the proposed rule change.[3] On October 20, 2003, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated September 9, 2003 (''Amendment No. 1'').

Amex amended the proposed rule change.[4] On November 14, 2003, the Amex amended the proposed rule change.[5]

The proposed rule change and Amendment Nos. 1, 2, and 3 were published for comment in the **Federal Register** on November 28, 2003.[6] The Commission received no comments on the proposal. On January 9, 2004, the Amex filed Amendment No. 4 to the proposed rule change.[7] This order approves the proposed rule change.

In the filing, the Amex states that the proposed rule change consolidates current Exchange procedures regarding MOC and LOC orders in Rule 131A. In addition, paragraph (m) of Rule 118 establishes MOC and LOC procedures for Nasdaq securities that are substantially similar to the procedures proposed in Rule 131A. Amex is implementing an MOC Imbalance Calculation Policy and amending its MOC Imbalance Publication Policy so that it more closely resembles the New York Stock Exchange's (''NYSE'') policy as set out in NYSE Rule 123C(5). The Amex states that the most salient feature of the revised policies is the additional dissemination of an imbalance at 3:50 p.m.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[8] The Commission believes that the proposed rule change is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5),[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and in general, to protect investors and the public interest. Specifically, the Commission believes that the Amex's proposal to amend its rules governing at-the-close orders and auxiliary opening procedures on the Exchange may provide useful information to market participants and may minimize price volatility on the close. In addition, the Commission believes that the proposed rule change may result in the public dissemination of information that more accurately reflects the trading in a particular security on the Exchange at the close.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act[11], that the proposed rule change (SR–Amex–2003–21) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3781 Filed 2–20–04; 8:45 am]

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[4] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated October 17, 2003 (''Amendment No. 2'').

[5] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated November 13, 2003 (''Amendment No. 3'').

[6] *See* Securities Exchange Act Release No. 48813 (November 20, 2003), 68 FR 66898.

[7] *See* letter from Claire P. McGrath, Senior Vice President and Deputy General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated January 8, 2004 (''Amendment No. 4''). In Amendment No. 4, the Amex revised the text of the proposed rule change to correct a number of typographical errors. This was a technical amendment and is not subject to notice and comment.

[8] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49241; File No. SR–CBOE–2003–56]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Board Options Exchange, Inc. Relating to the Exemption of Standardized Options From the Securities Act of 1933 and Provisions of the Securities Exchange Act of 1934

February 12, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2003, the Chicago Board Options Exchange, Inc. (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The proposed rule change has been filed by CBOE under Rule 19b–4(f)(6) under the Act.[3] On January 2, 2004, CBOE filed Amendment No. 1 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to amend its rules to reflect the Commission's recent adoption of Rule 238 under the Securities Act of 1933 (the ''Securities Act'')[5] and Rule 12a–9 under the Act,[6] which together exempt standardized options issued by a registered clearing agency and traded on a registered national securities exchange or on a registered national securities association from most of the provisions of the Securities Act and from the registration requirements of Section 12 of the Act.[7] The text of the proposed rule change is available at the Exchange and at the Commission.

I. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] *See* letter from David Doherty, Attorney, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, December 30, 2003 (''Amendment No. 1''). In Amendment No. 1, CBOE deleted proposed revisions to CBOE Rule 9.21(a)(iv) and its description.

[5] 17 CFR 230.238.

[6] 17 CFR 240.12a–9.

[7] 15 U.S.C. 78*l*. *See also* Exemption for Standardized Options From Provisions of the Securities Act of 1933 and From the Registration Requirements of the Securities Exchange Act of 1934, Securities Act Release No. 8171 and Securities Exchange Act Release No. 47082 (December 23, 2002), 68 FR 188 (January 2, 2003) (''Commission Release'').

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 2, 2003, final rules of the Commission became effective which exempt standardized options issued by a registered clearing agency and traded on a registered national securities exchange or a registered national securities association from all provisions of the Securities Act, other than the anti-fraud provisions of section 17 of the Securities Act,[8] and from the registration requirements of section 12(a) of the Act.[9] CBOE is proposing to revise its rules that contain references to a prospectus in connection with options trading, because, as a registered national securities exchange, CBOE represents that all of its listed options fall within the scope of the exemptions provided by these rules.

Specifically, CBOE proposes to delete the phrase ''and Prospectus'' from the title of current CBOE Rule 9.15 (''Delivery of Current Options Disclosure Documents and Prospectus'') and from the reference to the title of current CBOE Rule 9.15 in Interpretation and Policy .04 to CBOE Rule 9.7.[10] CBOE is also proposing to delete current CBOE Rule 9.15(b), which essentially restates the prospectus delivery requirements of the Securities Act. Likewise, the proposed rule change deletes references to the prospectus from CBOE Rules 21.19A and 26.10.

CBOE is currently in the process of reviewing its rules to determine if more substantive changes to the CBOE rules should be made in light of the Commission Release.[11]

2. Statutory Basis

The Exchange asserts that because the proposed rule change reflects final rules of the Commission, which exempt standardized options that are issued by registered clearing agencies and traded on a registered national securities exchange or a registered national securities association from all provisions of the Securities Act (except for section 17 of the Securities Act)[12] and the registration provisions of the Act, it is therefore consistent with section 6(b) of the Act,[13] in general, and furthers the objectives of section 6(b)(5) of the Act,[14] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

CBOE neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms, does not become operative until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change,[15] it has become effective pursuant to section 19(b)(3)(A) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17]

At any time within sixty days of the filing of Amendment No. 1 to the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[18]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–CBOE–2003–56. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should be submitted by March 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3776 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 77q.

[9] 15 U.S.C. 78*l*(a).

[10] CBOE is also correcting the reference to the title of current CBOE Rule 9.15 in Interpretation and Policy .04 to CBOE Rule 9.7 by adding the term ''Options Disclosure Document.'' Telephone conversation between David Doherty, Attorney, Legal Division, CBOE, and Frank N. Genco, Division, Commission, on December 22, 2003.

[11] *See supra* note 7.

[12] 15 U.S.C. 77q.

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] On October 17, 2003, CBOE provided the Commission with written notice of its intent to file the proposed rule change. *See* letter from David Doherty, Attorney, Legal Division, CBOE, to Nancy Sanow, Assistant Director, Division, Commission, October 17, 2003.

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f)(6).

[18] For purposes of calculating the sixty-day abrogation period, the Commission considers the abrogation period to have begun on January 2, 2004, the date on which the Commission received Amendment No. 1.

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49242; File No. SR–FICC–2003–06]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to the Assessment of Funds-Only Settlement Obligations

February 12, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 11, 2003, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by FICC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would eliminate the complex manual adjustments currently made by FICC's Operations Department with regard to the forward margin debit obligations and credit entitlements of repo broker members of the Government Securities Division (''GSD'') of FICC.[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FICC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FICC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

When GSD initially implemented its blind-brokered repurchase agreement (''repo'') service, it operated a system whereby the majority of members submitted trade data in a single batch file at the end of each day. The batch file submission process made it virtually impossible for repo brokers, who expect to net out of their position as middlemen in brokered repos, to timely determine the existence of trades on which they had positions, contact the appropriate counterparties, and correct trade details. As a result, any erroneous submissions on the part of a dealer counterparty resulted in a forward margin assessment to the repo broker. Realizing that a repo broker should always be flat from a net-settlement position perspective, FICC granted repo brokers relief from the forward margining process by providing a look through to the dealer counterparties for purposes of assessing forward margin obligations.[4] However, the look through involves a manual adjustment process that requires complex calculations inconsistent with FICC's overall management policy.[5]

FICC has determined that it will no longer provide a look through to relieve repo brokers from forward margin obligations. Subsequent to the events of September 11, 2001, FICC decided to eliminate all operations functions that require complex manual adjustment or input as a way to reduce risk in all operations processes. In addition, almost all repo broker activity is now submitted to FICC on an interactive, real-time basis that allows brokers to readily rectify any outstanding data submission errors during the day. For these reasons, FICC is proposing to modify the forward margin adjustment process to require the repo brokers to satisfy their forward margin obligations including both paying forward margin debits and receiving forward margin credits.

Going forward, FICC proposes to apply the following parameters with respect to the forward margin obligations of repo brokers. Debits and credits up to a predetermined dollar amount cap would be automatically collected or paid as applicable by the repo brokers, as is the case for all other netting members.[6] Debits and credits in excess of the cap would be subject to hybrid processing, meaning that while the dollar amount up to the cap would always be collected or paid in its entirety by the broker, amounts over the cap (''excess debits'' or ''excess credits'') would be financed by GSD at the discretion of FICC.

As an example of hybrid processing for an excess debit, the Operations Department would first request that the affected repo broker pay the excess debit to FICC. In the event that the repo broker is unable to pay the excess debit, the Operations Department, in consultation with the Credit Risk Department, would determine whether it would be appropriate for FICC to finance the excess debit. If FICC finances the excess debit, the broker would be charged a financing fee, representing the interest amount that FICC would be charged by the clearing bank. The member also will be subject to an administrative fee,[7] and FICC's extension of financing would be secured by the clearing fund deposit of the repo broker. GSD would collect the calculated interest amount from the repo broker on the subsequent business day. GSD would also reserve the right in certain situations to assess the forward margin amounts in excess of the dollar amount cap excess by looking through to the dealer, as is done by the current manual process.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] Forward margin is a component of a netting member's daily funds-only settlement obligation. Forward margin is a mark-to-market payment on forward-settling positions. It is passed through in the form of cash from the debit side to the credit side. The amounts are reversed on the following day with interest collected from the credit side and paid through to the debit side.

[3] The Commission has modified parts of these statements.

[4] FICC, in a prior rule filing, amended its rules to allow management to look through brokered repo transactions in order that repo brokers were not left with debit or credit obligations caused by erroneous submissions on behalf of the dealers. Securities Exchange Act Release No. 38603 (May 9, 1997), 62 FR 27088 (May 16, 1997) [File No. SR–GSCC–96–12]. In accordance with FICC's risk strategy at the time, the risk management process worked most effectively if a repo broker was netted out of its positions as a middleman. However, with the advent of real time trade matching and the ready ability of brokers to rectify dealer submission errors, GSD believes that risk management initiatives are better served by using the parameters outlined in this filing.

[5] On each business day, the Operations Division routinely adjusts the overall funds-only settlement obligation of a repo broker that has a forward margin debit or credit. If the repo broker has an overall credit forward margin, GSD will reduce its aggregate funds-only credit obligation or increase its aggregate funds-only debit entitlement by an amount equal to the forward margin credit. Conversely, if the repo broker is in an overall debit forward margin position, GSD will reduce its aggregate funds-only debit obligation or increase its funds-only credit entitlement by an amount equal to the debit; however, it then will apply that amount to the uncompared dealer (the dealer who failed to submit or submitted erroneously).

[6] The FICC Membership and Risk Management Committee will determine, based on historical data and risk considerations, what the debit and credit cap will be for forward margin debits and credits. The Committee has approved an initial cap of $2 million.

[7] This fee will be designed to cover FICC's cost of arranging financing.

[8] FICC will continue to look through to the dealer conterparty for purposes of assessing forward margin obligations in cases of a systemic outage

Continued

In applying the hybrid processing to excess credits, the Operations Department, in consultation with the Credit Risk Department, would determine whether it would be appropriate to pass through the excess credit to the repo broker. To the extent that GSD did not pass through to the broker all or a portion of its calculated excess credit, GSD would calculate an interest amount tied to the rate of interest earned by GSD on its overnight cash investment on such unpaid excess credit and pay this interest amount to the repo broker on the subsequent business day.

The proposed rule change would require some manual adjustments when the hybrid approach is used, but these instances will infrequently occur and would not rise to the complexity of the current process.

FICC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it will enhance FICC's risk management strategy with regard to the daily funds-only settlement process.

(B) Self-Regulatory Organization's Statement on Burden on Competition

FICC does not believe that the proposed rule change would have an impact on or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited nor received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve the proposed rule change or

(b) institute proceedings to determine whether the proposed rule change should be disapproved.

where any non-submission by one counterparty versus a repo broker exceeds $1 billion.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–FICC–2003–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of FICC and on FICC's Web site at *www.ficc.com.* All submissions should refer to the File No. SR–FICC–2003–06 and should be submitted by March 15, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland

Deputy Secretary

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BILLING CODE 8010–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49251; File No. SR–ISE–2003–37]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the International Securities Exchange, Inc. To Amend the Procedures for Executing Stock-Option Orders Under ISE Rule 722

February 13, 2004.

I. Introduction

On December 18, 2003, the International Securities Exchange, Inc. (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to revise the procedures for executing stock-option orders by: (1) Automating the transmission of the stock leg(s) of a stock-option combination order to a broker-dealer on behalf of members; and (2) allowing for the pricing of the options leg(s) of stock-option combination orders in penny increments. The proposed rule change was published for comment in the **Federal Register** on January 13, 2004.[3] The Commission received no comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposal

Under the ISE's current procedure for executing stock-option orders, each party to a stock-option trade must take steps to immediately transmit the stock leg(s) of a stock-option order to a non-ISE market for execution. The ISE has proposed to amend Supplementary Material .01 to ISE Rule 722 and to adopt Supplementary Material .02 to ISE Rule 722 to provide an automated process for executing stock-option orders. Under the automated process, an ISE member will be able to elect to have the ISE electronically communicate the stock leg(s) of a stock-option order to a designated broker-dealer for execution. To participate in the automated process, an ISE member must enter into a customer agreement with the designated broker-dealer. The ISE member will be responsible for fees and other charges the designated broker-dealer imposes for executing the trades, and the ISE has stated that it will not receive any fees

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 49023 (January 5, 2004), 69 FR 2030.

related to the stock portion of the stock-option trade.

After the stock leg(s) of the orders are communicated to the designated broker-dealer for execution, the designated broker-dealer will be responsible for determining whether the orders may be executed in accordance with all of the rules applicable to the execution of equity orders, including compliance with the applicable short sale, trade-through, and trade reporting rules. As with the current procedure, the stock-option order will not be executed on the ISE if the broker-dealer cannot execute the equity orders at the designated price. ISE members will be able to continue using the current manual procedure for executing stock-option orders if they choose to do so.

Because the options leg of a stock-option order must be executed in $.05 increments (for options trading below $3) and $10 increments (for options trading at or above $3),[4] while the stock leg(s) of a stock-option order trade in $.01 increments, the ISE notes that it is not always possible to achieve the desired net price for stock-option orders. Accordingly, the ISE has proposed to amend ISE Rule 722(b)(1) to permit the execution of the option leg(s) of stock-option orders in one-cent increments. The options leg(s) of a stock option order will continue to be reported through the Options Price Reporting Authority (''OPRA'') with a code indicating that the trade was part of a complex order. The trade will be reported at its actual price.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that permitting the execution of the options leg(s) of a stock-option order in one-cent increments and allowing ISE members to elect to have the ISE electronically communicate the stock leg(s) of a stock-option order to a designated broker-dealer for execution should facilitate the execution of stock-option orders. The Commission notes that an ISE member that elects to have the ISE electronically communicate the stock leg(s) of a stock-option order to a designated broker-dealer must enter into a customer agreement with the designated broker-dealer. In addition, the Commission notes that the ISE's current procedure for executing stock-option orders will continue to be available to ISE members that choose not to use the automated procedure.

IV. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–ISE–2003–37) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3774 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

[4] *See* ISE Rule 710.

[5] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49247; File No. SR–NASD–2004–029]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Dual Listing

February 13, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 12, 2004, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposed rule change pursuant to section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule, which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(i).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

4400. NASDAQ National Market—Issuer Designation Requirements

Pursuant to SEC Rule 11Aa2–1, those securities for which transaction reporting is required by an effective transaction reporting plan are designated as national market system securities. A transaction reporting plan has been filed with the Commission under which securities satisfying the requirements of this Rule 4400 Series are covered by the transaction reporting plan and transactions in such securities are subject to the transaction reporting provisions of the Rule 4630 Series.

IM–4400 Impact of Non-Designation of Dually Listed Securities

To foster competition among markets and further the development of the national market system following the repeal of NYSE Rule 500, Nasdaq shall permit issuers whose securities are listed on the New York Stock Exchange to apply also to list those securities on the Nasdaq National Market (''NNM''). Nasdaq shall make an independent determination of whether such issuers satisfy all applicable listing requirements and shall require issuers to enter into a dual listing agreement with Nasdaq.

While Nasdaq shall certify such dually listed securities for listing on the NNM, Nasdaq shall not exercise its authority under the NASD Rule 4400 Series separately to designate or register such dually listed securities as Nasdaq national market system securities within the meaning of Section 11A of the Securities Exchange Act of 1934 or the rules thereunder. As a result, these securities, which are already designated as national market system securities under the Consolidated Quotation Service (''CQS'') and Consolidated Tape Association national market system

[4] 17 CFR 240.19b–4(f)(1)

plans (''CQ and CTA Plans''), shall remain subject to those plans and shall not become subject to the Nasdaq UTP Plan, the national market system plan governing securities designated by the Nasdaq Stock Market. For purposes of the national market system, such securities shall continue to trade under their current one, two, or three-character ticker symbol. Nasdaq shall continue to send all quotations and transaction reports in such securities to the processor for the CTA Plan. In addition, dually listed issues that are currently eligible for trading via the Intermarket Trading System (''ITS'') shall remain so and continue to trade on the Nasdaq Intermarket trading platform as they do today.

Through this interpretation, Nasdaq also resolves any potential conflicts that arise under NASD rules as a result of a single security being both a CQS security, which is subject to one set of rules, and a listed NNM security, which is subject to a different set of rules. Specifically, dually listed securities shall be Nasdaq securities for purposes of rules related to listing and delisting, and shall remain as CQS securities under all other NASD rules. Treating dually listed securities as CQS securities under NASD rules is consistent with their continuing status as CQS securities under the CTA, CQ, and ITS national market system, as described above. This interpretation also preserves the status quo and avoids creating potential confusion for investors and market participants that currently trade these securities on the Nasdaq InterMarket.

For example, Nasdaq shall continue to honor the trade halt authority of the primary market under the CQ and CT Plans. NASD Rule 4120(a)(2) and (3) governing CQS securities shall apply to dually listed securities, whereas NASD Rule 4120(a)(1), (4), (5), (6), and (7) shall not. SEC Rule 10a–1 governing short sales of CQS securities shall continue to apply to dually listed securities, rather than NASD Rule 3350 governing short sales of Nasdaq listed securities. Market makers in dually listed securities shall retain all obligations imposed by the NASD Rule 5200, 6300, and 6400 Series regarding quoting, trading, and transaction reporting of CQS securities rather than assuming the obligations appurtenant to quoting, trading, and transaction reporting of Nasdaq listed securities. The fees applicable to CQS securities set forth in NASD Rule 7010 shall continue to apply to dually listed issues.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The recent repeal of NYSE Rule 500 removed a significant barrier to competition that inhibited NYSE-listed companies from listing on other markets.[5] In light of that repeal, Nasdaq has determined to permit the dual listing of NYSE-listed securities on Nasdaq. Consistent with section 11A(a)(1)(C)(ii) of the Exchange Act, Nasdaq believes this action will promote fair competition between exchange markets and markets other than exchange markets, and by furthering the development of the national market system. Dual listing will allow companies to demonstrate to their shareholders and to investors that they meet Nasdaq's governance requirements. In addition, dual listing on Nasdaq with its competitive market maker system should benefit investors and shareholders by increasing liquidity, reducing execution time, and narrowing spreads. The comparison between executions on Nasdaq and on the NYSE should also enable listed companies to assess the benefits of a Nasdaq listing.

The proposed interpretation of NASD Rule 4400 is designed to facilitate the transition to dual listing on NYSE and Nasdaq, and to minimize the potential for confusion among investors, shareholders, and market participants that trade these securities. Specifically, Nasdaq will exercise its discretion to refrain from designating or registering such securities as Nasdaq national market system securities and thereby subjecting them to coverage under the Nasdaq UTP Plan. As a result, these securities, which are already designated as national market system securities under the Consolidated Quotation Service and Consolidated Tape Association national market system plans (''CQ and CTA Plans'') will remain subject to those plans and will not become subject to the Nasdaq UTP Plan, the national market system plan governing securities designated by the Nasdaq Stock Market.[6] At this time, Nasdaq believes that subjecting a single security to two national market system plans would potentially cause confusion to public investors and market participants that are unaccustomed to dual listings among the nation's major equity markets.

Based upon this interpretation, Nasdaq will regard dually listed securities as CQS securities rather than as Nasdaq listed securities for quoting, trading, and transaction reporting purposes. As a result, dually listed securities shall continue to be traded under their current one, two, or three-character ticker symbol, rather than trading under a four-character symbol as do exclusively listed NNM securities. In addition, Nasdaq will continue to send all quotation and transaction reports for consolidation and dissemination to the Securities Industry Automation Corporation, the securities information processor for the CQ and CT Plans, rather than sending them to Nasdaq, the processor for the Nasdaq UTP Plan. Dually listed issues will continue to trade over the Intermarket Trading System (''ITS'') and on the Nasdaq Intermarket trading platform as CQS securities as they do today.[7]

Nasdaq is also resolving potential conflicts that may arise under NASD rules as a result of a single security being both a CQS security, which is subject to one set of rules, and a listed NNM security, which is subject to a different set of rules. Specifically, while dually listed securities will be Nasdaq securities for purposes of rules related to listing and delisting, they will remain as CQS securities under all other NASD rules. Regarding dually listed securities as CQS securities under NASD rules is consistent with their continuing status as CQS securities under the CT, CQ, and

[5] *See* Securities Exchange Act Release No. 48720 (October 30, 2003), 68 FR 62645 (November 5, 2003) (SR–NYSE–2003–23) (approval order).

[6] Nasdaq's interpretation resolves all potential ambiguity in its rules to avoid a conflict between national market system plans. For example, Nasdaq's interpretation is consistent with NASD Rule 4440(a)(5)(C), which pertains to designation or registration of a CQS national market system security as a Nasdaq national market system security.

[7] The current trading platform for CQS securities is the Computer Assisted Execution System or ''CAES''. Nasdaq has filed SR–NASD–2003–149 to propose to implement the Nasdaq's SuperMontage as the trading platform for the InterMarket. As the trading platform for the InterMarket, SuperMontage will continue to process quotation, trading, and transaction reporting for CQS securities in compliance with the CQ/CT and ITS Plans.

ITS national market system, as described above. This interpretation also preserves the status quo and avoids creating potential confusion for investors and market participants that currently trade these securities on the Nasdaq InterMarket.

Dually listed securities will be regarded as CQS securities in all cases where NASD rules governing quotation, trading, and transaction reporting refer to CQS securities or Nasdaq listed securities or both. For example, Nasdaq will not exercise its authority under NASD Rule 4120(a)(1), (4), (5), and (6) to halt trading in Nasdaq listed securities but will instead defer to the trade halt authority of the primary market under the CQ and CT Plans and apply NASD Rule 4120(a)(2) and (3) governing CQS securities. Rule 10a–1 under the Act [8] governing short sales of CQS securities shall continue to apply to dually listed securities, rather than NASD Rule 3350 governing short sales of Nasdaq listed securities. Market makers in dually listed securities will retain all obligations imposed by the NASD Rule 5200, 6300, and 6400 Series regarding quoting, trading, and transaction reporting of CQS securities rather than assuming the obligations appurtenant to quoting, trading, and transaction reporting of Nasdaq listed securities. The fees applicable to trading of CQS securities, set forth in NASD Rule 7010, will continue to apply to dually listed issues.

2. Statutory Basis

Nasdaq believes that the proposed interpretation is consistent with the provisions of section 15A(b)(6) of the Act [9] in that treating dually listed securities as CQS securities is specifically designed to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest. Nasdaq also believes the interpretation is also consistent with the provisions of section 15A(b)(6) of the Act [10] in that it is designed to produce fair and informative quotations and to promote orderly procedures for collecting, distributing, and publishing quotations.

Finally, Nasdaq believes the proposed interpretation also supports the goals of section 11A, particularly the protection of investors, the maintenance of fair and orderly markets and fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. To the contrary, Nasdaq believes the proposed interpretation is designed to facilitate competition for listing and multiple listings.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Nasdaq neither solicited nor received written comments with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposal has become effective pursuant to section 19(b)(3)(A)(i) of the Act,[11] and Rule 19b–4(f)(1) [12] thereunder, in that it constitutes a stated policy and interpretation with respect to the meaning of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: rule-comments@sec.gov. All comment letters should refer to File No. SR–NASD–2004–029. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2004–029 and should be submitted by March 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3775 Filed 2–20–04; 8:45 am]

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[8] 17 CFR 240.10a–1.

[9] 15 U.S.C. 78o–3(b)(6).

[10] 15 U.S.C. 78o–3(b)(11).

[11] 15 U.S.C. 78s(b)(3)(A)(i).

[12] 17 CFR 240.19b–4(f)(1).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49246; File No. SR–NASD–2003–183]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Proposed Amendments to Rule 1120 Regarding Regulatory Element Contact Person

February 13, 2004.

I. Introduction

On December 9, 2003, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 1120 to require that each member designate and identify to NASD the individual(s) who will receive Web Central Registration Depository (''CRD'') continuing education (''CE'') Regulatory Element e-mails. The proposed rule change further required that each member quarterly review and update the CE contact person(s) information. The proposed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

rule change was published for comment in the **Federal Register** on December 31, 2003.[3] The Commission received one comment letter on the proposed rule change.[4] The NASD submitted a letter in response to the Wellfleet Letter on February 12, 2004.[5] This order approves the proposed rule change, as originally proposed.

II. Description of the Proposed Rule Change

NASD Rule 1120 sets forth the CE requirements for registered persons. One of the two CE components is the Regulatory Element, a computer-based education program administered by the NASD to help ensure that registered persons are kept up-to-date on regulatory, compliance, and sales practice matters in the industry. Each registered person is required to complete the Regulatory Element initially within 120 days after the person's second registration anniversary date and, thereafter, within 120 days after every third registration anniversary date. A registered person who becomes inactive for failing to complete the required Regulatory Element program (''CE inactive'') is prohibited from performing, or being compensated for, any activities requiring registration, including supervision. Members are required under NASD Rule 1120 to restrict CE inactive persons from performing the prohibited activities.

To help firms keep track of their registered persons' Regulatory Element status, NASD provides members with e-mail notifications through Web CRD when a person is both 90 days and 30 days away from the end of his or her period to complete the Regulatory Element program before becoming inactive. CRD also notifies members when a registered person at the firm becomes CE inactive. Currently, receipt of the e-mail notifications is optional, and some firms have elected not to receive the notifications. The proposed rule change would require each member to designate a contact person or persons to receive such CRD Regulatory Element e-mail notifications. The member would be required to provide to the NASD the name and e-mail address of the designated contact person(s) and to promptly notify the NASD of any changes to the information. The NASD intends to collect the contact information through the NASD Contact System[6] on the NASD Web site.

To ensure the accuracy of the CE contact information, the proposed rule change also would require that each member review and, if necessary, update its CE contact person information within 17 business days after the end of each calendar quarter.[7] The NASD is examining different methods of reminding members of the obligation to quarterly review and update contact person information, including the possibility of a web page linked to the act of filing the FOCUS report that would prompt members to update the contact person and/or through e-mail reminders to the designated CE contact person.[8]

III. Comment Summary

The Commission received one comment letter on the proposed rule change.[9] The commenter stated that either the NASD or the SEC should provide an NASD member firm with a notification 30 days before any rule requiring action by the firm. The commenter further noted that the current e-mail system can facilitate such notifications and that NASD member firms are currently provided with e-mail notifications, in certain instances.[10] Additionally, the commenter believed that notification reminders would simplify compliance with the rule.[11]

In its response letter, the NASD agreed that members would benefit from receiving reminders of the requirement to quarterly update the CE contact person(s) information, and that such reminders would serve to simplify and assist members' compliance with the rule change. In this regard, the NASD stated, in the purpose section of the proposed rule change, that the NASD is examining different methods of notifying members of their quarterly review and update requirement. The NASD methods under consideration include reminders that are tied to the act of filing quarterly FOCUS reports in the form of a link to the NASD Contact System where the CE contact person information will be collected, pop-up screen reminder messages, and periodic reminders through NASD's e-mail broadcasts distributed to members' Executive Representatives.

IV. Discussion

After careful consideration of the proposal, the Wellfleet Letter, and the NASD's response to the comment letter, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association,[12] and, in particular, with the requirements of section 15A of the Act.[13] Specifically, the Commission finds that the proposal is consistent with section 15A(b)(6)[14] of the Act in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

The Commission believes the NASD has adequately addressed the comment letter, and that the proposed rule change should help NASD firms avoid an NASD Rule 1120(a) violation by providing sufficient notice to enable firms to ensure that their registered persons complete the required Regulatory Element training or are prevented from conducting business if they become CE inactive. Further, the Commission believes that the proposed rule change may assist the NASD in its efforts to further automate various aspects of its examination program with a goal of removing a substantial portion of CE compliance inspections from on-site firm examinations.

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[3] *See* Securities Exchange Act Release No. 48986 (December 23, 2003), 68 FR 75682.

[4] *See* letter from Michael S. Zarin, Wellfleet Investments LLC, to Jonathan G. Katz, Secretary, Commission, dated January 8, 2004 (''Wellfleet Letter'').

[5] *See* letter from Grace Yeh, Assistant General Counsel, NASD, to Katherine A. England, Assistant Director, Division, Commission, dated February 11, 2004.

[6] Effective as of December 8, 2003, the NASD Contact System replaced the Member Firm Contact Questionnaire, the previous system used for members to update and maintain certain required contact information.

[7] This proposed schedule is consistent with a member's quarterly FOCUS reporting schedule, as well as with the proposed rule change regarding members' business continuity plans. *See* Securities Exchange Act Release No. 46444 (August 30, 2002), 67 FR 57257 (September 9, 2002) (File No. SR–NASD–2002–108); Securities Exchange Act Release No. 47441 (March 4, 2003), 68 FR 11432 (March 10, 2003) (Notice of Filing of Amendment Nos. 1, 2, and 3 of File No. SR–NASD–2002–108); Securities Exchange Act Release No. 48503 (September 17, 2003), 68 FR 55686 (September 26, 2003) (Notice of Filing of Amendment Nos. 4 and 5 of File No. SR–NASD–2002–108). The Commission notes that this filing is pending at the Commission, and would require members to review and update emergency contact information within 17 business days after the end of each calendar quarter. Similarly, the proposed schedule is consistent with a proposed rule change filed with the Commission regarding the review and update of a member's Executive Representative designation and contact information. See SR–NASD–2003–184.

[8] Similarly, NASD would prompt members to review and update, where necessary, their emergency contact and Executive Representative information. *See supra* note 7.

[9] *See supra* note 4.

[10] *Id.*

[11] *Id.*

[12] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78*o*–3.

[14] 15 U.S.C. 78*o*–3(b)(6).

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[15] that the proposed rule change (SR–NASD–2003–183) be approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3778 Filed 2–20–04; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49253; File Nos. SR–NYSE–2003–41; SR–NASD–2004–17]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. and Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Research Analyst Qualification Examination (Series 86/87)

February 13, 2004.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 3, 2003, the New York Stock Exchange, Inc. (''NYSE'' or the ''Exchange''), and on January 29, 2004, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''SEC'' or the ''Commission'') proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the respective self-regulatory organizations (''SROs''). On December 22, 2003, NYSE filed amendment No. 1 to the proposed rule change, and on January 29, 2004, NYSE filed Amendment No. 2 to the proposed rule change.[3]

The SROs filed the proposals pursuant to section 19(b)(3)(A) [4] of the Act and paragraph (f)(6) of Rule 19b–4 thereunder,[5] which renders the proposals effective upon filing with the Commission.[6] The Commission is publishing this notice to solicit comments on the proposed rule changes, as amended, from interested persons.

I. Self-Regulatory Organizations' Statements of the Terms of Substance of the Proposed Rule Changes

The Exchange hereby submits the Study Outline and Examination Specifications for the Research Analyst Qualification Examination (''Series 86 and 87'').[7] The Exchange seeks approval of the Study Outline and Examination Specifications.

NASD is filing with the SEC the selection specifications and study outline for the Research Analyst Qualification Examination program.[8] The Series 86/87 examination program is proposed in connection with NASD Rule 1050, which requires all persons associated with a member who function as research analysts to register with NASD and to pass a qualification examination for research analysts specified by NASD. NASD is not proposing any textual changes to the By-Laws, Schedules to the By-Laws, or Rules of NASD.

A description of the Series 86/87 examination is included in the Study Outline.[9] Additional information on the examination is included in the Series 86/87 selection specifications, which NASD has omitted from this filing and has submitted under separate cover with a request for confidential treatment to the Commission's Secretary pursuant to Rule 24b–2 under the Act.[10]

II. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, NASD and the NYSE included statements concerning the purpose of and basis for the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. NASD and the NYSE have prepared summaries, set forth in Sections A, B, and C below.

A. Self-Regulatory Organizations' Statements of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

1. NYSE's Purpose

Exchange Rule 344 requires, in part, that research analysts must be registered with, qualified by, and approved by the Exchange.

Background

On July 29, 2003, the SEC approved amendments to Exchange Rules: 472 (''Communications with the Public''), 351 (''Reporting Requirements''), 344 (''Research Analysts and Supervisory Analysts'' (formerly titled ''Supervisory Analysts'')), and 345A (''Continuing Education for Registered Persons'') (collectively referred to as the ''Research Analysts'' Conflicts Rules'').[11]

The amendments included, among other things, a new registration category and qualification examination for research analysts. The amendments also impose requirements regarding continuing education for this new registration category consisting of a Regulatory Element and Firm Element to address applicable rules and regulations, ethics, and professional responsibility.

According to NYSE, the recent amendments were part of a continuous and ongoing joint regulatory effort among the NYSE, NASD, and the SEC to address potential conflicts of interest relating to research analysts. This joint regulatory effort has already resulted in SEC approval of major self-regulatory organization (''SRO'') rule changes in May 2002 [12] and July 2003.[13]

According to NYSE, the Research Analyst Qualification Examination represents another phase of the SRO regulatory effort to safeguard the investing public from potential conflicts of interest relating to research analysts. As noted above the Research Analysts' Conflicts Rules were promulgated to mitigate and/or eliminate potential conflicts of interest, and also to require disclosure in research reports and during public appearances by research analysts of other potential conflicts of interest.

NYSE believes that a new qualification examination, in conjunction with new rules, will benefit the investing public by helping to ensure that research analysts are competent to perform their jobs and are knowledgeable about the new regulatory

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[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 replaces SR–NYSE–2003–41 and Amendment No. 1 thereto in its entirety.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 517 CFR 240.19b–4 (f)(6).

[6] For SR–NYSE–2003–41, the effective date is the date of the filing of Amendment No. 2.

[7] The Commission has not published the Study Outline. Interested persons may view the Study Outline at the places specified in Item IV below.

[8] According to NASD, based upon instruction from the Commission staff, NASD is submitting SR–NASD–2004–17 for immediate effectiveness pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder, and is not filing the question bank for Commission review. *See* Letter from Belinda Blaine, Associate Director, Division of Market Regulation, SEC, to Alden S. Adkins, Senior Vice President and General Counsel, NASD Regulation (July 24, 2000). The question bank is available for Commission review.

[9] *See* note 7 *supra.*

[10] 17 CFR 240.24b–2.

[11] *See* Securities Exchange Act Release No. 48252 (July 29, 2003), 68 FR 4575 (August 4, 2003).

[12] *See* Securities Exchange Act Release No. 45908 (May 10, 2002), 67 FR 34969 (May 16, 2002).

[13] *See* note 11 *supra.*

requirements affecting them. Given the scope and magnitude of these requirements, the SROs have developed an examination, discussed in more detail below, with a part designed specifically to address the new requirements.

The Research Analyst Qualification Examination is a five-and-a-half hour examination, consisting of 150 questions. The exam is divided into two parts. Part I, the Series 86, consists of 100 questions, which address fundamental security analysis and valuation of equity securities. Candidates will be allotted 240-minutes to complete Part I. Part II, the Series 87, consists of 50 questions, which primarily address pertinent SRO and SEC rules and regulations, including the recent Research Analysts' Conflict Rules. Candidates will be allotted 90 minutes to complete Part II.

The requirement to take and pass the proposed Series 86/87 examination applies to all prospective and current research analysts, as the term is defined in Exchange Rule 344.10. Exchange Rule 344.10 provides that the term ''research analyst'' includes a member, allied member, or employee who is primarily responsible for the preparation of the substance of a research report and/or whose name appears on such report. As noted above, Exchange Rule 344 requires that such analysts must pass a qualification examination acceptable to the Exchange.

The NYSE intends for the Series 86/87 examination to have a pre-requisite. Each candidate would have to pass the General Securities Registered Representative Examination (Series 7) prior to taking either Part I or Part II of the examination.

The NYSE also intends to allow a research analyst candidate that has passed both Level I and Level II of the Chartered Financial Analysts (''CFA'') Examination to request an exemption from Part I (Series 86) of the Research Analyst Qualification Examination. Candidates will be registered and qualified as Research Analysts after passing the Series 86 and Series 87 examinations (or the Series 87 only, if the candidate is exempt from Part I, the Series 86 examination).

In a separate filing, the Exchange will propose amendments to NYSE Rule 344 to require the Series 7, 17, 37 or 38 Examinations as a pre-requisite to the Series 86/87 examination and also to accept the CFA Level I and II accreditations as an exemption from taking Part 1 (Series 86) of the examination.[14]

Study Outline for Series 86/87 Examination

The Study Outline for the examination, details the scope of the Series 86 and 87 examinations. According to NYSE, a fee, to be determined at a later date, will be imposed per exam administration, and this fee will be the subject of a separate filing. Implementation of the examination is scheduled to take place not later than March 30, 2004. Research analysts, as defined in Exchange Rule 344.10, must be registered with and qualified and approved by the Exchange within 365 days of the implementation date. In addition, persons currently performing the function of a research analyst shall have one year from the implementation date of March 30, 2004 to be qualified and approved by the Exchange. In light of the March 30, 2004 implementation date, the Exchange will publish the Study Outline expeditiously in order to provide prospective candidates time to prepare for and complete the examination within the prescribed time frames. According to NYSE, in no event will the examination requirement be implemented until 30 days after the Study Outline is published by the NYSE.

Due to the confidential nature of the material, the specifications for the examination have been omitted and will be filed separately with the Commission pursuant to 17 CFR 200.83(c).

2. NYSE's Statutory Basis

The statutory basis for this proposed rule change is section 6(c)(3)(B) of the Exchange Act.[15] Under that Section, it is the Exchange's responsibility to prescribe standards of training, experience and competence for persons associated with Exchange members and member organizations.

In addition, under section 6(c)(3)(B) of the Exchange Act,[16] the Exchange may bar a natural person from becoming a member or person associated with a member, if such natural person does not meet such standards of training, experience and competence as prescribed by the rules of the Exchange. Pursuant to this statutory obligation, the Exchange has developed an examination that will be administered to establish that Research Analysts have attained specified levels of competence and knowledge.

3. NASD's Purpose

NASD Rule 1050 requires all persons associated with a member who function as research analysts to register with NASD and to pass a qualification examination for research analysts specified by NASD.[17] Rule 1050 defines ''research analyst'' as an associated person who is primarily responsible for the preparation of the substance of a research report or whose name appears on a research report. NASD intends for the term ''research report'' in Rule 1050 to be defined as it is in Rule 2711(a)(8), which applies only to equity securities. Accordingly, fixed income analysts do not need to be registered as research analysts.

Pursuant to section 15A(g)(3) of the Act,[18] NASD is required to prescribe standards of training, experience, and competence for persons associated with NASD members. According to NASD, the proposed Series 86/87 examination program has been developed to ensure that persons associated with NASD members who are seeking to register with NASD as research analysts have attained specified levels of competence and knowledge.

The proposed Series 86/87 examination program will partially qualify[19] an associated person of a member to function as a research analyst. The program consists of two parts (Series 86 and Series 87) that collectively test the knowledge, skills, and abilities associated with critical job functions of a research analyst, including a candidate's knowledge of applicable federal and industry rules and regulations.

According to NASD, the Series 86/87 examination (the selection specifications, study outline, and question bank) program was developed by NASD and NYSE staff in consultation with a committee of industry representatives.

The Series 86/87 examination will be a 5½-hour, 150 multiple-choice question examination. Since multiple forms of the examination will be administered, the passing score will fluctuate moderately from examination to examination. Candidates are allotted

[14] On January 30, 2004, NYSE filed an amendment to establish certain requirements for, prerequisites to, and exemptions from, taking the Research Analyst Qualification Examination. *See* SR–NYSE–2004–03.

[15] 15 U.S.C. 78f(c)(3)(B).

[16] *Id.*

[17] *See* note 11 *supra*.

[18] 15 U.S.C. 78*o*–3(g)(3).

[19] Each candidate also would have to pass the General Securities Representative (Series 7), the Limited Registered Representative (Series 17), or the Canada Modules of the Series 7 (Series 37 or Series 38) examinations before taking the Series 86/87 examination. NASD filed a separate proposed rule change regarding the prerequisite requirement. *See* SR–NASD–2004–20 (February 3, 2004).

4 hours to complete the first part (Series 86) and 1½ hours to complete the second part (Series 87).

The Series 86 is the ''Analysis'' portion of the examination and consists of 100 multiple-choice questions covering the critical job functions of ''Information and Data Collection'' (10 questions) and ''Analysis, Modeling, and Valuation'' (90 questions). The second part, the Series 87, is the ''Regulatory Administration and Best Practices'' portion of the examination and consists of 50 multiple-choice questions covering the critical job functions of ''Preparation of Research Reports'' (32 questions) and ''Dissemination of Information'' (18 questions). This portion of the examination focuses on rules and regulations applicable to the work of a research analyst.

The selection specifications for the Series 86/87 examination, which NASD has omitted from this filing and has submitted under separate cover with a request for confidential treatment to the Commission's Secretary pursuant to Rule 24b–2 under the Act,[20] describe additional confidential information regarding the examination.

4. NASD's Statutory Basis

NASD believes that the proposed Series 86/87 examination program is consistent with the provisions of sections 15A(b)(6)[21] and 15A(g)(3) of the Act,[22] which authorize NASD to prescribe standards of training, experience, and competence for persons associated with NASD members.

B. Self-Regulatory Organizations' Statements on Burden on Competition

NASD and NYSE do not believe that the proposed rule changes, as amended, will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act, as amended.

C. Self-Regulatory Organizations' Statements on Comments on the Proposed Rule Changes Received From Members, Participants or Others

The NASD and NYSE have neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The proposed rule changes, as amended, are effective upon filing [23] pursuant to section 19(b)(3)(A) [24] of the Act and paragraph (f)(6) of Rule 19b–4[25] thereunder, in that the proposed rule changes (1) do not significantly affect the protection of investors or the public interest; (2) do not impose any significant burden on competition; and (3) by their terms, do not become operative for 30 days after the date of filing.[26] At any time within 60 days of this filing, the Commission may summarily abrogate this proposal if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[27]

The SROs requested that the Commission waive the five-day pre-filing notice requirement. The Commission finds good cause to designate the proposals effective upon filing with the Commission [28] because such designation is consistent with the protection of investors and the public interest.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule changes, as amended, are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following email address: *rule-comments@sec.gov.* All comment letters should refer to File Nos. SR–NYSE–2003–41; SR–NASD–2004–17. These file numbers should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, comments should be sent in hard copy or by email but not by both methods.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal offices of the NASD and NYSE. All submissions should refer to the file numbers File Nos. SR–NYSE–2003–41; SR–NASD–2004–17 and should be submitted by March 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[29]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–3779 Filed 2–20–04; 8:45 am]

BILLING CODE 8010–01–P

[20] 17 CFR 240.24b–2.

[21] 15 U.S.C. 78*o*–3(b)(6).

[22] 15 U.S.C. 78*o*–3(g)(3).

[23] *See* note 6 *supra.*

[24] 15 U.S.C. 78s(b)(3)(A).

[25] 17 CFR 240.19b–4 (f)(6).

[26] The NASD notes that the proposed rule change does not alter the effective dates of Rule 2711 (as amended by this proposed rule change) that the Commission approved on May 10, 2002.

[27] For SR–NYSE–2003–41, the 60-day period would run from the date of filing of Amendment No. 2.

[28] *See* note 6 *supra.*

[29] 17 CFR 200.30–3(a)(12).

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 March 24, 2004. 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:* Disaster Survey Worksheet.

No.: 987.

Frequency: On Occasion.

Description of Respondents: Applicants who warrant Disaster Declaration.

Responses: 40.

Annual Burden: 249.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 04–3791 Filed 2–20–04; 8:45 am]

BILLING CODE 8025–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3564]

State of Ohio (Amendment #2)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective February 13, 2004, the above numbered declaration is hereby amended to include Belmont County as a disaster area due to damages caused by severe storms, flooding, mudslides, and landslides occurring on January 3, 2004, and continuing through January 30, 2004.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Marshall in the State of West Virginia may be filed until the specified date at the previously designated location. All other counties contiguous to the above named primary county have been previously declared.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is March 26, 2004, and for economic injury the deadline is October 26, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: February 17, 2004.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 04–3843 Filed 2–20–04; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–99–5578, FMCSA–99–5748, FMCSA–99–6156, FMCSA–2000–7918]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice publishes the FMCSA decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 16 individuals. The FMCSA has statutory authority to exempt individuals from vision standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective March 7, 2004. Comments from interested persons should be submitted by March 24, 2004.

ADDRESSES: You may submit comments identified by DOT DMS docket numbers FMCSA–99–5578, FMCSA–99–5748, FMCSA–99–6156, and FMCSA–2000–7918 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 20590–0001.
- 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 on-line instructions for submitting comments.

Instructions: All submissions must include the agency name and docket numbers for this notice. For detailed instructions on submitting comments and additional information on the rulemaking process, *see* the Public Participation heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

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: Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: *Public Participation:* The DMS is available 24 hours each day, 365 days each year. You can get electronic submission and retrieval help guidelines under the ''help'' section of the DMS Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: 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 the Department of Transportation'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.*

Exemption Decision

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This notice addresses 16 individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these 16 applications for renewal on their merits and decided to extend each exemption for a renewable 2-year period. They are:

Herman L. Bailey, Jr.	Myles E. Lane, Sr.	George L. Silvia.
Mark A. Baisden	Dennis J. Lessard	James D. Simon.
Brad T. Braegger	Harry R. Littlejohn	Wayland O. Timberlake.

Clifford H. Dovel	Craig W. Miller	Robert J. Townsley.
Daniel R. Franks	Martin D. Ortiz	Jeffrey G. Wuensch.
Victor B. Hawks		

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the 16 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 27027, 64 FR 51568, 66 FR 63289, 67 FR 10475, 64 FR 40404, 64 FR 66962, 64 FR 54948, 65 FR 159, 65 FR 66286, 66 FR 13825). Each of these 16 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for each renewal applicant for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by March 24, 2004.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew, and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 66 FR 17994 (April 4, 2001). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: February 17, 2004.

Pamela M. Pelcovits,

Director, Policy, Plans, and Regulations.

[FR Doc. 04–3758 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement: Rail Corridor—Richmond, VA to Hampton Roads (via Williamsburg to Newport News, VA and via Petersburg to Norfolk, VA)

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

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

SUMMARY: The FRA is issuing this notice to advise the public that FRA and the Virginia Department of Rail and Public Transportation (VDRPT) intend to prepare an Environmental Impact Statement (EIS) for Richmond to Hampton Roads High Speed Rail Corridor. The EIS will evaluate potential alternatives for higher-speed rail service in both the Richmond-Petersburg-South Hampton Roads Corridor and the existing Amtrak corridor from Richmond to Williamsburg to Newport News, providing rail connections to the Southeast, Northeast and Mid-Atlantic regions as part of the Southeast High Speed Rail (SEHSR) Corridor.

DATES: Written comments on the scope of alternatives and impacts considered should be sent to the Virginia Department of Rail and Public Transportation by May 15, 2004, at the address below.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Bonanti, Environmental Program Manager, Federal Railroad Administration (FRA), 400 Seventh Street, SW., MS 20, Washington, DC 20590, telephone (202) 493–6383; or Mr. Alan Tobias, Manager of Passenger Rail Programs, Virginia Department of Rail and Public Transportation, P.O. Box 590, Richmond, VA, 23218–0590, telephone (804) 786–1063.

SUPPLEMENTARY INFORMATION: The FRA, in cooperation with the VDRPT, will prepare a Tier I Environmental Impact Statement (EIS) for the Richmond to Hampton Roads High Speed Rail Corridor. The project will evaluate potential alternatives and potential environmental impacts for higher-speed rail service within the project study area. The project study area generally follows the Richmond-Petersburg-South Hampton Roads Corridor and the existing Amtrak corridor from Richmond to Williamsburg to Newport News. This rail service would serve as an extension of the Southeast High Speed Rail (SEHSR) Corridor, providing rail connections to the Southeast, Northeast and Mid-Atlantic regions.

Multiple service and alignment alternatives exist within the project study area to connect the Hampton Roads region to the Main Street Station in Richmond, Virginia, which is the study terminus for intercity rail service connections to the Southeast, Northeast and Mid-Atlantic regions. FRA and the VDRPT will address project issues and alternatives in environmental documentation prepared as part of the Alternatives Analysis and Tier I EIS.

This study will also address the greater travel shed in which this corridor will operate. Issues regarding schedule, operational and capacity constraints, and ridership will be examined.

The environmental process will have four basic goals: (1) Establish the purpose and need; (2) develop alternatives within the study corridor; (3) conduct a detailed evaluation of environmental impacts for the alternatives; and (4) select a locally preferred alternative (LPA).

The EIS will evaluate the following passenger rail alternatives: A no-build alternative, consisting of already planned improvements to the corridor, and build alternatives, consisting of a full range of passenger rail alternatives. The type, location, and need for ancillary facilities (*e.g.* railroad switching, signaling and maintenance buildings, *etc.*) will also be considered for each alternative. Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State and local agencies, and through public meetings.

In accordance with the National Environmental Policy Act (NEPA), a public scoping process will be initiated to identify corridor needs and alternatives. The scoping process will provide the basis for the evaluation of alternatives as part of the planning study, and the selection of a LPA and implementation program. The planning study will consider a variety of passenger rail options in the corridor based on input received during the scoping process. In addition to prudent alternatives developed as part of this study and those identified in previous planning exercises, feasible alternatives suggested during the scoping process will be considered.

Scoping and Comments: Scoping activities are being initiated at the outset of the planning studies, in advance of the EIS, to maximize the opportunity for public involvement in the consideration of alternatives and in reaching decisions about the transportation investments that will be advanced into the EIS phase of project development.

FRA and VDRPT encourage broad participation in the planning studies and EIS process during scoping and subsequent review of the resulting environmental documents. Comments and suggestions are invited from all interested agencies and the public at large to insure the full range of issues related to the proposed action and all reasonable alternatives are addressed and all significant issues are identified. Public agencies with jurisdiction are requested to advise the FRA and VDRPT of the applicable environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed improvements. An agency scoping meeting has been scheduled for March 9, 2004, 1 p.m., at the following location: VDRPT, Central Conference Room, 1313 East Main Street, Suite 300, Richmond, Virginia.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies in Virginia. An interactive public involvement/information program will support the process. The program will involve newsletters, a telephone hotline and Web site, informational workshops, small group meetings, and other methods to solicit and incorporate public input throughout the planning process. The public scoping process runs concurrent with agency scoping and will commence with a public meeting in Richmond on March 9, 2004. Additional public scoping meetings will be held in Petersburg on March 10, Chesapeake on March 11, and Williamsburg on March 24. Notices for the public scoping meetings will be sent to individuals in the planning and EIS study areas and will be posted on official Web sites, and advertised in local communities.

Comments and questions concerning the proposed action should be directed to VDRPT or to the FRA at the addresses provided above. Additional information can be obtained by visiting the project Web site at *www.rich2hrrail.info* or calling the project hotline 1–877–RICH2HR (742–4247).

Issued in Washington, DC on February 17, 2004.

Mark E. Yachmetz,

Associate Administrator for Railroad Development.

[FR Doc. 04–3757 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD 2004 17127]

Information Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Maritime Administration's (MARAD's) intentions to request approval for three years of a new information collection.

DATES: Comments should be submitted on or before April 23, 2004.

FOR FURTHER INFORMATION CONTACT: Kelly Farrell, Maritime Administration, 400 Seventh St., SW., Washington, DC 20590. Telephone: 202–366–9041, FAX: 202–366–7485; or E-Mail: *kelly.farrell@marad.dot.gov*. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Title of Collection: Elements of Request for Course Approval.

Type of Request: New collection.

OMB Control Number: 2133–New.

Form Numbers: None.

Expiration Date of Approval: Three years from date of approval by the Office of Management and Budget.

Summary of Collection of Information: Under this proposed voluntary collection, public and private maritime security training course providers may choose to provide the Maritime Administration (MARAD) with information concerning the content and operation of their courses. MARAD will use this information to evaluate whether the course meets the training standards and curriculum promulgated under Section 109 of the Maritime Transportation Security Act of 2002 (MTSA) (Pub. L. 107–295). Courses found to meet these standards will receive a course approval.

Need and Use of the Information: This information collection is needed to facilitate the approval of maritime security training courses that meet the standards and curriculum developed under the MTSA.

Description of Respondents: Respondents are public and private maritime security course training providers.

Annual Responses: 300.

Annual Burden: 3,000 hours.

Comments: Comments should refer to the docket number that appears at the top of this document. Written comments may be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments also may be submitted by electronic means via the Internet at *http://dms.dot.gov/submit.* Specifically address whether this information collection is necessary for proper performance of the functions of the agency and will have practical utility, accuracy of the burden estimates, ways to minimize this burden, and ways to enhance the quality, utility, and clarity of the information to be collected. All comments received will be available for

examination at the above address between 10 a.m. and 5 p.m. EDT (or EST), Monday through Friday, except Federal holidays. An electronic version of this document is available on the World Wide Web at *http://dms.dot.gov*.

Dated: February 17, 2004.

By Order of the Maritime Administrator,

Joel C. Richard,

Secretary, Maritime Administrator.

[FR Doc. 04–3782 Filed 2–20–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34395]

City of Peoria, IL, d/b/a Peoria, Peoria Heights & Western Railroad—Construction of Connecting Track Exemption—in Peoria County, IL

The City of Peoria, IL, d/b/a Peoria, Peoria Heights & Western Railroad (PPHW), has filed a verified notice of exemption under 49 CFR 1150.36 to construct approximately 1,800 feet of track in Peoria, Peoria County, IL, over land that it owns or over which it has an easement for railroad purposes. The track to be constructed will connect a 1.9-mile segment of track that the City of Peoria (the City) purchased from Union Pacific Railroad Company (UP) with an 8.29-mile segment of track known as the Keller Branch that the City acquired from the Chicago, Rock Island & Pacific Railroad Company (Rock Island).

The former UP segment connects at its west end with a UP main line that extends in a generally north-south direction between Nelson, IL, and St. Louis, MO. It was acquired by the City in 2001 and there are no active shippers currently located on that segment.

The former Rock Island segment was acquired by the City in 1984 from the Rock Island Trustee. It connects at its east end with a rail line of the Peoria & Pekin Union Railway Company (P&PU). P&PU initially operated the segment pursuant to a lease from the City. Thereafter, the Village of Peoria Heights, IL, acquired a 25-percent interest in the segment, which was referred to under the doing-business designation of PPHW. In 1998, Pioneer Industrial Railway Co., the current operator, began operations over the segment pursuant to an assignment of P&PU's lease from the City (consented to by the Village of Peoria Heights). There are three active shippers located on the segment, two of which are located near its northwestern end and one of which is located near its southeastern end.

After the proposed construction of connecting trackage is completed, the two shippers located near the northwestern end of the segment will be served from the west by DOT Rail Service, Inc., or its designee under an operating agreement with the City [1] and the shipper located near the southeastern end of the segment will be served from the southeast by the same or a different rail operator. Service over the approximately 7.5 miles of the segment that is no longer required to serve shippers will be discontinued and the right-of-way used for a recreational trail.[2] The trail would be supervised by the Peoria Park District, and would connect the Pimetoui Trail at the Peoria riverfront with the Rock Island Trail near Alta, IL.

Construction is proposed to begin no earlier than 90 days after the filing of this notice of exemption.

PPHW has certified that it has complied with the Board's environmental rules at 49 CFR Part 1105, and with the pre-filing notice requirements of 49 CFR 1150.36(c)(1).

The Board's Section of Environmental Analysis (SEA) has approved PPHW's request to submit a Preliminary Draft Environmental Assessment in lieu of the environmental and historic reports required under 49 CFR 1105.7 and 1105.8. SEA has also granted a waiver of the 6-month prefiling notice generally required for construction projects under 49 CFR 1105.10(a)(1). Under 49 CFR 1150.36(c)(3), SEA will generally issue an environmental assessment (EA) 15 days after the **Federal Register** notice, here by March 9, 2004. However, under 49 CFR 1150.36(c)(10), a stay of the effective date may be issued if an informed decision on environmental issues cannot be made prior to March 9, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423–0001) or by calling SEA, at (202) 565–1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 30 days after the EA becomes available to the public.

On completion of the environmental review, the Board will issue a decision addressing those matters and making the exemption effective at that time, if appropriate, subject to any necessary conditions, thereby allowing construction to begin.

This exemption will be effective on May 3, 2004, unless stayed. Petitions to stay that do not involve environmental issues must be filed by March 4, 2004.[3] Petitions for reconsideration must be filed by March 15, 2004, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–00001.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34395, must be filed with the Surface Transportation Board, 1925 K St., NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604–1112.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 13, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 04–3747 Filed 2–20–04; 8:45 am]

BILLING CODE 4915–01–P

[1] No part of the line that would continue to be operated would be located in the Village of Peoria Heights.

[2] The City recognizes that Board authority or an exemption must be obtained for discontinuance of rail service over the line.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by SEA in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Dollar Savings Bank, Newark, New Jersey; Notice of Appointment of Receiver

Notice is hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Federal Deposit Insurance Corporation as receiver for Dollar Savings Bank, Newark, New Jersey (OTS No. 06755), on February 13, 2004.

Dated: February 18, 2004.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 04–3832 Filed 2–20–04; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Homeless Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Homeless Veterans will be held from Monday, March 22, 2004, through Wednesday, March 24, 2004, in the McPherson Square Room of the Hamilton Crowne Plaza, 14th & K Streets, NW., Washington, DC 20005. On March 22, the session will convene at 10 a.m. and end at 4 p.m. On March 23–24, the sessions will convene at 8 a.m. and end at 4 p.m. on March 23 and at 12 Noon on March 24. The meeting is open to the public.

The purpose of the Committee is to provide the Secretary of Veterans Affairs with an on-going assessment of the effectiveness of the policies, organizational structures, and services of the Department in assisting homeless veterans. The Committee shall assemble and review information relating to the needs of homeless veterans and provide on-going advice on the most appropriate means of providing assistance to homeless veterans. The Committee will make recommendations to the Secretary regarding such activities.

On March 22, the Committee will receive reports and information requested by the Committee from its 2003 Annual Report, from governmental and outside entities. On March 23, the Committee will continue to receive reports and begin preparation of its upcoming annual report and recommendations to the Secretary. On March 24, the Committee will continue preparation of its report.

Those wishing to attend the meeting should contact Mr. Pete Dougherty, Department of Veterans Affairs, at (202) 273–5764. No time will be allocated for receiving oral presentations from the public. However, the Committee will accept written comments from interested parties on issues affecting homeless veterans. Such comments should be referred to the Committee at the following address: Advisory Committee on Homeless Veterans, Homeless Veterans Programs Office (075D), U.S. Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: February 11, 2004.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 04–3855 Filed 2–20–04; 8:45 am]

BILLING CODE 8320–01–M

Federal Register

Monday,

February 23, 2004

Part II

Department of Health and Human Services

Administration for Children and Families

Grants and Cooperative Agreements; Notice of Availability; Notices

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grants and Cooperative Agreements; Notice of Availability

Program Office Name: Administration for Native Americans (ANA).

Funding Opportunity Title: Social and Economic Development Strategies for Native Americans. This program is authorized by U.S. Code Citation 42 U.S.C. 2991 *et seq.* 1974, the Native Americans Programs Act.

Announcement Type: Competitive Grant—Initial.

Funding Opportunity Number: HHS–2004–ACF–ANA–NA–0001.

CFDA Number: 93.612.

Due Date for Application: April 23, 2004, 4:30 p.m. (EST).

SUMMARY: The Administration for Native Americans (ANA), within the Administration for Children and Families, announces the availability of fiscal year (FY) 2004 funds for new community-based projects under ANA's Social and Economic Development Strategies (SEDS) program. ANA's FY 2004 SEDS goals and areas of interest are focused on strengthening children, families, and communities through incorporated community-based organizations, Tribes, and Village governments.

The Program Areas of Interest are projects that ANA considers supportive to Native American communities. Although eligibility for funding is not restricted to projects of the type listed under this program announcement, these Areas of Interest are ones which ANA sees as particularly beneficial to the development of healthy Native American communities.

Financial assistance under the SEDS program is provided utilizing a competitive process in accordance with the Native American Programs Act of 1974, as amended. The purpose of this Act is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, Alaskan Natives, and other Native American Pacific Islanders, including American Samoa natives.

I. Funding Opportunity Description

The Administration for Native Americans (ANA), within the Administration for Children and Families, announces the availability of fiscal year (FY) 2004 funds for new community-based activities under ANA's Social and Economic Development Strategies (SEDS) program. ANA's FY 2004 SEDS goals and areas of interest are focused on strengthening children, families, and communities through community-based organizations, Tribes, and Village governments.

This program announcement emphasizes community-based partnerships and projects. This emphasis will increase the number of grants to local community organizations and expand the number of partnerships among locally based non-profit organizations. ANA will accept applications for funding and award grants to multiple organizations located in the same geographic area, provided the activities are not duplicative of previously funded ANA projects in the same geographic area or to the same grantee. Previously, under each competitive program area, ANA accepted one application that served or impacted a reservation, Tribe or Native American community. The reason for this change is to expand and support large Native American rural and urban communities that provide a variety of services in the same geographic area. Although Tribes are limited to three simultaneous ANA grants (one each under SEDS, Language and Environmental programs) at any one time, this clarification allows other community-based organizations to apply for ANA funding to support on-going community-based efforts, provided the activities do not duplicate currently funded projects serving the same geographic area.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-based Alternatives for Individuals with Disabilities, and Faith-based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply.

Financial assistance under the SEDS and Alaska SEDS program is provided utilizing a competitive process in accordance with the Native American Programs Act of 1974, as amended. The purpose of this Act is to promote the goal of economic and social self-sufficiency for American Indians, Native Hawaiians, Alaskan Natives, and other Native American Pacific Islanders, including American Samoan Natives.

The ANA SEDS Program supports the fundamental principle that economic development, social development and governance are interrelated, and that with effective economic, social and governance policies and development strategies, Native American people and communities can achieve self-sufficiency. In order to move toward self-sufficiency, development in one area should be balanced with the development in the others. Accordingly, community-based economic, social and governance development programs and activities proposed in response to this announcement should take into consideration the elements necessary to build healthy self-sufficient communities.

ANA's FY 2004 Program Announcements are goal-category specific. ANA will release separate program announcements for funding opportunities under SEDS, for Language Preservation and Maintenance, Environmental Regulatory Enhancement, and for special initiatives.

ANA's policy is based on three interrelated goals: (1) Economic Development: To foster the development of stable diversified local economies and economic activities that provide jobs, options and opportunities that promote economic well-being in Native American communities; (2) Social Development: To support local access to, control of, and coordination with, programs and services that safeguard the health, well-being, and culture of native peoples, and; (3) Governance: To assist Tribes and Alaska Native village governments to build capacity that results in local control and decision-making over their resources.

The Administration for Children and Families through the Administration for Native Americans supports and fosters strong families and healthy communities under four initiatives. Eligible community and faith based organizations are invited to submit applications that: (1) Provide services directly to Native American people; (2) organizations that support rural communities; (3) organizations that provide prevention and intervention programs for youth and families, i.e. diabetes, substance abuse or mental health related programs; and (4) organizations that promote healthy relationships to strengthen families.

ANA's FY 2004 program goals and areas of interest are focused on expanding community-based, culturally appropriate economic development, social development and governance activities. ANA is interested in projects designed to grow Native American economies, strengthen Native families, and decrease the high rate of social challenges caused by the lack of community-based business, social, and economic infrastructure. In response to

this announcement, ANA encourages Native American tribes and organizational leaders to propose, coordinate and implement community-based projects to meet the needs of its community members and develop options and opportunities for future generations.

The Program Areas of Interest are projects that ANA considers supportive to Native American communities. Although eligibility for funding is not restricted to projects of the type listed under this program announcement, these Areas of Interest are ones which ANA sees as particularly beneficial to the development of healthy Native American communities.

ANA Administrative Policies: Applicants must comply with the following Administrative Policies:

- An applicant must provide a 20% non-Federal match of the approved project costs. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a), under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions).
- An application from a Tribe, Alaska Native Village or Native American organization must be from the governing body.
- A non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing: (i) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determination of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA eligibility. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determination of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA eligibility.
- If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community to be served. To establish compliance, an applicant should provide supporting documentation and assurance that it's duly elected or appointed board of directors is majority Native American.
- Applicants must describe how the proposed project objectives and activities relate to a locally determined strategy.
- Proposed projects must consider the maximum use of all available community-based resources.
- Proposed projects must present a strategy to overcome the challenges that hinder movement toward self-sufficiency in the community.
- Applicants proposing an Economic Development project should address the project's viability. A business plan, if applicable, must be included to describe the project's feasibility, cash flow, and approach for the implementation and marketing of the business.
- ANA will not accept applications from tribal components, which are tribally authorized divisions of a larger tribe, which are not approved by the governing body of the tribe.
- ANA funds projects not programs. Proposed projects must have definitive goals and objectives that will be achieved by the end of the project period. All projects funded by ANA must be completed, or self-sustaining, or supported by other than ANA funding at the end of the project period.

Definitions: The ANA program announcement will now include definitions for the following terms:

Authorized Representative: The person or person(s) authorized by Tribal or Organizational resolution to execute documents and other actions required by outside agencies.

Budget Period: The interval of time into which the project period is divided for budgetary or funding purposes, and for which a grant is made. A budget period usually lasts one year in a multi-year project period.

Community: A group of people residing in the same geographic area that can apply their own cultural and socio-economic values in implementing ANA's program objectives and goals. In discussing the applicant's community, the following information should be provided: (1) A description of the population segment within the community to be served or impacted; (2) the size of the community; (3) geographic description or location, including the boundaries of the community; (4) demographic data on the target population; and (5) the relationship of the community to any larger group or tribe.

Community Involvement: How the community participated in the development of the proposed project, how the community will be involved during the project implementation and after the project is completed. Evidence of community involvement can include, but is not limited to, certified petitions, public meeting minutes, surveys, needs assessments, newsletters, special meetings, public Council meetings, public committee meetings, public hearings, and annual meetings with representatives from the community. The applicant should document the community's support of the proposed project. Applications from National and Regional Indian and Native organizations should clearly demonstrate a need for the project, explain how the project originated, identify the beneficiaries, and describe and relate the actual project benefits to the community and organization. National Indian and Native organizations should also identify their membership and specifically discuss how the organization operates and impacts Native American people and communities.

Completed Project: A project funded by ANA is finished, or self-sustaining, or funded by other than ANA funds, and the results and outcomes are achieved by the end of the project period.

Consortia—Tribal / Village: A group of Tribes or villages that join together either for long-term purposes or for the purpose of an ANA project. Applicant must identify Consortia membership. The Consortia applicant must be the recipient of the funds. A Consortia applicant must be an ''eligible entity'' as defined by this Program Announcement and the ANA regulations. Consortia applicants should include documentation (a resolution adopted pursuant to the organization's established procedures and signed by an authorized representative) from all consortia members supporting the ANA application. An application from a

consortium should have goals and objectives that will create positive impacts and outcomes in the communities of its members. ANA will not fund activities by a consortium of tribes which duplicates activities for which member Tribes also receives funding from ANA. The consortium application should identify the role and responsibility of each participating Consortia member and contain a copy of the consortia legal agreement or Memoranda of Agreement to support the proposed project.

Construction: The initial building of a facility.

Core Administration: Salaries and other expenses for those functions that support the applicant's organization as a whole or for purposes unrelated to the actual management or implementation of the ANA project. However, salaries and activities that are clearly related to the ANA project are eligible for grant funding.

Economic Development: Involves the promotion of the physical, commercial, technological, industrial, and/or agricultural capacities necessary for a sustainable local community. Economic development includes activities and actions that develop sustainable, stable, and diversified private sector local economies. For example, initiatives that support employment options, business opportunities, development and formation of a community's economic infrastructure, laws and policies that result in the creation of businesses and employment options and opportunities that provide for the foundation of healthy communities and strong families.

Equipment: Tangible, non-expendable personal property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Governance: Involves assistance to tribal and Alaska Native village government leaders to increase their ability to execute local control and decision-making over their resources.

Implementation Plan: The guidebook the applicant will use in meeting the results and benefits expected for the project. The Implementation Plan provides detailed descriptions of how, when, where, by whom and why activities are proposed for the project and is complemented and condensed by the Objective Work Plan.

In-kind Contributions: In-kind contributions are property or services which benefit a federally assisted project or program and which are contributed by the grantee, non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement. Any proposed In-kind match must meet the applicable requirements found in 45 CFR parts 74 and 92.

Letter of Commitment: A third party statement to document the intent to provide specific in-kind contributions or cash to support the applicant. The Letter of Commitment must state the dollar amount (if applicable), the length of time the commitment will be honored, and the conditions under which the organization will support the proposed ANA project. If a dollar amount is included, the amount must be based on market and historical rates charged and paid. The resources to be committed may be human, natural, physical, or financial, and may include other Federal and non-Federal resources. For example, a notice of award from another Federal agency committing $200,000 in construction funding to complement a proposed ANA funded pre-construction activity is evidence of a commitment. Statements about resources which have been committed to support a proposed project made in the application without supporting documentation will be disregarded.

Leveraged Resources: The total dollar value of all non-ANA resources that are committed to a proposed ANA project and are supported by documentation that exceed the 20% non-Federal match required for an ANA grant. Such resources may include any natural, financial, and physical resources available within the tribe, organization, or community to assist in the successful completion of the project. An example would be a written letter of commitment from an organization that agrees to provide a supportive action, product, and service, human or financial contribution that will add to the potential success of the project.

Multi-purpose Organization: A community-based corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as day care, education, and training.

Multi-year Project: Encompasses a single theme and requires more than 12 or 17 months to complete. A multi-year project affords the applicant an opportunity to develop and address more complex and in-depth strategies that cannot be completed in one year. A multi-year project is a series of related objectives with activities presented in chronological order over a two or three year period. Prior to funding the second or third year, of a multi-year grant, ANA will require verification and support documentation from the Grantee that objectives and outcomes proposed in the preceding year were accomplished, and the non-Federal share requirement has been met. Applicants proposing multi-year projects must complete and submit an Objective Work Plan (OWP) and budget with narrative for each project year, and fully describe objectives to be accomplished, outcomes to be achieved, and the results and benefits to determine the successful outcomes of each budget period. ANA will review the quarterly and annual reports of grantees to determine if the grantee is meeting its goals, objectives and activities identified in the OWP.

Objective(s): Specific outcomes or results to be achieved within the proposed project period that are specified in the Objective Work Plan. Completion of objectives must result in specific, measurable, outcomes that would benefit the community and directly contribute to the achievement of the stated community goals. Applicants should relate their proposed project objectives to outcomes that support the community's long-range goals.

Partnerships: Agreements between two or more parties that will support the development and implementation of the proposed project. Partnerships include other community-based organizations or associations, Tribes, Federal and State agencies and private or non-profit organizations.

Performance Indicators: Measurement descriptions used to identify the outcomes or results of the project. Outcomes or results must be measurable to determine that the project has achieved its desired objective and can be independently verified through monitoring and evaluation.

Real Property: Land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

Renovation or Alteration: The work required to change the interior arrangements or other physical characteristics of an existing facility, or install equipment so that it may be more effectively used for the project.

Alteration and renovation may include work referred to as improvements, conversion, rehabilitation, remodeling, or modernization, but is distinguished from construction.

Resolution: Applicants are required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution should indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-Federal matching funds (if applicable).

Sustainable Project: A sustainable project is an on-going program or service that can be maintained without additional ANA funds.

Self-Sufficiency: The ability to generate resources to meet a community's needs in a sustainable manner. A community's progress toward self-sufficiency is based on its efforts to plan, organize, and direct resources in a comprehensive manner that is consistent with its established long-range goals. For a community to be self sufficient, it must have local access to, control of, and coordination of services and programs that safeguard the health, well-being, and culture of the people that reside and work in the community.

Social Development: Investment in human and social capital for advancing the well-being members of the Native American community served. Social development is the action taken to support the health, education, culture, and employment options that expand an individual's capabilities and opportunities, and that promote social inclusion and combat social ills.

Please note that this announcement is divided into two program areas. The first program area is Social and Economic Development Strategies for Native Americans (Non-Alaska) and the second program area is Social and Economic Development Strategies for Native Americans (Alaska). The second program area information immediately follows section VIII of program area one. Applications from Alaska Native entities may submit under either SEDS or Alaska SEDS but not both program areas. The SF 424 must clearly indicate the correct program area.

Program Area 1

Social and Economic Development Strategies for Native Americans (Non-Alaska): To promote the goal of social and economic self-sufficiency for Native Americans.

Economic Development: Involves the promotion of the physical, commercial, technological, industrial, and/or agricultural components necessary for a sustainable local community. Applicants are encouraged to develop sustainable projects to support sustainable, stable, and diversified private sector local economies.

Program Areas of Interest include:

- Projects to strengthen an organization's capacity to deliver business technical assistance, workshops, financial literacy programs, and that create, expand, and retain public and private sector community-based businesses.
- Projects to increase cooperative enterprise development activities, and technical capacity of youth to establish and operate cooperative businesses with the goal of teaching financial, management and long-term employment skills.
- Projects to plan and coordinate emergency response services within the community and with State and local governments to protect against Acts of Nature and other catastrophic events such as fire, floods, and environmental catastrophes.
- Projects to implement initiatives that are based on a feasibility study that assessed the economic potential of energy resources in their community, including renewable energy sources such as: Bio-energy, Geothermal, Hydrogen, Hydropower, Ocean, Solar, Wind, or other methods appropriate to the tribe and geographical location.
- Projects to develop community transportation activities that support the needs of the elderly, the disabled, and the local workforce.
- Projects to develop organizational and management capacity building activities that enhance community-based program delivery systems and services.
- Projects to develop and implement community-based activities that increase International Tourism and trade activities for Native American products, services, and communities. Business sectors of interest include: The export of Native American packaged foods; arts and crafts; literature and music; manufactured products; agricultural and organic products; value-added product assembly or processing that includes agriculture and aquaculture.
- Projects to develop and enhance subsistence activities that retain, or re-establish Native traditional foods and or by-products of natural resources for local and commercial markets. Develop and/or strengthen the local economy through enhanced commercial trade in areas such as agriculture, aquaculture, lumber, and traditional arts and crafts.

Social Development: The investment in human and social capital for advancing people's well-being. Applicants are encouraged to develop and implement culturally appropriate programs to enhance tribal, community, and village activities. Social development programs under this area support families, elders, parents, positive youth development, healthy marriage, individuals with disabilities, and personal commitment. Program Areas of Interest include:

- Healthy Relationships and Strengthening Families Initiative: The goal is to promote healthy family environments and strengthen co-parenting teamwork, problem-solving, and conflict resolution. To respond to this initiative, applicants should consider comprehensive projects that are culturally and socially appropriate to teach couples relationship-building skills, such as negotiation-based interpersonal communications, collaborative problem solving, and preservation of love, commitment, and friendship. Applicants are encouraged to be creative in their efforts to integrate elders into these projects to support traditional values and methods. Initiatives could address problematic periods in the family life cycle such as: pregnancy, postpartum care, first-time parenthood, parenting adolescents, and goal setting for independent young adults.
- Project to strengthen the long-term commitment of married couples. Projects should consider the enhancement of relationship skills through premarital counseling, mentoring activities, or role model activities.
- Projects to support young families in order to reduce the challenges and stress of child rearing and the risks associated with child/infant abuse and neglect, and projects to strengthen the bonds between parents and children, particularly between fathers and children, and the fathers' role in healthy families.
- Projects to develop and implement comprehensive culturally and socially appropriate projects to help youth practice personal responsibility; reach a balance in their lives by learning how to set and meet short and long-term goals; and to practice healthy lifestyles with the goal of decreasing gang activity, school drop out rates and juvenile delinquency.
- Projects to recruit, train, and certify new Native American foster parents or

promote appropriate extended family placements or to assist abused, neglected, and abandoned Native American children, youth, and their families.

• Projects to develop, coordinate, and implement training for Native Americans with disabilities in order to join the workforce, obtain information and technical assistance to apply for disability benefits, gain access to workplace facilities, and receive reasonable accommodations necessary to perform job functions.

Governance: Involves assistance to Tribal and Alaska native Village government leaders to increase their ability to execute local control and decision-making over their resources. ANA encourages applications for the development of laws and policies that support community-based social, economic and governance activities. Governance projects under this area may be used for leadership and management training or to assist eligible applicants in the development of laws, regulations, codes, policies, and practices that support and promote community-based activities. Program Areas of Interest include:

• Projects to enact laws that support and enforce business and investment transactions, contracts, and property rights. For example, develop and implement Uniform Commercial Codes (business codes) and Tax Codes.

• Projects to enact laws, ordinances, and policies, to develop, expand, and/or enhance utility and communications infrastructures.

• Projects to enrich and strengthen the management and leadership skills of senior Tribal government personnel, and senior management personnel of tribally owned companies.

• Projects to establish and implement technology management information systems to assist with the effective and efficient administration of tribal government programs.

• Projects to develop or amend tribal constitutions, government procedures and functions, by-laws or codes, and council or executive branch duties in order to improve the regulatory, judicial and/or administrative infrastructure of tribal and village governments.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Program Area 1 Funding: $18,000,000.

Anticipated Number of Awards: 110–120.

Average Projected Award Amount: $25,000 to $500,000.

Length of Project Period: 12, 17, 24, or 36 months.

Ceiling on Amount of Individual Awards: $500,000.

An application that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review.

Floor on Amount of Individual Awards: $25,000.

III. Eligibility Information

1. Eligible Applicants

• Federally recognized Indian Tribes;

• Consortia of Indian Tribes;

• Incorporated non-Federally recognized Tribes.

• Incorporated non-profit multi-purpose community-based Indian organizations;

• Urban Indian Centers;

• National or regional incorporated non-profit Native American organizations with Native American community-specific objectives;

• Alaska Native villages, as defined in the Alaska Native Claims Settlement Act (ANSCA) and/or non-profit village consortia;

• Incorporated non-profit Alaska Native multi-purpose community-based organizations;

• Non-profit Alaska Native Regional Corporations/Associations in Alaska with village specific projects;

• Non-profit Native organizations in Alaska with village specific projects;

• Public and non-profit private agencies serving Native Hawaiians;

• Public and non-profit private agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands (the populations served may be located on these islands or in the continental United States);

• Tribally-controlled Community Colleges, Tribally-controlled Post-Secondary Vocational Institutions, and colleges and universities located in Hawaii, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands which serve Native Pacific Islanders; and

• Non-profit Alaska Native community entities or Tribal governing bodies (Indian Reorganization Act or Traditional Councils) as recognized by the Bureau of Indian Affairs.

Organizations in Palau are not longer eligible for assistance from ANA. (**Legal authority:** 48 U.S.C 1931)

Additional Information on Eligibility: Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application eligibility.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-based Alternatives for Individuals With Disabilities, and Faith-based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply.

Proof of Non-Profit Status: Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing:

• A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or

• A copy of the currently valid IRS tax exemption certificate; or

• A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or

• A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or

• Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Resolution: Applicants are required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution must indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-Federal matching funds (if applicable).

Applicants are cautioned that the ceiling for individual awards is $500,000. Applications exceeding the $500,000 threshold will be returned without review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

2. Cost Sharing or Matching

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ANA share and the non-Federal share. The required match can be computed by dividing total Federal funds by 80 percent for total project costs then subtracting the Federal portion. The remainder is the required match. Therefore, a project requesting $100,000 in Federal funds (per budget period) must provide a match of at least $ 25,000 ($100,000/80% = $125,000 − $100,000 = $25,000) which is 20% total approved project cost. Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the non-federal share match will result in the disallowance of Federal match. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program regulations. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). For ANA grants under this announcement there is no match required for these insular areas.

3. Other (If Applicable)

DUNS Number: On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants after giving notice in the **Federal Register** on June 27, 2002 and opportunity for public comment. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*www.Grants.Gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003. A DUNS number may be acquired at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com*.

An application that exceeds the $500,000 will be considered ''non-responsive'' and be returned to the applicant without further review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address to Request Application Package

The ANA regional Training and Technical Assistance (T/TA) providers at:

Region I: AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, W.VA.

Native American Management Services, Inc., 6858 Old Dominion Drive, Suite 302, McLean, Virginia 22101, Toll Free: 888–221–9686, (703) 821–2226 x-234, Fax: (703) 821–3680, Kendra King-Bowes, Project Manager, E-mail: *kking@namsinc.org, www.anaeastern.org*.

Region II: AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY.

ACKCO, Inc., 2214 N. Central, Suite 250, Phoenix, Arizona 85004, Toll Free: 800–525–2859, (602) 253–9211, Fax (602) 253–9135, Theron Wauneka, Project Manager, E-mail: *theron.wauneka@ackco.com, www.anawestern.com*.

Region III: Alaska.

Native American Management Services, Inc., 11723 Old Glenn Highway, Suite 201, Eagle River, Alaska 99577, Toll Free 877–770–6230, (907) 694–5711, Fax (907) 694–5775, P.J. Bell, Project Manager, E-mail: *pjbell@gci.net, www.anaalaska.org*.

Region IV: American Samoa (AS), Guam, HI, Commonwealth of Northern Mariana Islands (CNMI).

Council for Native Hawaiian Advancement, 33 South King Street, Suite 513, Honolulu, Hawaii 96813, Toll-Free 800–709.2642, (808) 521–5011, Fax: (808) 521–4111, Jade Danner, Project Manager, E-mail: *jade@hawaiiancouncil.org, www.anapacific.org*.

2. Content and Form of Application Submission

Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application content and form.

Application Submission: An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget. A completed application for assistance under this Program Announcement consists of Three Parts. Part One is the SF 424 and other Required Government Forms, and other required documentation. Part Two of the application is the project substance of the application. This section of the application may not exceed 45 pages. Part Three of the application is the Appendix. This section of the application may not exceed 20 pages (the exception to this 20-page limit applies only to projects that require, if relevant to the project, a Business Plan or any Third-Party Agreements).

Electronic Submission: While ACF does have the capability to receive program announcement applications electronically through Grants.gov, electronic submission of applications will not be available for this particular announcement. There are required application form(s) specific to ANA that have not yet received clearance from Grants.gov. While electronic submission of applications may be available in the next fiscal year for this program, no electronic submission of applications will be accepted for this announcement this year as they would be missing those required ANA forms and be considered incomplete.

Organization and Preparation of Application: Due to the intensity and pace of the application review and evaluation process, ANA strongly recommends applicants organize, label, and insert required information in accordance with Part One, Part Two and Part Three as presented in the charts below. The application should begin with the information requested in Part One of the chart in the prescribed order. Utilizing this format will insure all information submitted to support an applicant's request for funding is thoroughly reviewed. Submitting information in this format will assist the panel reviewer in locating and evaluating the information. Deviation from this suggested format may reduce the applicant's ability to receive maximum points, which are directly

related to ANA's funding review decisions.

ANA Application Format: ANA will now require all applications to be labeled with a Section Heading in compliance with the format provided in the program announcement. This format applies to all applicants submitting applications for funding. All pages submitted (including Government Forms, certifications and assurances) should be numbered consecutively. The paper size shall be 8½ x 11 inches, line spacing shall be a space and a half (1.5 line spacing), printed only on one side, and have a half-inch margin on all sides of the paper. The font size should be no smaller than 12-point and the font type shall be Times New Roman. These requirements do not apply to the project Abstract Form, Letters of Commitment, the Table of Contents, and the Objective Work Plan.

Forms and Assurances: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A–B; and Certifications may be found at: *www.acf.hhs.gov/programs/ofs/forms.htm.* Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants.'' The forms are located on the Web at *www.acf.hhs.gov/programs/ofs/forms.htm* (OMB No. 1890–0014 Exp.1/31/06).

3. Submission Date and Time

The closing time and date for receipt of applications is 4:30 p.m. (EST) on April 23, 2004. Mailed or hand-delivered applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Hand-delivered applications shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., EST, Monday through Friday (excluding Federal holidays). Applications may be delivered to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late Applications: Applications that do not meet the Deadline criteria above will be considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms: All requirements for submission are due on or before the deadline date.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS

Part One must include the following:	Content and location of part one required forms, certifications, and documents
SF 424, SF 424A, and SF 424B	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*
Table of Contents	Applicant must include a table of contents that accurately identifies the page number and where the information can be located. Table of Contents does not count against application page limit.
Project Abstract	ANA Form: OMB Clearance Number 0980–0204 *http://www.acf.hhs.gov/programs/ana.*
Proof of Non-Profit Status	As described in this announcement under Section ''Other Eligibility Information''.
Resolution	Information for submission can be found in the Program Announcement Section ''Other Eligibility Information''.
Documentation that the Board of Directors is majority Native American, if applicant is other than a tribe or Alaska Native Village government.	As described in this announcement under ''ANA Administrative Policies''.
Audit Letter	A Certified Public Accountant's ''Independent Auditors' Report on Financial Statement.'' This is usually only a two to three page document. (This requirement applies only to applicants with annual expenditures of $300,000 or more of federal funds). Applicant must also include that portion of the audit document that identifies all other federal sources of funding.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS—Continued

Part One must include the following:	Content and location of part one required forms, certifications, and documents
Indirect Cost Agreement	Organizations and Tribes must submit a current indirect cost agreement (if claiming indirect costs) that aligns with the approved ANA project period. The In-direct Cost Agreement must identify the individual components and percentages that make up the indirect cost rate.
Non-Federal Share of Waiver Request, per 45 CFR 1336.50(b)	A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program regulations (if applicable).
Certification regarding Maintenance of Effort	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Certification regarding Lobbying	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Environmental Tobacco Smoke Certification	May be found at http://www.acf.hhs.gov/programs/ofs/forms.htm.

PART TWO.—APPLICATION REVIEW CRITERIA

Part two—proposed project	Application review criteria; This section may not exceed 45 pages
Criteria One (5 pts)	Introduction and Project Summary/Project Abstract
Criteria Two (20 pts)	Objectives and Need for Assistance
Criteria Three (25 pts)	Approach: Include an Objective Work Plan (OWP) form for each year of project. 17-month project periods need to submit only one OWP
Criteria Four (20 pts)	Organizational Capacity
Criteria Five (20 pts)	Results or Benefits Expected
Criteria Six (10 pts)	Budget and Budget Justification Summary/ Cost Effectiveness

PART THREE.—APPENDIX

	Appendix
Part Three—Support Documentation	This section may not exceed 20 pages. Part Three includes only supplemental information or required support documentation that addresses the applicant's capacity to carry out and fulfill the proposed project. These items include: letters of agreement with cooperating entities, in-kind commitment and support letters, business plans, and a summary of the Third Party Agreements. Do not include books, videotapes, studies or published reports and articles, as they will not be made available to the reviewers, or be returned to the applicant.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants''.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm*.	By application due date.

4. Intergovernmental Review

Applications are not subject to Executive Order 12372.

5. Funding Restrictions

ANA does not fund:

• Activities in support of litigation against the United States Government that are unallowable under OMB Circulars A–87 and A–122.

• Duplicative projects or does not allow any one community to receive a disproportionate share of the funds available for award. When making decisions on awards of grants the Agency will consider whether the project is essentially identical or similar, in whole or significant part, to projects in the same community previously funded or being funded under the same competition. The Agency will also consider whether the grantee is already receiving funding for a SEDS, Language, or Environmental project from ANA. The Agency will also take into account in making funding decisions whether a proposed project would require funding on indefinite or recurring basis. This determination will be made after it is determined whether the application meets the requirements for eligibility as set forth in 45 CFR part 1336, subpart C, but before funding decisions are complete.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations that are otherwise eligible to apply for ANA funding. However, ANA will fund T/TA requested by a grantee for its own use or for its members' use (as in the case of a consortium), when the T/TA is necessary to carry out project objectives.

• The purchase of real property or construction because those activities are not authorized by the Native American Programs Act of 1974, as amended.

• Objectives or activities to support core administration activities of an organization. However, functions and activities that are clearly project related are eligible for grant funding. Under Alaska SEDS projects, ANA will consider funding core administrative capacity building projects at the village

government level if the village does not have governing systems in place.

• Costs associated with fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under an ANA grant award.

• Major renovation or alteration because those activities are not authorized under the Native American Programs Act of 1974, as amended.

• Projects originated and designed by consultants who provide a major role for themselves and are not members of the applicant organization, Tribe, or village.

• Project activities that do not further the three interrelated ANA goals of economic development or social development or governance, or meet the purpose of this program announcement.

6. Other Submission Requirements

Submission by Mail: An Applicant must provide a complete original and two copies of the application with all required forms and signed by the authorized representative. The Application must be received at the address below by 4:30 p.m. Eastern Standard Time on or before the closing date. Applications should be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ''Attention: Lois B. Hodge'', 370 L'Enfant Promenade, SW., Washington, DC 20447.

For Hand-Delivery: An Applicant must deliver a complete original and two copies of the application with all required forms and signed by the authorized representative. Applications shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., est, Monday through Friday (excluding Federal holidays). Applications may be delivered to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description (UPD)

The UPD text should be used as general guidance in the development of projects. However, the specific ANA application submission format to be used in response to this announcement is located in section IV Application and Submission Information.

Purpose: The Project Description is a major area by which an application is evaluated and ranked in competition with other applications for financial assistance. The Project Description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included if they present information clearly and succinctly. In preparing your Project Description, all information requested through each specific evaluation criteria should be provided. ANA uses this and other information to make funding decisions. It is important, therefore, that this information be included in the application.

General Instructions: ANA is particularly interested in specific factual information and statements of measurable goals and performance indicators in quantitative terms. Project descriptions are evaluated on a basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information that does not directly pertain to an integral part of the grant-funded activity should be placed in the appendix. The application narrative should be in a 12-pitch font. A table of contents and an executive summary should be included. Each page should be numbered sequentially, including attachments or appendices. Please do not include books, videotapes or published reports because they are not easily reproduced, are inaccessible to the reviewers, and will not be returned to the applicant.

Introduction: Applicants are required to submit a full Project Description and shall prepare this portion of the grant application in accordance with the following instructions and the specified evaluation criteria. The introduction provides a broad overview of the Project, and the information provided under each evaluation criteria expands and clarifies the project program-specific activities and information that reviewers will need to assess the proposed project.

Project Summary: Provide a summary of the Project Description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the Project Description, the applicant should provide information on the total range of projects currently being conducted and supported (or to be initiated) to ensure they are within the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived by the community and its members. For example, applicants are encouraged to describe the qualitative and quantitative data collected, how this data will measure progress towards the stated results or benefits, and how performance indicators under economic and social development and governance projects can be monitored, evaluated and verified.

Approach: Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, extraordinary social and community involvement or ease of project replication by other tribes and Native organizations. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people served and the number of activities accomplished. Examples of these activities would be the number of businesses started or expanded, the number of jobs created or retained, the number of people trained, the number of youth, couples or families assisted or the number of elders

participating in the activity during that reporting period. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the dates and schedule of accomplishments. List organizations, cooperating entities, consultants, or other key individuals who will work on the project, as well as a short description of the nature of their effort or contribution.

Staff and Position Data: Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed. Information should include the qualifications of each staff person as they pertain to the project.

Organizational Profiles: Provide information on the applicant organization(s) and cooperating partners with organizational charts, financial statements, audit reports or statements from CPA/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

Third-Party Agreements: Include written agreements between grantees and sub grantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Budget and Budget Justification: Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allow-ability of the proposed costs.

Geographic Location: Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Additional Information: The following are requests for additional information that need to be included in the application: Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit organization shall submit one of the following: (i) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA program eligibility.

General: The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s); and last column, total budget. The budget justification should be a narrative.

- Personnel: The description of the costs of employee salaries and wages. Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), or time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.
- Fringe Benefits: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.
- Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.
- Equipment: Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.). Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy, which includes the equipment definition.
- Supplies: Costs of all tangible personal property other than that included under the Equipment category. Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.
- Contractual: Costs of all contracts for services and goods except for those, which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation

contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category. Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition (sole source) and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000.). Recipients may be required to make available to ANA pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. **Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

• Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs. Justification: Provide computations, a narrative description, and a justification for each cost under this category.

• Indirect Charges: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of the Interior, Department of Labor, the Department of Health and Human Services (HHS), or other Federal agency. Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

• Program Income: The estimated amount of income, if any, expected to be generated from this project. Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application, which contain this information.

• Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each budget period.

• Total Direct Charges, Total Indirect Charges, and Total Project Costs.

Evaluation Criteria: ANA

Approach (25 Points). The Applicant's narrative should be clear and concise. The applicant should provide a detailed project description with goals and objectives. It should discuss the project strategy and implementation plan over the project period. Applicant should also describe the project strategy using the Objective Work Plan (OWP). In the OWP, the applicant should identify the project objectives, time frames, proposed activities, outcomes, and evaluation activity, as well as the individuals responsible for completing the objectives and performing the activities. Applicant should summarize how the project description, objective(s), approach, strategy and implementation plan are inter-related. The applicant should also include the names and activities of any organizations, consultants, or other key individuals who will contribute to the project. The Applicant should discuss ''Leveraged Resources'' (see Definitions) used to strengthen and broaden the impact of the proposed project. The Applicant should discuss how commitments and contributions from other entities will enhance the project. Applicant should provide ''Letters of Commitment'' that identify the time, dollar amount, and activity to be accomplished through partnerships. Applicants should discuss the relationship of non-ANA funded activities to those objectives and activities that will be funded with ANA grant funds. (Letters of Commitment are included in the Appendix).

Objectives and Need for Assistance (20 Points). Applicant should show a clear relationship between the proposed project, the social and economic development strategy, and the community's long-range goals. The need for assistance should clearly identify the physical, economic, social, financial, governmental, and institutional challenges and problem(s) requiring a solution that supports the funding request. Describe the community (see Definitions) to be affected by the project and the community involvement in the project. The Applicant should describe the community's long-range goals, the community planning process, and how the project supports the community goals. The applicant should describe how the proposed goals, objectives, and activities reflect either the economic and social development or governance needs of the local community. Discuss the geographic location of the project and where the project and grant will be administered.

Applications from National and Regional Indian and Native organizations must clearly demonstrate a need for the project, explain how the project originated, identify the intended beneficiaries, describe and relate the actual project benefits to the community and organization, and describe a community-based project delivery strategy. National Indian and Native organizations should also identify their membership and specifically discuss how the organization operates and impacts Native American people and communities. Proposed project objectives support the identified need and should be measurable.

Organizational Profile (20 Points). Provide information on the management structure of the Applicant and the organizational relationships with its cooperating partners. Include organizational charts that indicate how the proposed project will fit into the existing structure. Demonstrate experience in the program area. Describe the Applicant's capabilities such as the administrative structure, its ability to administer a project of the proposed scope and its capacity to fulfill the implementation plan. If relevant to the project, applicants must provide a Business Plan or any Third-Party Agreements (not counted in Appendix page limit). Applicants are required to affirm that they will credit the Administration for Native Americans, and reference the ANA funded project on any audio, video,

and/or printed materials developed in whole or in part with ANA funds. Applicants should list all current sources of federal funding, the agency, purpose, amount, and provide the most recent certified signed audit letter for the organization to be included in Part One of the application. If the applicant has audit exceptions, these issues should be addressed.

Applicant should provide ''staffing and position data'' to include a proposed staffing pattern for the project where the Applicant highlights the new project and staff. Positions discussed in this section must match the positions identified in the Objective Work Plan and in the proposed budget. **Note:** Applicants are strongly encouraged to give preference to qualified Native Americans in hiring project staff and in contracting services under an approved ANA grant. Applicant should provide a paragraph on the duties and skills required for the proposed staff and a paragraph on qualifications and experience of current staff (Full position descriptions are required to be submitted in the Appendix). Applicant should explain and discuss how the current and future staff will manage the proposed project. Brief biographies of key positions or individuals should be included.

Results or Benefits Expected (20 Points). In this section the applicant should discuss the ''Performance Indicators'' (see Definitions) and the benefits expected as a result of this project. Performance indicators identify qualitative and quantitative data directly associated with the project. Each applicant should select five indicators to support the applicant's project. Three performance indicators may be selected from the list of six below. Each grantee is required to develop two additional indicators specific to the project that directly support the goals and objectives. For each performance indicator selected the applicant should discuss the relevance of the data, the method for collecting the data, and the evaluation process. Performance indicators will be reported to ANA in the grantee's quarterly report. Three of the five performance indicators required, should be selected from the following list: (1) The number of jobs created; (2) the number of people to successfully complete a workshop/training; (3) the number of community-based small businesses established or expanded; (4) identification of tribal or village government business, industry, energy or financial codes or ordinances that were adopted or enacted; (5) the number of children, youth, families or elders assisted or participating; and (6) the number of community partnerships formed. In this section the applicant will indicate how it will measure the success of the separate project components and the project as a whole. Applicant should describe how the success of the project would be evaluated and verified by an independent program monitoring and evaluation team. Applicant should provide a narrative on the specific performance indicators that can be analyzed, measured, monitored, and evaluated. For example, if requesting funds for a conference, workshop, or an educational activity, the applicant should discuss the value and long-term impact to the participants and the community and explain how the information relates to the project goals, objectives and outcomes. The applicant should discuss how the project will be completed, or self-sustaining, or supported by other than ANA funds at the end of the project period. Applicants should discuss and present objectives and goals to be achieved and evaluated at the end of each budget period. Project outcomes support the identified need and should be measurable.

Budget and Budget Justification/Cost Effectiveness (10 Points). Budget and Budget Justification: An applicant must submit an itemized budget detailing the applicant's Federal and non-Federal share and cite source(s) of funding. The applicant should provide a detailed line item Federal and non-Federal share budget by year for each year of project funds requested. A budget narrative describing the line item budget should be attached for each year of project funds requested. The budget should include a line item justification for each Object Class Category listed under Section B—''Budget Categories'' of the ''Budget Information-Non Construction Programs'' on the SF 424A form. The budget should include the necessary details to facilitate the determination of allowable costs and the relevance of these costs to the proposed project.

Applicant should briefly explain its existing operational budget and any additional anticipated funding including unique financial circumstances, with potential impact on the project such as upcoming monetary or land settlements, and how the proposed project fits in the overall budget. Applicant should explain why it cannot apply other funding resources to cover the ANA portion of funding.

The non-federal budget share should identify the source and be supported by letters of commitment (see Definitions). Letters of commitment are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural, or financial, and may include other Federal and non-Federal resources. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources. Letters of Support merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters and do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Rate Agreement should be included in the application, with all cost broken down by category so ANA reviewers can be certain that no budgeted line items are included in the indirect cost pool. Applicants that do not submit a current Indirect Cost Rate Agreement, may not be able to claim the allowable cost, may have the grant award amount reduced, or result in a delay in grant award.

Applicants are encouraged to include sufficient funds for principal representatives, such as the applicant's chief financial officer or project director to travel to one ANA post-award grant training and technical assistance workshop. This expenditure is allowable for new grant recipients and optional for grantees that have had previous ANA grant awards, and will be negotiated upon award. Applicants may also include costs to travel to an ANA grantee conference.

For business development projects, the proposal should demonstrate that the expected return on the ANA funds used to develop the project will provide a reasonable operating income and investment return within a specified time period. If a profit-making venture is being proposed, profits should be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue should be reported as general program income. A decision will be made at the time of the grant award regarding appropriate use of program income. (*See* 45 CFR part 74 and part 92).

Cost Effectiveness: This criterion reflects ANA's concern with ensuring that the expenditure of its limited

resources yields the greatest benefit possible in achieving the economic and social self-sufficiency for Native American communities. Applicants demonstrate this by: Summarizing partnerships and the efficient use of leveraged resources; explaining the impact on the identified community through measurable project outcomes; and presenting a project that is completed, or self-sustaining or supported by other than ANA funds by the end of the project period.

Introduction and Project Summary/ Project Abstract (5 Points). Using the ANA Project Abstract form, the applicant should provide a Project Introduction. The Introduction will provide the reader an overview and some details of the proposed project. This is where the project is introduced to the peer review panel. Identify the name of the applicant, location of the community to be served by the proposed project, the project activities, funding amount requested, amount of matching funds to be provided, the length of time required to accomplish the project, and the outcomes or outputs to be achieved.

2. Review and Selection Process

Initial Screening: Each application submitted under an ANA program announcement will undergo a pre-review screening to determine if (a) the application was received by the Program Announcement closing date; (b) the application was submitted in accordance with section IV ''Application and Submission Information''; (c) the applicant is eligible for funding in accordance with section III ''Eligibility Information''; (d) the applicant has submitted the proper support documentation such as proof of non-profit status, resolutions, and required government forms; (e) an authorized representative has signed the application; and (f) applicant has a DUNS number. An application that does not meet one of the above elements will be determined to be incomplete and excluded from the competitive review process. Applicants, with an incomplete application, will be notified by mail within 30 business days from the closing date of this program announcement. ANA staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification. After the Commissioner has made funding decisions, unsuccessful applicants will be notified in writing within 90 days. Applicants are not ranked based on general financial need. Applicants, who are initially excluded from competition because of ineligibility, may appeal the Agency's decision. Applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817 and 45 CFR part 1336, subpart C).

Competitive Review Process: Applications that pass the initial ANA screening process will be analyzed, evaluated and rated by an independent review panel on the basis of the Evaluation Criteria specified. The evaluation criteria were designed to analyze and assess the quality of a proposed community-based project, the likelihood of its success, and the ability to monitor and evaluate community impact and long-term results. The evaluation criteria and analysis are closely related and are wholly considered in judging the overall quality of an application. In addition, the evaluation criteria will standardize the review of each application and distribute the number of points more equitably. Applications will be evaluated in accordance with the program announcement criteria and ANA's program areas of interest. A determination will be made as to whether the proposed project is an effective use of federal funds.

Application Review Criteria: ANA has expanded the review criteria to allow for a more equitable distribution of points during the application review and competition process. The use of the six criteria distributes the number of points more equitably. Based on the ACF Uniform Project Description, ANA's criteria categories are Project Introduction; Objectives and Need for Assistance; Project Approach; Organizational Capacity; Results and Benefits Expected; and Budget and Budget Narrative.

As non-Federal reviewers will be used, applicants have the option of omitting from the application copies (not original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Application Consideration: The Commissioner's funding decision is based on an analysis of the application by the review panel, the panel review scores and recommendations; an analysis by the ANA staff, review of previous ANA grant past performance (includes timely reporting and successful grant close-out); comments from State and Federal agencies having contract and grant performance related information, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Native American Programs Act (NAPA), all relevant statutory and regulatory requirements, this program announcement, and the availability of appropriated funds. The Commissioner reserves the right to award more, or less, than the funds described or under such circumstances as may be deemed to be in the best interest of the Federal government. Applicants may be required to reduce the scope of projects based on the amount of approved award.

VI. Award Administration Information

1. Award Notices

Approximately 120 days after the application due date, the successful applicants will be notified by mail through the issuance of a Financial Assistance Award document which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and sent to the applicants Authorizing Official.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR part 74, 45 CFR part 92, and 45 CFR part 1336, subpart C and 42 U.S.C. Section 2991 et seq.—Native American Programs Act of 1974.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 120 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 3/31/04. The Survey on Ensuring Equal Opportunity for Applicants form is approved under OMB control number 1890–0014 which expires 1/31/06.

3. Reporting Requirements

Programmatic Reports: Quarterly.

Financial Reports: Quarterly.

An original and one copy of each performance report and financial status report must be submitted to the Grants Officer. Failure to submit these reports when required will mean the grantee is non-compliant with the terms and

conditions of the grant award and subject to administrative action or termination. Performance reports are submitted 30 days after each quarter (3-month intervals) of the budget period. The final performance report, due 90 days after the project period end date, shall cover grantee performance during the entire project period. All grantees shall use the SF 269 (Long Form) to report the status of funds. Grantees shall submit semi-annual Financial Status Reports that shall be due 30 days after each quarter (3-month intervals) of the budget period. The final report shall be due 90 days after the end of the project period.

VII. Agency Contacts

Program Office Contact: ANA Applicant Help Desk, 370 L'Enfant Promenade SW, Aerospace Center, 8-West, Washington, DC 20447, Telephone: 202–690–7776 or toll free at 1–877–922–9262, E-mail: *ana@acf.hhs.gov.*

Grants Management Office Contact: Lois B. Hodge, 370 L'Enfant Promenade, SW., Aerospace Building 8th Floor-West, Washington, DC 20447–0002, Telephone: (202) 401–2344, E-mail: *Lhodge@acf.dhhs.gov.*

VIII. Other Information

Training and Technical Assistance: All potential ANA applicants are eligible to receive free T&TA in the SEDS, Language, or Environmental program areas. Prospective applicants should check ANA's web site for training and technical assistance dates and locations, or contact the ANA Help Desk at 1–877–922–9262. Due to the new application and program additions and modifications, ANA strongly encourages all prospective applicants to participate in free pre-application training.

Program Area 2

Alaska Social and Economic Development Strategies for Native Americans: In fiscal year 1984, ANA implemented a special Alaska Social and Economic Development initiative to support activities at the village level. This special effort was designed to provide small amounts of project seed money for village-specific projects to improve and strengthen the capacity of village governments, an integral part of social and economic self-sufficiency. ANA continues to implement this special initiative with a renewed awareness that economic, social and governance development is interrelated. ANA believes both the non-profit and for-profit corporations in Alaska can play an important supportive role in assisting individual villages in the development and implementation of their own locally determined strategies, which capitalize on opportunities afforded to Alaska Natives under the Alaska Native Claims Settlement Act (ANCSA).

The Program Areas of Interest are projects that ANA considers supportive to Native American communities. Although eligibility for funding is not restricted to the projects of the type listed under this program announcement, these Areas of Interest are ones which ANA sees as particularly beneficial to the development of healthy Native American communities.

Economic Development: Involves the promotion of the physical, commercial, technological, industrial, and/or agricultural components necessary for a sustainable local community. Applicants are encouraged to develop sustainable projects to support sustainable, stable, and diversified private sector local economies. Program Areas of Interest include:

- Projects to strengthen an organization's capacity to deliver business technical assistance, workshops, financial literacy programs, and that create, expand, and retain public and private sector community-based businesses.
- Projects to increase cooperative enterprise development activities, and technical capacity of youth to establish and operate cooperative businesses with the goal of teaching financial, management and long-term employment skills.
- Projects to plan and coordinate emergency response services within the community and with State and local governments to protect against Acts of Nature and other catastrophic events such as fire, floods, and environmental catastrophes.
- Projects to implement initiatives based on a feasibility study that assessed the economic potential of energy resources in their community, including renewable energy sources such as: Bio-energy, Geothermal, Hydrogen, Hydropower, Ocean, Solar, Wind, or other methods appropriate to the tribe and geographical location.
- Projects to develop community transportation activities that support the needs of the elderly, the disabled, and the local workforce.
- Projects to develop organizational and management capacity building activities that enhance community-based program delivery systems and services.
- Projects to develop and implement community-based activities that increase International Tourism and trade activities for Native American products, services, and communities. Business sectors of interest include: the export of Native American packaged foods; arts and crafts; literature and music; manufactured products; agricultural and organic products; value-added product assembly or processing that includes agriculture and aquaculture.
- Projects to develop and enhance subsistence activities that retain, or re-establish Native traditional foods and or by-products of natural resources for local and commercial markets. Develop and/or strengthen the local economy through enhanced commercial trade in areas such as agriculture, aquaculture, lumber, and traditional arts and crafts.

Social Development: The investment in human and social capital for advancing people's well-being. Applicants are encouraged to develop and implement culturally appropriate programs to enhance tribal, community, and village activities. Social development programs under this area support families, elders, parents, positive youth development, healthy marriage, individuals with disabilities, and personal commitment.

Program Areas of Interest include:

- Healthy Relationships and Strengthening Families Initiative: The goal is to promote healthy family environments and strengthen co-parenting teamwork, problem-solving, and conflict resolution. To respond to this initiative, applicants should consider comprehensive projects that are culturally and socially appropriate to teach couples relationship-building skills, such as negotiation-based interpersonal communications, collaborative problem solving, and preservation of love, commitment, and friendship. Applicants are encouraged to be creative in their efforts to integrate elders into these projects to support traditional values and methods. Initiatives could address problematic periods in the family life cycle such as: pregnancy, postpartum care, first-time parenthood, parenting adolescents, and goal setting for independent young adults.
- Projects to strengthen the long-term commitment of married couples. Projects should consider the enhancement of relationship skills through premarital counseling, mentoring activities, or role model activities.
- Projects to support young families in order to reduce the challenges and stress of child rearing, and the risks associated with child/infant abuse and neglect, strengthening the bonds between parents and children, and

particularly between fathers and children and the fathers' role in healthy families.

• In partnership with community and or faith-based organizations, develop and implement comprehensive culturally and socially appropriate projects to help youth practice personal responsibility; reach a balance in their lives by learning how to set and meet short- and long-term goals; and to practice healthy lifestyles with the goal of decreasing gang activity, school drop out rates and juvenile delinquency.

• Projects to recruit, train, and certify new Native American foster parents or promote appropriate extended family placements or to assist abused, neglected, and abandoned Native American children, youth, and their families.

• Projects to develop, coordinate, and implement training for Native Americans with disabilities in order to join the workforce, obtain information and technical assistance to apply for disability benefits, gain access to workplace facilities, and receive reasonable accommodations necessary to perform job functions.

Governance: Involves assistance to Tribal and Alaska native Village government leaders to increase their ability to execute local control and decision-making over their resources. ANA encourages applications for the development of laws and policies that support community-based social, economic and governance activities. Governance projects under this area may be used for leadership and management training or to assist eligible applicants in the development of laws, regulations, codes, policies, and practices that support and promote community-based activities. Program Areas of Interest include:

• Projects to enact laws that support and enforce business and investment transactions, contracts, and property rights. For example, develop and implement Uniform Commercial Codes (business codes) and Tax Codes.

• Projects to enact laws, ordinances, and policies, to develop, expand, and/or enhance utility and communications infrastructures.

• Projects to enrich and strengthen the management and leadership skills of senior Tribal government personnel, and senior management personnel of tribally owned companies.

• Projects to establish and implement technology management information systems to assist with the effective and efficient administration of tribal government programs.

• Projects to develop or amend tribal constitutions, government procedures and functions, by-laws or codes, and council or executive branch duties in order to improve the regulatory, judicial and/or administrative infrastructure of tribal and village governments.

II. Award Information

Applications from Alaska Native entities may submit under either SEDS or Alaska SEDS but not both program areas. The SF 424 must clearly indicate the correct program area.

Funding Instrument Type: Grant.

Anticipated Total Program Area Funding: $2,000,000.

Anticipated Number of Awards: 10–20.

Average Projected Award Amount:

$25,000–$125,000 for Individual Village Projects.

$25,000–$175,000 for Regional Non-profit and Village Consortia.

Length of Project Period: 12, 17, 24, or 36 months.

Ceiling on Amount of Individual Awards:

$175,000 for Regional Non-profit and Village Consortia.

$125, 000 for Individual Village Projects.

An application that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review.

Floor Amount: $25,000.

III. Eligibility Information

1. Eligible Applicants

• Federally Recognized Indian tribes in Alaska;

• Alaska Native villages, as defined in the Alaska Native Claims Settlement Act (ANSCA) and/or non-profit village consortia;

• Incorporated non-profit Alaska Native multi-purpose community-based organizations;

• Non-profit Alaska Native Regional Corporations/Associations in Alaska with village specific projects; and

• Non-profit Native organizations in Alaska with village specific projects.

Additional Information on Eligibility: Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application eligibility.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-based Alternatives for Individuals with Disabilities, and Faith-based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply.

Proof of Non-Profit Status: Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing:

• a reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or

• a copy of the currently valid IRS tax exemption certificate; or

• a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or

• a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or

• any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Resolution: Applicants are required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution must indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-federal matching funds (if applicable).

2. Cost Sharing or Matching

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-federal share. The required match can be computed by dividing total Federal funds by 80 percent for total project costs then subtracting the Federal portion. The remainder is the required match. Therefore, a project requesting $100,000 in Federal funds (per budget period) must provide a match of at least $25,000 ($100,000/80% = $125,000 − $100,000 = $25,000) which is 20% of the total approved cost. Grantees will be held accountable for commitments of the non-Federal

resources even if over the amount of the required match. Failure to provide the non-Federal share match will result in the disallowance of Federal match. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program regulations.

3. Other (if applicable)

DUNS Number: On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants after giving notice in the **Federal Register** on June 27, 2002 and opportunity for public comment. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (www.Grants.Gov). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003. A DUNS number may be acquired at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Applications exceeding the $175,000 for Regional Non-profit and Village Consortia or $125,000 for Individual Village Projects thresholds will be returned without review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

The ANA regional Training and Technical Assistance (T/TA) provider at: Native American Management Services, Inc., 11723 Old Glenn Highway, Suite 201, Eagle River, Alaska 99577, Toll Free 877–770–6230, (907) 694–5711, Fax (907) 694–5775, P.J. Bell, Project Manager, E-mail: *pjbell@gci.net, www.anaalaska.org.*

2. Content and Form of Submission

Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application content and form.

Application Submission: An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. A complete application for assistance under this Program Announcement consists of Three Parts. Part One is the SF 424, Required Government Forms, and other required documentation. Part Two of the application is the project substance of the application. This section of the application may not exceed 45 pages. Part Three of the application is the Appendix. This section of the application may not exceed 20 pages (the exception to this 20 page limit applies only to projects that require, if relevant to the project, a Business Plan or any Third-Party Agreements).

Electronic Submission: While ACF does have the capability to receive program announcement applications electronically through Grants.gov, electronic submission of applications will not be available for this particular announcement. There are required application form(s) specific to ANA that have not yet received clearance from Grants.gov. While electronic submission of applications may be available in the next fiscal year for this program, no electronic submission of applications will be accepted for this announcement this year as they would be missing those required ANA forms and be considered incomplete.

Organization and Preparation of Application: Due to the intensity and pace of the application review and evaluation process, ANA strongly recommends applicants organize, label, and insert required information in accordance with Part One, Part Two and Part Three as presented in the charts below. The application should begin with the information requested in Part One of the chart in the prescribed order. Utilizing this format will insure all information submitted to support an applicant's request for funding is thoroughly reviewed. Submitting information in this format will assist the panel reviewer in locating and evaluating the information. Deviation from this suggested format may reduce the applicant's ability to receive maximum points, which are directly related to ANA's funding review decisions.

ANA Application Format: This format applies to all applicants submitting applications for funding. ANA will now require all applications to be labeled in compliance with the format provided in the program announcement. All pages submitted (including Government Forms, certifications and assurances) should be numbered consecutively. The paper size shall be 8½ x 11 inches, line spacing shall be a space and a half (1.5 line spacing), printed only on one side, and have a half-inch margin on all sides of the paper. The font size should be no smaller than 12-point and the font type shall be Times New Roman. These requirements do not apply to the project Abstract Form, Letters of Commitment, the Table of Contents, and the Objective Work Plan.

Forms and Assurances: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A–B; and Certifications may be found at: *www.acf.hhs.gov/programs/ofs/forms.htm.* Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants.'' The forms are located on the web at *www.acf.hhs.gov/*

programs/ofs/forms.htm (OMB No. 1890–0014 Exp.1/31/06).

3. Submission Date and Time

The closing time and date for receipt of applications is 4:30 p.m. (Eastern Standard Time) on April 23, 2004. Mailed or hand-delivered applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Hand Delivery: The Application shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding Federal holidays). Applications may be delivered to U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late Applications: Applications that do not meet the Deadline criteria above will be considered late applications. ACF will notify each late applicant that its application will not be considered for review in the current competition.

Extension of Deadline: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms: All requirements for submission are due on or before the deadline date.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS

Part one must include the following:	Content and location of part one required forms, certifications, and documents
SF 424, SF 424 A, and SF 424B	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*
Table of Contents	Applicant must include a table of contents that accurately identifies the page number and where the information can be located. Table of Contents does not count against application page limit.
Project Abstract	ANA Form: OMB Clearance Number 0980–0204 *http://www.acf.hhs.gov/programs/ana.*
Proof of Non-Profit Status	As described in this announcement under ''Other Eligibility Information.''
Resolution	Information for submission can be found in the Program Announcement Section ''Other Eligibility Information.''
Documentation that the Board of Directors is majority Native American, if applicant is other than a tribe or Alaska Native Village government.	As described in this announcement under ''ANA Administrative Policies'' section.
Audit Letter	A Certified Public Accountant's ''Independent Auditors'' Report on Financial Statement.'' This is usually only a two to three page document. (This requirement applies only to applicants with annual expenditures of $300,000 or more of federal funds). Applicant must also include that portion of the audit document that identifies all other federal sources of funding.
Indirect Cost Agreement	Organizations and Tribes must submit a current indirect cost agreement (if claiming in-direct costs) that aligns with the approved ANA project period. The In-direct Cost Agreement must identify the individual components and percentages that make up the indirect cost rate.
Non-Federal Share of Waiver Request, per 45 CFR 1336.50(b)	A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program regulations (if applicable).
Certification regarding Lobbying	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Certification regarding Maintenance of Effort	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Environmental Tobacco Smoke Certification	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

PART TWO.—APPLICATION REVIEW CRITERIA

Part two—proposed project	Application review criteria: This section may not exceed 45 pages
Criteria One (5 pts)	Introduction and Project Summary/Project Abstract.
Criteria Two (20 pts)	Objectives and Need for Assistance.
Criteria Three (25 pts)	Approach: Include an Objective Work Plan (OWP) form for each year of project period. 17-month project periods need only to submit one OWP.
Criteria Four (20 pts)	Organizational Profile.
Criteria Five (20 pts)	Results or Benefits Expected.
Criteria Six (10 pts)	Budget and Budget Justification Summary/ Cost Effectiveness.

PART THREE.—APPENDIX

	Appendix
Part three—support documentation	This section may not exceed 20 pages. Part Three includes only supplemental information or required support documentation that addresses the applicant's capacity to carry out and fulfill the proposed project. These items include: letters of agreement with cooperating entities, in-kind commitment and support letters, business plans, and a summary of the Third Party Agreements. Do not include books, videotapes, studies or published reports and articles, as they will not be made available to the reviewers, or be returned to the applicant.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants''.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm*.	By application due date.

4. Intergovernmental Review

Applications are not subject to Executive Order 12372.

5. Funding Restrictions

ANA does not fund:

• Activities in support of litigation against the United States Government that are unallowable under OMB Circulars A–87 and A–122.

• Duplicative projects or does not allow any one community to receive a disproportionate share of the funds available for award. When making decisions on awards of grants the Agency will consider whether the project is essentially identical or similar, in whole or significant part, to projects in the same community previously funded or being funded under the same competition. The Agency will also consider whether the grantee is already receiving funding for a SEDS, Language, or Environmental project from ANA. The Agency will also take into account in making funding decisions whether a proposed project would require funding on indefinite or recurring basis. This determination will be made after it is determined whether the application meets the requirements for eligibility as set forth in 45 CFR part 1336, subpart C, but before funding decisions are complete.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations that are otherwise eligible to apply for ANA funding. However, ANA will fund T/TA requested by a grantee for its own use or for its members' use (as in the case of a consortium), when the T/TA is necessary to carry out project objectives.

• The purchase of real property or construction because those activities are not authorized by the Native American Programs Act of 1974, as amended.

• Objectives or activities to support core administration activities of an organization. However, functions and activities that are clearly project related are eligible for grant funding. Under Alaska SEDS projects, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

• Costs associated with fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under an ANA grant award.

• Major renovation or alteration because those activities are not authorized under the Native American Programs Act of 1974, as amended.

• Projects originated and designed by consultants who provide a major role for themselves and are not members of the applicant organization, Tribe, or village.

• Project activities that do not further the three interrelated ANA goals of economic development or social development or governance, or meet the purpose of this program announcement.

6. Other Submission Requirements

Submission by Mail: An applicant must provide an original and two copies of the application with all required forms and signed by an authorized representative. The application must be received at the address below by 4:30 p.m. Eastern Standard Time (EST) on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed. Applications should be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, Attention: Lois B. Hodge, 370 L'Enfant Promenade, SW., Washington, DC 20447.

For Hand Delivery: The application shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding Federal holidays). Applications may be delivered to U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge.'' Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description

The UPD text should be used as general guidance in the development of projects. However, the specific ANA application submission format to be used in response to this announcement is located in section IV ''Application and Submission Information''.

Purpose: The Project Description is a major area by which an application is evaluated and ranked in competition with other applications for financial assistance. The Project Description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be

included if they present information clearly and succinctly. In preparing your Project Description, all information requested through each specific evaluation criteria should be provided. ANA uses this and other information to make funding decisions. It is important, therefore, that this information be included in the application.

General Instructions: ANA is particularly interested in specific factual information and statements of measurable goals and performance indicators in quantitative terms. Project descriptions are evaluated on a basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information that does not directly pertain to an integral part of the grant-funded activity should be placed in the appendix. The application narrative should be in a 12-pitch font. A table of contents and an executive summary should be included. Each page should be numbered sequentially, including attachments or appendices. Please do not include books, videotapes or published reports because they are not easily reproduced, are inaccessible to the reviewers, and will not be returned to the applicant.

Introduction: Applicants are required to submit a full Project Description and shall prepare this portion of the grant application in accordance with the following instructions and the specified evaluation criteria. The introduction provides a broad overview of the Project, and the information provided under each evaluation criteria expands and clarifies the project program-specific activities and information that reviewers will need to assess the proposed project.

Project Summary: Provide a summary of the Project Description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the Project Description, the applicant should provide information on the total range of projects currently being conducted and supported (or to be initiated) to ensure they are within the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived by the community and its members. For example, applicants are encouraged to describe the qualitative and quantitative data collected, how this data will measure progress towards the stated results or benefits, and how performance indicators under economic and social development and governance projects can be monitored, evaluated and verified.

Approach: Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, extraordinary social and community involvement or ease of project replication by other tribes and Native organizations. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people served and the number of activities accomplished. Examples of these activities would be the number of businesses started or expanded, the number of jobs created or retained, the number of people trained, the number of youth, couples or families assisted or the number elders participating in the activity during that reporting period. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the dates and schedule of accomplishments. List organizations, cooperating entities, consultants, or other key individuals who will work on the project, as well as a short description of the nature of their effort or contribution.

Organizational Profiles: Provide information on the applicant organization(s) and cooperating partners with organizational charts, financial statements, audit reports or statements from CPA/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

Third-Party Agreements: Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Budget and Budget Justification: Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allow-ability of the proposed costs.

Additional Information: The following are requests for additional information that need to be included in the application: Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit organization shall submit one of the following: (i) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status;

therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA program eligibility.

General: The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s); and last column, total budget. The budget justification should be a narrative.

- Personnel: The description of the costs of employee salaries and wages. Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), or time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.
- Fringe Benefits: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.
- Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.
- Equipment: Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.) Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy, which includes the equipment definition.
- Supplies: Costs of all tangible personal property other than that included under the Equipment category. Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.
- Contractual: Costs of all contracts for services and goods except for those, which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category. Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition (sole source) and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000.). Recipients may be required to make available to ANA pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. **Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.
- Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs. Justification: Provide computations, a narrative description, and a justification for each cost under this category.
- Indirect Charges: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of the Interior, Department of Labor, the Department of Health and Human Services (HHS), or other Federal agency. Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.
- Program Income: The estimated amount of income, if any, expected to be generated from this project. Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application, which contain this information.
- Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each budget period.
- Total Direct Charges, Total Indirect Charges, and Total Project Costs.

Evaluation Criteria: ANA

Approach (25 Points). The Applicant's narrative should be clear and concise. The applicant should

provide a detailed project description with goals and objectives. It should discuss the project strategy and implementation plan over the project period. Applicant should also describe the project strategy using the Objective Work Plan (OWP). In the OWP, the applicant should identify the project objectives, time frames, proposed activities, outcomes, and evaluation activity, as well as the individuals responsible for completing the objectives and performing the activities. Applicant should summarize how the project description, objective(s), approach, strategy and implementation plan are inter-related. The applicant should also include the names and activities of any organizations, consultants, or other key individuals who will contribute to the project. The Applicant should discuss ''Leveraged Resources'' (*see* Definitions) used to strengthen and broaden the impact of the proposed project. The Applicant should discuss how commitments and contributions from other entities will enhance the project. Applicant should provide ''Letters of Commitment'' that identify the time, dollar amount, and activity to be accomplished through partnerships. Applicant should discuss the relationship of non-ANA funded activities to those objectives and activities that will be funded with ANA grant funds. (Letters of Commitment are included in the Appendix).

Objectives and Need for Assistance (20 Points). Applicant should show a clear relationship between the proposed project, the social and economic development strategy, and the community's long-range goals. The need for assistance should clearly identify the physical, economic, social, financial, governmental, and institutional challenges and problem(s) requiring a solution that supports the funding request. Describe the community (*see* Definitions) to be affected by the project and the community involvement in the project. The Applicant should describe the community's long-range goals, the community planning process, and how the project supports these community goals. The applicant should describe how the proposed goals, objectives, and activities reflect either the economic and social development or governance needs of the local community. Discuss the geographic location of the project and where the project and grant will be administered.

Applications from National American Indian and Native American organizations must clearly demonstrate a need for the project, explain how the project originated, and identify intended beneficiaries, describe and relate the actual project benefits to the community and organization, and describe a community-based program delivery strategy. National American Indian and Native organizations should describe their membership and define how the organization operates, and demonstrates native community and/or Tribal government support for the project. The type of community served will determine the type of documentation necessary.

Applicants should discuss and present objectives and goals to be achieved and evaluated at the end of each budget period. Proposed project objectives support the identified need and should be measurable.

Organizational Profile (20 Points). Provide information on the management structure of the Applicant and the organizational relationships with its cooperating partners. Include organizational charts that indicate how the proposed project will fit into the existing structure. Demonstrate experience in the program area. Describe the Applicant's capabilities such as the administrative structure, its ability to administer a project of the proposed scope and its capacity to fulfill the implementation plan. If relevant to the project, applicants must provide a Business Plan or any Third-Party Agreements (not counted in Appendix page limit). Applicants are required to affirm that they will credit the Administration for Native Americans, and reference the ANA funded project on any audio, video, and/or printed materials developed in whole or in part with ANA funds. Applicants should list all current sources of federal funding, the agency, purpose, amount, and provide the most recent certified signed audit letter for the organization to be included in Part One of the application. If the applicant has audit exceptions, these issues should be addressed. Applicant should provide ''staffing and position data'' to include a proposed staffing pattern for the project where the Applicant highlights the new project and staff. Positions discussed in this section must match the positions identified in the Objective Work Plan and in the proposed budget. Note: Applicants are strongly encouraged to give preference to qualified Native Americans in hiring project staff and in contracting services under an approved ANA grant. Applicant should provide a paragraph of the duties and skills required for the proposed staff and a paragraph on qualifications and experience of current staff. Full position descriptions are required to be submitted and included in the Appendix. Applicant should explain and discuss how the current and future staff will manage the proposed project. Brief biographies of key positions or individuals should be included.

Results or Benefits Expected (20 Points). In this section the applicant should discuss the ''Performance Indicators'' (*see* Definitions) and the benefits expected as a result of this project. Performance indicators identify qualitative and quantitative data directly associated with the project. Each applicant should submit five indicators to support the applicant's project. Three performance indicators may be selected from the list of six below. Each grantee is required to develop two additional indicators specific to the project that directly support the goals and objectives. For each performance indicator selected the applicant should discuss the relevance of the data, the method for collecting the data, and the evaluation process. Performance indicators will be reported to ANA in the grantee's quarterly report. Three of the five Performance indicators required, should be selected from the following list: (1) The number of jobs created; (2) the number of people to successfully complete a workshop/training; (3) the number of community-based small businesses established or expanded; (4) identification of tribal or village government business, industry, energy or financial codes or ordinances that were adopted or enacted; (5) the number of children, youth, families or elders assisted or participating; and (6) the number of community partnerships formed. In this section the applicant will indicate how it will measure the success of the separate project components and the project as a whole. Applicant should describe how the success of the project would be evaluated and verified by an independent program monitoring and evaluation team. Applicant should provide a narrative on the specific performance indicators that can be analyzed, measured, monitored, and evaluated. For example, if requesting funds for a conference, workshop, or an educational activity, the applicant should discuss the value and long-term impact to the participants and the community and explain how the information relates to the project goals, objectives and outcomes. The applicant should discuss how the project will be completed, or self-sustaining, or supported by other than ANA fund at the end of the project period. Applicants should discuss and present objectives and goals to be achieved and evaluated at the end of each budget period. Project

outcomes support the identified need and should be measurable.

Budget and Budget Justification/Cost Effectiveness (10 Points). Budget and Budget Justification: An applicant must submit an itemized budget detailing the applicant's Federal and non-Federal share and citing source(s) of funding. The applicant should provide a detailed line item Federal and Non-federal share budget by year for each year of project funds requested. A budget narrative describing the line item budget should be attached for each year of project funds requested. The budget should include a line item justification for each Object Class Category listed under Section B—''Budget Categories'' of the ''Budget Information-Non Construction Programs on the SF 424A form. The budget should include the necessary details to facilitate the determination of allowable costs and the relevance of these costs to the proposed project.

Applicant should briefly explain its existing operational budget and any additional anticipated funding (including unique financial circumstances, with potential impact on the project such as upcoming monetary or land settlements), and how the proposed project fits in the overall budget. Applicant should explain why it cannot apply other funding resources to cover the ANA portion of funding.

The non-federal budget share should identify the source and be supported by letters of commitment (*see* Definitions). Letters of commitment are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural, or financial, and may include other Federal and non-Federal resources. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources. Letters of Support merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters. They do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Rate Agreement should be included in the application, with all cost broken down by category so ANA reviewers can be certain that no budgeted line items are included in the indirect cost pool. Applicants that do not submit a current Indirect Cost Rate Agreement, may not be able to claim the allowable cost, may have the grant award amount reduced, or result in a delay in grant award.

Applicants are encouraged to include sufficient funds for principal representatives, such as the applicant's chief financial officer or project director to travel to one ANA post-award grant training and technical assistance workshop. This expenditure is allowable for new grant recipients and optional for grantees that have had previous ANA grant awards, and will be negotiated upon award. Applicants may also include costs to travel to an ANA grantee conference.

For business development projects, the proposal should demonstrate that the expected return on the ANA funds used to develop the project will provide a reasonable operating income and investment return within a specified time period. If a profit-making venture is being proposed, profits should be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue should be reported as general program income. A decision will be made at the time of the grant award regarding appropriate use of program income. (*See* 45 CFR part 74 and part 92).

Cost Effectiveness: This criterion reflects ANA's concern with ensuring that the expenditure of its limited resources yields the greatest benefit possible in achieving the economic and social self-sufficiency for Native American communities. Applicants demonstrate this by: Summarizing partnerships and the efficient use of leveraged resources; explaining the impact on the identified community through measurable project outcomes; and presenting a project that is completed, or self-sustaining or supported by other than ANA funds by the end of the project period.

Introduction and Project Summary/ Project Abstract (5 Points). Using the ANA Project Abstract form, the applicant should provide a Project Introduction. The Introduction will provide the reader an overview and some details of the proposed project. This is where the project is introduced to the peer review panel. Identify the name of the applicant, location of the community to be served by the proposed project, the project activities, funding amount requested, amount of matching funds to be provided, the length of time required to accomplish the project, and the outcomes or outputs to be achieved. Using the Project Abstract, applicant will identify which ANA goal the project addresses: Governance, social development, or economic development.

2. Review and Selection Process

Initial Screening: Each application submitted under this program announcement will undergo a pre-review screening to determine if (a) the application was received by the Program Announcement closing date; (b) the application was submitted in accordance with Section IV, ''Application and Submission Information''; (c) the applicant is eligible for funding in accordance with Section III, ''Eligibility Information'' of this program announcement; (d) the applicant has submitted the proper support documentation such as proof of non-profit status, resolutions, and required government forms; (e) an authorized representative has signed the application; and (f) applicant has a DUNS number. An application that does not meet one of the above elements will be considered incomplete and excluded from the competitive review process. Applicants, with incomplete applications, will be notified by mail within 30 business days from the closing date of this program announcement. ANA staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification. After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within 90 days. Applicants are not ranked based on general financial need. Applicants, who are initially excluded from competition because of ineligibility, may appeal the decision. Applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817 and 45 CFR part 1336, subpart C).

Competitive Review Process: Applications that pass the initial screening process will be analyzed, evaluated and rated by an independent review panel on the basis of the evaluation criteria specified below. The evaluation criteria were designed to analyze and assess the quality of a proposed community-based project, the likelihood of its success, and the ability to monitor and evaluate community impact and long-term results. The evaluation criteria and analysis are closely related and are wholly considered in judging the overall quality

of an application. Applications will be evaluated in accordance with the program announcement criteria and ANA's program areas of interest. A determination will be made as to whether the proposed project is an effective use of federal funds.

Application Review Criteria: ANA has expanded the review criteria to allow for a more equitable distribution of points during the application review and competition process. The use of these six criteria distributes the number of points more equitably. Based on the ACF Uniform Project Description, ANA's criteria categories are Project Introduction; Objectives and Need for Assistance; Project Approach; Organizational Capacity; Results and Benefits Expected; and Budget and Budget Narrative.

As non-Federal reviewers will be used, applicants have the option of omitting from the application copies (not original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Application Consideration: The Commissioner's funding decision is based on an analysis of the application by the review panel, the panel review scores, recommendations of the ANA staff, comments of State and Federal agencies having contract and grant performance related information, and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Native American Programs Act (NAPA), all relevant statutory and regulatory requirements, this program announcement, and the availability of appropriated funds. The Commissioner reserves the right to award more, or less, than the funds described or under such circumstances as may be deemed to be in the best interest of the federal government. Applicants may be required to reduce the scope of projects based on the amount of approved award.

VI. Award Administration Information

1. Award Notice

Approximately 120 days after the application due date, the successful applicants will be notified by mail through the issuance of a Financial Assistance Award document which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and sent to the applicants Authorizing Official.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR part 74, 45 CFR part 92, 45 CFR part 1336, subpart C and 42 U.S.C. 2991 *et seq.*, Native American Programs Act of 1974.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 120 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 3/31/04. The Survey on Ensuring Equal Opportunity for Applicants form is approved under OMB control number 1890–0014 which expires 1/31/06.

3. Reporting Requirements

Programmatic Reports: Quarterly.

Financial Reports: Quarterly.

An original and two copies of each performance report and financial status report must be submitted to the Grants Officer. Failure to submit these reports when required will mean the grantee is non-compliant with the terms and conditions of the grant award and subject to administrative action or termination. Performance reports are submitted 30 days after each quarter (3-month intervals) of the budget period. The final performance report, due 90 days after the project period end date, shall cover grantee performance during the entire project period. All grantees shall use the SF 269 (Long Form) to report the status of funds. Grantees shall submit quarterly Financial Status Reports that shall be due 30 days after each quarter (3-month intervals) of each budget period. The final report shall be due 90 days after the end of the project period.

VII. Agency Contacts

Program Office Contact: ANA Applicant Help Desk, 370 L'Enfant Promenade, SW., Aerospace Building 8th Floor-West, Washington, DC 20447–0002, Telephone: 202–690–7776 or toll-free at 1–877–922–9262, E-mail *ana@acf.hhs.gov.*

Grants Management Office Contact: Lois B. Hodge, 370 L'Enfant Promenade, SW., Aerospace Building 8th Floor-West, Washington, DC 20447–0002, Telephone: (202) 401–2344, E-mail: *Lhodge@acf.dhhs.gov.*

VIII. Other Information

Training and Technical Assistance: All potential ANA applicants are eligible to receive free T&TA in the SEDS, Language, or Environmental program areas. Prospective applicants should check ANA's Web site for training and technical assistance dates and locations, or contact the ANA Applicant Help Desk at 1–877–922–9262. Due to the new application and program additions and modifications, ANA strongly encourages all prospective applicants to participate in free pre-application training.

Dated: January 21, 2004.

Quanah Crossland Stamps,

Commissioner, Administration for Native Americans.

[FR Doc. 04–3654 Filed 2–20–04; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Grants and Cooperative Agreements; Notice of Availability

Program Office Name: Administration for Native Americans (ANA).

Funding Opportunity Title: Native Language Preservation and Maintenance.

Announcement Type: Competitive Grant—Initial.

Funding Opportunity Number: HHS–2004–ACF–ANA–NL–0003.

CFDA Number: 93.587.

Due Date for Applications: April 2, 2004, 4:30 p.m. (Eastern Standard Time).

Summary: The Administration for Native Americans (ANA), within the Administration for Children and Families, announces the availability of fiscal year (FY) 2004 funds for new community-based activities under ANA's Native Language program. Financial assistance is provided utilizing a competitive process in accordance with the Native American Programs Act of 1974, as amended. ANA provides financial assistance to eligible applicants for the purpose of assisting Native Americans in assuring the survival and continuing vitality of their languages. Grants are provided under the following two categories: Category I Planning Grants are used to conduct the assessment and planning needed to identify the current status of the Native American language(s) to be

addressed and to establish community long-range language goals; and, Category II Design and/or Implementation Grants are to design and/or implement a preservation language program that will contribute to the achievement of the community's long-range language goal(s).

The Program Areas of Interest are projects that ANA considers supportive to Native American communities. Although eligibility for funding is not restricted to projects of the type listed under this program announcement, these Areas of Interest are ones which ANA sees as particularly beneficial to the development of healthy Native American communities.

I. Funding Opportunity Description

The Congress has recognized that the history of past policies of the United States toward Indian and other Native American languages has resulted in a dramatic decrease in the number of Native American languages that have survived over the past 500 years. Consequently, the Native American Languages Act (Title 1, Pub. L. 101–477) was enacted to address this decline. This legislation vested the United States government with the responsibility to work together with Native Americans to ensure the survival of cultures and languages unique to Native America. This law declared that it is the policy of the United States to ''preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American languages.'' While the Congress made a significant first step in passing this legislation in 1990, it served only as a declaration of policy. No program initiatives were proposed, nor any funds authorized to enact any significant programs in furtherance of this policy.

In 1992, Congressional testimony provided estimates that of the several hundred languages that once existed; only about 150 are still spoken or remembered today. Furthermore, only 20 are spoken by persons of all ages, 30 are spoken by adults of all ages, about 60 are spoken by middle-aged adults, and 45 are spoken by the most elderly. In response to this testimony, the Congress passed the Native American Languages Act of 1992 (the Act), Pub. L. 102–524, to assist Native Americans in assuring the survival and continuing vitality of their languages. Passage of the Act was an important second step in an attempt to ensure the survival and continuation of Native languages. It provided the foundation upon which tribal nations can rebuild their economic strength and enhance the rich cultural diversity. The Federal government recognizes the substantial loss of Native American languages over the past several hundred years, and acknowledges the nature and magnitude of the status of Native American languages will be better defined when eligible applicants under the Act have completed language assessments.

The Administration for Native Americans (ANA) believes that the responsibility for achieving self-sufficiency rests with the governing bodies of Indian Tribes, Alaska Native villages, and in the leadership of Native American groups. This belief supports the ANA principle that the local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs that support the community's long-range goals.

Therefore, since preserving a language and ensuring its continuation is generally one of the first steps taken toward strengthening a group's identity; activities proposed under this program announcement will contribute to the social development of Native communities and significantly contribute to their efforts toward self-sufficiency. The Administration for Native Americans recognizes that eligible applicants must have the opportunity to develop their own language plans, improve technical capabilities, and have access to the necessary financial and technical resources in order to assess, plan, develop and implement programs to assure the survival and continuing vitality of their languages. ANA also recognizes that potential applicants may have specialized knowledge and capabilities to address specific language concerns at various levels. This program announcement reflects these special needs and circumstances.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-based Alternatives for Individuals with Disabilities, and Faith-based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply.

This program announcement will emphasize community-based, locally designed projects. This emphasis will increase the number of grants to local community organizations and expand the number of partnerships among locally based non-profit organizations. ANA will accept applications from multiple organizations in the same geographic area. Previously, under each competitive program area, ANA accepted one application that served or impacted a reservation, Tribe or Native American community. The reason for this change is to expand and support large Native American rural and urban communities that provide a variety of services in the same geographic area. Although Tribes are limited to three simultaneous ANA grants (one each under SEDS, Language and Environmental programs) at any one time, this clarification allows other community based organizations to apply for ANA funding, provided the objectives and activities do not duplicate currently funded projects serving the same geographic area.

In response to this announcement, ANA encourages Native American tribes and organizational leaders to propose, coordinate and implement community-based projects to meet the needs of its community members and develop options and opportunities for future generations.

The Program Areas of Interest are projects that ANA considers supportive to Native American communities. Although eligibility for funding is not restricted to projects of the type listed under this program announcement, these Areas of Interest are ones which ANA sees as particularly beneficial to the development and preservation of Native American languages.

Financial assistance under the Native Language program is provided utilizing a competitive process in accordance with the Native American Programs Act of 1974, as amended.

This program is authorized by U.S. Code Citation 42 U.S.C. 2991 *et seq.* 1974, the Native Americans Programs Act.

ANA Administrative Policies: Applicants must comply with the following ANA Administrative Policies:

- An applicant must provide a 20% non-federal match of the approved project costs. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a), under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions).
- An application from a Tribe, Alaska Native Village or Native American organization must be from the governing body.
- A non-profit organization submitting an application must submit proof of its non-profit status at the time of submission. The non-profit agency can accomplish this by providing: (i) A

reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determination of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA eligibility.

• If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that it's duly elected or appointed board of directors is representative of the community to be served. To establish compliance, an applicant should provide supporting documentation and assurance that it's duly elected or appointed board of directors is majority Native American.

• Applicants must describe how the proposed project objectives and activities relate to a locally determined strategy.

• Proposed projects must consider the maximum use of all available community-based resources.

• Proposed projects must present a strategy to overcome the challenges that hinder movement toward self-sufficiency in the community.

• Applicants proposing an Economic Development project should address the project's viability. A business plan, if applicable, must be included to describe the project's feasibility, cash flow, and approach for the implementation and marketing of the business.

• ANA will not accept applications from tribal components, which are tribally authorized divisions of a larger tribe, which are not approved by the governing body of the tribe.

• An applicant can have only one active ANA Native Language grant operating at any given time.

• ANA funds short-term projects not programs. Projects must have definitive goals and objectives that will be achieved by the end of the project period. All projects funded by ANA must be completed, or self-sustaining, or supported by other than ANA funding at the end of the project period.

Definitions: Program specific terms and concepts are defined and should be used as a guide in writing and submitting the proposed project. The program areas of interest in this program announcement are based on the following definitions:

Authorized Representative: The person or person(s) authorized by Tribal or Organizational resolution to execute documents and other actions required by outside agencies.

Budget Period: The interval of time into which the project period is divided for budgetary or funding purposes, and for which a grant is made. A budget period usually lasts one year in a multi-year project period.

Community: A group of people residing in the same geographic area that can apply their own cultural and socio-economic values in implementing ANA's program objectives and goals. In discussing the applicant's community, the following information should be provided: (1) A description of the population segment within the community to be served or impacted; (2) the size of the community; (3) geographic description or location, including the boundaries of the community; (4) demographic data on the target population; and (5) the relationship of the community to any larger group or tribe.

Community Involvement: How the community participated in the development of the proposed project, how the community will be involved during the project implementation and after the project is completed. Evidence of community involvement can include, but is not limited to, certified petitions, public meeting minutes, surveys, needs assessments, newsletters, special meetings, public Council meetings, public committee meetings, public hearings, and annual meetings with representatives from the community. The applicant should document the community's support of the proposed project. Applications from National and Regional Indian and Native organizations should clearly demonstrate a need for the project, explain how the project originated, identify the beneficiaries, and describe and relate the actual project benefits to the community and organization. National Indian and Native organizations should also identify their membership and specifically discuss how the organization operates and impacts Native American people and communities.

Completed Project: A project funded by ANA is finished, or is self-sustaining, or funded by other than ANA funds, and the results and outcomes are achieved by the end of the project period.

Consortia—Tribe/Village: A group of Tribes or villages that join together either for long-term purposes or for the purpose of an ANA project. Applicant must identify Consortia membership. The Consortia applicant must be the recipient of the funds. A Consortia applicant must be an ''eligible entity'' as defined by this Program Announcement and the ANA regulations. Consortia applicants should include documentation (a resolution adopted pursuant to the organization's established procedures and signed by an authorized representative) from all consortia members supporting the ANA application. An application from a consortium should have goals and objectives that will create positive impacts and outcomes in the communities of its members. ANA will not fund activities by a consortium of tribes which duplicates activities for which member Tribes also receives funding from ANA. The consortium application should identify the role and responsibility of each participating Consortia member and a copy of the consortia legal agreement or Memoranda of Agreement to support the proposed project.

Construction: The initial building of a facility.

Core Administration: Salaries and other expenses for those functions that support the applicant's organization as a whole or for purposes that are unrelated to the actual management or implementation of the ANA project. However, salaries and activities that are clearly related to the ANA project are eligible for grant funding.

Economic Development: Involves the promotion of the physical, commercial, technological, industrial, and/or agricultural capacities necessary for a sustainable local community. Economic development includes activities and actions that develop sustainable, stable, and diversified private sector local economies. For example, initiatives that support employment options, business opportunities, development and formation of a community's economic infrastructure, laws and policies that result in the creation of businesses and employment options and opportunities that provide for the foundation of healthy communities and strong families.

Equipment: Tangible, non-expendable personal property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, consistent with recipient policy, lower limits may be established.

Governance: Involves assistance to tribal and Alaska Native village government leaders to increase their ability to execute local control and decision-making over their resources.

Implementation Plan: The guidebook the applicant will use in meeting the results and benefits expected for the project. The Implementation Plan provides detailed descriptions of how, when, where, by whom and why activities are proposed for the project and is complemented and condensed by the Objective Work Plan.

In-kind Contributions: In-kind contributions are property or services which benefit a federally assisted project or program and which are contributed by the grantee, non-Federal third parties without charge to the grantee, or a cost-type contractor under the grant agreement. Any proposed In-kind match must meet the applicable requirements found in 45 CFR parts 74 and 92.

Letter of Commitment: A third party statement to document the intent to provide specific in-kind contributions or cash to support the applicant. The Letter of Commitment must state the dollar amount (if applicable), the length of time the commitment will be honored, and the conditions under which the organization will support the proposed ANA project. If a dollar amount is included, the amount must be based on market and historical rates charged and paid. The resources to be committed may be human, natural, physical, or financial, and may include other Federal and non-Federal resources. For example, a notice of award from another Federal agency committing $200,000 in construction funding to complement a proposed ANA funded pre-construction activity is evidence of a commitment. Statements about resources which have been committed to support a proposed project made in the application without supporting documentation will be disregarded.

Leveraged Resources: The total dollar value of all non-ANA resources that are committed to a proposed ANA project and are supported by documentation that exceed the 20% non-federal match required for an ANA grant. Such resources may include any natural, financial, and physical resources available within the tribe, organization, or community to assist in the successful completion of the project. An example would be a written letter of commitment from an organization that agrees to provide a supportive action, product, and service, human or financial contribution that will add to the potential success of the project.

Multi-purpose Organization: A community-based corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as day care, education, and training.

Multi-year Project: Encompasses a single theme and requires more than 12 or 17 months to complete. A multi-year project affords the applicant an opportunity to develop and address more complex and in-depth strategies that cannot be completed in one year. A multi-year project is a series of related objectives with activities presented in chronological order over a two or three year period. Prior to funding the second or third year, of a multi-year grant, ANA will require verification and support documentation from the Grantee that objectives and outcomes proposed in the preceding year were accomplished. Applicants proposing multi-year projects must complete and submit an Objective Work Plan (OWP) and budget with narrative for each project year, and fully describe objectives to be accomplished, outcomes to be achieved, and the results and benefits to determine the successful outcomes of each budget period. ANA will review the quarterly and annual reports of grantees to determine if the grantee is meeting its goals, objectives and activities identified in the OWP.

Objective(s): Specific outcomes or results to be achieved within the proposed project period that are specified in the Objective Work Plan. Completion of objectives must result in specific, measurable, outcomes that would benefit the community and directly contribute to the achievement of the stated community goals. Applicants should relate their proposed project objectives to outcomes that support the community's long-range goals.

Partnerships: Agreements between two or more parties that will support the development and implementation of the proposed project. Partnerships include other faith-based or community-based organizations or associations, Tribes, federal and state agencies and private or non-profit organizations, which may include faith-based organizations.

Performance Indicators: Measurement descriptions used to identify the outcomes or results of the project. Outcomes or results must be measurable to determine that the project has achieved its desired objective and can be independently verified through monitoring and evaluation.

Real Property: Land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

Renovation or Alteration: The work required to change the interior arrangements or other physical characteristics of an existing facility, or install equipment so that it may be more effectively used for the project. Alteration and renovation may include work referred to as improvements, conversion, rehabilitation, remodeling, or modernization, but is distinguished from construction.

Resolution: Applicants are required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution should indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-federal matching funds (if applicable).

Sustainable Project: A sustainable project is an on-going program or service that can be maintained without additional ANA funds.

Self-Sufficiency: The ability to generate resources to meet a community's needs in a sustainable manner. A community's progress toward self-sufficiency is based on its efforts to plan, organize, and direct resources in a comprehensive manner that is consistent with its established long-range goals. For a community to be self sufficient, it must have local access to, control of, and coordination of services and programs that safeguard the health, well being, and culture of the people that reside and work in the community.

Social Development: Investment in human and social capital for advancing the well being of members of the Native American community served. Social development is the action taken to support the health, education, culture,

and employment options that expand an individual's capabilities and opportunities, and that promote social inclusion and combat social ills. Please note that this announcement is divided into two program areas. The first program area is Native Language Preservation and Maintenance (Category I Planning Grant) and the second program area is Native Language Preservation and Maintenance (Category II: Design and/or Implementation Grants). Information on the second program area immediately follows section VIII of program area one.

Program Area 1

Native Language Preservation and Maintenance (Category I Planning Grant): The purpose of a Planning Grant is to conduct an assessment and to develop the plan needed to describe the current status of the language(s) to be addressed and to establish community long-range goal(s) to ensure its survival. Program Area of Interest:

- Data collection, compilation, organization and description of current language status through a ''formal'' method (*e.g.,* work performed by a linguist, and/or a language survey conducted by community members) or an ''informal'' method (*e.g.,* a community consensus of the language status based on elders, tribal scholars, and/or other community members).

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Program Area 1 Funding: $1,000,000.

Anticipated Number of Awards: 10–15.

Average Projected Award Amount: $25,000 to $100,000.

Length of Project Period: 12 months.

Ceiling on Amount of Individual Awards: $100,000. An application that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review.

Floor of Individual Award Amounts: $25,000.

III. Eligibility Information

1. Eligible Applicants

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-Federally recognized Tribes;
- Incorporated non-profit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated non-profit Native American organizations with Native American community-specific objectives;
- Alaska Native villages, as defined in the Alaska Native Claims Settlement Act (ANSCA) and/or non-profit village consortia;
- Incorporated non-profit Alaska Native multi-purpose community based organizations;
- Non-profit Alaska Native Regional Corporations/Associations in Alaska with village specific projects;
- Non-profit Native organizations in Alaska with village specific projects;
- Public and non-profit private agencies serving Native Hawaiians;
- Public and non-profit private agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands (the populations served may be located on these islands or in the continental United States);
- Tribally-controlled Community Colleges, Tribally-controlled Post-Secondary Vocational Institutions, and colleges and universities located in Hawaii, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands which serve Native peoples; and
- Non-profit Alaska Native community entities or Tribal governing bodies (Indian Reorganization Act or Traditional Councils) as recognized by the Bureau of Indian Affairs.

Organizations in Palau are no longer eligible for assistance from ANA. (*Legal authority: 48 U.S.C 1931*)

Additional Information on Eligibility: Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application eligibility.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-based Alternatives for Individuals with Disabilities, and Faith-based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply. This program announcement will emphasize community-based, locally designed projects. This emphasis will increase the number of grants to local community organizations and expand the number of partnerships among locally based non-profit organizations. ANA will accept applications from multiple organizations in the same geographic area. Previously, under each competitive program area, ANA accepted one application that served or impacted a reservation, Tribe or Native American community. The reason for this change is to expand and support large Native American rural and urban communities that provide a variety of services in the same geographic area. Although Tribes are limited to three simultaneous ANA grants (SEDS, Language and Environmental) at any one time, this clarification allows other community based organizations to apply for ANA funding, provided the objectives and activities do not duplicate currently funded projects serving the same geographic area.

Proof of Non-Profit Status: Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or
- A copy of the currently valid IRS tax exemption certificate; or
- A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or
- A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or
- Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Resolution: Applicants are required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution must indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-federal matching funds (if applicable).

2. Cost Sharing or Matching

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ANA share and the non-federal share. The required match can be computed by dividing

total Federal funds by 80 percent for total project costs then subtracting the Federal portion. The remainder is the required match. Therefore, a project requesting $100,000 in Federal funds (per budget period) must provide a match of at least $ 25,000 ($100,000/80% = $125, 000 − $100,000 = $25,000) which is 20% total approved project cost. Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the non-federal share match will result in the disallowance of Federal match. Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b) (3) of the Native American Program regulations. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). For ANA grants under this announcement there is no match required for these insular areas.

3. Other (If Applicable)

DUNS Number: On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants after giving notice in the **Federal Register** on June 27, 2002 and opportunity for public comment. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*www.Grants.Gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003. A DUNS number may be acquired at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com*

An application that exceeds the $100,000 will be considered ''non-responsive'' and be returned to the applicant without further review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

The ANA regional Training and Technical Assistance providers at:

Region I: AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, W.VA.

Native American Management Services, Inc., 6858 Old Dominion Drive, Suite 302, McLean, Virginia 22101, Toll Free: 888–221–9686, (703) 821–2226 x–234, Fax: (703) 821–3680, Kendra King-Bowes, Project Manager, E-mail: *kking@namsinc.org*, *www.anaeastern.org.*

Region II: AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY.

ACKCO, Inc., 2214 N. Central, Suite 250, Phoenix, Arizona 85004, Toll Free: 800–525–2859, (602) 253–9211, Fax (602) 253–9135, Theron Wauneka, Project Manager, E-mail: *theron.wauneka@ackco.com, www.anawestern.com.*

Region III: Alaska.

Native American Management Services, Inc., 11723 Old Glenn Highway, Suite 201, Eagle River, Alaska 99577, Toll Free 877–770–6230, (907) 694.5711, Fax (907) 694.5775, P.J. Bell, Project Manager, E-mail: *pjbell@gci.net, www.anaalaska.org.*≤

Region IV: American Samoa (AS), Guam, HI, Commonwealth of Northern Mariana Islands (CNMI).

Council for Native Hawaiian Advancement, 33 South King Street, Suite 513, Honolulu, Hawaii 96813, Toll-Free 800–709–2642, (808) 521–5011, Fax: (808) 521–4111, Jade Danner, Project Manager, E-Mail: *jade@hawaiiancouncil.org, www.anapacific.org.*

2. Content and Form of Submission

Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application content and form.

Application Submission: An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget. A complete application for assistance under this Program Announcement consists of Three Parts. Part One is the SF 424, Required Government Forms, and other required documentation. Part Two of the application is the project substance of the application. This section of the application may not exceed 45 pages. Part Three of the application is the Appendix. This section of the application may not exceed 20 pages (the exception to this 20 page limit applies only to projects that require, if relevant to the project, a Business Plan or any Third-Party Agreements).

Electronic Submission: While ACF does have the capability to receive program announcement applications electronically through *Grants.gov,* electronic submission of applications will not be available for this particular announcement. There are required application form(s) specific to ANA that have not yet received clearance from Grants.gov. While electronic submission of applications may be available in the next fiscal year for this program, no electronic submission of applications will be accepted for this announcement this year as they would be missing those required ANA forms and be considered incomplete.

Organization and Preparation of Application: Due to the intensity and pace of the application review and evaluation process, ANA strongly recommends applicants organize, label, and insert required information in accordance with Part One, Part Two and Part Three as presented below. The application should begin with the information requested in Part One. Utilizing this format will insure all information submitted to support an applicant's request for funding is thoroughly reviewed. Deviation from this suggested format may reduce the applicant's ability to receive maximum points, which are directly related to ANA's funding review decisions.

ANA Application Format: This format applies to all applicant prepared documents submitted in response to this announcement. All pages submitted

(including Government Forms, certifications and assurances) should be numbered consecutively (for example, the first page of the application should be labeled as page one). The paper size shall be 8½ x 11 inches. Application pages must be numbered, line spacing shall be a space and a half (1.5 line-spacing), printed only on one side, and have a half-inch margin on all sides of the paper (**Note:** the 1.5 line-spacing does not apply to the Project Abstract Form, Letters of Commitment, the Table of Contents, and the Objective Work Plans). The font size should be no smaller than 12-point and the font type shall be Times New Roman.

Forms and Assurances: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A–B; and Certifications may be found at: *www.acf.hhs.gov/programs/ofs/forms.htm.* Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Survey: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *www.acf.hhs.gov/programs/ofs/forms.htm.* (OMB No. 1890–0014 exp. 1/31/06).

3. Submission Date and Time

The closing time and date for receipt of applications is 4:30 p.m. (Eastern Standard Time) on April 2, 2004. Mailed or hand-delivered applications received after 4:30 p.m. on the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Hand-delivered applications shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., EST, Monday through Friday (excluding Federal holidays). Applications may be delivered to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late Applications: Applications that do not meet the Deadline criteria above will be considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadline: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms: All requirements for submission are due on or before the deadline date.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS

Part One must include the following:	Content and location of part one required forms, certifications and documents
SF 424, SF 424 A, and SF 424B	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*
Table of Contents	Applicant must include a table of contents that accurately identifies the page number and where the information can be located. Table of Contents does not count against application page limit.
Project Abstract	ANA Form: OMB Clearance Number 0980–0204. *http://www.acf.hhs.gov/programs/ana.*
Proof of Non-Profit Status	As described in this announcement under Section ''Other Eligibility Information''.
Resolution	Information for submission can be found in the Program Announcement Section ''Other Eligibility Information''.
Documentation that the Board of Directors is majority Native American, if applicant is other than a tribe or Alaska Native Village government..	As described in this announcement under ''ANA Administrative Policies''.
Audit Letter	A Certified Public Accountant's ''Independent Auditors' Report on Financial Statement.'' This is usually only a two to three page document. (This requirement applies only to applicants with annual expenditures of $300,000 or more of federal funds). Applicant must also include that portion of the audit document that identifies all other federal sources of funding.
Indirect Cost Agreement	Organizations and Tribes must submit a current indirect cost agreement (if claiming in-direct costs) that aligns with the approved ANA project period. The In-direct Cost Agreement must identify the individual components and percentages that make up the indirect cost rate.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS—Continued

Part One must include the following:	Content and location of part one required forms, certifications and documents
Non-Federal Share of Waiver Request, per 45 CFR 1336.50(b)	A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b) (3) of the Native American Program regulations. (if applicable).
Certification regarding Lobbying Disclosure of Lobbying Activities—SF LLL.	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm*.
Certification regarding Maintenance of Effort	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm*.
Environmental Tobacco Smoke Certification	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm*.

PART TWO.—APPLICATION REVIEW CRITERIA

Part two—proposed project	Application Review Criteria—This section may not exceed 45 pages
Criteria One (5 pts)	Introduction and Project Summary/Project Abstract.
Criteria Two (20 pts)	Objectives and Need for Assistance.
Criteria Three (25 pts)	Approach: Include an Objective Work Plan (OWP) form for each 12 months of a project period. (Only one form is necessary for a 17-month project period).
Criteria Four (20 pts)	Organizational Capacity.
Criteria Five (20 pts)	Results or Benefits Expected.
Criteria Six (10 pts)	Budget and Budget Justification Summary/Cost Effectiveness.

PART THREE.—APPENDIX

	Appendix
Part Three—Support Documentation	This section may not exceed 20 pages. Part Three includes only supplemental information or required support documentation that addresses the applicant's capacity to carry out and fulfill the proposed project. These items include: letters of agreement with cooperating entities, in-kind commitment and support letters, business plans, and a summary of the Third Party Agreements. Do not include books, videotapes, studies or published reports and articles, as they will not be made available to the reviewers, or be returned to the applicant.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants''.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm*.	By application due date.

4. Intergovernmental Review

Applications are not subject to Executive Order 12372.

5. Funding Restrictions

ANA does not fund:

• Activities in support of litigation against the United States Government that are unallowable under OMB Circulars A–87 and A–122.

• ANA has a policy of not funding duplicative projects or allowing any one community to receive a disproportionate share of the funds available for award. When making decisions on awards of grants the Agency will consider whether the project is essentially identical or similar, in whole or significant part, to projects in the same community previously funded or being funded under the same competition. The Agency will also consider whether the grantee is already receiving funding for a SEDS, Language, or Environmental project from ANA. The Agency will also take into account in making funding decisions whether a proposed project would require funding on indefinite or recurring basis. This determination will be made after it is determined whether the application meets the requirements for eligibility as set forth in 45 CFR part 1336, subpart C, but before funding decisions are complete.

• Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations that are otherwise eligible to apply for ANA funding. However, ANA will fund T/TA requested by a grantee for its own use or for its members' use (as in the case of a consortium), when the T/TA is necessary to carry out project objectives.

• The purchase of real property or construction because those activities are not authorized by the Native American Programs Act of 1974, as amended.

• Objectives or activities to support core administration activities of an organization. However, functions and activities that are clearly project related are eligible for grant funding. Under Alaska SEDS projects, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

• Costs associated with fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain

contributions are unallowable under an ANA grant award.

- Major renovation or alteration because those activities are not authorized under the Native American Programs Act of 1974, as amended.
- Projects originated and designed by consultants who provide a major role for themselves and are not members of the applicant organization, Tribe, or village.
- Project activities that do not further the three interrelated ANA goals of economic development or social development or governance, or meet the purpose of this program announcement.

6. Other Submission Requirements

Submission by Mail: An Applicant must provide a complete original and two copies of the application with all required forms and signed by the authorized representative. The Application must be received at the address below by 4:30 p.m. Eastern Standard Time on or before the closing date. Applications should be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ''Attention: Lois B. Hodge'', 370 L'Enfant Promenade, SW., Washington, DC 20447.

For Hand-Delivery: An Applicant must deliver a complete original and two copies of the application with all required forms and signed by the authorized representative. Applications shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., EST, Monday through Friday (excluding Federal holidays). Applications may be delivered to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description (UPD)

The UPD text should be used as general guidance in the development of projects. However, the specific ANA application submission format to be used in response to this announcement is located in section IV Application and Submission Information.

Purpose: The Project Description is a major area by which an application is evaluated and ranked in competition with other applications for financial assistance. The Project Description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included if they present information clearly and succinctly. In preparing your Project Description, all information requested through each specific evaluation criteria should be provided. ANA uses this and other information to make funding decisions. It is important, therefore, that this information be included in the application.

General Instructions: ANA is particularly interested in specific factual information and statements of measurable goals and performance indicators in quantitative terms. Project descriptions are evaluated on a basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information that does not directly pertain to an integral part of the grant-funded activity should be placed in the appendix. The application narrative should be in a 12-pitch font. A table of contents and an executive summary should be included. Each page should be numbered sequentially, including attachments or appendices. Please do not include books, videotapes or published reports because they are not easily reproduced, are inaccessible to the reviewers, and will not be returned to the applicant.

Introduction: Applicants are required to submit a full Project Description and shall prepare this portion of the grant application in accordance with the following instructions and the specified evaluation criteria. The introduction provides a broad overview of the Project, and the information provided under each evaluation criteria expands and clarifies the project program-specific activities and information that reviewers will need to assess the proposed project.

Project Summary: Provide a summary of the Project Description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the Project Description, the applicant should provide information on the total range of projects currently being conducted and supported (or to be initiated) to ensure they are within the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived by the community and its members. For example, applicants are encouraged to describe the qualitative and quantitative data collected, how this data will measure progress towards the stated results or benefits, and how performance indicators under economic and social development and governance projects can be monitored, evaluated and verified.

Approach: Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, extraordinary social and community involvement or ease of project replication by other tribes and Native organizations. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people served and the number of activities accomplished. Examples of these activities would be the number of businesses started or expanded, the number of jobs created or retained, the number of people trained, the number of youth, couples or families assisted or the number elders participating in the activity during that reporting period. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the dates and schedule of accomplishments. List organizations, cooperating entities, consultants, or other key individuals who will work on the project, as well as a short description of the nature of their effort or contribution.

Organizational Profiles: Provide information on the applicant organization(s) and cooperating partners with organizational charts, financial statements, audit reports or statements from CPA/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

Third-Party Agreements: Include written agreements between grantees and sub grantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Budget and Budget Justification: Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allow-ability of the proposed costs.

Additional Information: The following are requests for additional information that need to be included in the application: Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit organization shall submit one of the following (i) a reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA program eligibility.

General: The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s); and last column, total budget. The budget justification should be a narrative.

- Personnel: The description of the costs of employee salaries and wages. Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), or time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.
- Fringe Benefits: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.
- Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.
- Equipment: Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost, which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.). Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy, which includes the equipment definition.
- Supplies: Costs of all tangible personal property other than that included under the Equipment category. Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.
- Contractual: Costs of all contracts for services and goods except for those, which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category. Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition (sole source) and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000.). Recipients may be required to make available to ANA pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. Note: Whenever the applicant intends to

delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

• Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs. Justification: Provide computations, a narrative description, and a justification for each cost under this category.

• Indirect Charges: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of the Interior, Department of Labor, the Department of Health and Human Services (HHS), or other Federal agency. Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

• Program Income: The estimated amount of income, if any, expected to be generated from this project. Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application, which contain this information.

• Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each budget period.

• Total Direct Charges, Total Indirect Charges, and Total Project Costs

Evaluation Criteria: ANA

Approach (25 Points). The Applicant's narrative should be clear and concise. The applicant should provide a detailed project description with goals and objectives. It should discuss the project strategy and implementation plan over the project period. Applicant should describe the project strategy using the Objective Work Plan (OWP). In the OWP, the applicant should identify the project objectives, time frames, proposed activities, outcomes, and evaluation activity, as well as the individuals responsible for completing the objectives and performing the activities. Applicant should summarize how the project description, objective(s), approach, strategy and implementation plan are inter-related. The applicant should also include the names and activities of any organizations, consultants, or other key individuals who will contribute to the project.

The applicant should discuss the planning and/or consultation efforts undertaken, and the proposed objectives and activities that reflect the language needs of the local community. The applicant explains how elders and other community members are involved in the development of the language goals and strategies.

The Applicant should discuss any Leveraged Resources (see Definitions) used to strengthen and broaden the impact of the proposed project. The Applicant should discuss commitments and contributions from other entities will enhance the project. Applicant should provide ''Letters of Commitment'' that identify the time, dollar amount, and activity to be accomplished through partnerships. Applicants should discuss the relationship of non-ANA funded activities to those objectives and activities that will be funded with ANA grant funds. (Letters of Commitment are included in the Appendix).

Objectives and Need for Assistance (20 Points). Applicant should show a clear relationship between the proposed project, the strategy and community's long-range goals. The need for assistance should clearly identify the physical, economic, social, financial, governmental, and institutional challenges and problem(s) requiring a solution that supports the funding request. Describe the community (see Definitions) to be affected by the project and the community involvement in the project. The Applicant should describe the community's long-range goals, and the community planning process and how the project supports these goals. Discuss the geographic location of the project and where the project and grant will be administered.

Applications from National American Indian and Native American organizations must clearly demonstrate a need for the project, explain how the project originated, and discuss the community-based program delivery strategy of the project, identify and describe the intended beneficiaries, describe and relate the actual project benefits to the community and organization, and describe a community-based program delivery system. National Indian and Native organizations should describe their membership and define how the organization operates, and demonstrates native community and/or Tribal government support for the project. The type of community served will determine the type of documentation necessary.

The applicant fully describes the status of Native American language(s) in the community. Since obtaining this data may be part of the planning grant application being reviewed, applicants can meet this requirement by explaining their current language status and providing a detailed description of any circumstances or barriers, which have prevented the collection of community language data. If documentation exists, describe it in terms of current language status.

Applicants should discuss and present objectives and goals to be achieved and evaluated at the end of each budget period. Proposed project objectives support the identified need and should be measurable.

Organizational Profile (20 Points). Provide information on the management structure of the Applicant and the organizational relationships with its cooperating partners. Include organizational charts that indicate how the proposed project will fit in the existing structure. Describe the applicant's capabilities such as the administrative structure, and its ability to administer a project of the proposed scope and its capacity to fulfill the implementation plan.

If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

Applicants are required to affirm that they will credit the Administration for Native Americans, and reference the ANA funded project on any audio, video, and/or printed materials developed in whole or in part with ANA funds.

Applicants should list all current sources of federal funding, the agency, purpose, amount, and provide the most recent certified signed audit letter for the organization to be included in Part One of the application. If the applicant has audit exceptions, these issues should be addressed.

Applicants should provide ''staffing and position data'' to include a proposed staffing pattern for the project where the applicant highlights the new project and staff. Positions discussed in this section must match the positions identified in the Objective Work Plan and in the proposed budget. Note: Applicants are strongly encouraged to give preference to qualified Native Americans in hiring project staff and in contracting services under an approved ANA grant. Applicant should provide a paragraph of the duties and skills required for the proposed staff and a paragraph on qualifications and experience of current staff. Full position descriptions are required to be submitted and included in the Appendix. Applicant should explain how the current and future staff will manage the proposed project. Brief biographies of key positions or individuals should be included.

Results or Benefits Expected (20 Points). In this section the applicant should discuss the ''Performance Indicators'' (see Definitions) and the benefits expected as a result of this project. Performance indicators identify qualitative and quantitative data directly associated with the project. Each applicant should submit five indicators to support the applicant's project. Three performance indicators should be selected from the list below. Each grantee is required to develop two additional indicators specific to the project that directly support the goals and objectives. For each performance indicator selected the applicant should discuss the relevance of the data, the method for collecting the data, and the evaluation process. Performance indicators will be reported to ANA in the grantee's quarterly report. For Category I applications, three of the five performance indicators required, will be selected from the following list: (1) The type(s) of assessments used; (2) the number of community meetings held to engage the public; (3) the number of communities surveyed; (4) the number of surveys distributed and number returned; (5) identify methods of assessment used; and (6) the number of children, youth, families or elders involved.

The applicant will indicate how it will measure the success of the separate project components and the project as a whole. The applicant should describe how the success of the project would be evaluated and verified by an independent program monitoring and evaluation team. Applicant should provide a narrative on the specific performance indicators that can be analyzed, measured, monitored, and evaluated. Relate these performance indicators to the project goals, objectives, and outcomes. Project outcomes support the identified need and should be measurable.

Budget and Budget Justification/Cost Effectiveness (10 Points). Budget and Budget Justification: An applicant must submit an itemized budget detailing the applicant's Federal and non-Federal share and citing source(s) of funding. A budget narrative describing the line item budget should be included. The budget should include a line item justification for each Object Class Category listed under Section B—''Budget Categories'' of the ''Budget Information-Non Construction Programs on the SF 424A form. The budget should include the necessary details to facilitate the determination of allowable costs and the relevance of these costs to the proposed project.

Applicant should briefly explain its operational budget and any additional anticipated funding (including unique financial circumstances, with potential impact on the project such as upcoming monetary or land settlements), and how the proposed project fits in the overall budget.

The non-federal budget share should identify the source and be supported by letters of commitment. Letters of commitment (see Definitions) are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural, or financial, and may include other Federal and non-Federal resources. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources. Letters of Support merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters. They do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Rate Agreement should be included in the application, with all cost broken down by category so ANA reviewers can determine what is included in the indirect cost pool. Applicants that do not submit a current Indirect Cost Rate Agreement, may not be able to claim the allowable cost, may have the grant award amount reduced, or result in a delay in grant award.

Applicants are strongly encouraged to include sufficient funds for principal representatives, such as the chief financial officer or project director from the applicant organization to travel to one ANA post-award grant training and technical assistance workshop. This expenditure is allowable for new grant recipients and optional for grantees that have had previous ANA grant awards, and will be negotiated upon award. Applicants may also include costs to travel to an ANA grantee conference.

Cost Effectiveness: This criterion reflects ANA's concern with ensuring that the expenditure of its limited resources yields the greatest benefit possible in achieving the preservation of Native American languages. Applicants demonstrate this by: summarizing partnerships and the efficient use of leveraged resources; explaining the impact on the identified community through measurable project outcomes; and presenting a project that is completed, or self-sustaining or supported by other than ANA funds by the end of the project period.

Introduction and Project Summary/ Project Abstract (5 Points). Using the ANA Project Abstract, the applicant should provide a Project Introduction. The Introduction will provide the reader an overview and some details of the proposed project. This is where the project is introduced to the peer review panel. Identify the name of the applicant, location of the community to be served by the proposed project, the project activities, amount requested, amount of matching funds to be provided, the length of time required to accomplish the project, and the outcomes or outputs to be achieved.

2. Review and Selection Process

Initial Screening: Each application submitted under this program announcement will undergo a pre-

review screening to determine if (a) the application was received by the Program Announcement closing date; (b) the application was submitted in accordance with Section IV, ''Application and Submission Information''; (c) the applicant is eligible for funding in accordance with Section III of this program announcement; (d) the applicant has submitted the proper support documentation such as proof of non-profit status, resolutions, and required government forms; (e) an authorized representative has signed the application; and (f) applicant has a DUNS number. An application that fails to meet one of the above elements will be determined to be incomplete and excluded from the competitive review process. Applicants, with incomplete applications, will be notified by mail within 30 business days from the closing date of this program announcement. ANA staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification. After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within 90 days. If pertinent, the notification will present the application weaknesses identified during the review process. Applicants are not ranked based on general financial need. Applicants, who are initially excluded from competition because of ineligibility, may appeal the decision. Applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the Federal Register on August 19, 1996 (61 FR 42817 and 45 CFR part 1336, subpart C).

Competitive Review Process: Applications that pass the initial screening process will be analyzed, evaluated and rated by an independent review panel on the basis of the evaluation criteria specified below. The evaluation criteria were designed to analyze and assess the quality of a proposed community-based project, the likelihood of its success, and the ability to monitor and evaluate community impact and long-term results. The evaluation criteria and analysis are closely related and are wholly considered in judging the overall quality of an application. In addition, the evaluation criteria will standardize the review of each application and distribute the number of points more equitably. Applications will be evaluated in accordance with the program announcement criteria and ANA's program areas of interest. A determination will be made as to whether the proposed project is an effective use of federal funds.

Application Review Criteria: ANA has expanded the review criteria to allow for a more equitable distribution of points during the application review and competition process. The use of the six criteria distributes the number of points more equitably. Based on the ACF Uniform Project Description, ANA's criteria categories are Project Introduction; Objectives and Need for Assistance; Project Approach; Organizational Capacity; Results and Benefits Expected; and Budget and Budget Narrative.

As non-Federal reviewers will be used, applicants have the option of omitting from the application copies (not original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Application Consideration: The Commissioner's funding decision is based on: an analysis of the application by the review panel, panel review scores and comments; an analysis by ANA staff and review of previous ANA grant award performance (such as timely reporting and successful grant close-out); comments of State and Federal agencies having contract and grant performance related information; and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Native American Programs Act (NAPA), all relevant statutory and regulatory requirements, this program announcement, and the availability of appropriated funds. The Commissioner reserves the right to award more, or less, than the funds described or under such circumstances as may be deemed to be in the best interest of the federal government. Applicants may be required to reduce the scope of projects based on the amount of approved award.

VI. Award Administration Information

1. Award Notice

Approximately 120 days after the application due date, the successful applicants will be notified by mail through the issuance of a Financial Assistance Award document which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and sent to the applicants Authorizing Official.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR part 74, 45 CFR part 92, 45 CFR part 1336, subpart C, and 42 U.S.C. 2991 *et seq.*—Native American Programs Act of 1974.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 120 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 3/31/04. The Survey on Ensuring Equal Opportunity for Applicants form is approved under OMB control number 1890–0014 which expires 1/31/06.

3. Reporting Requirements

Programmatic Reports: Quarterly.

Financial Reports: Quarterly.

Special Reporting Requirements: An original and two copies of each performance report and financial status report must be submitted to the Grants Officer. Failure to submit these reports when required will mean the grantee is non-compliant with the terms and conditions of the grant award and subject to administrative action or termination. Performance reports are submitted 30 days after each quarter (3-month intervals) of the budget period. The final performance report, due 90 days after the project period end date, shall cover grantee performance during the entire project period. All grantees shall use the SF 269 (Long Form) to report the status of funds. Financial Status Reports are submitted 30 days after each quarter (3-month intervals) of the budget period. The final report shall be due 90 days after the end of the project period.

VII. Agency Contacts

Program Office Contact: ANA Applicant Help Desk, 370 L'Enfant Promenade, SW., Aerospace Building 8th Floor-West, Washington, DC 20447–0002, Telephone: 202–690–7776 or toll-free at 1–877–922–9262, E-mail: *ana@acf.hhs.gov.*

Grants Management Office Contact: Lois B. Hodge, 370 L'Enfant Promenade, SW., Aerospace Building 8th Floor-West, Washington, DC 20447–0002,

Telephone: (202) 401–2344, E-mail: *Lhodge@acf.dhhs.gov.*

VIII. Other Information

Training and Technical Assistance: All potential ANA applicants are eligible to receive training and technical assistance in the Native Language program area. Prospective applicants should check ANA's Web site for training and technical assistance dates and locations, or contact the ANA Help Desk at 1–877–922–9262. Due to the new application and program additions and modifications, ANA strongly encourages all prospective applicants to participate in free pre-application training.

Program Area 2

Native Language Preservation and Maintenance (Category II: Design and/or Implementation Grants)

The purposes of Design and/or Implementation Grants are so Tribes or communities may design and/or implement a language program to achieve their long-range goal(s) and to accommodate the Tribe or community in reaching their long-term language goal(s).

Program Areas of Interest under Category II include:

- Projects that produce culturally relevant printed stories for children on mental and physical disabilities using the Native language of the community.
- Establish and/or support of a community language project to bring older and younger Native Americans together to facilitate and encourage the teaching of Native American language skills from one generation to another;
- Establish and/or support training projects to teach Native American languages or to serve as interpreters or translators of Native languages;
- Projects that develop, print, and/or disseminate materials to be used for the teaching and enhancement of Native American languages;
- Projects that implement an immersion model, mentor, or incorporate distance learning for the teaching of the Native language.
- Projects to distribute or broadcast Native languages;
- Establish and/or support training projects to produce or participate in, television, radio or other media forms, to be broadcast in Native American languages;
- Projects that compile, transcribe and perform analysis of oral testimony in order to record and preserve the language; and,
- Project that purchase specialized equipment (including audio and video recording equipment, computers, and software) necessary to achieve the project objectives. The applicant must fully justify the need for this equipment and explain how it will be used to achieve the project objectives.

II. Award Information

Funding Instrument Type: Grant.

Anticipated Total Program Area 2 Funding: $1,000,000.

Anticipated Number of Awards: 10–20.

Average Projected Award Amount: $25,000 to $175,000.

Length of Project Period: 12, 17, 24, or 36 months.

Ceiling on Amount of Individual Awards: $175,000.

An application that exceeds the upper value of the dollar range specified will be considered ''non-responsive'' and be returned to the applicant without further review.

Floor Amount: $25,000.

III. Eligibility Information

1. Eligible Applicants

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-Federally recognized Tribes;
- Incorporated non-profit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated non-profit Native American organizations with Native American community-specific objectives;
- Alaska Native villages, as defined in the Alaska Native Claims Settlement Act (ANSCA) and/or non-profit village consortia;
- Incorporated non-profit Alaska Native multi-purpose community based organizations;
- Non-profit Alaska Native Regional Corporations/Associations in Alaska with village specific projects.
- Non-profit Native organizations in Alaska with village specific projects;
- Public and non-profit private agencies serving Native Hawaiians;
- Public and non-profit private agencies serving native peoples from Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands (the populations served may be located on these islands or in the continental United States);
- Tribally-controlled Community Colleges, Tribally-controlled Post-Secondary Vocational Institutions, and colleges and universities located in Hawaii, Guam, American Samoa or the Commonwealth of the Northern Mariana Islands which serve Native peoples; and
- Non-profit Alaska Native community entities or Tribal governing bodies (Indian Reorganization Act or Traditional Councils) as recognized by the Bureau of Indian Affairs.

Organizations in Palau are not longer eligible for assistance from ANA. (*Legal authority: 48 U.S.C 1931*).

Additional Information on Eligibility: Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application eligibility.

In support of the Presidential Executive Orders on Asian American and Pacific Islanders, Community-Based Alternatives for Individuals With Disabilities, and Faith-Based and Community Organizations, ANA encourages greater participation from Hawaiian and Pacific Islander communities, encourages Native communities to address the needs of people with disabilities, and invites eligible faith-based and community organizations to apply. This program announcement will emphasize community-based, locally designed projects. This emphasis will increase the number of grants to local community organizations and expand the number of partnerships among locally based non-profit organizations. ANA will accept applications from multiple organizations in the same geographic area. Previously, under each competitive program area, ANA accepted one application that served or impacted a reservation, Tribe or Native American community. The reason for this change is to expand and support large Native American rural and urban communities that provide a variety of services in the same geographic area. Although Tribes are limited to three simultaneous ANA grants (SEDS, Language and Environmental) at any one time, this clarification allows other community based organizations to apply for ANA funding, provided the objectives and activities do not duplicate currently funded projects serving the same geographic area.

Proof of Non-Profit Status: Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing:

- A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or
- A copy of the currently valid IRS tax exemption certificate; or

• A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or

• A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or

• any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA program eligibility

Resolution: Applicant is required to include a current signed Resolution (a formal decision voted on by the official governing body) in support of the project for the entire project period. The Resolution must indicate who is authorized to sign documents and negotiate on behalf of the Tribe or organization. The Resolution should indicate that the community was involved in the project planning process, and indicate the specific dollar amount of any non-Federal matching funds (if applicable).

2. Cost Sharing or Matching

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-federal share. The required match can be computed by dividing total Federal funds by 80 percent for total project costs then subtracting the Federal portion. The remainder is the required match. Therefore, a project requesting $100,000 in Federal funds (per budget period) must provide a match of at least $ 25,000 ($100,000/80% = $125,000 − $100,000 = $25,000). Grantees must be able to verify commitments of the non-Federal resources. Failure to provide the non-Federal share match will result in the disallowance of Federal funding commitment.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement. A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b) (3) of the Native American Program regulations. Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). For ANA grants under this announcement there is no match required for these insular areas.

3. Other (If Applicable)

DUNS Number: On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants after giving notice in the **Federal Register** on June 27, 2002 and opportunity for public comment. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (*www.Grants.Gov*). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under mandatory grant programs, submitted on or after October 1, 2003. A DUNS number may be acquired at no cost by calling the dedicated toll-free DUNS number request line on 1–866–705–5711 or you may request a number on-line at *http://www.dnb.com.*

Applicants are cautioned that the ceiling for individual awards is $175,000. Applications exceeding the $175,000 threshold will be returned without review.

Applications that fail to include the required amount of cost-sharing will be considered non-responsive and will not be eligible for funding under this announcement.

IV. Application and Submission Information

1. Address To Request Application Package

The ANA regional Training and Technical Assistance providers at:

Region I: AL, AR, CT, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, W.VA.

Native American Management Services, Inc., 6858 Old Dominion Drive, Suite 302, McLean, Virginia 22101, Toll Free: 888–221–9686, (703) 821–2226 x-234, Fax: (703) 821–3680, Kendra King-Bowes, Project Manager, E-mail: *kking@namsinc.org, www.anaeastern.org.*

Region II: AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, WY.

ACKCO, Inc., 2214 N. Central, Suite #250, Phoenix, Arizona 85004, Toll Free: 800–525.2859, (602) 253–9211, Fax (602) 253–9135, Theron Wauneka, Project Manager, E-mail: *theron.wauneka@ackco.com, www.anawestern.com.*

Region III: Alaska.

Native American Management Services, Inc., 11723 Old Glenn Highway, Suite 201, Eagle River, Alaska 99577, Toll Free 877–770–6230, (907) 694–5711, Fax (907) 694–5775, P.J. Bell, Project Manager, E-mail: *pjbell@gci.net, www.anaalaska.org.*

Region IV: American Samoa (AS), Guam, HI, Commonwealth of Northern Mariana Islands (CNMI).

Council for Native Hawaiian Advancement, 33 South King Street, Suite 513, Honolulu, Hawaii 96813, Toll-Free 800–709–2642, (808) 521–5011, Fax: (808) 521–4111, Jade Danner, Project Manager, E-mail: *jade@hawaiiancouncil.org, www.anapacific.org.*

2. Content and Form of Application Submission

Please refer to section I ''Funding Opportunity Description'' to review general ANA Administrative Policies for any applicable statutory policies pertaining to application content and form.

Application Submission: An original and two copies of the complete application are required. The original copy must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. The two additional copies of the complete application must include all required forms, certifications, assurances, and appendices and must also be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget. A complete application for assistance under this Program Announcement consists of Three Parts. Part One is the SF 424, Required Government Forms, and other required documentation. Part Two of the application is the project substance of the application. This section of the application may not exceed 45 pages. Part Three of the application is the

Appendix. This section of the application may not exceed 20 pages (the exception to this 20 page limit applies only to projects that require, if relevant to the project, a Business Plan or any Third-Party Agreements).

Electronic Submission: While ACF does have the capability to receive program announcement applications electronically through Grants.gov, electronic submission of applications will not be available for this particular announcement. There are required application form(s) specific to ANA that have not yet received clearance from *Grants.gov.* While electronic submission of applications may be available in the next fiscal year for this program, no electronic submission of applications will be accepted for this announcement this year as they would be missing those required ANA forms and be considered incomplete.

Organization and Preparation of Application: Due to the intensity and pace of the application review and evaluation process, ANA strongly recommends applicants organize, label, and insert required information in accordance with Part One, Part Two, and Part Three as presented below. The application should begin with the information requested in Part One. Utilizing this format will ensure all information submitted to support an applicant's request for funding is thoroughly reviewed. Deviation from this suggested format may reduce the applicant's ability to receive maximum points, which are directly related to ANA's funding review decisions.

ANA Application Format: ANA Application Format: ANA will now require all applications to be labeled with a Section Heading in compliance with the format provided in the program announcement. This format applies to all applicants submitting applications for funding. All pages submitted (including Government Forms, certifications and assurances) should be numbered consecutively. The paper size shall be 8½ × 11 inches, line spacing shall be a space and a half (1.5 line spacing), printed only on one side, and have a half-inch margin on all sides of the paper. The font size should be no smaller than 12-point and the font type shall be Times New Roman. These requirements do not apply to the project Abstract Form, Letters of Commitment, the Table of Contents, and the Objective Work Plan.

Forms and Assurances: The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, ''Assurances: Non-Construction Programs.'' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of $100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of $100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A–B; and Certifications may be found at: *www.acf.hhs.gov/programs/ofs/forms.htm.* Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Survey: Private, non-profit organizations are encouraged to submit with their applications the survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants'' at *www.acf.hhs.gov/programs/ofs/forms.htm.* (OMB No. 1890–0014 Exp. 1/31/06).

3. Submission Date and Time

The Application must be received at the address below by 4:30 p.m. (Eastern Standard Time) on or before April 2, 2004.

Deadline: Mailed applications shall be considered as meeting an announced deadline if received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Hand Delivery: The Application shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding Federal holidays). Applications may be delivered to U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Late Applications: Applications that do not meet the Deadline criteria above will be considered late applications. ACF will notify each late applicant that its application will not be considered for review in the current competition.

Extension of Deadline: ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

Required Forms: All requirements for submission are due on or before the Deadline date.

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS

Part One must include the following:	Content and location of Part One required forms, certifications, and documents
SF 424, SF 424A, and SF 424B	*http://www.acf.hhs.gov/programs/ofs/forms.htm.*
Table of Contents	Applicant must include a table of contents that accurately identifies the page number and where the information can be located. Table of Contents does not count against application page limit.
Project Abstract	ANA Form: OMB Clearance Number 0980–0204, *http://www.acf.hhs.gov/programs/ana.*

PART ONE.—FEDERAL FORMS AND OTHER REQUIRED DOCUMENTS—Continued

Part One must include the following:	Content and location of Part One required forms, certifications, and documents
Proof of Non-Profit Status	As described in this announcement under Section ''Other Eligibility Information''.
Resolution	Information for submission can be found in the Program Announcement Section ''Other Eligibility Information''.
Documentation that the Board of Directors is majority Native American, if applicant is other than a tribe or Alaska Native Village government..	As described in this announcement under ''ANA Administrative Policies''.
Audit Letter	A Certified Public Accountant's ''Independent Auditors' Report on Financial Statement.'' This is usually only a two to three page document. (This requirement applies only to applicants with annual expenditures of $300,000 or more of federal funds). Applicant must also include that portion of the audit document that identifies all other federal sources of funding.
Indirect Cost Agreement	Organizations and Tribes must submit a current indirect cost agreement (if claiming indirect costs) that aligns with the approved ANA project period. The Indirect Cost Agreement must identify the individual components and percentages that make up the indirect cost rate.
Non-Federal Share of Waiver Request, per 45 CFR 1336.50(b)	A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program regulations (if applicable).
Certification regarding Lobbying Disclosure of Lobbying Activities—SF LLL.	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Certification regarding Maintenance of Effort	May be found at *www.acf.hhs.gov/programs/ofs/forms.htm.*
Environmental Tobacco Smoke Certification	May be found at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

PART TWO—APPLICATION REVIEW CRITERIA

Part two—proposed project	Application review criteria—This section may not exceed 45 pages
Criteria One (5 pts)	Introduction and Project Summary/Project Abstract.
Criteria Two (20 pts)	Objectives and Need for Assistance.
Criteria Three (25 pts)	Approach: Include an Objective Work Plan (OWP) for each year of the project period. Only one OWP form is needed for a 17-month project period.
Criteria Four (20 pts)	Organizational Capacity.
Criteria Five (20 pts)	Results or Benefits Expected.
Criteria Six (10 pts)	Budget and Budget Justification Summary/Cost Effectiveness.

PART THREE—APPENDIX

	Appendix
Part Three—Support Documentation	This section may not exceed 20 pages. Part Three includes only supplemental information or required support documentation that addresses the applicant's capacity to carry out and fulfill the proposed project. These items include: letters of agreement with cooperating entities, in-kind commitment and support letters, business plans, and a summary of the Third Party Agreements. Do not include books, videotapes, studies or published reports and articles, as they will not be made available to the reviewers, or be returned to the applicant.

Additional Forms: Private-non-profit organizations may submit with their applications the additional survey located under ''Grant Related Documents and Forms'' titled ''Survey for Private, Non-Profit Grant Applicants''.

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found on *http://www.acf.hhs.gov/programs/ofs/form.htm*.	By application due date.

4. Intergovernmental Review

Applications are not subject to Executive Order 12372.

5. Funding Restrictions

ANA does not fund:

- Activities in support of litigation against the United States Government that are unallowable under OMB Circulars A–87 and A–122.
- ANA has a policy of not funding duplicative projects or allowing any one community to receive a disproportionate share of the funds available for award. When making decisions on awards of grants the Agency will consider whether the project is essentially identical or

similar, in whole or significant part, to projects in the same community previously funded or being funded under the same competition. The Agency will also consider whether the grantee is already receiving funding for a SEDS, Language, or Environmental project from ANA. The Agency will also take into account in making funding decisions whether a proposed project would require funding on indefinite or recurring basis. This determination will be made after it is determined whether the application meets the requirements for eligibility as set forth in 45 CFR part 1336, subpart C, but before funding decisions are complete.

- Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations that are otherwise eligible to apply for ANA funding. However, ANA will fund T/TA requested by a grantee for its own use or for its members' use (as in the case of a consortium), when the T/TA is necessary to carry out project objectives.
- The purchase of real property or construction because those activities are not authorized by the Native American Programs Act of 1974, as amended.
- Objectives or activities to support core administration activities of an organization. However, functions and activities that are clearly project related are eligible for grant funding. Under Alaska SEDS projects, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.
- Costs associated with fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under an ANA grant award.
- Major renovation or alteration because those activities are not authorized under the Native American Programs Act of 1974, as amended.
- Projects originated and designed by consultants who provide a major role for themselves and are not members of the applicant organization, Tribe, or village.
- Project activities that do not further the three interrelated ANA goals of economic development or social development or governance, or meet the purpose of this program announcement.

6. Other Submission Requirements

Submission by Mail: An Applicant must provide a complete original and two copies of the application with all required forms and signed by the authorized representative. The Application must be received at the address below by 4:30 PM Eastern Standard Time on or before the closing date. Applications should be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ''Attention: Lois B. Hodge'', 370 L'Enfant Promenade, SW., Washington, DC 20447.

For Hand-Delivery: An Applicant must deliver a complete original and two copies of the application with all required forms and signed by the authorized representative. Applications shall be considered as meeting an announced deadline if received on or before the deadline date, between the hours of 8 a.m. to 4:30 p.m., EST, Monday through Friday (excluding Federal holidays). Applications may be delivered to the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW., Washington, DC 20024. This address must appear on the envelope/package containing the application with the note ''Attention: Lois B. Hodge''. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

V. Application Review Information

1. Criteria

Instructions: ACF Uniform Project Description (UPD)

The UPD text should be used as general guidance in the development of projects. However, the specific ANA application submission format to be used in response to this announcement is located in section IV Application and Submission Information.

Purpose: The Project Description is a major area by which an application is evaluated and ranked in competition with other applications for financial assistance. The Project Description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included if they present information clearly and succinctly. In preparing your Project Description, all information requested through each specific evaluation criteria should be provided. ANA uses this and other information to make funding decisions. It is important, therefore, that this information be included in the application.

General Instructions: ANA is particularly interested in specific factual information and statements of measurable goals and performance indicators in quantitative terms. Project descriptions are evaluated on a basis of substance, not length. Extensive exhibits are not required. Cross-referencing should be used rather than repetition. Supporting information that does not directly pertain to an integral part of the grant-funded activity should be placed in the appendix. The application narrative should be in a 12-pitch font. A table of contents and an executive summary should be included. Each page should be numbered sequentially, including attachments or appendices. Please do not include books, videotapes or published reports because they are not easily reproduced, are inaccessible to the reviewers, and will not be returned to the applicant.

Introduction: Applicants are required to submit a full Project Description and shall prepare this portion of the grant application in accordance with the following instructions and the specified evaluation criteria. The introduction provides a broad overview of the Project, and the information provided under each evaluation criteria expands and clarifies the project program-specific activities and information that reviewers will need to assess the proposed project.

Project Summary: Provide a summary of the Project Description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the Project Description, the applicant should provide information on the total range of projects currently being conducted and supported (or to be initiated) to ensure they are within the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived by the community and its members. For example, applicants are encouraged to describe the qualitative and quantitative data collected, how this data will measure progress towards the stated results or benefits, and how performance indicators under economic

and social development and governance projects can be monitored, evaluated and verified.

Approach: Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors, which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, extraordinary social and community involvement or ease of project replication by other tribes and Native organizations. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people served and the number of activities accomplished. Examples of these activities would be the number of businesses started or expanded, the number of jobs created or retained, the number of people trained, the number of youth, couples or families assisted or the number of elders participating in the activity during that reporting period. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the dates and schedule of accomplishments. List organizations, cooperating entities, consultants, or other key individuals who will work on the project, as well as a short description of the nature of their effort or contribution.

Organizational Profiles: Provide information on the applicant organization(s) and cooperating partners with organizational charts, financial statements, audit reports or statements from CPA/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

Third-Party Agreements: Include written agreements between grantees and sub grantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Budget and Budget Justification: Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allow-ability of the proposed costs.

Additional Information: The following are requests for additional information that need to be included in the application: Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit organization shall submit one of the following: (i) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS Code; or (ii) a copy of the currently valid IRS tax exemption certificate; or (iii) a statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and none of the net earnings accrue to any private shareholders or individuals; or (iv) a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status; or (v) any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for the purpose of ANA program eligibility.

General: The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s); and last column, total budget. The budget justification should be a narrative.

- Personnel: The description of the costs of employee salaries and wages. Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), or time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.
- Fringe Benefits: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.
- Travel: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel). Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.
- Equipment: Equipment means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost that equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.). Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total

cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy, which includes the equipment definition.

• Supplies: Costs of all tangible personal property other than that included under the Equipment category. Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

• Contractual: Costs of all contracts for services and goods except for those, which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category. Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub-recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition (sole source) and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients may be required to make available to ANA pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc. Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

• Other: Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs. Justification: Provide computations, a narrative description, and a justification for each cost under this category.

• Indirect Charges: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of the Interior, Department of Labor, the Department of Health and Human Services (HHS), or other Federal agency. Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

• Program Income: The estimated amount of income, if any, expected to be generated from this project. Justification: Describe the nature, source, and anticipated use of program income in the budget or refer to the pages in the application, which contain this information.

• Non-Federal Resources: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each budget period.

• Total Direct Charges, Total Indirect Charges, and Total Project Costs.

Evaluation Criteria: ANA

Project Approach (25 Points). The Applicant's narrative should be clear and concise. The applicant should provide a detailed project description with goals and objectives. It should discuss the project strategy and implementation plan over the project period. Applicant should describe the project strategy using the Objective Work Plan (OWP). In the OWP, the applicant should identify the project objectives, time frames, proposed activities, outcomes, and evaluation activity, as well as the individuals responsible for completing the objectives and performing the activities. Applicant should summarize how the project description, objective(s), approach, strategy and implementation plan are inter-related. The applicant should also include the names and activities of any organizations, consultants, or other key individuals who will contribute to the project.

The applicant should discuss the planning and/or consultation efforts undertaken, and the proposed objectives and activities that reflect the language needs of the local community. The applicant explains how elders and other community members are involved in the development of the language goals and strategies.

The applicant should discuss the leveraged resources (see Definitions) used to strengthen and broaden the impact of the proposed project. Applicant should discuss how commitments and contributions from other entities will enhance the project. Applicant should provide ''Letters of Commitment'' that identify the time, dollar amount, and activity to be accomplished through partnerships. Applicants should discuss the relationship of non-ANA funded activities to those objectives and activities that will be funded with ANA grant funds. (Letters of Commitment should be included in the Appendix Section of the application).

The application includes the following three (3) plans:

(1) ''Evaluation Plan'' with a baseline to measure project outcomes, including, but not limited to, describing effective language growth in the community (*e.g.*, an increase of Native American language use). This plan will be the basis for evaluating the community's progress in achieving its language goals and objectives.

(2) ''Sharing Plan'' that identifies how the project's methodology, research data, outcomes or other products can be shared and modified for use by other Tribes or communities. If this is not feasible or culturally appropriate, provide the reasons. The goal is to provide opportunities to ensure the survival and the continuing vitality of Native languages.

(3) ''Preservation Plan'' to preserve project products describes how the products of the project will be preserved through archival or other culturally appropriate methods, for the benefit of future generations.

Native Language programs that produce audio or print media will now include a stipulation that a copy of the product(s) will be provided to ANA for the Language Repository. Federally-

recognized Tribes have the option to not submit project products.

Objectives and Need for Assistance (20 Points). Applicant should show a clear relationship between the proposed project, the strategy and community's long-range goals. The need for assistance should clearly identify the physical, economic, social, financial, governmental, and institutional challenges and problem(s) requiring a solution that supports the funding request. Proposed project objectives support the identified need and should be measurable.

Describe the community (*see* Definitions) to be affected by the project and the community involvement in the project. The Applicant should describe the community's long-range goals, and the community planning process and how the project supports these goals. Discuss the geographic location of the project and where the project and grant will be administered.

Applications from National American Indian and Native American organizations must clearly demonstrate a need for the project, explain how the project originated, and discuss the community-based program delivery strategy of the project, identify and describe the intended beneficiaries, describe and relate the actual project benefits to the community and organization, and describe a community-based program delivery system.

Category II applicants must be able to document: the language information has been collected and analyzed, that it is current (compiled within 36 months prior to the grant application); and, the community has established long-range language goals.

The application fully describes the current status of the Native American language to be addressed; current status is defined as data compiled within the previous 48 months. The description of the current status minimally includes the following information:

- Number of speakers.
- Age of speakers.
- Gender of speakers.
- Level(s) of fluency.
- Number of first language speakers (Native language as the first language acquired).
- Number of second language speakers (Native language as the second language acquired).
- Where Native language is used (*e.g.* home, court system, religious ceremonies, church, media, school, governance and cultural activities).
- Source of data (formal and/or informal).
- Rate of language loss or gain.

The applicant fully describes existing community language or language training programs and projects, if any, in support of the Native American language to be addressed by the proposed project. The applicant should include the following: if the applicant had a community language or language training program within the last 48 months? Within the last 10 years? If so, fully describe the program(s), and include the following:

(1) Program goals;
(2) Number of program participants;
(3) Number of speakers;
(4) Age range of participants (*e.g.*, 0–5, 6–10, 11–18, etc.);
(5) Number of language teachers;
(6) Criteria used to acknowledge competency of language teachers;
(7) Resources available to the applicant (*e.g.* valid grammars, dictionaries, and orthographies or describe other suitable resources);
(8) Program achievements.

If applicant has never had a language program, a detailed explanation of what barriers or circumstances prevented the establishment of a community language program should be included. The application describes the proposed project's long-range goals and strategies, including: (1) How the specific Native American long-range community goal(s) relate to the proposed project. (2) How the goal(s) fit within the context of the current language status. (3) A clearly delineated strategy to assist in assuring the survival and continued vitality of the Native American languages addressed in the community. (4) The application explains how the community and the tribal government (where one exists) intend to achieve these goals. (5) All Tribes and communities, however, must indicate in their application how they intend to involve elders and other community members in development of language goals and strategies, and in evaluation of project outcomes. The type of community served will determine the type of documentation necessary to demonstrate participation.

Organizational Profile (20 Points). Provide information on the management structure of the Applicant and the organizational relationships with its cooperating partners. Include organizational charts that indicate how the proposed project will fit in the existing structure. Describe the applicant's capabilities such as the administrative structure, and its ability to administer a project of the proposed scope and its capacity to fulfill the implementation plan.

If relevant to the project, applicants must provide a Business Plan or any Third-Party Agreements (not counted in Appendix page limit). If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

Applicants are required to affirm that they will credit the Administration for Native Americans, and reference the ANA funded project on any audio, video, and/or printed materials developed in whole or in part with ANA funds.

Applicants should list all current sources of federal funding, the agency, purpose, amount, and provide the most recent certified signed audit letter for the organization to be included in Part One of the application. If the applicant has audit exceptions, these issues should be addressed.

Applicants should provide ''staffing and position data'' to include a proposed staffing pattern for the project where the applicant highlights the new project and staff. Positions discussed in this section must match the positions identified in the Objective Work Plan and in the proposed budget. Note: Applicants are strongly encouraged to give preference to qualified Native Americans in hiring project staff and in contracting services under an approved ANA grant. Applicant should provide a paragraph of the duties and skills required for the proposed staff and a paragraph on qualifications and experience of current staff (Full position descriptions are required to be submitted and included in the Appendix). Applicant should explain how the current and future staff will manage the proposed project. Brief biographies of key positions or individuals should be included.

Results or Benefits Expected (20 Points). In this section the applicant should discuss the ''Performance Indicators'' (*see* Definitions) and the benefits expected as a result of this project. Performance indicators identify qualitative and quantitative data directly associated with the project. Each applicant must have five indicators to support the applicant's project. Three of the performance indicators should be selected from the list below. Each grantee is required to develop two additional indicators specific to the project that directly support the goals and objectives. For each performance indicator selected the applicant should discuss the relevance of the data, the method for collecting the data, and the evaluation process. Performance indicators will be reported to ANA in the grantee's quarterly report. Category II applications should select

three of the five Performance Indicators required from the following list: (1) The number of children, youth and elders involved in establishment or operation of project; (2) number of training classes or workshops held to teach language; (3) number and type of materials developed; (4) number of media products developed; (5) number of translations achieved; (6) number of individuals who increased in ability to speak the language; (7) number of participants who achieve fluency.

The applicant will indicate how it will measure the success of the separate project components and the project as a whole. The applicant should describe how the success of the project would be evaluated and verified by an independent program monitoring and evaluation team. Applicant should provide a narrative on the specific performance indicators that can be analyzed, measured, monitored, and evaluated. Relate these performance indicators to the project goals, objectives, and outcomes. Project outcomes support the identified need and should be measurable.

Budget and Budget Justification/Cost Effectiveness. (10 Points). Budget and Justification: An applicant must submit an itemized budget detailing the applicant's Federal and non-Federal share and citing source(s) of funding. The applicant should provide a detailed line item Federal and Non-federal share budget by year for each year of project funds requested. A budget narrative describing the line item budget should be attached for each year of project funds requested. The budget should include a line item justification for each Object Class Category listed under Section B—''Budget Categories'' of the ''Budget Information-Non Construction Programs on the SF 424A form. The budget should include the necessary details to facilitate the determination of allowable costs and the relevance of these costs to the proposed project.

Applicant should briefly explain its existing operational budget and any additional anticipated funding including unique financial circumstances, with potential impact on the project such as upcoming monetary or land settlements, and how the proposed project fits in the overall budget. Applicant should explain why it cannot apply other funding resources to cover the ANA portion of funding.

The non-federal budget share should identify the source and be supported by letters of commitment (see Definitions). Letters of commitment are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural, or financial, and may include other Federal and non-Federal resources. For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. Statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources. Letters of Support merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters. They do not factually establish the authenticity of other resources and do not offer or bind specific resources to the project.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Rate Agreement should be included in the application, with all cost broken down by category so ANA reviewers can be certain that no budgeted line items are included in the indirect cost pool. Applicants that do not submit a current Indirect Cost Rate Agreement, may not be able to claim the allowable cost, may have the grant award amount reduced, or results in a delay in grant award.

Applicants are encouraged to include sufficient funds for principal representatives, such as the applicant's chief financial officer or project director to travel to one ANA post-award grant training and technical assistance workshop. This expenditure is allowable for new grant recipients and optional for grantees that have had previous ANA grant awards, and will be negotiated upon award. Applicants may also include costs to travel to an ANA grantee conference.

For business development projects, the proposal should demonstrate that the expected return on the ANA funds used to develop the project will provide a reasonable operating income and investment return within a specified time period. If a profit-making venture is being proposed, profits should be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue should be reported as general program income. A decision will be made at the time of the grant award regarding appropriate use of program income. (*See* 45 CFR part 74 and part 92).

Cost Effectiveness: This criterion reflects ANA's concern with ensuring that the expenditure of its limited resources yields the greatest benefit possible in preserving Native American languages. Applicants demonstrate this by: summarizing partnerships and the efficient use of leveraged resources; explaining the impact on the identified community through measurable project outcomes; and presenting a project that is completed, or self-sustaining or supported by other than ANA funds by the end of the project period.

Introduction and Project Summary/ Project Abstract (5 Points). Using the ANA Project Abstract form, the applicant should provide a Project Introduction. The Introduction will provide the reader an overview and some details of the proposed project. This is where the project is introduced to the peer review panel. Identify the name of the applicant, location of the community to be served by the proposed project, the project activities, amount requested, amount of matching funds to be provided, the length of time required to accomplish the project, and the outcomes or outputs to be achieved. Using the Project Abstract form, applicant will clearly indicate which SEDS goal the project addresses: governance, social development, or economic development.

2. Review and Selection Process

Initial Screening: Each application submitted under this program announcement will undergo a pre-review screening to determine if (a) the application was received by the Program Announcement closing date; (b) the application was submitted in accordance with Section IV, ''Application and Submission Information''; (c) the applicant is eligible for funding in accordance with Section III ''Eligibility Information'' of this program announcement; (d) the applicant has submitted the proper support documentation such as proof of non-profit status, resolutions, and required government forms; (e) an authorized representative has signed the application; and (f) applicant has a DUNS number. An application that fails to meet one of the above elements will be determined to be incomplete and excluded from the competitive review process. Applicants, with incomplete applications, will be notified by mail within 30 business days from the closing date of this program announcement. ANA staff cannot respond to requests for information regarding funding decisions prior to the official applicant notification. After the Commissioner has made decisions on all applications, unsuccessful applicants will be notified in writing within 90 days. If pertinent, the notification will present the application weaknesses

identified during the review process. Applicants are not ranked based on general financial need. Applicants, who are initially excluded from competition because of ineligibility, may appeal the decision. Applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817 and 45 CFR part 1336, subpart C).

Competitive Review Process: Applications that pass the initial screening process will be analyzed, evaluated and rated by an independent review panel on the basis of the evaluation criteria specified below. The evaluation criteria were designed to analyze and assess the quality of a proposed community-based project, the likelihood of its success, and the ability to monitor and evaluate community impact and long-term results. The evaluation criteria and analysis are closely related and are wholly considered in judging the overall quality of an application. In addition, the evaluation criteria will standardize the review of each application and distribute the number of points more equitably. Applications will be evaluated in accordance with the program announcement criteria and ANA's program areas of interest. A determination will be made as to whether the proposed project is an effective use of federal funds.

As non-Federal reviewers will be used, applicants have the option of omitting from the application copies (not original) specific salary rates or amounts for individuals specified in the application budget and Social Security Numbers, if otherwise required for individuals. The copies may include summary salary information.

Application Review Criteria: ANA has expanded the review criteria to allow for a more equitable distribution of points during the application review and competition process. The use of the six criteria distributes the number of points more equitably. Based on the ACF Uniform Project Description, ANA's criteria categories are Project Introduction; Objectives and Need for Assistance; Project Approach; Organizational Capacity; Results and Benefits Expected; and Budget and Budget Narrative.

Application Consideration: The Commissioner's funding decision is based on an analysis of the application by the review panel, panel review scores and comments; an analysis by ANA staff and review of previous ANA grant performance (such as timely reporting and successful grant close-out); comments of State and Federal agencies having contract and grant performance related information; and other interested parties. The Commissioner makes grant awards consistent with the purpose of the Native American Programs Act (NAPA), all relevant statutory and regulatory requirements, this program announcement, and the availability of appropriated funds. The Commissioner reserves the right to award more, or less, than the funds described or under such circumstances as may be deemed to be in the best interest of the federal government. Applicants may be required to reduce the scope of projects based on the amount of approved award.

VI. Award Administration Information

1. Award Notice

Approximately 120 days after the application due date, the successful applicants will be notified by mail through the issuance of a Financial Assistance Award document which will set forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer and sent to the applicants Authorizing Official.

Organizations whose applications will not be funded will be notified in writing.

2. Administrative and National Policy Requirements

45 CFR part 74, 45 CFR part 92, 45 CFR part 1336, subpart C, and 42 U.S.C. 2991 *et seq.*—Native American Programs Act of 1974.

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average 120 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970–0139 which expires 3/31/04. The Survey on Ensuring Equal Opportunity for Applicants form is approved under OMB control number 1890–0014 which expires 1/31/06.

3. Reporting Requirements

Programmatic Reports: Quarterly.

Financial Reports: Quarterly.

Special Reporting Requirements: An original and one copy of each performance report and financial status report must be submitted to the Grants Officer. Failure to submit these reports when required will mean the grantee is non-compliant with the terms and conditions of the grant award and subject to administrative action or termination. Performance reports are submitted 30 days after each quarter (3-month intervals) of the budget period. The final performance report, due 90 days after the project period end date, shall cover grantee performance during the entire project period. All grantees shall use the SF 269 (Long Form) to report the status of funds.

Financial Status Reports are submitted 30 days after each quarter (3-month intervals) of each budget period. The final report shall be due 90 days after the end of the project period.

VII. Agency Contacts

Program Office Contact: ANA Applicant Help Desk, 370 L'Enfant Promenade, SW., Aerospace Center 8th Floor-West, Washington, DC 20447–0002, Telephone: 202–690–7776 or toll-free at 1–877–922–9262, E-mail: *ana@acf.hhs.gov.*

Grants Management Office Contact: Lois B. Hodge, 370 L'Enfant Promenade, SW., Aerospace Center 8th Floor-West, Washington, DC 20447–0002, Telephone: (202) 401–2344, E-mail: *Lhodge@acf.dhhs.gov.*

VIII. Other Information

Training and Technical Assistance: All potential ANA applicants are eligible to receive training and technical assistance in the Native Language program areas. Prospective applicants should check ANA's Web site for training and technical assistance dates and locations, or contact the ANA Help Desk at 1–877–922–9262. Due to the new application and program additions and modifications, ANA strongly encourages all prospective applicants to participate in free pre-application training.

Dated: January 21, 2004.

Quanah Crossland Stamps,

Commissioner, Administration for Native Americans.

[FR Doc. 04–3655 Filed 2–20–04; 8:45 am]

BILLING CODE 4184–01–P

Federal Register

Monday,

February 23, 2004

Part III

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 2, 10, et al.

Federal Acquisition Regulation; Special Emergency Procurement Authority; Small Entity Compliance Guide; Interim Rules

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 2, 10, 12, 13, 15, 19, and 25

[FAC 2001–20; FAR Case 2003–022]

RIN 9000–AJ88

Federal Acquisition Regulation; Special Emergency Procurement Authority

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) have agreed on an interim rule amending the Federal Acquisition Regulation (FAR) to implement the special emergency procurement authorities of section 1443 of the Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136). The Councils will publish a final rule upon receipt and evaluation of comments received in response to this interim rule.

Section 1443 increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies or services by or for an executive agency that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or the recovery from nuclear, biological, chemical, or radiological attack. Also, the head of the contracting activity carrying out a procurement of supplies or services to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack may treat such supplies or services as a commercial item.

DATES: *Effective Date:* February 23, 2004.

Comment Date: Interested parties should submit comments to the FAR Secretariat at the address shown below on or before April 23, 2004 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to—General Services Administration, FAR Secretariat (MVA), 1800 F Street, NW., Room 4035, Attn: Ms. Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to—*farcase.2003–022@gsa.gov.* Please submit comments only and cite FAC 2001–20, FAR case 2003–022, in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat at (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Gerald Zaffos, Procurement Analyst, at (202) 208–6091. Please cite FAC 2001–20, FAR case 2003–022.

SUPPLEMENTARY INFORMATION:

A. Background

This interim rule implements Section 1443 of the Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136). Section 1443 increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies or services by or for an executive agency that, as determined by the head of the agency, are to be used in support of a contingency operation or to facilitate the defense against or the recovery from nuclear, biological, chemical, or radiological attack. Section 1443 also authorizes the expanded use of Simplified Acquisition and Commercial Items procedures.

This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* However, the increased thresholds are limited to procurements that support a contingency operation or to facilitate the defense against or the recovery from nuclear, biological, chemical, or radiological attack. There are no data available on the number of procurements that will be eligible. We expect the increased thresholds to this limited class of procurements will apply to a very small number of small entities.

An Initial Regulatory Flexibility Act Analysis has been prepared and is as follows:

Initial Regulatory Flexibility Act Analysis—FAR Case 2003–022

This Initial Regulatory Flexibility Analysis has been prepared in accordance with Section 603, Title 5, of the United States Code.

1. Description of the reasons why action by the agency is being considered. This interim rule amends the Federal Acquisition Regulation (FAR) in order to implement Section 1443 of the Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136). Section 1443 increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies and services to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack.

2. Succinct statement of the objectives of, and legal basis for, the interim rule. This interim rule implements Section 1443 of the Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136).

3. Description of, and, where feasible, estimate of the number of small entities to which the interim rule will apply. The increased thresholds are limited to procurements that are to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. There are no data available on the number of procurements that will be eligible. However, we expect the number of small entities that will be impacted by the increased thresholds to this limited class of procurements to be very small. In addition, although not required by the statute, the interim rule raises the small business set-aside ceilings for purchases made under the authority of Section 1443 of the Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136).

4. Description of projected reporting, record keeping, and other compliance requirements of the interim rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record. There are no reporting, record keeping, or other compliance requirements for this interim rule.

5. Identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the interim rule. This rule does not duplicate, overlap, or conflict with other relevant Federal rules.

6. Description of any significant alternatives to the interim rule, which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the interim rule on small entities. There are no significant alternatives to the interim rule that would accomplish the stated objectives yet further reduce impact on small entities. The rule includes only FAR text revisions required to implement the statute.

The FAR Secretariat has submitted a copy of the Initial Regulatory Flexibility Analysis (IRFA) to the Chief Counsel for Advocacy of the Small Business Administration. Interested parties may obtain a copy from the FAR Secretariat. The Councils will consider comments from small entities concerning the affected FAR parts 2, 10, 12, 13, 15, 19, and 25 in accordance with 5 U.S.C. 610. Interested parties must submit such

comments separately and should cite 5 U.S.C. 601, *et seq.* (FAC 2001–20, FAR case 2003–022), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

D. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because the FAR coverage implements Section 1443 of the Services Acquisition Reform Act of 2003, signed on November 24, 2003, which provides urgently needed emergency authorities. However, pursuant to Public Law 98–577 and FAR 1.501, the Councils will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 2, 10, 12, 13, 15, 19, and 25

Government procurement.

Dated: February 13, 2004.

Laura Auletta,

Director, Acquisition Policy Division.

Federal Acquisition Circular

Federal Acquisition Circular (FAC) 2001–20 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2001–20 are effective February 23, 2004.

Dated: February 12, 2004.

Deidre A. Lee,

Director, Defense Procurement and Acquisition Policy.

Dated: February 13, 2004.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy, General Services Administration.

Dated: February 12, 2004.

Tom Luedtke,

Assistant Administrator for Procurement, National Aeronautics and Space Administration.

■ Therefore, DoD, GSA, and NASA amend 48 CFR parts 2, 10, 12, 13, 15, 19, and 25 as set forth below:

■ 1. The authority citation for 48 CFR parts 2, 10, 12, 13, 15, 19, and 25 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

PART 2—DEFINITIONS OF WORDS AND TERMS

■ 2. Amend section 2.101 in paragraph (b) by revising the definitions ''Micro-purchase threshold'' and ''Simplified acquisition threshold'' to read as follows:

2.101 Definitions.

* * * * *

(b) * * *

Micro-purchase threshold means $2,500, except it means—

(1) $2,000 for construction subject to the Davis Bacon Act; and

(2) $15,000 for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as described in 13.201(g)(1), except for construction subject to the Davis Bacon Act (Pub. L. 108–136, Title XIV, Sec. 1443).

* * * * *

Simplified acquisition threshold means $100,000, except for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack (Pub. L. 108–136, Title XIV, Sec. 1443), the term means—

(1) $250,000 for any contract to be awarded and performed, or purchase to be made, inside the United States; and

(2) $500,000 for any contract to be awarded and performed, or purchase to be made, outside the United States.

* * * * *

PART 10—MARKET RESEARCH

■ 3. Amend section 10.001 by revising paragraph (a)(2)(v) to read as follows:

10.001 Policy.

(a) * * *

(2) * * *

(v) Agencies shall conduct market research on an ongoing basis, and take advantage to the maximum extent practicable of commercially available market research methods, to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the agency in furtherance of a contingency operation or defense against or recovery from nuclear, biological, chemical, or radiological attack; and

* * * * *

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 4. Amend section 12.102 by revising paragraph (f) to read as follows:

12.102 Applicability.

* * * * *

(f)(1) Contracting officers may treat any acquisition of supplies or services that, as determined by the head of the agency, are to be used to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, as an acquisition of commercial items.

(2) A contract in an amount greater than $15,000,000 that is awarded on a sole source basis for an item or service treated as a commercial item under paragraph (f)(1) of this section but does not meet the definition of a commercial item as defined at FAR 2.101 shall not be exempt from—

(i) Cost accounting standards (*see* Subpart 30.2); or

(ii) Cost or pricing data requirements (*see* 15.403).

■ 5. Amend section 12.203 by revising the last sentence to read as follows:

12.203 Procedures for solicitation, evaluation, and award.

* * * For acquisitions of commercial items exceeding the simplified acquisition threshold but not exceeding $5,000,000 ($10,000,000 for acquisitions entered into under the authority of 12.102(f)(1)), including options, contracting activities shall employ the simplified procedures authorized by Subpart 13.5 to the maximum extent practicable.

PART 13—SIMPLIFIED ACQUISITION PROCEDURES

■ 6. Amend section 13.000 by revising the second sentence to read as follows:

13.000 Scope of part.

* * * Subpart 13.5 provides special authority for acquisitions of commercial items exceeding the simplified acquisition threshold but not exceeding $5,000,000 ($10,000,000 for acquisitions entered into under the authority of 12.102(f)(1)), including options. * * *

■ 7. Amend section 13.003 by revising paragraphs (b)(1), (c), and (g)(2) to read as follows:

13.003 Policy.

* * * * *

(b)(1) Each acquisition of supplies or services that has an anticipated dollar value exceeding $2,500 ($15,000 for acquisitions as described in 13.201(g)(1)) and not exceeding $100,000 ($250,000 for acquisitions described in paragraph (1) of the Simplified Acquisition Threshold definition at 2.101) is reserved exclusively for small business concerns and shall be set aside (*see* 19.000 and Subpart 19.5). *See* 19.502–2 for exceptions.

* * * * *

(c)(1) The contracting officer shall not use simplified acquisition procedures to acquire supplies and services if the anticipated award will exceed—

(i) The simplified acquisition threshold; or

(ii) $5,000,000 ($10,000,000 for acquisitions entered into under the authority of 12.102(f)(1)), including options, for acquisitions of commercial items using Subpart 13.5.

(2) Do not break down requirements aggregating more than the simplified acquisition threshold (or for commercial items, the threshold in Subpart 13.5) or the micro-purchase threshold into several purchases that are less than the applicable threshold merely to—

(i) Permit use of simplified acquisition procedures; or

(ii) Avoid any requirement that applies to purchases exceeding the micro-purchase threshold.

* * * * *

(g) * * *

(2) $5,000,000 ($10,000,000 for acquisitions entered into under the authority of 12.102(f)(1)) for commercial items, use any appropriate combination of the procedures in Parts 12, 13, 14, and 15 (*see* paragraph (d) of this section).

* * * * *

13.105 [Amended]

■ 8. Amend section 13.105 in the first sentence of paragraph (b) by removing ''and (f)(2)''.

■ 9. Amend section 13.201 by revising paragraph (g) to read as follows:

13.201 General.

* * * * *

(g)(1) For acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack, the micro-purchase threshold is $15,000.

(2) Purchases using this authority must have a clear and direct relationship to the support of a contingency operation or the defense against or recovery from nuclear, biological, chemical, or radiological attack.

■ 10. Amend section 13.303–5 by revising paragraphs (b)(1) and (b)(2) to read as follows:

13.303–5 Purchases under BPAs.

* * * * *

(b) * * *

(1) The simplified acquisition threshold and the $5,000,000 limitation for individual purchases ($10,000,000 for purchases entered into under the authority of 12.102(f)(1)) do not apply to BPAs established in accordance with 13.303–2(c)(3).

(2) The limitation for individual purchases for commercial item acquisitions conducted under Subpart 13.5 is $5,000,000 ($10,000,000 for purchases entered into under the authority of 12.102(f)(1)).

* * * * *

■ 11. Amend section 13.500 by revising the first sentence of paragraph (a); and removing paragraph (e). The revised text reads as follows:

13.500 General.

(a) This subpart authorizes, as a test program, use of simplified procedures for the acquisition of supplies and services in amounts greater than the simplified acquisition threshold but not exceeding $5,000,000 ($10,000,000 for acquisitions entered into under the authority of 12.102(f)(1)), including options, if the contracting officer reasonably expects, based on the nature of the supplies or services sought, and on market research, that offers will include only commercial items. * * *

* * * * *

13.501 [Amended]

■ 12. Amend section 13.501 by removing from paragraph (a)(1)(ii) ''Homeland Security Act (Pub. L. 107–296, section 856)'' and adding ''Services Acquisition Reform Act of 2003 (Title XIV of Pub. L. 108–136)'' in its place.

PART 15—CONTRACTING BY NEGOTIATION

■ 13. Amend section 15.403–1 in paragraph (c)(3) by adding the paragraph designation ''(i)'' before the first sentence, and adding paragraph (c)(3)(ii) to read as follows:

15.403–1 Prohibition on obtaining cost or pricing data (10 U.S.C. 2306a and 41 U.S.C. 254b).

* * * * *

(c) * * *

(3) *Commercial items.* (i) * * *

(ii) Any acquisition for noncommercial supplies or services treated as commercial items at 12.102(f)(1), except sole source contracts greater than $15,000,000, is exempt from the requirements for cost or pricing data (Pub. L. 108–136, Sec. 1443).

* * * * *

PART 19—SMALL BUSINESS PROGRAMS

■ 14. Amend section 19.502–1 by revising paragraph (b) to read as follows:

19.502–1 Requirements for setting aside acquisitions.

* * * * *

(b) This requirement does not apply to purchases of $2,500 or less ($15,000 or less for acquisitions as described in 13.201(g)(1)), or purchases from required sources of supply under Part 8 (*e.g.*, Federal Prison Industries, Committee for Purchase From People Who are Blind or Severely Disabled, and Federal Supply Schedule contracts).

■ 15. Amend section 19.502–2 by revising the first sentence of paragraph (a) to read as follows:

19.502–2 Total small business set-asides.

(a) Except for those acquisitions set aside for very small business concerns (see Subpart 19.9), each acquisition of supplies or services that has an anticipated dollar value exceeding $2,500 ($15,000 for acquisitions as described in 13.201(g)(1)), but not over $100,000 ($250,000 for acquisitions described in paragraph (1) of the Simplified Acquisition Threshold definition at 2.101), is automatically reserved exclusively for small business concerns and shall be set aside for small business unless the contracting officer determines there is not a reasonable expectation of obtaining offers from two or more responsible small business concerns that are competitive in terms of market prices, quality, and delivery. * * *

* * * * *

19.805–1 [Amended]

■ 16. Amend section 19.805–1 by—

■ a. Adding ''or'' to the end of paragraph (b)(1);

■ b. Removing ''; or'' from the end of paragraph (b)(2) and adding a period in its place; and

■ c. Removing paragraph (b)(3).

■ 17. Amend section 19.903 by adding the word ''or'' to the end of paragraph (b)(2); revising paragraph (b)(3); and removing paragraph (b)(4). The revised text reads as follows:

19.903 Applicability.

* * * * *

(b) * * *

(3) Acquisitions of $15,000 or less for acquisitions of supplies or services that, as determined by the head of the agency, are to be used to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack as described in 13.201(g)(1).

19.1306 [Amended]

■ 18. Amend section 19.1306 by removing paragraph (c).

PART 25—FOREIGN ACQUISITION

■ 19. Amend section 25.1101 by revising the introductory text of paragraph (a)(1) to read as follows:

25.1101 Acquisition of supplies.

* * * * *

(a)(1) Insert the clause at 52.225–1, Buy American Act—Supplies, in solicitations and contracts with a value exceeding $2,500 ($15,000 for acquisitions as described in 13.201(g)(1)) but not exceeding $25,000; and in solicitations and contracts with a value exceeding $25,000, if none of the clauses prescribed in paragraphs (b) and (c) of this section apply, except if—

* * * * *

■ 20. Amend section 25.1103 by revising paragraph (a) to read as follows:

25.1103 Other provisions and clauses.

(a) *Restrictions on certain foreign purchases.* Insert the clause at 52.225–13, Restrictions on Certain Foreign Purchases, in solicitations and contracts with a value exceeding $2,500, $15,000 for acquisitions as described in 13.201(g)(1), unless an exception applies.

* * * * *

[FR Doc. 04–3690 Filed 2–20–04; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

Federal Acquisition Regulation; Small Entity Compliance Guide

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of the Secretary of Defense, the Administrator of General Services and the Administrator for the National Aeronautics and Space Administration. This *Small Entity Compliance Guide* has been prepared in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rule appearing in Federal Acquisition Circular (FAC) 2001–20 which amends the FAR. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2001–20 which precedes this document. These documents are also available via the Internet at *http://www.arnet.gov/far.*

FOR FURTHER INFORMATION CONTACT: Laurie Duarte, FAR Secretariat, (202) 501–4225. For clarification of content, contact Mr. Gerald Zaffos at (202) 208–6091.

*** Special Emergency Procurement Authority (FAR Case 2003–022)**

This interim rule amends the FAR to implement Section 1443 of the Services Acquisition Reform Act of 2003 (Pub. L. 108–136). This rule increases the amount of the micro-purchase threshold and the simplified acquisition threshold for procurements of supplies and services to support a contingency operation or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack. Also, the head of the contracting activity carrying out a procurement of supplies or services to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack may treat such supplies or services as a commercial item.

Dated: February 13, 2004.

Laura Auletta,

Director, Acquisition Policy Division.

[FR Doc. 04–3691 Filed 2–20–04; 8:45 am]

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Federal Register

Monday,
February 23, 2004

Part IV

Department of Education

Office of Innovation and Improvement; Overview Information; State Charter School Facilities Incentive Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004; Notice

DEPARTMENT OF EDUCATION

Office of Innovation and Improvement; Overview Information; State Charter School Facilities Incentive Grants Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2004

Catalog of Federal Domestic Assistance (CFDA) Number: 84.282D.

DATES: *Applications Available:* March 12, 2004.

Deadline for Transmittal of Applications: July 1, 2004.

Deadline for Intergovernmental Review: August 30, 2004.

Eligible Applicants: States that have enacted a State law authorizing per-pupil facilities aid for charter schools.

Estimated Available Funds: $18,700,000.

Estimated Range of Awards: $2,000,000–$10,000,000.

Estimated Average Size of Awards: $3,740,000.

Estimated Number of Awards: 5.

Note: Contingent upon the availability of funds, we may make additional awards in future years from the rank-ordered list of unfunded applications from this competition.

Note: The Department is not bound by any estimates in this notice.

Project Period: The program duration may be for a period of up to 5 years.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program will provide grants to eligible States to help them establish or enhance, and administer, per-pupil facilities aid programs for charter schools.

Priorities

Competitive Preference Priority: In accordance with 34 CFR 75.105(b)(2)(iv), the following priority is from sections 5202(e) and 5205(b) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended. For this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 20 points to an application, depending on how well the application meets this priority.

This priority is:

The Secretary gives priority to States to the extent that States meet all four of the statutory criteria described in paragraphs (a) through (d) of this section.

A State educational agency (SEA) that does not meet any one of the four statutory criteria will not receive any priority points.

In order to receive preference, an applicant must identify the statutory criteria that it meets and provide documentation supporting its claims.

Statutory Criteria

(a) *Periodic Review and Evaluation* (5 points, ESEA paragraph 5202(e)(2)). The State provides for periodic review and evaluation by the authorized public chartering agency of each charter school at least once every 5 years unless required more frequently by State law, to determine whether the charter school is meeting the terms of the school's charter, and is meeting or exceeding the student's academic performance requirements and goals for charter schools as provided under State law or the school's charter.

(b) *Number of High-Quality Charter Schools* (5 points, ESEA subparagraph 5202(e)(3)(A)). The State has demonstrated progress in increasing the number of high-quality charter schools that are held accountable in the terms of the schools' charters for meeting clear and measurable objectives for the educational progress of the students attending the schools, in the period prior to the period for which an SEA or eligible applicant applies for a grant under this competition.

(c) *One Authorized Public Chartering Agency Other Than an LEA, or an Appeals Process* (5 points, ESEA subparagraph 5202(e)(3)(B)). The State—

(1) Provides for one authorized public chartering agency that is not an local educational agency (LEA), such as a State chartering board, for each individual or entity seeking to operate a charter school pursuant to State law; or

(2) In the case of a State in which LEAs are the only authorized public chartering agencies, allows for an appeals process for the denial of an application for a charter school.

(d) *High Degree of Autonomy* (5 points, ESEA subparagraph 5202(e)(3)(C)). The State ensures that each charter school has a high degree of autonomy over the charter school's budgets and expenditures.

Invitational Priority: Under this competition we are particularly interested in applications that address the following priority. For this competition this priority is an invitational priority. Under 34 CFR 75.105(c)(1), we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

School choice. The Secretary invites applications that propose to increase the capacity of charter schools to offer public school choice in those communities with the greatest need for this choice by addressing the following factors:

- The extent to which the applicant would target services to geographic areas in which a large proportion or number of public schools have been identified for improvement, corrective action, or restructuring under title I of the ESEA, as amended by the No Child Left Behind Act of 2001 (NCLB);
- The extent to which the applicant would target services to geographic areas in which a large proportion of students perform poorly on State academic assessments; and
- The extent to which the applicant would target services to communities with large proportions of low-income students.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed selection criteria and other non-statutory requirements. Section 437(d)(1) of the General Education Provisions Act (GEPA) (20 U.S.C. 1232(d)(1)), however, allows the Secretary to exempt from rulemaking requirements rules governing the first grant competition under a new or substantially revised program authority. This is the first competition for this program. In order to ensure timely grant awards in FY 2004, the Secretary has decided to issue this application notice without first publishing the proposed selection criteria and other non-statutory requirements. These selection criteria and other non-statutory requirements, such as the clarification under ''Funding Clarifications and Restrictions'' that the program funds for this facilities program may be used for construction or the acquisition of real property, will apply to this grant competition only.

Program Authority: 20 U.S.C. 7221d(b).

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 76, 77, 79, 80, 81, 82, 84, 85, 86, 97, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $18,700,000.

Estimated Range of Awards: $2,000,000–$10,000,000.

Estimated Average Size of Awards: $3,740,000.

Estimated Number of Awards: 5.

Note: Contingent upon the availability of funds, we may make additional awards in future years from the rank-ordered list of unfunded applications from this competition.

Note: The Department is not bound by any estimates in this notice.

Project Period: The program duration may be for a period of up to 5 years.

III. Eligibility Information

1. *Eligible Applicants:* States that have enacted a State law authorizing per-pupil facilities aid for charter schools.

2. *Cost Sharing or Matching:* Under section 5205(b)(2)(C) of the ESEA, as amended by the NCLB, States, or parties that are closely collaborating with them, are required to provide matching funds. The minimum non-Federal share of the total cost of the project increases each year of the grant, from 10 percent the first year to 80 percent in the fifth year.

Applicants that are initially selected to receive grants will not receive grant funds until they demonstrate, by July 15, 2004, that they have funded the non-Federal share of the matching funds required under this program. The Department reserves the right to revoke a grant award if an initial recipient does not have the required non-Federal funding by this date.

Supplement-not-supplant provision. Grantees shall use funds under this program to supplement, and not supplant, State and local public funds spent on per-pupil facilities aid programs, administration of these programs, and programs for charter schools in total at the State and local levels.

3. *Other:* The charter schools that a grantee selects to benefit from this program must meet the definition of a charter school, as defined in the Charter Schools Program authorizing statute in section 5210(1) of the ESEA. The definitions of *charter school* and *authorized public chartering agency* are in the application package.

IV. Application and Submission Information

1. *Address to Request Application Package:* Education Publications Center (ED Pubs), P.O. Box 1398, Jessup, MD 20794–1398. Telephone (toll free): 1–877–433–7827. Fax: (301) 470–1244. If you use a telecommunications device for the deaf (TDD), you may call (toll free): 1–877–576–7734.

You may also contact ED Pubs at its Web site: *www.ed.gov/pubs/edpubs.html* or you may contact ED Pubs at its e-mail address: *edpubs@inet.ed.gov*

If you request an application from ED Pubs, be sure to identify this competition as follows: CFDA number 84.282D.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contacts).

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: We have found that reviewers are able to conduct the highest-quality review when applications are concise and easy to read. Applicants are encouraged to limit their applications to no more than 30 double-spaced pages (not including the required forms and tables), to use a 12-point or larger-size font with one-inch margins at the top, bottom, and both sides, and to number pages consecutively. Furthermore, applicants are strongly encouraged to include a table of contents that specifies where each required part of the application is located.

3. *Submission Dates and Times:*

Applications Available: March 12, 2004.

Deadline for Transmittal of Applications: July 1, 2004.

Note: We are requiring that applications for grants under this program be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. For information about how to access the e-GRANTS system or to request a waiver of the electronic submission requirement, please refer to Section IV, *Other Submission Requirements*, in this notice.

The application package for this program specifies the hours of operation of the e-Application Web site. If you are requesting a waiver of the electronic submission requirement, the dates and times for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are also in the application package.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: August 30, 2004.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Clarifications and Restrictions:* Under 34 CFR 75.533, a grantee is prohibited from using grant funds for construction or the acquisition of real property, unless specifically authorized by statute or regulation. Consistent with the provisions of 34 CFR 75.533, and based on the purpose of this facilities program, namely to provide funding for charter school facilities, we interpret section 5205(b) of the ESEA to permit the use of funds awarded under this competition and the acquisition of real property. Administrative costs in excess of five percent are not allowable under the program statute.

Administration of a per-pupil facilities aid program includes providing indirect costs, evaluation, technical assistance, dissemination, personnel costs, and any other costs involved in administering the State's per-pupil facilities aid program.

6. *Other Submission Requirements:* Instructions and requirements for the transmittal of applications by mail or by hand (including a courier service or commercial carrier) are in the application package for this program. Application Procedures: The Government Paperwork Elimination Act (GPEA) of 1998 (Pub. L. 105–277) and the Federal Financial Assistance Management Improvement Act of 1999 (Pub. L. 106–107) encourage us to undertake initiatives to improve our grant processes. Enhancing the ability of individuals and entities to conduct business with us electronically is a major part of our response to these Acts. Therefore, we are taking steps to adopt the Internet as our chief means of conducting transactions in order to improve services to our customers and to simplify and expedite our business processes.

We are requiring that applications for grants under the State Charter School Facilities Incentive Grants Program—CFDA Number 84.282D be submitted electronically using the Electronic Grant Application System (e-Application) available through the Department's e-GRANTS system. The e-GRANTS system is accessible through its portal page at: *http://e-grants.ed.gov.*

Note: The e-Application for this program will be available on March 12, 2004. Please be advised that applicants can begin work on program narrative sections, using a word processing program such as MS Word or WordPerfect, prior to the application availability date. Applicants should be aware that, in e-Application, the program narrative will be divided into sections with each selection criteria requiring a separate file upload. All files should be saved in .DOC or .RTF format, as the e-Application system only accepts those file types.

If you are unable to submit an application through the e-GRANTS system, you may submit a written request for a waiver of the electronic

submission requirement. In your request, you should explain the reason or reasons that prevent you from using the Internet to submit your application. Address your request to: Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C140, Washington, DC 20202. Please submit your request no later than two weeks before the application deadline date.

If, within two weeks of the application deadline date, you are unable to submit an application electronically, you must submit a paper application by the application deadline date in accordance with the transmittal instructions in the application package. The paper application must include a written request for a waiver documenting the reasons that prevented you from using the Internet to submit your application.

Pilot Project for Electronic Submission of Applications: We are continuing to expand our pilot project for electronic submission of applications to include additional formula grant programs and additional discretionary grant competitions. The State Charter School Facilities Incentive Grants Program—CFDA Number 84.282D is one of the programs included in the pilot project. If you are an applicant under the State Charter School Facilities Incentive Grants Program, you must submit your application to us in electronic format or receive a waiver.

The pilot project involves the use of e-Application. If you use e-Application, you will be entering data online while completing your application. You may not e-mail an electronic copy of a grant application to us. The data you enter online will be saved into a database. We shall continue to evaluate the success of e-Application and solicit suggestions for its improvement.

If you participate in e-Application, please note the following:

- When you enter the e-Application system, you will find information about its hours of operation. We strongly recommend that you do not wait until the application deadline date to initiate an e-Application package.
- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.
- You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424); program-specific tables, and all necessary assurances and certifications.
- Your e-Application must comply with any page limit requirements described in this notice.
- After you electronically submit your application, you will receive an automatic acknowledgement, which will include a PR/Award number (an identifying number unique to your application).
- Within three working days after submitting your electronic application, fax a signed copy of the Application for Federal Education Assistance (ED 424) to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.
2. The institution's Authorizing Representative must sign this form.
3. Place the PR/Award number in the upper right hand corner of the hard copy signature page of the ED 424.
4. Fax the signed ED 424 to the Application Control Center at (202) 260–1349.

- We may request that you give us original signatures on other forms at a later date.

Application Deadline Date Extension in Case of System Unavailability: If you are prevented from submitting your application on the application deadline date because the e-Application system is unavailable, we will grant you an extension of one business day in order to transmit your application electronically, by mail, or by hand delivery. We will grant this extension if—

1. You are a registered user of e-Application and you have initiated an e-Application for this competition; and
2. (a) The e-Application system is unavailable for 60 minutes or more between the hours of 8:30 a.m. and 3:30 p.m., Washington, DC time, on the application deadline date; or

(b) The e-Application system is unavailable for any period of time during the last hour of operation (that is, for any period of time between 3:30 p.m. and 4:30 p.m., Washington, DC time) on the application deadline date.

We must acknowledge and confirm these periods of unavailability before granting you an extension. To request this extension or to confirm our acknowledgement of any system unavailability, you may contact either (1) the persons listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (*see* VII. Agency Contacts) or (2) the e-GRANTS help desk at 1–888–336–8930.

You may access the electronic grant application for the State Charter School Facilities Incentive Grants Program at: *http://e-grants.ed.gov.*

V. Application Review Information

Selection Criteria: The selection criteria for this program are as follows:

(a) *Adequacy of facility funding* (35 points).

(i) The extent to which the proposal provides adequate funding for charter school facilities on a per-pupil basis.

(ii) The extent to which there is adequate funding, including funds other than per-pupil facilities aid, for charter schools to meet their facility needs.

(b) *Quality of plan* (35 points).

(i) The likelihood that the proposed grant project will result in the State either retaining a new per-pupil facilities aid program or continuing to enhance such a program without the total amount of assistance (State and Federal) declining over a five-year period.

(ii) The flexibility charter schools have in their use of facility funds for the various authorized purposes.

(iii) The quality of the plan for identifying charter schools and determining their eligibility to receive funds.

(iv) The formula's ability to target resources to charter schools with the greatest need and the highest proportions of students in poverty.

(v) For projects that plan to reserve funds for evaluation, the quality of the applicant's plan to use grant funds for this purpose.

(vi) For projects that plan to reserve funds for technical assistance, dissemination, or personnel, the quality of the applicant's plan to use grant funds for these purposes.

(c) *The grant project team* (15 points).

(i) The qualifications, including relevant training and experience, of the project manager and other members of the grant project team, including employees not paid with grant funds, consultants, and subcontractors.

(ii) The adequacy and appropriateness of the applicant's staffing plan for the grant project.

(d) *The budget* (15 points).

(i) The extent to which the requested grant amount and the project costs are reasonable in relation to the objectives, design, and potential significance of the proposed grant project.

(ii) The extent to which the costs are reasonable in relation to the number of students served and to the anticipated results and benefits.

(iii) The extent to which the Federal share of the costs of the project (which may not exceed the percentages allowed under section 5205(b)(2)(C) of the ESEA) falls below the maximums allowed, particularly in the initial years of the program.

(iv) The need for per-pupil charter school facility funding in the State.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of the award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118.

4. *Performance Measures:* The performance measure for this program is growth in the number of States with per-pupil facilities aid programs for charter schools. The Department may develop additional measures at a later date that may require data collection from grantees.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Valarie Perkins or Jim Houser, U.S. Department of Education, 400 Maryland Avenue, SW., room 3C140, Washington, DC 20202–6140. Telephone: (202) 260–1924 or by e-mail: *charter.facilities@ed.gov.*

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 program contact persons listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *www.gpoaccess.gov/nara/index.html.*

Dated: February 18, 2004.

Nina Shokraii Rees,

Deputy Under Secretary for Innovation and Improvement.

[FR Doc. 04–3849 Filed 2–20–04; 8:45 am]

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Monday, February 23, 2004

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- Temporary emergency procurement authority; published 2-23-04

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H.R. 2264/P.L. 108–200

Congo Basin Forest Partnership Act of 2004 (Feb. 13, 2004; 118 Stat. 458)

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53–209	(869–050–00009–1)	36.00	Jan. 1, 2003
210–299	(869–050–00010–5)	59.00	Jan. 1, 2003
300–399	(869–050–00011–3)	43.00	Jan. 1, 2003
400–699	(869–050–00012–1)	39.00	Jan. 1, 2003
700–899	(869–050–00013–0)	42.00	Jan. 1, 2003
900–999	(869–050–00014–8)	57.00	Jan. 1, 2003
1000–1199	(869–050–00015–6)	23.00	Jan. 1, 2003
1200–1599	(869–050–00016–4)	58.00	Jan. 1, 2003
1600–1899	(869–050–00017–2)	61.00	Jan. 1, 2003
1900–1939	(869–050–00018–1)	29.00	[4] Jan. 1, 2003
1940–1949	(869–050–00019–9)	47.00	Jan. 1, 2003
1950–1999	(869–050–00020–2)	45.00	Jan. 1, 2003
2000–End	(869–050–00021–1)	46.00	Jan. 1, 2003
8	(869–050–00022–9)	58.00	Jan. 1, 2003
9 Parts:			
1–199	(869–050–00023–7)	58.00	Jan. 1, 2003
200–End	(869–050–00024–5)	56.00	Jan. 1, 2003
10 Parts:			
1–50	(869–050–00025–3)	58.00	Jan. 1, 2003
51–199	(869–050–00026–1)	56.00	Jan. 1, 2003
200–499	(869–050–00027–0)	44.00	Jan. 1, 2003
500–End	(869–050–00028–8)	58.00	Jan. 1, 2003
11	(869–050–00029–6)	38.00	Feb. 3, 2003
12 Parts:			
1–199	(869–050–00030–0)	30.00	Jan. 1, 2003
200–219	(869–050–00031–8)	38.00	Jan. 1, 2003
220–299	(869–050–00032–6)	58.00	Jan. 1, 2003
300–499	(869–050–00033–4)	43.00	Jan. 1, 2003
500–599	(869–050–00034–2)	38.00	Jan. 1, 2003
600–899	(869–050–00035–1)	54.00	Jan. 1, 2003
900–End	(869–050–00036–9)	47.00	Jan. 1, 2003
13	(869–050–00037–7)	47.00	Jan. 1, 2003
14 Parts:			
1–59	(869–050–00038–5)	60.00	Jan. 1, 2003
60–139	(869–050–00039–3)	58.00	Jan. 1, 2003
140–199	(869–050–00040–7)	28.00	Jan. 1, 2003
200–1199	(869–050–00041–5)	47.00	Jan. 1, 2003
1200–End	(869–050–00042–3)	43.00	Jan. 1, 2003
15 Parts:			
0–299	(869–050–00043–1)	37.00	Jan. 1, 2003
300–799	(869–050–00044–0)	57.00	Jan. 1, 2003
800–End	(869–050–00045–8)	40.00	Jan. 1, 2003
16 Parts:			
0–999	(869–050–00046–6)	47.00	Jan. 1, 2003
1000–End	(869–050–00047–4)	57.00	Jan. 1, 2003
17 Parts:			
1–199	(869–050–00049–1)	50.00	Apr. 1, 2003
200–239	(869–050–00050–4)	58.00	Apr. 1, 2003
240–End	(869–050–00051–2)	62.00	Apr. 1, 2003
18 Parts:			
1–399	(869–050–00052–1)	62.00	Apr. 1, 2003
400–End	(869–050–00053–9)	25.00	Apr. 1, 2003
19 Parts:			
1–140	(869–050–00054–7)	60.00	Apr. 1, 2003
141–199	(869–050–00055–5)	58.00	Apr. 1, 2003
200–End	(869–050–00056–3)	30.00	Apr. 1, 2003
20 Parts:			
1–399	(869–050–00057–1)	50.00	Apr. 1, 2003
400–499	(869–050–00058–0)	63.00	Apr. 1, 2003
500–End	(869–050–00059–8)	63.00	Apr. 1, 2003
21 Parts:			
1–99	(869–050–00060–1)	40.00	Apr. 1, 2003
100–169	(869–050–00061–0)	47.00	Apr. 1, 2003
170–199	(869–050–00062–8)	50.00	Apr. 1, 2003
200–299	(869–050–00063–6)	17.00	Apr. 1, 2003
300–499	(869–050–00064–4)	29.00	Apr. 1, 2003
500–599	(869–050–00065–2)	47.00	Apr. 1, 2003
600–799	(869–050–00066–1)	15.00	Apr. 1, 2003
800–1299	(869–050–00067–9)	58.00	Apr. 1, 2003
1300–End	(869–050–00068–7)	22.00	Apr. 1, 2003
22 Parts:			
1–299	(869–050–00069–5)	62.00	Apr. 1, 2003
300–End	(869–050–00070–9)	44.00	Apr. 1, 2003
23	(869–050–00071–7)	44.00	Apr. 1, 2003
24 Parts:			
0–199	(869–050–00072–5)	58.00	Apr. 1, 2003
200–499	(869–050–00073–3)	50.00	Apr. 1, 2003
500–699	(869–050–00074–1)	30.00	Apr. 1, 2003
700–1699	(869–050–00075–0)	61.00	Apr. 1, 2003
1700–End	(869–050–00076–8)	30.00	Apr. 1, 2003
25	(869–050–00077–6)	63.00	Apr. 1, 2003
26 Parts:			
§§ 1.0–1–1.60	(869–050–00078–4)	49.00	Apr. 1, 2003
§§ 1.61–1.169	(869–050–00079–2)	63.00	Apr. 1, 2003
§§ 1.170–1.300	(869–050–00080–6)	57.00	Apr. 1, 2003
§§ 1.301–1.400	(869–050–00081–4)	46.00	Apr. 1, 2003
§§ 1.401–1.440	(869–050–00082–2)	61.00	Apr. 1, 2003
§§ 1.441–1.500	(869–050–00083–1)	50.00	Apr. 1, 2003
§§ 1.501–1.640	(869–050–00084–9)	49.00	Apr. 1, 2003
§§ 1.641–1.850	(869–050–00085–7)	60.00	Apr. 1, 2003
§§ 1.851–1.907	(869–050–00086–5)	60.00	Apr. 1, 2003
§§ 1.908–1.1000	(869–050–00087–3)	60.00	Apr. 1, 2003
§§ 1.1001–1.1400	(869–050–00088–1)	61.00	Apr. 1, 2003
§§ 1.1401–1.1503–2A	(869–050–00089–0)	50.00	Apr. 1, 2003
§§ 1.1551–End	(869–050–00090–3)	50.00	Apr. 1, 2003
2–29	(869–050–00091–1)	60.00	Apr. 1, 2003
30–39	(869–050–00092–0)	41.00	Apr. 1, 2003
40–49	(869–050–00093–8)	26.00	Apr. 1, 2003
50–299	(869–050–00094–6)	41.00	Apr. 1, 2003
300–499	(869–050–00095–4)	61.00	Apr. 1, 2003
500–599	(869–050–00096–2)	12.00	[5]Apr. 1, 2003
600–End	(869–050–00097–1)	17.00	Apr. 1, 2003

Title	Stock Number	Price	Revision Date
27 Parts:			
1–199	(869–050–00098–9)	63.00	Apr. 1, 2003
200–End	(869–050–00099–7)	25.00	Apr. 1, 2003
28 Parts:			
0–42	(869–050–00100–4)	61.00	July 1, 2003
43–End	(869–050–00101–2)	58.00	July 1, 2003
29 Parts:			
0–99	(869–050–00102–1)	50.00	July 1, 2003
100–499	(869–050–00103–9)	22.00	July 1, 2003
500–899	(869–050–00104–7)	61.00	July 1, 2003
900–1899	(869–050–00105–5)	35.00	July 1, 2003
1900–1910 (§§ 1900 to 1910.999)	(869–050–00106–3)	61.00	July 1, 2003
1910 (§§ 1910.1000 to end)	(869–050–00107–1)	46.00	July 1, 2003
1911–1925	(869–050–00108–0)	30.00	July 1, 2003
1926	(869–050–00109–8)	50.00	July 1, 2003
1927–End	(869–050–00110–1)	62.00	July 1, 2003
30 Parts:			
1–199	(869–050–00111–0)	57.00	July 1, 2003
200–699	(869–050–00112–8)	50.00	July 1, 2003
700–End	(869–050–00113–6)	57.00	July 1, 2003
31 Parts:			
0–199	(869–050–00114–4)	40.00	July 1, 2003
200–End	(869–050–00115–2)	64.00	July 1, 2003
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–050–00116–1)	60.00	July 1, 2003
191–399	(869–050–00117–9)	63.00	July 1, 2003
400–629	(869–050–00118–7)	50.00	July 1, 2003
630–699	(869–050–00119–5)	37.00	[7] July 1, 2003
700–799	(869–050–00120–9)	46.00	July 1, 2003
800–End	(869–050–00121–7)	47.00	July 1, 2003
33 Parts:			
1–124	(869–050–00122–5)	55.00	July 1, 2003
125–199	(869–050–00123–3)	61.00	July 1, 2003
200–End	(869–050–00124–1)	50.00	July 1, 2003
34 Parts:			
1–299	(869–050–00125–0)	49.00	July 1, 2003
300–399	(869–050–00126–8)	43.00	[7] July 1, 2003
400–End	(869–050–00127–6)	61.00	July 1, 2003
35	(869–050–00128–4)	10.00	[6] July 1, 2003
36 Parts			
1–199	(869–050–00129–2)	37.00	July 1, 2003
200–299	(869–050–00130–6)	37.00	July 1, 2003
300–End	(869–050–00131–4)	61.00	July 1, 2003
37	(869–050–00132–2)	50.00	July 1, 2003
38 Parts:			
0–17	(869–050–00133–1)	58.00	July 1, 2003
18–End	(869–050–00134–9)	62.00	July 1, 2003
39	(869–050–00135–7)	41.00	July 1, 2003
40 Parts:			
1–49	(869–050–00136–5)	60.00	July 1, 2003
50–51	(869–050–00137–3)	44.00	July 1, 2003
52 (52.01–52.1018)	(869–050–00138–1)	58.00	July 1, 2003
52 (52.1019–End)	(869–050–00139–0)	61.00	July 1, 2003
53–59	(869–050–00140–3)	31.00	July 1, 2003
60 (60.1–End)	(869–050–00141–1)	58.00	July 1, 2003
60 (Apps)	(869–050–00142–0)	51.00	[8] July 1, 2003
61–62	(869–050–00143–8)	43.00	July 1, 2003
63 (63.1–63.599)	(869–050–00144–6)	58.00	July 1, 2003
63 (63.600–63.1199)	(869–050–00145–4)	50.00	July 1, 2003
63 (63.1200–63.1439)	(869–050–00146–2)	50.00	July 1, 2003
63 (63.1440–End)	(869–050–00147–1)	64.00	July 1, 2003
64–71	(869–050–00148–9)	29.00	July 1, 2003
72–80	(869–050–00149–7)	61.00	July 1, 2003
81–85	(869–050–00150–1)	50.00	July 1, 2003
86 (86.1–86.599–99)	(869–050–00151–9)	57.00	July 1, 2003
86 (86.600–1–End)	(869–050–00152–7)	50.00	July 1, 2003
87–99	(869–050–00153–5)	60.00	July 1, 2003
100–135	(869–050–00154–3)	43.00	July 1, 2003
136–149	(869–150–00155–1)	61.00	July 1, 2003
150–189	(869–050–00156–0)	49.00	July 1, 2003
190–259	(869–050–00157–8)	39.00	July 1, 2003
260–265	(869–050–00158–6)	50.00	July 1, 2003
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–050–00160–8)	42.00	July 1, 2003
400–424	(869–050–00161–6)	56.00	July 1, 2003
425–699	(869–050–00162–4)	61.00	July 1, 2003
700–789	(869–050–00163–2)	61.00	July 1, 2003
790–End	(869–050–00164–1)	58.00	July 1, 2003
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–050–00165–9)	23.00	[7] July 1, 2003
101	(869–050–00166–7)	24.00	July 1, 2003
102–200	(869–050–00167–5)	50.00	July 1, 2003
201–End	(869–050–00168–3)	22.00	July 1, 2003
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–050–00170–5)	62.00	Oct. 1, 2003
430–End	(869–050–00171–3)	64.00	Oct. 1, 2003
43 Parts:			
1–999	(869–050–00172–1)	55.00	Oct. 1, 2003
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–050–00174–8)	50.00	Oct. 1, 2003
45 Parts:			
1–199	(869–050–00175–6)	60.00	Oct. 1, 2003
200–499	(869–050–00176–4)	33.00	[9] Oct. 1, 2003
500–1199	(869–050–00177–2)	50.00	Oct. 1, 2003
1200–End	(869–050–00178–1)	60.00	Oct. 1, 2003
46 Parts:			
1–40	(869–050–00179–9)	46.00	Oct. 1, 2003
41–69	(869–050–00180–2)	39.00	Oct. 1, 2003
70–89	(869–050–00181–1)	14.00	Oct. 1, 2003
90–139	(869–050–00182–9)	44.00	Oct. 1, 2003
140–155	(869–050–00183–7)	25.00	[9] Oct. 1, 2003
156–165	(869–050–00184–5)	34.00	[9] Oct. 1, 2003
166–199	(869–050–00185–3)	46.00	Oct. 1, 2003
200–499	(869–050–00186–1)	39.00	Oct. 1, 2003
500–End	(869–050–00187–0)	25.00	Oct. 1, 2003
47 Parts:			
0–19	(869–050–00188–8)	61.00	Oct. 1, 2003
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–050–00190–0)	39.00	Oct. 1, 2003
70–79	(869–050–00191–8)	61.00	Oct. 1, 2003
80–End	(869–050–00192–6)	61.00	Oct. 1, 2003
48 Chapters:			
1 (Parts 1–51)	(869–050–00193–4)	63.00	Oct. 1, 2003
1 (Parts 52–99)	(869–050–00194–2)	50.00	Oct. 1, 2003
2 (Parts 201–299)	(869–050–00195–1)	55.00	Oct. 1, 2003
3–6	(869–050–00196–9)	33.00	Oct. 1, 2003
7–14	(869–050–00197–7)	61.00	Oct. 1, 2003
15–28	(869–050–00198–5)	57.00	Oct. 1, 2003
29–End	(869–050–00199–3)	38.00	[9] Oct. 1, 2003
49 Parts:			
1–99	(869–050–00200–1)	60.00	Oct. 1, 2003
100–185	(869–050–00201–9)	63.00	Oct. 1, 2003
186–199	(869–050–00202–7)	20.00	Oct. 1, 2003

Title	Stock Number	Price	Revision Date
200–399	(869–050–00203–5)	64.00	Oct. 1, 2003
400–599	(869–050–00204–3)	63.00	Oct. 1, 2003
600–999	(869–050–00205–1)	22.00	Oct. 1, 2003
1000–1199	(869–050–00206–0)	26.00	Oct. 1, 2003
1200–End	(869–048–00207–8)	33.00	Oct. 1, 2003
50 Parts:			
1–16	(869–050–00208–6)	11.00	Oct. 1, 2003
17.1–17.95	(869–050–00209–4)	62.00	Oct. 1, 2003
17.96–17.99(h)	(869–050–00210–8)	61.00	Oct. 1, 2003
17.99(i)–end	(869–050–00211–6)	50.00	Oct. 1, 2003
18–199	(869–050–00212–4)	42.00	Oct. 1, 2003
200–599	(869–050–00213–2)	44.00	Oct. 1, 2003
600–End	(869–050–00214–1)	61.00	Oct. 1, 2003
CFR Index and Findings Aids	(869–050–00048–2)	59.00	Jan. 1, 2003
Complete 2003 CFR set		1,195.00	2003
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Subscription (mailed as issued)		298.00	2003
Individual copies		2.00	2003
Complete set (one-time mailing)		298.00	2002
Complete set (one-time mailing)		290.00	2001

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2003. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2003. The CFR volume issued as of July 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2003. The CFR volume issued as of July 1, 2002 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2003. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2003. The CFR volume issued as of October 1, 2001 should be retained.