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## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Part 906

**[Docket No. FV04–906–2 FIR]**

## Oranges and Grapefruit Grown in Lower Rio Grande Valley in Texas; Decreased Assessment Rate

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rate established for the Texas Valley Citrus Committee (Committee) for the 2004–05 and subsequent fiscal periods from $0.14 to $0.12 per 7/10-bushel carton or equivalent of oranges and grapefruit handled. The Committee locally administers the marketing order which regulates the handling of oranges and grapefruit grown in the Rio Grande Valley in Texas. Authorization to assess orange and grapefruit handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program. The fiscal period began on August 1 and ends July 31. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** November 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Belinda G. Garza, Regional Manager, McAllen Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1313 E. Hackberry, McAllen, TX 78501; telephone: (956) 682–2833, Fax: (956) 682–5942; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 906, as amended (7 CFR part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, orange and grapefruit handlers in the Lower Rio Grande Valley are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable oranges and grapefruit beginning August 1, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues in effect the action that decreased the assessment rate established for the Committee for the 2004–05 and subsequent fiscal periods from $0.14 to $0.12 per 7/10 bushel carton or equivalent of oranges and grapefruit handled.

The Texas orange and grapefruit marketing order provides authority for the Committee, with the approval of USDA, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of Texas oranges and grapefruit. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2003–04 and subsequent fiscal periods, the Committee recommended, and USDA approved, an assessment rate that would continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other information available to USDA.

The Committee met on May 21, 2004, and recommended 2004–05 expenditures of $1,005,956 and an assessment rate of $0.12 per 7/10-bushel carton or equivalent of oranges and grapefruit. Thirteen of the 14 Committee members and alternates acting as members voted in support of the $0.02 decrease per 7/10-bushel carton or equivalent. One Committee member voted against the recommendation because he wanted the decrease to be larger. In comparison, last year's budgeted expenditures were $1,322,506. The assessment rate of $0.12 is $0.02 lower than the rate previously in effect. The decrease in the assessment rate and budget is primarily due to lower promotion and Mexican Fruit Fly program budgets. The reduced assessment rate and budget will lower

handler costs by about $180,000 and will keep the Committee's operating reserve at an acceptable level.

The major expenditures recommended by the Committee for the 2004–05 fiscal period include $550,000 for promotion, $204,000 for the Mexican Fruit Fly Support Program, $123,679 for management and administration of the program, and $72,777 for compliance. Budgeted expenses for these items in 2003–04 were $800,000, $279,000, $119,929, and $72,777, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of Texas oranges and grapefruit. Texas orange and grapefruit shipments for the fiscal period are estimated at 9 million 7/10-bushel cartons or equivalents, which should provide $1,080,000 in assessment income. Income derived from handler assessments will be more than adequate to cover budgeted expenses. Funds in the reserve (currently $175,000) will be kept within the maximum of one fiscal period's expenses permitted by the order (§ 906.35).

The assessment rate will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or USDA. Committee meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 2004–05 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

**Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 215 producers of oranges and grapefruit in the production area and approximately 13 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated Texas citrus industry profile shows that 2 of the 13 handlers (15 percent) could be considered large businesses under SBA's definition, and the remaining 11 handlers (85 percent) could be considered small businesses. Of the approximately 215 producers within the production area, few have sufficient acreage to generate sales in excess of $750,000. Thus, the majority of handlers and producers of Texas oranges and grapefruit may be classified as small entities.

This rule continues in effect the action that decreased the assessment rate established for the Committee and collected from handlers for the 2004–05 and subsequent fiscal periods from $0.14 to $0.12 per 7/10-bushel carton or equivalent of oranges and grapefruit.

The Committee met on May 21, 2004, and recommended 2004–05 expenditures of $1,005,956 and an assessment rate of $0.12 per 7/10-bushel carton or equivalent of oranges and grapefruit. The assessment rate of $0.12 is $0.02 lower than the previous rate. As mentioned earlier, the quantity of assessable oranges and grapefruit for the 2004–05 fiscal period is estimated at 9 million 7/10-bushel cartons or equivalents. Thus, the $0.12 assessment rate should provide $1,080,000 in assessment income and be more than adequate to cover budgeted expenses.

The major expenditures recommended by the Committee for the 2004–05 fiscal period include $550,000 for promotion, $204,000 for the Mexican Fruit Fly Support Program, $123,679 for management and administration of the program, and $72,777 for compliance. Budgeted expenses for these items in 2003–04 were $800,000, $279,000, $119,929, and $72,777, respectively.

The Committee recommended the $0.12 assessment rate primarily because it reduced its promotion and Mexican Fruit Fly programs. At a $0.14 assessment rate, the Committee projected its reserve on July 31, 2005, to be $401,160, which it believed was more than needed to administer the program. It also recommended the reduced assessment rate to lower handler costs by about $180,000 during 2004–05.

The Committee reviewed and recommended 2004–05 expenditures of $1,005,956, which included decreases in the promotion and Mexican Fruit Fly programs and an increase in the management and administration of the marketing order program. In arriving at the budget, the Committee considered information from various sources, including the Executive Committee. Alternative expenditure levels were discussed, based upon the relative need of the Mexican Fruit Fly program to the Texas citrus industry.

The assessment rate recommended by the Committee was derived by dividing the total recommended budget by the 9-million 7/10-bushel cartons of oranges and grapefruit estimated for the 2004–05 fiscal period. The $0.12 rate will provide $1,080,000 in assessment income. This is approximately $74,044 above the anticipated expenses, which the Committee determined to be acceptable.

A review of historical information from recent seasons (2000–2002) and preliminary information pertaining to the upcoming fiscal period indicates that the season average packinghouse door price for the 2004–05 fiscal period could likely range from $1.40 to $2.60 per 7/10-bushel carton of Texas oranges, and from $2.15 to $2.70 for Texas grapefruit. Therefore, the estimated assessment revenue for the 2004–05 fiscal period as a percentage of total grower (packinghouse door) revenue could range between 8.6 and 4.6 percent for oranges and between 5.6 and 4.4 percent for grapefruit.

This action continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committee's meeting was widely publicized throughout the Texas orange and grapefruit industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the May 21, 2004, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

This action imposes no additional reporting or recordkeeping requirements on either small or large Texas orange and grapefruit handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

An interim final rule concerning this action was published in the **Federal Register** on July 29, 2004 (69 FR 45231). Copies of that rule were also mailed or sent via facsimile to all orange and grapefruit handlers. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on September 27, 2004, and no comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html*. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

**List of Subjects in 7 CFR Part 906**

Grapefruit, Marketing agreements, Oranges, Reporting and recordkeeping requirements.

## PART 906—ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

■ Accordingly, the interim final rule amending 7 CFR part 906 which was published at 69 FR 45231 on July 29, 2004, is adopted as a final rule without change.

Dated: October 19, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–23827 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### 7 CFR Parts 922 and 923

**[Docket No. FV04–922–1 FIR]**

## Decreased Assessment Rates for Specified Marketing Orders

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim final rule which decreased the assessment rates established for the Washington Apricot Marketing Committee and the Washington Cherry Marketing Committee (Committees) for the 2004–2005 and subsequent fiscal periods. This final rule decreases the assessment rates established for the Committees from $3.00 to $2.50 per ton for Washington apricots and from $1.00 to $0.75 per ton for Washington sweet cherries. The Committees are responsible for local administration of the marketing orders that regulate the handling of apricots and cherries grown in designated counties in Washington. Authorization to assess apricot and cherry handlers enables the Committees to incur expenses that are reasonable and necessary to administer the programs. The fiscal period for both marketing orders began April 1 and ends March 31. The assessment rates will remain in effect indefinitely unless modified, suspended, or terminated.

**DATES:** November 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Teresa L. Hutchinson, Marketing Specialist, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1220 SW., Third Avenue, Suite 385, Portland, OR 97204; telephone: (503) 326–2724, Fax: (503) 326–7440; or George J. Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov*.

**SUPPLEMENTARY INFORMATION:** This rule is issued under Marketing Agreement and Order No. 922 (7 CFR part 922) regulating the handling of apricots grown in designated counties in Washington, and Marketing Agreement and Order No. 923 (7 CFR part 923) regulating the handling of sweet cherries grown in designated counties in Washington, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

USDA is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing orders now in effect, handlers in designated counties in Washington are subject to assessments. Funds to administer the orders are derived from such assessments. It is intended that the assessment rates as issued herein will be applicable to all assessable Washington apricots and Washington sweet cherries beginning April 1, 2004, and continue until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. Such handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule continues to decrease the assessment rates established for the Committees for the 2004–2005 and subsequent fiscal periods from $3.00 to $2.50 per ton for Washington apricots and from $1.00 to $0.75 per ton for Washington sweet cherries.

The orders provide authority for the Committees, with the approval of USDA, to formulate annual budgets of expenses and collect assessments from

handlers to administer the program. The members of the Committees are producers and handlers of apricots and sweet cherries in designated counties in Washington. They are familiar with the Committees' needs and with the costs for goods and services in their local areas and are thus in a position to formulate appropriate budgets and assessment rates. The assessment rates are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

For the 2003–2004 and subsequent fiscal periods, the Washington Apricot Marketing Committee (Apricot Committee) recommended, and USDA approved, an assessment rate of $3.00 per ton of apricots handled. This assessment rate was to continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Apricot Committee or other information available to USDA.

The Apricot Committee met on May 17, 2004, and unanimously recommended 2004–2005 expenditures of $10,594 and a decreased assessment rate of $2.50 per ton of assessable apricots handled. In comparison, last year's budgeted expenditures were $10,559. The assessment rate of $2.50 is $0.50 lower than the rate previously in effect. Due to an anticipated increase in apricot production this season, the Apricot Committee recommended the assessment rate decrease to maintain the level of income at or near the level of expenses.

The assessment rate recommended by the Apricot Committee was derived by dividing anticipated expenses by expected shipments of Washington apricots. Applying the $2.50 per ton rate of assessment to the Apricot Committee's 4,350-ton crop estimate should provide $10,875 in assessment income. Thus, income derived from handler assessments will be adequate to cover the recommended 2004–2005 budget of $10,594. Funds in the reserve ($11,418 as of March 31, 2004), will be maintained at a level equal to approximately one fiscal period's operational expenses as authorized by the order (§ 922.42.)

For the 2003–2004 and subsequent fiscal periods, the Washington Cherry Marketing Committee (Cherry Committee) recommended, and the USDA approved, an assessment rate of $1.00 per ton of sweet cherries handled. This rate was to continue in effect from fiscal period to fiscal period unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Cherry Committee or other information available to USDA.

The Cherry Committee met on May 18, 2004, and unanimously recommended 2004–2005 expenditures of $72,297 and a decreased assessment rate of $0.75 per ton of assessable cherries handled. In comparison, last year's budgeted expenditures were $71,865. The assessment rate of $0.75 is $0.25 lower than the rate previously in effect. Due to an anticipated increase in cherry production this season, the Cherry Committee recommended the assessment rate decrease in order to maintain the level of income near the level of expenses.

The assessment rate recommended by the Cherry Committee was derived by dividing anticipated expenses by expected shipments of Washington sweet cherries. Applying the $0.75 per ton rate of assessment to the Cherry Committee's 112,600-ton crop estimate should provide $84,450 in assessment income. Thus, income derived from handler assessments will be adequate to cover the recommended 2004–2005 budget of $72,297. Funds in the reserve ($58,970 as of March 31, 2004), will be kept within the maximum permitted by the order of approximately one fiscal period's operational expenses (§ 923.42.)

Both Committees are managed from the same office, thus combined major expenses recommended by the Committees for the 2004–2005 year include staff salaries ($50,572), rent and maintenance ($6,624), compliance ($4,740), and Committee travel and compensation ($3,200). These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

The assessment rates will continue in effect indefinitely unless modified, suspended, or terminated by USDA upon recommendation and information submitted by the Committees or other available information.

Although these assessment rates are effective for an indefinite period, the Committees will continue to meet prior to or during each fiscal period to recommend budgets of expenses and consider recommendations for modification of the assessment rates. The dates and times of the Committees' meetings are available from the Committees or USDA. The Committees' meetings are open to the public and interested persons may express their views at these meetings. USDA will evaluate the Committees' recommendations and other available information to determine whether modification of the assessment rates is needed. Further rulemaking will be undertaken as necessary. The Committees' 2004–2005 budgets and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by USDA.

**Final Regulatory Flexibility Analysis**

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 272 apricot producers and 1,800 sweet cherry producers in designated counties in Washington. In addition, there are approximately 28 Washington apricot handlers and 69 Washington sweet cherry handlers subject to regulation under the respective marketing orders. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

Based on the total number of apricot producers (272), the most recent three-year average fresh apricot production of 3,975 tons (Apricot Committee records), and the most recent three-year average producer price of $355 per ton as reported by National Agricultural Statistics Service (NASS), average annual revenue per producer from the sale of apricots is approximately $5,188. In addition, based on Apricot Committee records and 2003 f.o.b. prices ranging from $10.50 to $12.50 per 24-pound container as reported by USDA's Market News Service (MNS), the entire Washington apricot industry handles less than $5,000,000 worth of apricots. Based on this, the majority of the apricot producers and handlers may be classified as small entities.

Based on the total number of sweet cherry producers (1,800), the most recent three-year average fresh cherry production of 79,763 tons (Cherry Committee records), and the most recent three-year average producer price of $1,390 per ton as reported by NASS, the average annual revenue per producer

from the sale of cherries is approximately $61,595. In addition, based on Cherry Committee records and an average 2003 f.o.b. price of $28.00 per 20-pound container as reported by the MNS, 75 percent of the Washington cherry handlers ship under $5,000,000 worth of cherries. In view of the foregoing, the majority of Washington cherry producers and handlers may be classified as small entities.

This rule continues to decrease the assessment rates established for the Committees and collected from handlers for the 2004–2005 and subsequent fiscal periods from $3.00 to $2.50 per ton for apricots and from $1.00 to $0.75 per ton for sweet cherries. The Apricot Committee and the Cherry Committee unanimously recommended 2004–2005 expenditures of $10,594 and $72,297, respectively. With the 2004–2005 crop estimates of 4,350 tons for apricots and 112,600 tons for sweet cherries, the Committees anticipate assessment income of $10,875 and $84,450, respectively, which will be adequate to cover budgeted expenses for both programs. These assessment incomes will maintain the Committees' reserve funds at or near the levels authorized by the orders of approximately one fiscal periods operational expenses (§§ 922.42 and 923.42).

Both Committees are managed from the same office, thus combined major expenses recommended by the Committees for the 2004–2005 year include staff salaries ($50,572), rent and maintenance ($6,624), compliance ($4,740), and Committee travel and compensation ($3,200). These budgeted expenses are the same as those approved for the 2003–2004 fiscal period.

The Committees discussed alternatives to this rule, including alternative expenditure levels, but determined that the recommended expenses were reasonable and necessary to adequately cover program operations. Lower assessment rates were considered, but not recommended because they would not generate the income necessary to administer the programs.

A review of historical information and information pertaining to the crop year indicates that the producer price for the 2004–2005 season could range between $353 and $357 per ton for Washington apricots and between $1,230 and $1,550 per ton for Washington sweet cherries. Therefore, the estimated assessment revenue for the 2004–2005 fiscal period as a percentage of total producer revenue could range between 0.70 and 0.71 percent for Washington apricots and between 0.05 and 0.06 percent for Washington sweet cherries.

This action continues to decrease the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rates reduces the burden on handlers, and may reduce the burden on producers. In addition, the Committees' meetings were widely publicized throughout the Washington apricot and Washington sweet cherry industries and all interested persons were invited to attend and participate in the Committees' deliberations on all issues. Like all Committee meetings, the May 17 and May 18, 2004, meetings were public meetings and all entities, both large and small, were able to express views on the issues.

This action imposes no additional reporting or recordkeeping requirements on either small or large Washington apricot or Washington sweet cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

The interim final rule concerning this action was published in the **Federal Register** on July, 29, 2004 (69 FR 45233). Copies of that rule were also mailed or sent via facsimile to all Committee members. Finally, the interim final rule was made available through the Internet by USDA and the Office of the Federal Register. A 60-day comment period was provided for interested persons to respond to the interim final rule. The comment period ended on September 27, 2004. One comment was received during that period. The commenter questioned the understandability of the rule. The comment did not address the substance of the interim final rule. We believe that the rule is clear and understandable. Thus, no changes are made as a result of this comment.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ama.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant material presented, including the information and recommendation submitted by the Committees and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

**List of Subjects**

*7 CFR Part 922*

Apricots, Marketing agreements, Reporting and recordkeeping requirements.

*7 CFR Part 923*

Cherries, Marketing agreements, Reporting and recordkeeping requirements.

## PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

## PART 923—SWEET CHERRIES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

■ Accordingly, the interim final rule amending 7 CFR parts 922 and 923 which was published at 69 FR 45233 on July 29, 2004, is adopted as a final rule without change.

Dated: October 19, 2004.

**A.J. Yates,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 04–23826 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–02–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 86–ANE–7; Amendment 39–13822; AD 2004–21–01]**

**RIN 2120–AA64**

## Airworthiness Directives; Hartzell Propeller Inc. (Formerly Hartzell Propeller Products Division) Model HC–B5MP–3( ) /M10282A( ) +6 Five Bladed Propellers; Correction

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

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

**SUMMARY:** This document makes a correction to Airworthiness Directive (AD) 2004–21–01. That AD applies to certain Hartzell Propeller Inc. (formerly Hartzell Propeller Products Division) Model HC–B5MP–3( )/M10282A( )+6 five bladed propellers. We published AD 2004–21–01 in the **Federal Register** on October 14, 2004, (69 FR 60952). The amendment number in the Amendatory Language is incorrect. This document

corrects that amendment number. In all other respects, the original document remains the same.

**DATES:** Effective October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Tomaso DiPaolo, Aerospace Engineer, Chicago Aircraft Certification Office, FAA, Small Airplane Directorate, 2300 East Devon Avenue, Des Plaines, IL 60018; telephone: (847) 294–7031; fax: (847) 294–7834.

**SUPPLEMENTARY INFORMATION:** A final rule; request for comments AD, FR Doc. 04–22728, that applies to certain Hartzell Propeller Inc. (formerly Hartzell Propeller Products Division) Model HC–B5MP–3( )/M10282A( )+6 five bladed propellers, was published in the **Federal Register** on October 14, 2004, (69 FR 60952). The following correction is needed:

**§ 39.13 [Corrected]**

On page 60953, in the third column, in the Amendatory Language, in the first paragraph, in the fifth line, ''Amendment 39–XXXXX'' is corrected to read ''Amendment 39–13822''.

Issued in Burlington, MA, on October 18, 2004.

**Francis A. Favara,**

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

[FR Doc. 04–23815 Filed 10–22–04; 8:45 am]

**BILLING CODE 4910–13–P**

## FEDERAL TRADE COMMISSION

## 16 CFR Part 305

## Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act (''Appliance Labeling Rule'')

**AGENCY:** Federal Trade Commission.

**ACTION:** Final rule.

**SUMMARY:** The Federal Trade Commission (''Commission'') announces that the current ranges of comparability for refrigerators, refrigerator-freezers, and freezers will remain in effect until further notice.

**DATES:** Effective January 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Hampton Newsome, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202–326–2889); *hnewsome@ftc.gov.*

**SUPPLEMENTARY INFORMATION:** The Appliance Labeling Rule (''Rule'') was issued by the Commission in 1979, 44 FR 66466 (November 19, 1979), in response to a directive in the Energy Policy and Conservation Act of 1975 (''EPCA'').[1] The Rule covers several categories of major household appliances including refrigerators, refrigerator-freezers, and freezers.

### I. Background

The Rule requires manufacturers of all covered appliances to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an ''EnergyGuide'' label, fact sheets (for some appliances), and in catalogs. The Rule requires manufacturers to include, on labels and fact sheets, an energy consumption or efficiency figure and a ''range of comparability.'' This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so consumers can compare the energy consumption or efficiency of other models similar to the labeled model. The Rule also requires manufacturers to include, on labels for some products, including those that are the subject of this notice, a secondary energy usage disclosure in the form of an estimated annual operating cost based on a specified DOE national average cost for the fuel the appliance uses.

Section 305.8(b) of the Rule requires manufacturers, after filing an initial report, to report certain information annually to the Commission by specified dates for each product type.[2] These reports, which are to assist the Commission in preparing the ranges of comparability, contain the estimated annual energy consumption or energy efficiency ratings for the appliances derived from tests performed pursuant to the DOE test procedures. Because manufacturers regularly add new models to their lines, improve existing models, and drop others, the data base from which the ranges of comparability are calculated is constantly changing. To keep the required information on labels consistent with these changes, the Commission will publish new ranges if an analysis of the new information indicates that the upper or lower limits of the ranges have changed by more than 15%. Otherwise, the Commission will publish a statement that the prior ranges remain in effect for the next year.

### II. 2004 Refrigerator Data

The annual submissions of data for refrigerators, refrigerator-freezers, and freezers have been made and analyzed by the Commission. The ranges of comparability for the products have not changed significantly for these products.[3] Therefore, the current ranges for these products (16 CFR Part 305, Appendices A1 through A8 and B1 through B3) will remain in effect until further notice.[4]

### List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

■ The authority citation for part 305 continues to read as follows:

**Authority:** 42 U.S.C. 6294.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 04–23820 Filed 10–24–04; 8:45 am]

**BILLING CODE 6750–01–M**

[1] 42 U.S.C. 6294. The statute also requires the Department of Energy (''DOE'') to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.

[2] Reports for refrigerators, refrigerator-freezers, and freezers are due August 1.

[3] The Commission's analysis excluded models with energy consumption figures that do not meet the current DOE energy conservation standards. *See* 62 FR 23102 (April 28, 1997).

[4] *See* November 19, 2001 (66 FR 57867), November 26, 2001 (66 FR 59050), December 10, 2001 (66 FR 63749), January 29, 2002 (67 FR 4173), and November 21, 2003 (68 FR 65631).

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 520

## Oral Dosage Form New Animal Drugs; Praziquantel Tablets

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental abbreviated new animal drug application (ANADA) filed by Phoenix Scientific, Inc. The supplemental ANADA provides for use of oral praziquantel tablets for the removal of certain tapeworm parasites in dogs.

**DATES:** This rule is effective October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lonnie.luther@fda.gov.*

**SUPPLEMENTARY INFORMATION:** Phoenix Scientific, Inc., 3915 South 48th St. Ter., St. Joseph, MO 64503, filed a supplement to ANADA 200–265 that provides for use of PRAZI–C (praziquantel) Tablets for the removal of certain tapeworm parasites in dogs. Phoenix Scientific, Inc.'s PRAZI–C Tablets are approved as a generic copy of Bayer HealthCare LLC's Tape Worm Tabs approved under NADA 111–798. The supplemental ANADA is approved as of September 15, 2004, and the regulations are amended in 21 CFR 520.1870 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

### List of Subjects in 21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 520 is amended as follows:

## PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 520 continues to read as follows:

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

■ 2. Section 520.1870 is amended by revising paragraph (b)(2) to read as follows:

**§ 520.1870 Praziquantel tablets.**

* * * * *

(b) * * *

(2) No. 059130 for use of the product described in paragraph (a)(1) of this section, as in paragraph (c)(1) of this section.

* * * * *

Dated: October 14, 2004.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 04–23761 Filed 10–22–04; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Part 524

### Ophthalmic and Topical Dosage Form New Animal Drugs; Ivermectin Topical Solution

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Norbrook Laboratories, Ltd. The ANADA provides for topical use of ivermectin on cattle for treatment and control of various species of external and internal parasites.

**DATES:** This rule is effective October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lonnie.luther@fda.gov*.

**SUPPLEMENTARY INFORMATION:** Norbrook Laboratories, Ltd., Station Works, Newry BT35 6JP, Northern Ireland, filed ANADA 200–272 for NOROMECTIN (ivermectin) Pour On for Cattle. The application provides for topical use of 0.5 percent ivermectin solution on cattle for the treatment and control of various species of gastrointestinal nematodes, lungworms, grubs, horn flies, lice, and mites. Norbrook Laboratories, Ltd.'s NOROMECTIN Pour-On for Cattle is approved as a generic copy of Merial Ltd.'s IVOMEC Pour-On for Cattle, approved under NADA 140–841. The application is approved as of September 13, 2004, and the regulations are amended in 21 CFR 524.1193 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

### List of Subjects in 21 CFR Part 524

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 524 is amended as follows:

## PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 524 continues to read as follows:

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

**§ 524.1193 [Amended]**

■ 2. Section 524.1193 is amended in paragraph (b)(2) by adding in numerical order ''055529''.

Dated: October 8, 2004.

**Steven D. Vaughn,**

*Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.*

[FR Doc. 04–23760 Filed 10–22–04; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Parts 1 and 602

**[TD 9160]**

**RIN 1545–AY35**

### Information Reporting Under Section 6050P for Discharges of Indebtedness

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

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations relating to the information reporting requirement under section 6050P of the Internal Revenue Code (Code) for discharges of indebtedness. These final regulations reflect the enactment of section 6050P(c)(2)(D) by the Ticket to Work and Work Incentives Improvement Act of 1999. These final regulations provide guidance on the information reporting requirements for discharges of indebtedness by organizations that have a significant trade or business of lending money. This document also contains amendments to the existing final regulations to reflect the amendments to section 6050P by the Debt Collection Improvement Act of 1996.

**DATES:** *Effective date:* These regulations are effective October 25, 2004.

*Applicability date:* These regulations are applicable to discharges of indebtedness occurring on or after January 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Joseph P. Dewald, at (202) 622–4910 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

## Background

This document contains amendments to 26 CFR parts 1 and 602. The amendments describe circumstances in which an organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D). The amendments also conform the existing final regulations under section 6050P to cover applicable entities, including executive, judicial, and legislative agencies.

In general, section 6050P(a) requires certain organizations (applicable entities) to file information returns with the Internal Revenue Service (IRS), and to furnish information statements to debtors, reporting discharges of indebtedness of $600 or more. As enacted by the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66 (107 Stat. 312, 531–532 (1993)), section 6050P required ''applicable financial entities'' (including Federal executive agencies) to report discharges of indebtedness. The Debt Collection Improvement Act of 1996, Pub. L. 104–134 (110 Stat. 1321, 368–369 (1996)) (the 1996 Act), amended section 6050P to cover ''applicable entities.'' Section 6050P(c)(1) as amended defines an *applicable entity* to include: (1) Any executive, judicial, or legislative agency (as defined in 31 U.S.C. 3701(a)(4)); and (2) any applicable financial entity.

Section 6050P(c)(2)(D) was enacted by section 553(a) of the Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. 106–170 (113 Stat. 1860, 1931 (1999)) (the 1999 Act), effective for discharges of indebtedness occurring after December 31, 1999. The 1999 Act amended section 6050P by expanding the applicable financial entities required to report. As expanded, the term includes any organization ''a significant trade or business of which is the lending of money.''

The IRS issued Notice 2000–22 (2000–1 C.B. 902), which provides that penalties under sections 6721 and 6722 for failures to report discharges of indebtedness occurring before January 1, 2001, will not be imposed on organizations newly required to report under section 6050P(c)(2)(D). In Notice 2001–8 (2001–1 C.B. 374), for these same organizations, the IRS extended the waiver of penalties to failures to report discharges of indebtedness occurring before the first calendar year that begins at least two months after final regulations under section 6050P(c)(2)(D) are issued.

A notice of proposed rulemaking under section 6050P(c)(2)(D) (REG–107524–00) was published in the **Federal Register** (67 FR 40629) on June 13, 2002. The proposed regulations address whether an organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D). The proposed regulations also reflect the amendments made by the 1996 Act. A public hearing was held on the proposed regulations on October 8, 2002. The IRS received written and electronic comments responding to the notice of proposed rulemaking. After consideration of all comments, the proposed regulations are adopted as revised by this Treasury decision.

## Explanation of Provisions and Summary of Comments

Section 6050P(c)(2)(D) requires any organization ''a significant trade or business of which is the lending of money'' to report discharges of indebtedness. The proposed regulations provide guidance on whether an organization is engaged in a trade or business of lending money and whether that trade or business is significant. In general, the proposed regulations provide that the lending of money is a significant trade or business if money is loaned on a regular and continuing basis. The proposed regulations provide three safe harbors under which organizations will be considered not to have a significant trade or business of lending money. The final regulations retain these rules.

### *1. Comments Concerning the Proposed Regulations*

#### A. Obligations Acquired From Persons Other Than the Debtor

Several commentators requested clarification of the information reporting requirements for debt obligations acquired from persons other than the debtor. Section 1.6050P–2(e) of the proposed regulations provides that lending money includes acquisition of a debt obligation from a prior holder of the obligation and that gross income from an indebtedness is treated as gross income from lending money regardless of whether the debt was originated by the organization itself or by a related party. The final regulations clarify that a debt obligation acquired from the debtor or any person other than the debtor is subject to reporting under section 6050P(c)(2)(D) if the owner of the obligation is engaged in a significant trade or business of lending money.

#### B. Gross Income From Lending of Money

One commentator requested clarification on what amounts constitute gross income from lending money. Section 1.6050P–2(d) of the proposed regulations provides that gross income from lending money includes income from interest, fees, penalties, merchant discount, interchange, and gains arising from the sale of an indebtedness. The final regulations clarify that gross income from lending money includes: Interest (including qualified stated interest, original issue discount, and market discount); gains arising from the sale or other disposition of indebtedness; penalties with respect to indebtedness (whether or not the penalty is interest for Federal tax purposes); and fees with respect to indebtedness, including merchant discount or interchange (whether or not the fee is interest for Federal tax purposes).

#### C. ''Factoring'' Transactions

(i) Commentators' Description of ''Factoring'' Transactions.—Several commentators addressed reporting issues associated with what the commentators called ''factoring.'' One commentator described factoring transactions, primarily between unrelated parties, as ordinarily involving (a) a factor, who performs the functions described below with respect to a pool of short-term accounts receivable (30-, 60-, or 90-day debt), (b) the factor's client, who sells goods in exchange for the short-term accounts receivable, and (c) the client's customers, who buy the goods and who

issue the accounts receivable. According to the commentator, the factor generally performs the following functions: Initial credit investigation, selective assumption of the risk of loss (sometimes referred to as guaranteeing credit), on-going credit monitoring of the client's customers, collection, and bookkeeping.

As described by the commentator, after the credit investigation (on either a customer-specific or a pooled basis), the factor informs the client if the factor is willing to guarantee the receivables from some or all of the client's customers. For customers whose accounts receivable the factor will not guarantee, the client may enter into the sale and accept an account receivable without the benefit of the factor's guarantee or may refuse to extend credit and either make the sale for cash or forego the sale altogether.

The commentator described factors' competitive fees for typical transactions with unrelated parties as ranging between 0.35 percent of the face value of the accounts receivable (if the client retains the collection function) and 0.70 percent of that face value (if the factor undertakes the collection function). In either case, the face value on the basis of which the fee is computed includes any accounts receivable that the client accepts from customers even though the factor is unwilling to assume the risk of loss on those accounts receivable. The factor determines the rate at which fees are charged on the basis of the initial credit investigation and of whether the factor undertakes collection and bookkeeping.

To facilitate collection, according to the commentator, factors generally take legal title to the accounts receivable either at the time of, or shortly after, the sales transactions. If the factor performs all collection, the factor may take title to all accounts receivable as soon as they are issued by the customers. If, however, the client retains the initial collection responsibilities for a specified short period of time, the factor may take title at the end of that period only to those accounts receivable that are not paid within that period. If the factor guarantees the accounts receivable and collects, the factor pays the client, net of the factor's fees, either soon after the receivables are collected or by a specified time if the receivables have not been collected. If the receivables are not guaranteed, the client receives payment only if and when the customer pays. The commentator explained that, if the factor has guaranteed the receivables, the factor has the right to recovery against a customer. If the factor does not guarantee the receivable and assumes collection responsibility, the factor assigns title back to the client when the receivables become uncollectible under the contract.

For some clients, the factor also provides liquidity by advancing funds against the client's aggregate accounts receivable. Advances are made based on the factor's assessment of the client's creditworthiness and are treated as a reduction of the amount the factor owes the client when the receivables are collected or, if the receivables are guaranteed, when the factor is required to pay the client under the guarantee. These advances are satisfied by the factor reducing the payments otherwise owed to the client. Interest is charged for the period of the outstanding advances, and the interest provides additional income to the factor over and above the fees for the credit investigation, credit guarantee, collection, and bookkeeping functions.

The commentator urged that the unique aspects of these three-party relations make it extremely difficult for factors to report discharges under section 6050P. The commentator pointed out that, although the factor may hold title to a customer account receivable at the time the account receivable is discharged, the client is the one with a direct relation with the customer. Even if the factor agreed to guarantee accounts receivable of a customer, that decision may have been made after an inquiry into the characteristics of the client's customers as a group, without any specific knowledge about the particular customer. Thus, the factor may know nothing about a customer that happens to be in default.

For these reasons, the commentator suggested that reporting under section 6050P should be the responsibility of the client, which has, or had, a direct relation with the debtor. The commentator further suggested that, if factors are required to report, the $600 dollar threshold should be increased or any inclusion of the debtor's taxpayer identification number (TIN) should be optional.

The reporting requirements under section 6050P fall on the entity that owns the debt that is discharged. In the case of the transactions that the commentator called ''factoring,'' therefore, it is necessary to determine who is the owner of the account receivable for Federal tax purposes. This determination has to be made on the basis of all the facts and circumstances.

The first question is whether the lending of money is a significant trade or business of the factor for the taxable year. This will be the case if, on a regular and continuing basis during the calendar year, the factor makes advances to the clients or acquires the clients' accounts receivable. If the factor is an applicable entity for purposes of section 6050P(c)(2)(D), the second question is whether the factor owned the account receivable for Federal tax purposes when the account receivable was discharged. Section 6050P(c)(2)(D) does not require reporting by a factor if the factor was not the owner of the account receivable for Federal tax purposes at the time of the identifiable event marking the discharge.

The final regulations do not provide guidance on whether a factoring transaction should be treated as a purchase of accounts receivable for Federal tax purposes. Whether or not a factoring transaction is treated as a purchase for Federal tax purposes depends on the facts and circumstances of each transaction. The final regulations provide an example describing the reporting obligations if an account receivable is treated as purchased for Federal tax purposes and, alternatively, if it is not treated as purchased. This example, however, is not intended to address whether a purchase has taken place for Federal tax purposes, and, thus, no inference is intended concerning the character of the transactions addressed in these regulations for purposes of section 6050P or for other provisions, including for purposes of determining effectively connected income of a foreign factor under § 1.864–4(c)(5).

After evaluating the concerns described by the commentator and the requirements imposed by section 6050P, the IRS and the Treasury Department believe that the reporting requirements of these final regulations, combined with the January 1, 2005, effective date, provide reasonable and administrable rules and are consistent with the general requirements applicable to information reporting. The final regulations, therefore, do not adopt the recommendation that the $600 threshold be raised for debt obligations acquired from persons other than the debtor, nor do the final regulations adopt the recommendation that a factor be allowed to report discharges without the debtor's TIN. The $600 threshold and the requirement to include the debtor's TIN derive from section 6050P.

(ii) Filer May Request a Waiver of Penalty if the Filer Cannot Obtain the Debtor's TIN.—If section 6050P requires an applicable entity to file an information return, the applicable entity may request a waiver under section 6724 of any information reporting penalties under section 6721 and 6722.

Under section 6724, the IRS may waive the penalties if the failure is due to reasonable cause and is not due to willful neglect. Therefore, upon a showing of reasonable cause, the IRS may waive the penalty under section 6721 for failure to file complete and correct information returns (including the failure to include a TIN) and the penalty under section 6722 for failure to furnish complete and correct information statements (including the failure to include a TIN).

Under § 301.6724–1(a)(2)(ii), a penalty may be waived for reasonable cause if the failure arose from events beyond the filer's control. Section 301.6724–1(c)(6)(i) provides that events beyond the filer's control include the failure of another person to provide the information necessary for the filer to file a correct information return. Section 301.6724–1(a)(2) of the regulations provides that to establish reasonable cause, the filer must have acted in a responsible manner both before and after the failure occurred. Section 301.6724–1(e) provides that a filer must undertake to act in a responsible manner in order to establish reasonable cause for failure to include a TIN (the TIN solicitation rules).

Section 1.6050P–1(e)(6) of the existing final regulations provides special TIN solicitation rules for discharges of indebtedness. Under these rules, a filer must undertake to act in a responsible manner for purposes of section 6724 and the regulations. Section 1.6050P–1(e)(6) provides that a TIN obtained at the time of the indebtedness satisfies the solicitation requirements, unless the entity required to file knows that the TIN is incorrect. The regulations require the filer to solicit the debtor's TIN if it has not obtained the debtor's TIN prior to the occurrence of an identifiable event marking the discharge of indebtedness. The regulations further provide that, if the filer solicits the debtor's TIN in the manner described in § 301.6724–1(e)(1)(i) and (2), the filer is deemed to have acted in a responsible manner for purposes of section 6724. Section 1.6050P–1(e)(6)(ii) contemplates that the filer may undertake the TIN solicitation after the occurrence of the identifiable event. Therefore, a factor that fails to include a debtor's TIN on the required information return and information statement may request a waiver of penalties and may establish reasonable cause under section 6724 if it complies with the special TIN solicitation rules in § 1.6050P–1(e)(6).

D. Related Sellers of Nonfinancial Goods or Services

Commentators requested clarification as to whether a finance company that acquires installment sales contracts from a related seller should be considered an organization that has a significant trade or business of lending money even if the seller would qualify for the exception to reporting for seller-financing transactions. Specifically, the commentators urged that a finance company related to a commonly owned automobile dealership not be required to report the discharge of an installment sales contract that originated between the automobile dealership and an automobile purchaser.

The preamble to the proposed regulations explains that section 6050P(c)(2)(D) applies on an entity-by-entity basis and that the seller-financing exception is not available to a separate financing subsidiary of a retailer. The 1999 Act took an entity-by-entity approach when it expanded the scope of section 6050P to reach ''any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies *whether or not affiliated with financial institutions*).'' *See* Joint Committee on Taxation Staff, *General Explanation of Tax Legislation Enacted in the 106th Congress*, 107th Cong., 1st Sess. 48 (2001) (emphasis added). The final regulations, therefore, do not adopt the recommendation to provide an exception to reporting for a company that finances purchases by the customers of a separate, but related, seller of nonfinancial goods or services.

E. Reporting Amounts That Section 108 Excludes From the Debtor's Income

Several commentators noted that often debtors may be insolvent at the time the debt is discharged and that, in these cases, the discharge is excludable from income under section 108(a)(1)(B). The legislative history to section 6050P, however, reflects that Congress intended entities to report discharges regardless of whether the debtor is subject to tax on the discharged debt, including whether the discharge qualifies for exclusion under section 108. *See* H.R. Conf. Rep. No. 213, 103d Cong., 1st Sess. 671 (1993). This principle is reflected in the general rule of § 1.6050P–1(a)(3) of the existing final regulations and is not changed by this Treasury Decision. The existing regulations provide, ''Except as otherwise provided in [§ 1.6050P–1], discharged indebtedness must be reported regardless of whether the debtor is subject to tax on the discharged debt under sections 61 and 108 or otherwise by applicable law.''

F. Reporting Discharges of FFELP Loans

Other commentators requested clarification on the information reporting requirements for public, nonprofit guarantors that participate in the Federal Family Education Loan Program (FFELP) if the debtor defaults on the FFELP loan. According to the comments, a typical FFELP transaction involves a borrower, a lender (such as a bank, savings and loan association, credit union, school, or state or private nonprofit agency), a state or private nonprofit organization (guaranty agency), and the U.S. Department of Education. If a guaranty agency receives a default claim for nonpayment of a FFELP student loan, the guaranty agency generally pays a percentage of the outstanding balance to the holder of the loan. The U.S. Department of Education, in turn, reimburses the guaranty agency for a percentage of the default claim paid to the holder of the loan. The guaranty agency then acts on behalf of the U.S. Department of Education collecting against the borrower and remitting any amount collected, less a percentage for collection costs, to the U.S. Department of Education.

One commentator suggested that the activities of the guaranty agency do not constitute the lending of money. This commentator suggested that guarantors of FFELP student loans are not applicable entities as defined in section 6050P(c)(2)(D). Another commentator suggested that the final regulations provide that the information reporting requirements under section 6050P do not apply to any student loan made under Title IV of the Higher Education Act, including student loans under the FFELP.

The information reporting requirements under section 6050P apply to student loans made under Title IV of the Higher Education Act. If the owner of the student loan for Federal tax purposes is an entity or organization that is an applicable entity within the meaning of section 6050P(c)(1), the owner must report under section 6050P upon the occurrence of an identifiable event marking the discharge of the indebtedness.

*2. Comments Concerning the Existing Final Regulations*

Several commentators raised issues relating to the reporting requirements in § 1.6050P–1 of the existing final regulations. These comments are beyond the scope of this regulation project, which addresses whether an

organization has a significant trade or business of lending money for purposes of section 6050P(c)(2)(D), but these comments may be addressed in future guidance.

A. Amounts Forgiven Pursuant to the Terms of a Loan

Commentators requested clarification as to whether an organization is required to report amounts forgiven pursuant to the terms of a debt obligation, including loan forgiveness under the FFELP upon a stated event (such as death, disability, or satisfaction of the service requirements of the Teacher Loan Forgiveness Program). The IRS may issue future guidance under section 6050P addressing amounts forgiven pursuant to the terms of a debt obligation for purposes of section 6050P. Pending issuance of future guidance, applicable entities will not be subject to penalties under section 6721 and section 6722 for failure to report under section 6050P amounts forgiven pursuant to the terms of a debt obligation.

B. Amounts That Are Defined as ''Indebtedness'' Under § 1.6050P–1(c) of the Existing Final Regulations but That Do Not Arise in the Context of a Money-Lending Transaction

One commentator requested clarification of the information reporting requirements for amounts that are owed to an organization but that do not arise in the context of a money-lending transaction. The commentator suggested that the definition of indebtedness in § 1.6050P–1(c) of the existing final regulations should be revised to require reporting only of discharged amounts that would give rise to income under section 61(a)(12) and that the definition should cover only amounts arising in money-lending transactions. Alternatively, the commentator suggested that amounts owed that arise in non-money-lending transactions should not be ''indebtedness'' for purposes of section 6050P unless, and until, reduced to judgment. This commentator also suggested that discharges of amounts such as fees, penalties, administrative costs, and fines should not be subject to reporting under section 6050P regardless of whether the transaction is a money-lending transaction. Section 1.6050P–1(d)(3) of the existing final regulations provides an exception to reporting for discharges of these amounts only in lending transactions.

In particular, the commentator was concerned about amounts arising in leasing transactions. An organization that engages only in transactions that are treated as leases, and not as sales, for Federal tax purposes is not required to report under section 6050P, because leasing is not lending money for purposes of section 6050P(c)(2)(D) and § 1.6050P–2(a). However, if an organization is otherwise engaged in a significant trade or business of lending money and is also engaged in leasing transactions, the existing final regulations under section 6050P would require the organization to report the discharge of any amount owed to it, including fees, administrative costs, and fines for the non-lending leasing transactions.

The IRS and the Treasury Department may issue future guidance under section 6050P addressing the requirements for reporting amounts discharged in non-lending transactions. Pending issuance of future guidance, applicable entities will not be subject to penalties under section 6721 and section 6722 for failure under section 6050P to report amounts discharged in non-lending transactions.

## Effective Date

In order to give organizations that are subject to section 6050P(c)(2)(D) time to comply with the reporting requirements of section 6050P, these regulations apply to discharges that occur on or after January 1, 2005.

## Special Analyses

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

## Drafting Information

The principal author of these final regulations is Joseph P. Dewald, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and Treasury Department participated in the development of the regulations.

## List of Subjects

*26 CFR Part 1*

Income taxes, Reporting and recordkeeping requirements.

*26 CFR Part 602*

Reporting and recordkeeping requirements.

## Adoption of Amendment to the Regulations

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

## PART 1—INCOME TAXES

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

**Authority:** 26 U.S.C. 7805. * * *
Section 1.6050P–2 also issued under 26 U.S.C. 6050P. * * *

■ **Par. 2.** Section 1.6050P–0 is amended as follows:
■ 1. The introductory text is amended by adding the language ''and § 1.6050P–2'' immediately after the language ''§ 1.6050P–1''.
■ 2. The entry for § 1.6050P–1 is amended by removing the word ''financial''.
■ 3. The entry for § 1.6050P–1(e)(2)(v) is added.
■ 4. The entries for §§ 1.6050P–1(e)(5) through (e)(8) are redesignated as entries for §§ 1.6050P–1(e)(6) through (e)(9) and a new entry for § 1.6050P–1(e)(5) is added.
■ 5. The entries for § 1.6050P–2 are added.

The additions read as follows:

**§ 1.6050P–0 Table of contents.**

* * * * *

**§ 1.6050P–1 Information reporting for discharges of indebtedness by certain entities.**

* * * * *
(e) * * *
(2) * * *
(v) No double reporting.
* * * * *
(5) Entity formed or availed of to hold indebtedness.
* * * * *

**§ 1.6050P–2 Organization a significant trade or business of which is the lending of money.**

(a) In general.
(b) Safe harbors.
(1) Organizations not subject to section 6050P in the previous calendar year.
(2) Organizations that were subject to section 6050P in the previous calendar year.

(3) No test year.
(c) Seller financing.
(d) Gross income from lending of money.
(e) Acquisition of an indebtedness from a person other than the debtor included in lending money.
(f) Test year.
(g) Predecessor organization.
(h) Examples.
(i) Effective date.

■ **Par. 3.** Section 1.6050P–1 is amended as follows:

■ 1. The section heading for § 1.6050P–1 is amended by removing the word ''financial''.

■ 2. Paragraphs (a)(1), (b)(2)(i)(F), (c), (e)(2)(i), (e)(3), (e)(7), (f)(1) introductory text, (f)(1)(ii), and (f)(2) are amended by removing the word ''financial''.

■ 3. The first sentence of paragraph (c) is amended by adding the language ''and § 1.6050P–2'' immediately after the word ''section''.

■ 4. Paragraph (e)(2)(v) is added.

■ 5. Paragraph (e)(4) is amended by removing ''6050P(c)(1)(A)'' each time it appears and adding ''6050P(c)(2)(A)'' in its place and by removing ''6050P(c)(1)(C)'' and adding ''6050P(c)(2)(C)'' in its place.

■ 6. Paragraphs (e)(5) through (e)(8) are redesignated as (e)(6) through (e)(9) and a new paragraph (e)(5) is added.

■ 7. Paragraph (e)(7)(i), as redesignated, is amended by removing ''(e)(6)'' where it appears and adding ''(e)(7)'' and paragraph (e)(7)(ii), as redesignated, is amended by removing ''(e)(6)(i)'' where it appears and adding ''(e)(7)(i)'' in its place.

■ 8. Paragraph (h)(1) is amended by adding ''and, except paragraph (e)(5) of this section, which applies to discharges of indebtedness occurring after December 31, 2004.'', immediately after the language ''1994''.

The additions read as follows:

**§ 1.6050P–1 Information reporting for discharges of indebtedness by certain entities.**

* * * * *

(e) * * *

(2) * * *

(v) *No double reporting.* If multiple creditors are considered to hold interests in an indebtedness for purposes of this paragraph (e)(2) by virtue of holding ownership interests in an entity, and the entity is required to report a discharge of that indebtedness under paragraph (e)(5) of this section, then the multiple creditors are not required to report the discharge of indebtedness.

* * * * *

(5) *Entity formed or availed of to hold indebtedness.* Notwithstanding § 1.6050P–2(b)(3), if an entity (the transferee entity) is formed or availed of by an applicable entity (within the meaning of section 6050P(c)(1)) for the principal purpose of holding indebtedness acquired (including originated) by the applicable entity, then, for purposes of section 6050P(c)(2)(D), the transferee entity has a significant trade or business of lending money.

* * * * *

■ **Par. 4.** Section 1.6050P–2 is added to read as follows:

**§ 1.6050P–2 Organization a significant trade or business of which is the lending of money.**

(a) *In general.* For purposes of section 6050P(c)(2)(D), the lending of money is a significant trade or business of an organization in a calendar year if the organization lends money on a regular and continuing basis during the calendar year.

(b) *Safe harbors*—(1) *Organizations not subject to section 6050P in the previous calendar year.* For an organization that was not required to report under section 6050P in the previous calendar year, the lending of money is not treated as a significant trade or business for the calendar year in which the lending occurs if gross income from lending money (as described in paragraph (d) of this section) in the organization's most recent test year (as defined in paragraph (f) of this section) is both less than $5 million and less than 15 percent of the organization's gross income for that test year.

(2) *Organizations that were subject to section 6050P in the previous calendar year.* For an organization that was required to report under section 6050P for the previous calendar year, the lending of money is not treated as a significant trade or business for the calendar year in which the lending occurs if gross income from lending money (as described in paragraph (d) of this section) in each of the organization's three most recent test years is both less than $3 million and less than 10 percent of the organization's gross income for that test year.

(3) *No test year.* The lending of money is not treated as a significant trade or business for an organization for the calendar year in which the lending occurs if the organization does not have a test year for that calendar year.

(c) *Seller financing.* If the principal trade or business of an organization is selling nonfinancial goods or providing nonfinancial services and if the organization extends credit to the purchasers of those goods or services to finance the purchases, then, for purposes of section 6050P(c)(2)(D), these extensions of credit are not a significant trade or business of lending money.

(d) *Gross income from lending of money.* For purposes of this section, gross income from lending of money includes—

(1) Income from interest, including qualified stated interest, original issue discount, and market discount;

(2) Gains arising from the sale or other disposition of indebtedness;

(3) Penalties with respect to indebtedness (whether or not the penalty is interest for Federal tax purposes); and

(4) Fees with respect to indebtedness, including merchant discount or interchange (whether or not the fee is interest for Federal tax purposes).

(e) *Acquisition of an indebtedness from a person other than the debtor included in lending money.* For purposes of this section, lending money includes acquiring an indebtedness not only from the debtor at origination but also from a prior holder of the indebtedness. Gross income arising from indebtedness is gross income from the lending of money without regard to who originated the indebtedness. If an organization acquires an indebtedness, the organization is required to report any cancellation of the indebtedness if the organization is engaged in a significant trade or business of lending money.

(f) *Test year.* For any calendar year, a *test year* is a taxable year of the organization that ends before July 1 of the previous calendar year.

(g) *Predecessor organization.* If an organization acquires substantially all of the property that was used in a trade or business of some other organization (the predecessor) (including when two or more corporations are parties to a merger agreement under which the surviving corporation becomes the owner of the assets and assumes the liabilities of the absorbed corporation(s)) or was used in a separate unit of the predecessor, then whether the organization at issue qualifies for one of the safe harbors in paragraph (b) of this section is determined by also taking into account the test years, reporting obligations, and gross income of the predecessor.

(h) *Examples.* The rules of this section are illustrated by the following examples:

*Example 1.* (i) *Facts.* Finance Company A, a calendar year taxpayer, was formed in Year 1 as a non-bank subsidiary of Manufacturing Company and has no predecessor. A lends

money to purchasers of Manufacturing Company's products on a regular and continuing basis to finance the purchase of those products. A's gross income from stated interest in Year 1 is $4.7 million. In Year 1, A's gross income from fees and penalties with respect to the indebtedness is $0.5 million, and A has no other gross income from lending money within the meaning of paragraph (d) of this section.

(ii) *Results.* Section 6050P does not require A to report discharges of indebtedness occurring in Years 1 or 2, because A has no test year for those years. Notwithstanding that A lends money in those years on a regular and continuing basis, under paragraph (b)(3) of this section, A does not have a significant trade or business of lending money in those years for purposes of section 6050P(c)(2)(D). However, for Year 3, A's test year is Year 1. A's gross income from lending in Year 1 is not less than $5 million for purposes of the applicable safe harbor of paragraph (b)(1) of this section. Because A lends money on a regular and continuing basis and does not meet the applicable safe harbor, section 6050P requires A to report discharges of indebtedness occurring in Year 3.

*Example 2.* (i) *Facts.* The facts are the same as in *Example 1,* except that A is a division of Manufacturing Company, rather than a separate subsidiary. Manufacturing Company's principal activity is the manufacture and sale of non-financial products, and, other than financing the purchase of those products, Manufacturing Company does not extend credit or otherwise lend money.

(ii) *Results.* Under paragraph (c) of this section, that financing activity is not a significant trade or business of lending money for purposes of section 6050P(c)(2)(D), and section 6050P does not require Manufacturing Company to report discharges of indebtedness.

*Example 3.* (i) *Facts.* Company B, a calendar year taxpayer, is formed in Year 1. B has no predecessor and a part of its activities consists of the lending of money. B packages and sells part of the indebtedness it originates and holds the remainder. B is engaged in these activities on a regular and continuing basis. For Year 1, the sum of B's gross income from sales of the indebtedness, plus other income described in paragraph (d) of this section, is only $4.8 million, but it is 16% of B's gross income in Year 1.

(ii) *Results.* Because B lends money on a regular and continuing basis and does not meet the applicable safe harbor of paragraph (b)(1) of this section, section 6050P requires B to report discharges of indebtedness occurring in Year 3. B is not required to report discharges of indebtedness in Years 1 and 2 because B has no test year for Years 1 and 2.

*Example 4.* (i) *Facts.* The facts are the same as in *Example 3.* In addition, in each of Years 2, 3, and 4, the sum of B's gross income from sales of the indebtedness, plus other income described in paragraph (d) of this section, is less than both $3 million and 10% of B's gross income.

(ii) *Results.* (A) Because B was required to report under section 6050P for Year 3, the applicable safe harbor for Year 4 is paragraph (b)(2) of this section, which is satisfied only if B's gross income from lending activities for each of the three most recent test years is less than both $3 million and 10% of B's gross income. For Year 4, even though B has only two test years, B's gross income in one of those test years, Year 1, causes B to fail to meet this safe harbor. Accordingly, B is required to report discharges of indebtedness under section 6050P in Year 4. For Year 5, B's three most recent test years are Years 1, 2, and 3. However, B's gross income from lending activities in Year 1 is not less than $3 million and 10% of B's gross income. Accordingly, section 6050P requires B to report discharges of indebtedness in Year 5.

(B) For Year 6, B satisfies the applicable safe harbor requirements of paragraph (b)(2) of this section for each of the three most recent test years (Years 2, 3, and 4). Therefore, section 6050P does not require B to report discharges of indebtedness in Year 6. Because B is not required to report for Year 6, the applicable safe harbor for Year 7 is the one contained in paragraph (b)(1) of this section, and thus the only relevant test year is Year 5.

*Example 5.* (i) *Facts.* (A) Company C, a calendar year taxpayer, was formed in Year 1 and, on a regular and continuing basis, enters into the following transactions with its clients, all of whom are unrelated parties to C. C does not have any other income.

(B) C's clients sell goods to customers, frequently accepting as payment accounts receivable that are due in 30 to 90 days. Under a contract with each client, C investigates the creditworthiness of the client's customers with respect to the prospective sales, and, for each customer, C determines whether, and to what extent, C is willing to assume the risk of loss on accounts receivable to be issued by the customer. C's decision whether to assume risk of loss may be based on an evaluation of the credit quality of particular customers or on the aggregate credit quality of all of the client's prospective customers. If C is unwilling to assume the risk, the client either may refuse to extend any credit to the customer or may accept the account receivable and bear the risk of loss.

(C) Pursuant to some contracts between C's clients and C, C's clients assign legal title to the accounts receivable to C when the accounts receivable are issued by the customers. For these accounts receivable, C agrees to undertake collections and to remit the amounts collected to the client, less a fee of 0.70 percent of the face value of the accounts receivable. Pursuant to other contracts between C's clients and C, C's clients retain legal title to the accounts receivable and retain the initial collection responsibility. For these accounts receivable, C's fee is reduced to 0.35 percent. Both groups of accounts receivable include accounts receivable for which C has assumed the risk of loss and accounts receivable for which C has not assumed the risk of loss.

(D) Based on all the facts and circumstances, C acquires ownership for Federal tax purposes of some, but not all, of the accounts receivable that it has agreed to collect and of some, but not all, of the accounts receivable for which the client has retained collection responsibility.

(E) In Year 1, C's total fee income with respect to accounts receivable of which it acquired tax ownership was $2 million. C's fee income in Year 1 from accounts receivable of which it did not acquire tax ownership was $700,000. C does not have any other income for Year 1.

(F) In Year 3, there were discharges of $950,000, representing $100,000 of customer defaults on those accounts receivable of which C was the owner for Federal tax purposes at the time of the identifiable event marking the discharge and $850,000 of customer defaults on the accounts receivable of which the clients, and not C, were the owner. Whenever C determined the uncollectibility of an account receivable for which it had not assumed the risk of loss, C reassigned title to the account receivable to the appropriate client. Each defaulting customer defaulted on an account receivable with an outstanding balance of at least $600.

(ii) *Results.* (A) For Year 3, C's test year is Year 1. Under paragraph (e) of this section, C's $2 million fee income from the accounts receivable of which it acquired tax ownership is ''gross income from lending money'' for purposes of paragraph (b) of this section, because C was the owner of the accounts for Federal tax purposes. Under paragraph (e) of this section, C's $700,000 fee income from the accounts receivable of which it did not acquire tax ownership is not ''gross income from lending money'' for purposes of paragraph (b) of this section, because C was not the owner of the accounts receivable for Federal tax purposes. In Year 1, therefore, C's gross income from lending money is less than $5 million but is not less than 15% of C's gross income. Because C lends money on a regular and continuing basis and does not meet the applicable safe harbor, section 6050P requires C to report discharges of indebtedness occurring in Year 3.

(B) In Year 3, section 6050P requires C to report the $100,000 of discharges of the accounts receivable of which C was the owner for Federal tax purposes at the time of the identifiable event marking the discharge. Unless an exception to reporting under paragraph (b) or (c) of this section applies, section 6050P requires C's clients to report the $850,000 of discharges of the accounts receivable of which C did not become the owner.

(i) *Effective date.* This section applies to discharges of indebtedness occurring on or after January 1, 2005.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 5.** The authority citation for part 602 continues to read as follows:

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

■ **Par. 6.** In § 602.101, paragraph (b) is amended by removing two entries from the table as follows:

**§ 602.101 OMB Control numbers.**

* * * * *

(b) * * *

| CFR part or section where identified and described | Current OMB control No. |
|---|---|
| * * * * * | |
| 1.6050P–1 | 1545–1419 |
| 1.6050P–1T | 1545–1419 |
| * * * * * | |

Approved: October 18, 2004.

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

**Gregory F. Jenner,**

*Assistant Secretary of the Treasury.*

[FR Doc. 04–23747 Filed 10–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 1 and 2

**RIN 2900–AK10**

### Standards for Collection, Compromise, Suspension, or Termination of Collection Effort, and Referral of Civil Claims for Money or Property; Regional Office Committees on Waivers and Compromises; Salary Offset Provisions; Delegations of Authority

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises the Department of Veterans Affairs (VA) regulations concerning the collection, compromise, suspension, termination, and referral of debts owed to VA. The revision clarifies and simplifies debt collection standards and reflects changes to Federal debt collection procedures under the Debt Collection Improvement Act of 1996. VA is also amending regulations pertaining to the administration of regional office Committees on Waivers and Compromises, as well as provisions pertaining to debt collection and to the Chief Financial Officer in the delegations of authority regulations. Other nonsubstantive changes are made for purposes of clarification.

**DATES:** *Effective Date:* November 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Peter Mulhern, Cash and Debt Management Division (047GC1), Department of Veterans Affairs, 810 Vermont Ave., NW., Washington, DC 20420, (202) 273–5570.

**SUPPLEMENTARY INFORMATION:** On December 29, 2003, VA published in the **Federal Register** (68 FR 74893) a proposed rule to bring VA's debt collection regulations into compliance with the provisions of the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, 110 Stat. 1321, 1358 (April 26, 1996), the subsequent revision of the Federal Claims Collection Standards (FCCS)(31 CFR parts 900 through 904) by the Department of the Treasury (Treasury) and the Department of Justice in 2000, and with Treasury's additional rules in 31 CFR part 285. VA's current debt collection regulations include tools such as offset of VA benefit payments, assessment of interest and late payment charges, use of consumer reporting and private collection agencies, and Federal salary offset. We proposed to add to VA's debt collection regulations more collection tools now authorized by the DCIA and revised FCCS. These tools include centralized administrative offset through the use of the Treasury Offset Program (TOP), the transfer or referral of delinquent debt to Treasury for collection (cross-servicing), and administrative wage garnishment. We also proposed to amend our debt collection regulations by deleting provisions that are either obsolete or duplicative of Treasury and Treasury/DOJ regulations, as well as to ensure that our regulations are consistent with statutory mandates and that they are clearly written.

In addition, VA proposed to amend a regulation pertaining to the Committees on Waivers and Compromises to allow each station Director the authority to appoint the person responsible for the Committee's administrative control. Our current regulation, which states that the station Fiscal Officer must have administrative control authority, does not allow the station Director any discretion in this matter.

We further proposed to amend a regulation so that VA's Chief Financial Officer (CFO) would have the ability to redelegate debt collection authority to administration heads and staff office directors as the CFO deems appropriate.

We provided a 60-day comment period which ended on February 27, 2004. We received two submissions in response to our invitation for comments on the proposed regulations. One, from an individual, discussed the individual's experience with VA after VA informed him that an overpayment existed due to his son's dropping out of college, and said that VA had withheld almost all of a monthly payment of benefits (which he asserted was without prior notice). He said that the VA employee he contacted had not been aware of an allegedly larger amount VA owed him due to an increase in the number of his children. He asserted that VA's efficiency in the measures involved in collecting a debt are far ahead of those involved in paying veterans their benefits, and asked for help in putting ''customer needs (benefit payments) first.'' He did not say whether he thought rulemaking changes could provide the help he was requesting nor whether adoption of the proposed rule would itself help, and we see no need for changes in the proposed rule to be made based on this submission. The other submission, from the Disabled American Veterans (DAV), is discussed below.

DAV states that our proposed new paragraph (c)(4) in 38 CFR 1.912a violates 38 U.S.C. 5314(b). This new paragraph states that VA will begin collection action from VA benefit payments after an initial adverse decision on a debtor's request for waiver or the debtor's informal dispute of the existence or amount of a benefit debt. DAV argues that there is no statutory change to section 5301(c) or section 5314 justifying the addition of this provision, and that VA provides no explanation of this change in the preamble. DAV notes that the preamble cites the DCIA as the authority for most of the changes for our proposed rulemaking. DAV notes further that the DCIA's principal amendments to strengthen debt collection authority included amendments to the administrative offset provisions of 31 U.S.C. 3716. DAV correctly states that while collections under 38 U.S.C. 5301(c) must be conducted in accordance with procedures prescribed in 31 U.S.C. 3716, collections under 38 U.S.C. 5314 are not subject to the general provisions applicable to other claims collections as set forth in 31 U.S.C. 3716. According to DAV, there is no statutory authority or other explanation for our proposed new paragraph (c)(4) in 38 CFR 1.912a.

The preamble to the proposed rule did contain an explanation that encompassed the proposed change to add paragraph (c)(4) to 38 CFR 1.912a, since it is one of the changes that was proposed to ensure that our debt collection regulations are consistent with statutory mandates and clearly written (68 FR 74893, 74894). DAV is correct that there is no statutory change to 38 U.S.C. 5301(c) or 5314 that pertains to the addition of this provision. However, we believe that DAV is incorrect in stating that our proposed new paragraph violates section 5314(b).

Nothing in section 5314(b) requires VA to suspend administrative offset pending a final decision by the Board of Veterans' Appeals (BVA). The requirements of 38 U.S.C. 5314(b) are to be met by ''reasonable efforts to notify'' the person in compliance with § 5314(b)(1) and (b)(3) and by a determination described in section 5314(b)(2). Under section 5314(b)(2), the Secretary is merely required to make ''a determination'' with respect to a dispute of the existence or amount of the debt or with respect to a request for waiver, or to determine that the time required to make such a determination before making deductions would jeopardize the Secretary's ability to recover the full amount of such indebtedness through deduction from such payments.

DAV states that there is no compelling basis to begin collection immediately after an initial adverse decision, except where there are ''real reasons to determine that delay would jeopardize eventual collection of debt.'' DAV's language is different than the statutory standards in section 5314(b)(2). The necessary finding concerns whether delay would jeopardize the ability to recover the debt by deduction from payments of VA benefits. When VA is making a final payment or a one-time payment, and the debtor is not receiving a continuous benefit payment, VA does indeed have a basis for determining that delay would jeopardize its ability to use offset for collection of a debt.

DAV argues further that 38 U.S.C. 5314 makes no distinction between initial determinations and appellate determinations. DAV also believes a debtor's right to appeal to BVA is as much a part of the ''prescribed administrative process'' referred to in section 5314(b)(1) as the initial determination.

The requirement in 38 U.S.C. 5314(b)(1) for VA to notify the debtor of the right to dispute the existence and amount of the debt, or the right to request waiver, through ''prescribed administrative processes'' does not, as DAV argues, apply to both an initial decision at the regional office level and an appellate decision by BVA. VA has consistently under section 5314 taken the position that collection action may begin after an initial adverse determination on the validity and amount of the debt or an initial adverse determination on the waiver request. A reading of the current regulations supports this position. For example, the last sentence in 38 CFR 1.911(c) states: ''Except as provided in § 1.912a (collection by offset), the exercise of any of these rights will not stay any collection proceeding.'' Furthermore, § 1.912a(c)(1) states that ''* * * offset shall not commence until the dispute is reviewed as provided in § 1.911a(c)(1) [*sic*] [§ 1.911(c)(1); this final rule corrects the inadvertent failure to reflect the redesignation of § 1.911a as § 1.911 (52 FR 42105)(November 3, 1987)] and unless the resolution is adverse to the debtor.'' The procedure provided in § 1.911(c)(1) is an informal dispute only. VA's regulations further provide in § 1.912a(c)(2) that ''* * *offset shall not commence until the Department of Veterans Affairs has made an initial decision on waiver.'' Thus, VA's current regulations in 38 CFR 1.911 and 1.912a already authorize VA to begin collection from benefit payments after an adverse informal decision on the existence or amount of a benefit program debt or an initial adverse decision on a request for waiver of such debt. Similarly, we have consistently taken the position under section 5314(b)(2) that if VA finds that delay to make a determination on such a dispute or request would jeopardize collection by offset, VA is authorized to begin collection. Nothing in either the current § 1.911 or § 1.912a requires VA to suspend collection action until a final decision is rendered by BVA. VA's regulations are also consistent with Treasury's regulations for offset, which do not require the exhaustion of all administrative remedies prior to collection by offset (*see* 31 CFR 901.3(b)(4) and 901.3(c)(2)(i)). New paragraph (c)(4) in § 1.912a is merely intended to clarify our regulations by reflecting an already existing practice.

DAV argues that delay in collection would not cause adverse consequences to the Government comparable to the harm that collection of a contested debt can cause to an individual veteran. DAV also asks that VA revise the proposed rules ''to make them more consistent with the pro-veteran nature of VA's administrative processes.'' We believe that this final rule accords with Congressional concern for the needs of veterans as well as of taxpayers in general. For example, the legislative history of 38 U.S.C. 5314 shows a legislative intent that VA aggressively pursue debt collection and a concern that failing to do so is a disservice to veterans, and is unfair to the veterans who do repay their overpayments.

DAV also has several questions and concerns about VA's proposed new regulation (38 CFR 1.923) on administrative wage garnishment (AWG). This proposed regulation is based on Treasury's AWG regulation (31 CFR 285.11) and is authorized by 31 U.S.C. 3720D and 38 U.S.C. 501. New § 1.923 provides AWG procedures, including procedures for hearings. Since we have decided that only VA debts that have been referred to Treasury's cross-servicing program will be subject to AWG, our regulation describes certain responsibilities of both Treasury and VA for many of the AWG procedures. It should be noted that VA is not required to refer a debt to Treasury unless the debt is more than 180 days delinquent. Thus, any debt that eventually becomes subject to AWG will be more than 180 days delinquent.

DAV describes the authority delegated to Treasury by Congress (DCIA at 31 U.S.C. 3720D) to promulgate regulations concerning AWG procedures and hearings as quasi-legislative authority and questions whether it can be subdelegated to another agency, such as VA.

31 U.S.C. 3720D establishes authority for the use of AWG by ''the head of an executive, judicial, or legislative agency.'' At section 3720D(h), Congress mandates that the Secretary of Treasury shall issue regulations to implement section 3720D. In our view, Congress has already by statute given AWG authority directly to each agency head, and under that statute in combination with VA's rulemaking authority in 38 U.S.C. 501, VA has ample authority to issue regulations concerning its administration of its AWG authority. We do not agree with DAV that the grant of rulemaking authority to Treasury under 31 U.S.C. 3720D is exclusive. The statute contains no language showing such an intent. In our view, it does not deprive agencies of other general rulemaking authority they have with respect to their statutory responsibilities. Thus, there is no need for VA to rely on any ''subdelegation'' from Treasury, which DAV asserts would be invalid.

In addition, DAV also questions whether VA has authority to issue regulations governing actions by Treasury. VA's AWG regulation does not dictate or govern actions by Treasury. Rather, VA's regulation describes actions that Treasury is already required to perform on debts referred to its cross-servicing program.

DAV states that VA's proposed regulation lacks the clarity of Treasury's regulation. DAV finds that VA's proposed regulation requires the reader to shift back and forth between our regulation and Treasury's. DAV feels that VA debtors will probably not be familiar with Treasury's regulation. While both statements may be true, it is not unusual for VA's debt collection regulations to refer to Treasury's regulations, which are intended as guidance for executive agencies to follow in developing agency-specific

regulations. For the reasons discussed below, we believe that the references serve a useful purpose and should be retained.

At this point, VA intends to use AWG on debts that have been referred to the Treasury Cross-Servicing Program. Once a debt is referred to this collection program, Treasury will provide all of the notification to both debtor and employer. VA will only be responsible for conducting a hearing, if one is requested. However, in the future, it is possible that VA may decide to implement AWG without referral to Treasury. VA would then be responsible not only for the hearing, but all other aspects of the AWG process. Consequently, we referred to possible actions by both VA and Treasury, as well as to Treasury's regulation, throughout the proposed regulation. Admittedly, this is somewhat cumbersome, but we feel it is necessary to do so in order to address all possible contingencies.

DAV objects to the fact that proposed § 1.923(b)(3) requires the debtor to be notified of the right to request a hearing, rather than notified simply of the right to a hearing. DAV believes that small differences in language, such as this, are not inconsequential and can lead to misunderstandings. We agree with DAV's position and in this final rule we are making a change from proposed § 1.923(b)(3) accordingly.

Treasury's regulation provides, at 31 CFR 285.11(f)(3)(i), that ''the agency shall provide the debtor with a reasonable opportunity for an oral hearing when the agency determines that the issue in dispute cannot be resolved by review of the documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity.'' DAV states that proposed § 1.923(c) appears to leave the decision of whether to afford an oral hearing more completely to the discretion of the hearing official than does the Treasury regulation. VA's version provides, in DAV's view, no guidance as to when an issue in dispute cannot be resolved by review of the documentary evidence and must be resolved by an oral hearing.

In proposed § 1.923(c), we believe the reference to 31 CFR 285.11(f) provides sufficient guidance for the hearing official to determine whether an oral or paper hearing would be accorded the debtor. VA's proposed language does not give more discretion to the hearing official in determining the type of hearing than as provided for in Treasury's regulation. However, in order to provide more specific guidance on this issue, we are in this final rule adding the phrase ''for example, when the validity of the claim turns on the issue of credibility or veracity'' to the end of the second sentence of proposed § 1.923(c)(1). This language is taken directly from 31 CFR 285.11(f)(3)(i).

DAV next states that the specific hearing procedures prescribed in proposed § 1.923(c)(1) conflict with VA hearing procedures and the associated rights of VA claimants. Specifically, in VA's administrative proceedings, a claimant has the right to request a hearing at any stage in the process, and according to DAV, the term ''hearing'' means an oral hearing. DAV argues that the right to an oral hearing is one of the basic elements of due process imposed by 38 CFR part 3. DAV asserts that the rules applicable to BVA also make it clear that the term ''hearing'' pertains to oral hearings. Notwithstanding the Treasury rule, DAV believes that it is fundamentally unfair that the decision on whether to afford an oral hearing is at the discretion of the hearing official. If VA has the latitude to make its own rules on these hearing procedures, DAV believes VA has the latitude to offer an oral hearing for all debtors that desire one. DAV also feels the oral hearing should be recorded and preferably transcribed, since any decision under § 1.923 will be subject to appellate review where testimonial evidence will be pertinent. Our proposed § 1.923(c)(1) provides that the hearing official must maintain a summary record of the proceedings, but is not required to produce a transcript of the hearing. The Treasury regulation at 31 CFR 285.11(f)(9) only requires a summary record and we believe this to be sufficient.

In publishing § 1.923, VA has no intention of depriving veterans and other VA benefit claimants of any rights they are entitled to under title 38 of the U.S. Code or under 38 CFR part 3. However, § 1.923 is intended to authorize AWG for all debts owed VA, not just those debts that are the result of participation in a benefits program under title 38. Our reference to 38 CFR 1.911(c)(1) in § 1.923(c)(6) is intended to distinguish these rights (of veterans and other benefit claimants) from the rights of debtors whose debts are not resulting from participation in a VA benefit program. The intent is to recognize the right to dispute the existence and amount of a benefit debt in accordance with § 1.911(c)(1) and to allow any existing VA regional office or BVA decision to be incorporated by reference and become the basis of the hearing official's decision. Thus, a veteran and any other claimant as defined in 38 U.S.C. 5100 would retain any rights under VA statute and regulations if he or she disputed the existence and amount of a benefit debt that eventually became subject to AWG. The AWG regulations do not confer on veterans or other claimants an additional opportunity to challenge the debt or to request a waiver, as these rights were available to them at the initial notification of indebtedness.

DAV states that § 1.923(c)(5), which is modeled on § 285.11(f)(8), violates existing law and cites 38 U.S.C. 5107 and *Gilbert* v. *Derwinski,* 1 Vet. App. 49, 54 (1990), as authority for their position. Section 1.923(c)(5) states that VA or Treasury shall have the burden of going forward to prove the existence or amount of the debt, after which the debtor must show, by a preponderance of the evidence, that no debt exists or the amount of the debt is incorrect. DAV cites the fact that a more liberal burden of proof applies to veterans and other claimants under VA law because a veteran need only demonstrate that there is an approximate balance of positive and negative evidence in order to prevail.

As stated above, § 1.923 is intended to authorize AWG for all debts owed VA, not just those debts that are the result of participation in a benefits program under title 38 of the U.S. Code. The burden of proof described in § 1.923(c)(5) is applicable to all debts owed VA. However, a debtor can dispute the existence and amount of a debt arising out of participation in a VA benefits program in accordance with § 1.911(c)(1) and appeal any adverse decision under 38 CFR parts 19 and 20. Under such procedures, the debtor would be under the more liberal burden of proof. Prior decisions rendered under procedures set forth in 38 CFR applicable to the benefit would become the basis of the hearing official's decision, as stated in our earlier discussion of § 1.923(c)(6). In all probability, by the time a debt reaches the AWG process, veterans and other claimants would have already had the opportunity to exercise any rights under the benefit debt process and the debt would be merely a debt owed to the Federal government.

Finally, Treasury's 31 CFR 285.11 states that the hearing official's decision will be the final agency action for the purposes of judicial review under the Administrative Procedure Act (APA). VA's proposed § 1.923(c)(7) merely restates the same thing. DAV correctly points out that VA's administrative adjudicative processes for VA benefits are not subject to the APA. DAV states that § 1.923(c)(7) needs to be revised; otherwise this proposed rule would

remove BVA from the process, and in so doing, would preclude review by the U.S. Court of Appeals for Veterans Claims.

Again, any decision concerning the existence or amount of a debt arising out of participation in a VA benefits program will be made in accordance with the procedures set forth in 38 CFR applicable to the benefit. Any such decision will be the basis of a hearing official's AWG decision. As stated above, by the time a debt reaches the AWG process, veterans and other claimants have already had the opportunity to exercise any rights under the benefit debt process and the debt would be merely a debt owed to the Federal government.

In addition to the changes discussed above as a result of comments we received, we are making in the final rule changes from the proposed rule by adding or revising authority citations; removing redundant language or unnecessary cross-references; in the instruction for § 1.919, redesignated as § 1.915, correcting an inadvertent error by revising the amendments to paragraph (f)(2) to reflect that we are removing paragraph (f)(2) and its authority citation and reserving paragraph (f)(2); removing a reference in proposed new § 1.923 to a now-obsolete Treasury form number and referring instead to ''a Treasury-approved'' form; adding language to § 1.907, Definitions, to promote clarity in understanding the provisions of §§ 1.900 through 1.953; and making other nonsubstantive changes for purposes of clarity or of a technical nature. The Regulatory Flexibility Act paragraph in this preamble also reflects correcting changes.

This final rule makes a nonsubstantive clarifying change to the second sentence of proposed § 1.963a(b), which stated that, ''[g]enerally,'' collection of an overpayment of employees'' pay, expenses, and allowances will be ''against equity and good conscience'' if the overpayment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or other person having an interest in obtaining a waiver. The qualifying term ''[g]enerally'' reflects that VA Committees on Waivers and Compromises retain discretion to determine that collection would not be against equity and good conscience in some instances involving overpayments due to administrative error without fault on the part of the employee, such as in cases where the windfall to the employee or the burden to the government by reason of the overpayment would be inequitably large or where VA promptly advised the claimant of a potential overpayment and the possibility of collection. In this final rule, we have added the phrase ''and waiver would not otherwise be inequitable'' to the second sentence of § 1.963a(b) in order to reiterate and clarify that the determination ultimately turns on the equities of each case, as provided in the preceding sentence. This change does not alter the meaning of the proposed rule.

Based on the rationale set forth in the preamble to the proposed rule and in this preamble, VA is adopting the provisions of the proposed rule as a final rule without change except as noted above.

**Paperwork Reduction Act**

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This proposed amendment would have no such effect on State, local, or tribal governments, or the private sector.

**Regulatory Flexibility Act**

The Secretary hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule primarily affects individuals. It only occasionally affects a small entity, and its economic impact would not be a significant one on a substantial number of small entities. The economic impact on small entities would be solely related to the rule's provisions for collection of an entity's indebtedness to VA or garnishment of wages of an entity's employee determined to be indebted to VA. Therefore, pursuant to 5 U.S.C. 605(b), this rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance**

There is no applicable Catalog of Federal Domestic Assistance number.

**List of Subjects**

*38 CFR Part 1*

Claims, Administrative practice and procedure, Veterans.

*38 CFR Part 2*

Delegations of authority.

Approved: October 15, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set forth in the preamble, 38 CFR parts 1 and 2 are amended as follows:

## PART 1—GENERAL PROVISIONS

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

**Authority:** 38 U.S.C. 501(a), and as noted in specific sections.

■ 2. The authority citation preceding § 1.900 is revised to read as follows:

**Authority:** Sections 1.900 through 1.953 are issued under the authority of 31 U.S.C. 3711 through 3720E; 38 U.S.C. 501, and as noted in specific sections.

■ 3. Section 1.900 is revised to read as follows:

### § 1.900 Prescription of standards.

(a) The standards contained in §§ 1.900 through 1.953 are issued pursuant to the Federal Claims Collection Standards, issued by the Department of the Treasury (Treasury) and the Department of Justice (DOJ) in parts 900 through 904 of 31 CFR, as well as other debt collection authority issued by Treasury in part 285 of 31 CFR, and apply to the collection, compromise, termination, and suspension of debts owed to VA, and the referral of such debts to Treasury (or other Federal agencies designated by Treasury) for offset and collection action and to DOJ for litigation, unless otherwise stated in this part or in other statutory or regulatory authority, or by contract.

(b) Standards and policies regarding the classification of debt for accounting purposes (for example, write-off of uncollectible debt) are contained in the Office of Management and Budget's Circular A–129 (Revised), ''Policies for Federal Credit Programs and Non-Tax Receivables.''

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 4. Section 1.901 is revised to read as follows:

### § 1.901 No private rights created.

Sections 1.900 through 1.953 do not create any right or benefit, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, its officers, or any

other person, nor shall the failure of VA to comply with any of the provisions of §§ 1.900 through 1.953 be available to any debtor as a defense.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 5. Section 1.902 is revised to read as follows:

**§ 1.902 Antitrust, fraud, and tax and interagency claims.**

(a) The standards in §§ 1.900 through 1.953 relating to compromise, suspension, and termination of collection activity do not apply to any debt based in whole or in part on conduct in violation of the antitrust laws or to any debt involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim. Only the Department of Justice (DOJ) has the authority to compromise, suspend, or terminate collection activity on such claims. The standards in §§ 1.900 through 1.953 relating to the administrative collection of claims do apply, but only to the extent authorized by DOJ in a particular case. Upon identification of a claim based in whole or in part on conduct in violation of the antitrust laws or any claim involving fraud, the presentation of a false claim, or misrepresentation on the part of the debtor or any party having an interest in the claim, VA shall promptly refer the case to DOJ. At its discretion, DOJ may return the claim to VA for further handling in accordance with the standards in §§ 1.900 through 1.953.

(b) Sections 1.900 through 1.953 do not apply to tax debts.

(c) Sections 1.900 through 1.953 do not apply to claims between Federal agencies.

(d) Federal agencies should attempt to resolve interagency claims by negotiation in accordance with Executive Order 12146 (3 CFR, 1980 Comp., pp. 409–412).

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 6. Section 1.903 is revised to read as follows:

**§ 1.903 Settlement, waiver, or compromise under other statutory or regulatory authority.**

Nothing in §§ 1.900 through 1.953 precludes VA settlement, waiver, compromise, or other disposition of any claim under statutes and implementing regulations other than subchapter II of chapter 37 of Title 31 of the United States Code (Claims of the United States Government) and the standards in Title 31 CFR parts 900 through 904. See, for example, the Federal Medical Care Recovery Act (42 U.S.C. 2651 *et seq.*) and applicable regulations, 28 CFR part 43. In such cases, the laws and regulations that are specifically applicable to claims collection activities of VA generally take precedence over 31 CFR parts 900 through 904.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 7. Section 1.904 is revised to read as follows:

**§ 1.904 Form of payment.**

Claims may be paid in the form of money or, when a contractual basis exists, VA may demand the return of specific property or the performance of specific services.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 8. Section 1.905 is revised to read as follows:

**§ 1.905 Subdivision of claims not authorized.**

Debts may not be subdivided to avoid the monetary ceiling established by 31 U.S.C. 3711(a)(2). A debtor's liability arising from a particular transaction or contract shall be considered as a single debt in determining whether the debt is one of less than $100,000 (excluding interest, penalties, and administrative costs) or such higher amount as the Attorney General shall from time to time prescribe for purposes of compromise, suspension, or termination of collection activity.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 9. Section 1.906 is revised to read as follows:

**§ 1.906 Required administrative proceedings.**

(a) In applying §§ 1.900 through 1.953, VA is not required to omit, foreclose, or duplicate administrative proceedings required by contract or other laws or regulations.

(b) Nothing contained in §§ 1.900 through 1.953 is intended to foreclose the right of any debtor to an administrative proceeding, including appeals, waivers, and hearings provided by statute, contract, or VA regulation (see 38 U.S.C. 3720(a)(4) and 5302 and 42 U.S.C. 2651–2653).

(Authority: 38 U.S.C. 501, 3720(a)(4), 5302; 42 U.S.C. 2651 through 2653).

■ 10. Section 1.907 is revised to read as follows:

**§ 1.907 Definitions.**

(a) The definitions and construction found in the Federal Claims Collection Standards in 31 CFR 900.2(a) through (d), and the definitions in the provisions on administrative wage garnishment in 31 CFR 285.11(c) shall apply to §§ 1.900 through 1.953, except as otherwise stated.

(b) As used in §§ 1.900 through 1.953, *referral for litigation* means referral to the Department of Justice for appropriate legal actions, except in those specified instances where a case is referred to a VA Regional Counsel for legal action.

(c) As used in §§ 1.900 through 1.953, *VA benefit program* means medical care, home loan, and benefits payment programs administered by VA under Title 38 of the United States Code, except as otherwise stated.

(d) As used in §§ 1.900 through 1.953, *Treasury* means the United States Department of the Treasury.

(Authority: 31 U.S.C. 3701, 3711; 38 U.S.C. 501, 5316).

■ 11. The authority citation preceding § 1.910 is removed.

■ 12. Section 1.910 is revised to read as follows:

**§ 1.910 Aggressive collection action.**

(a) VA will take aggressive collection action on a timely basis, with effective follow-up, to collect all claims for money or property arising from its activities.

(b) In accordance with 31 U.S.C. 3711(g) and the procedures set forth at 31 CFR 285.12, VA shall transfer to Treasury any non-tax debt or claim that has been delinquent for a period of 180 days or more so that Treasury may take appropriate action to collect the debt or terminate collection action. This requirement does not apply to any debt that:

(1) Is in litigation or foreclosure;

(2) Will be disposed of under an approved asset sale program;

(3) Has been referred to a private collection contractor for a period of time acceptable to the Secretary of the Treasury;

(4) Is at a debt collection center for a period of time acceptable to the Secretary of the Treasury;

(5) Will be collected under internal offset procedures within 3 years after the debt first became delinquent; or

(6) Is exempt from this requirement based on a determination by the Secretary of the Treasury that exemption for a certain class of debt is in the best interest of the United States. VA may request that the Secretary of the Treasury exempt specific classes of debts.

(c) In accordance with 31 U.S.C. 3716(c)(6) and the procedures set forth in 31 CFR part 285, VA shall notify Treasury of all past due, legally enforceable non-tax debt that is over 180 days delinquent for purposes of

administrative offset, including tax refund offset and federal salary offset. (Procedures for referral to Treasury for tax refund offset are found at 31 CFR 285.2 and procedures for referral to Treasury for federal salary offset are found at 38 CFR 1.995 and 31 CFR 285.7.)

(Authority: 31 U.S.C. 1311, 1316; 38 U.S.C. 501, 5314; 31 CFR part 285).

■ 13. Section 1.911 is amended by:
■ A. Revising paragraphs (a), (b), (c)(3), (d)(4), (d)(5), (f)(1), and (f)(5), and the authority citation at the end of the section (f)(5).
■ B. Adding paragraphs (d)(6) and (d)(7).

The revisions and additions read as follows:

**§ 1.911 Collection of debts owed by reason of participation in a benefits program.**

(a) *Scope.* This section applies to the collection of debts resulting from an individual's participation in a VA benefit or home loan program. It does not apply to VA's other debt collection activities. Standards for the demand for payment of all other debts owed to VA are set forth in § 1.911a. School liability debts are governed by § 21.4009 of this title.

(b) *Written demands.* When VA has determined that a debt exists by reason of an administrative decision or by operation of law, VA shall promptly demand, in writing, payment of the debt. VA shall notify the debtor of his or her rights and remedies and the consequences of failure to cooperate with collection efforts. Generally, one demand letter is sufficient, but subsequent demand letters may be issued as needed.

(c) * * *

* * * * *

(3) *Appeal.* In accordance with parts 19 and 20 of this title, the debtor may appeal the decision underlying the debt.

(d) * * *

* * * * *

(4) That collection may be made by offset from current or future VA benefit payments (see § 1.912a). In addition, the debtor shall be advised of any policies with respect to the use of credit bureaus, debt collection centers, and collection agencies; any other remedies to enforce payment of the debt, including administrative wage garnishment, Federal salary offset, tax refund offset, and litigation; and the requirement that any debt delinquent for more than 180 days be transferred to Treasury for administrative offset or collection.

(5) That interest and administrative costs may be assessed in accordance with § 1.915, as appropriate;

(6) That the debtor shall have the opportunity to inspect and copy records; and

(7) That the debtor shall have the opportunity to enter into a repayment agreement.

* * * * *

(f) * * *

(1) Appellate rights, in parts 19 and 20 of this title;

* * * * *

(5) The assessment of interest and administrative costs, in § 1.915.

(Authority: 38 U.S.C. 501, 5302, 5314).

■ 14. Section 1.911a is added to read as follows:

**§ 1.911a Collection of non-benefit debts.**

(a) This section is written in accordance with 31 CFR 901.2 and applies to the demand for payment of all debts, except those debts arising out of participation in a VA benefit or home loan program. Procedures for the demand for payment of VA benefit or home loan program debts are set forth in § 1.911.

(b) Written demand as described in paragraph (c) of this section shall be made promptly upon a debtor of VA in terms that inform the debtor of the consequences of failing to cooperate with VA to resolve the debt. Generally, one demand letter is sufficient, but subsequent letters may be issued. In determining the timing of the demand letter, VA should give due regard to the need to refer debts promptly to the Department of Justice for litigation, in accordance with §§ 1.950 through 1.953. When necessary to protect VA's interest (for example, to prevent the running of a statute of limitations), written demand may be preceded by other appropriate actions under 38 CFR 1.900 through 1.953, including immediate referral for litigation.

(c) The written demand letter shall inform the debtor of:

(1) The basis for the indebtedness and any rights the debtor may have to seek review within VA, including the right to request waiver;

(2) The applicable standards for imposing any interest or other late payment charges;

(3) The date by which payment should be made to avoid interest and other late payment charges and enforced collection, which generally should not be more than 30 days from the date that the demand letter is mailed;

(4) The name, address, and phone number of a contact person or office within the agency;

(5) The opportunity to inspect and copy VA records related to the debt; and

(6) The opportunity to make a written agreement to repay the debt.

(d) In addition to the items listed in paragraph (c) of this section, VA should include in the demand letter VA's willingness to discuss alternative methods of payment and its policies with respect to the use of credit bureaus, debt collection centers, and collection agencies. The letter should also indicate the agency's remedies to enforce payment of the debt (including assessment of interest, administrative costs and penalties, administrative garnishment, Federal salary offset, tax refund offset, administrative offset, and litigation) and the requirement that any debt delinquent for more than 180 days be transferred to Treasury for collection.

(e) VA should respond promptly to communications from debtors and should advise debtors who dispute debts, or request waiver, to furnish available evidence to support their contentions.

(f) Prior to referring a debt for litigation, VA should advise each debtor determined to be liable for the debt that, unless the debt can be collected administratively, litigation may be initiated. This notification may be given as part of a demand letter under paragraph (c) of this section or in a separate letter.

(g) When VA learns that a bankruptcy petition has been filed with respect to a debtor, before proceeding with further collection action, VA should immediately seek legal advice from either VA's General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code on any pending or contemplated collection activities. Unless VA determines that the automatic stay imposed at the time of filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor should stop immediately.

(1) After VA seeks legal advice, a proof of claim should be filed in most cases with the bankruptcy court or the Trustee. VA should refer to the provisions of 11 U.S.C. 106 relating to the consequences on sovereign immunity of filing a proof of claim.

(2) If VA is a secured creditor, it may seek relief from the automatic stay regarding its security, subject to the provisions and requirements of 11 U.S.C. 362.

(3) Offset is prohibited in most cases by the automatic stay. However, VA should seek legal advice from VA's General Counsel or Regional Counsel to determine whether payments to the debtor and payments of other agencies available for offset may be frozen by VA until relief from the automatic stay can

be obtained from the bankruptcy court. VA also should seek legal advice from VA's General Counsel or Regional Counsel to determine whether recoupment is available.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 15. Section 1.912 is amended by:
■ A. Revising paragraphs (a), (c)(2), (d)(1), (d)(2), and (f).
■ B. Adding paragraphs (d)(3), (d)(4), (g), (h), and (i).

The revisions and additions read as follows:

**§ 1.912 Collection by offset.**

(a) *Authority and scope.* In accordance with the procedures set forth in 31 CFR 901.3, as well as 31 CFR part 285, VA shall collect debts by administrative offset from payments made by VA to a debtor indebted to VA. Also in accordance with 31 CFR 901.3(b), as well as 31 CFR part 285, VA shall refer past due, legally enforceable non-tax debts which are over 180 days delinquent to Treasury for collection by centralized administrative offset (further procedures are set forth in paragraph (g) of this section). This section does not pertain to offset from either VA benefit payments made under the authority of 38 U.S.C. 5314 or from current salary, but does apply to offset from all other VA payments, including an employee's final salary check and lump-sum leave payment. Procedures for offset from benefit payments are found in § 1.912a. Procedures for offset from current Federal salary are found in §§ 1.980 through 1.995. NOTE: VA cannot offset, or refer for the purpose of offset, either under the authority of this section or under any other authority found in §§ 1.900 through 1.953 and §§ 1.980 through 1.995, any VA home loan program debt described in 38 U.S.C. 3726 unless the requirements set forth in that section have been met.

* * * * *

(c) * * *

(2) If the debtor, within 30 days of the date of the required notification by VA, requests in writing the waiver of collection of the debt in accordance with § 1.963, § 1.963a, or § 1.964, offset shall not commence until VA has made an initial decision to deny the waiver request.

* * * * *

(d) * * *

(1) Offset may commence prior to either resolution of a dispute or decision on a waiver request as discussed in paragraph (c) of this section, if collection of the debt would be jeopardized by deferral of offset (for example, if VA first learns of the debt when there is insufficient time before a final payment would be made to the debtor to allow for prior notice and opportunity for review or waiver consideration). In such a case, notification pursuant to paragraph (b) of this section shall be made at the time offset begins or as soon thereafter as possible. VA shall promptly refund any money that has been collected that is ultimately found not to have been owed to the Government.

(2) If the United States has obtained a judgment against the debtor, offset may commence without the notification required by paragraph (b) of this section. However, a waiver request filed in accordance with the time limits and other requirements of § 1.963, § 1.963a, or § 1.964 will be considered, even if filed after a judgment has been obtained against the debtor. If waiver is granted, in whole or in part, refund of amounts already collected will be made in accordance with § 1.967.

(3) The procedures set forth in paragraph (b) of this section may be omitted when the debt arises under a contract that provides for notice and other procedural protections.

(4) Offset may commence without the notification required by paragraph (b) of this section when the offset is in the nature of a recoupment. As defined in 31 CFR 900.2(d), recoupment is a special method for adjusting debts arising under the same transaction or occurrence.

* * * * *

(f) *Statutes of limitation; multiple debts.* When collecting multiple debts by administrative offset, VA shall apply the recovered amounts to those debts in accordance with the best interests of the United States, as determined by the facts and circumstances of the particular case, paying special attention to applicable statutes of limitation. In accordance with 31 CFR 901.3(a)(4), VA may not initiate offset to collect a debt more than 10 years after VA's right to collect the debt first accrued (with certain exceptions as specified in 31 CFR 901.3(a)(4)).

(g) *Centralized administrative offset.* (1) When VA refers delinquent debts to Treasury for centralized administrative offset in accordance with 31 CFR part 285, VA must certify that:

(i) The debts are past due and legally enforceable; and

(ii) VA has complied with all due process requirements under 31 U.S.C. 3716(a) and paragraphs (b) and (c) of this section.

(2) Payments that are prohibited by law from being offset are exempt from centralized administrative offset.

(h) *Computer Matching and Privacy Act waiver.* In accordance with 31 U.S.C. 3716(f), the Secretary of the Treasury may waive the provisions of the Computer Matching and Privacy Protection Act of 1988 concerning matching agreements and post-match notification and verification (5 U.S.C. 552a(o) and (p)) for centralized administrative offset upon receipt of a certification from a creditor agency that the due process requirements enumerated in 31 U.S.C. 3716(a) and paragraphs (b) and (c) of this section have been met. The certification of a debt in accordance with paragraph (g) of this section will satisfy this requirement. If such a waiver is granted, only the Data Integrity Board of the Department of the Treasury is required to oversee any matching activities, in accordance with 31 U.S.C. 3716(g).

(i) *Requests by creditor agencies for offset.* Unless the offset would not be in VA's best interest, or would otherwise be contrary to law, VA will comply with requests by creditor agencies to offset VA payments (except for current salary or benefit payments) made to a person indebted to the creditor agency. However, before VA may initiate offset, the creditor agency must certify in writing to VA that the debtor has been provided:

(1) Written notice of the type and amount of the debt and the intent of the creditor agency to use administrative offset to collect the debt;

(2) The opportunity to inspect and copy agency records related to the debt;

(3) The opportunity for review within the agency of the determination of the indebtedness; and

(4) The opportunity to make a written agreement to repay the debt.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 16. Section 1.912a is amended by:
■ A. In paragraph (b), removing ''§ 1.911a(c) and (d)'' and adding, in its place, ''§ 1.911(c) and (d)''.
■ B. In paragraph (c)(1), removing ''§ 1.911a(c)(1)'' and adding, in its place, ''§ 1.911(c)(1)''.
■ C. In paragraph (d), removing ''§ 1.911a(d)'' and adding, in its place, ''§ 1.911(d)''.
■ D. Adding paragraph (c)(4) to read as follows:

**§ 1.912a Collection by offset—from VA benefit payments.**

* * * * *

(c) * * *

(4) VA will pursue collection action once an adverse initial decision is reached on the debtor's request for waiver and/or the debtor's informal dispute (as described in § 1.911(c)(1)) concerning the existence or amount of the debt, even if the debtor subsequently

pursues appellate relief in accordance with parts 19 and 20 of this title.

* * * * *

**§§ 1.913, 1.914, and 1.915 [Removed]**

■ 17. Sections 1.913, 1.914, and 1.915 are removed.

**§ 1.916 [Redesignated as § 1.913]**

■ 18. Section 1.916 is redesignated as new § 1.913 and is revised to read as follows:

**§ 1.913 Liquidation of collateral.**

(a) VA should liquidate security or collateral through the exercise of a power of sale in the security instrument or a nonjudicial foreclosure, and apply the proceeds to the applicable debt, if the debtor fails to pay the debt within 180 days after demand and if such action is in the best interest of the United States. Collection from other sources, including liquidation of security or collateral, is not a prerequisite to requiring payment by a surety, insurer, or guarantor, unless such action is expressly required by statute or contract.

(b) When VA learns that a bankruptcy petition has been filed with respect to a debtor, VA should seek legal advice from VA's General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code, including, but not limited to, 11 U.S.C. 362, to determine the applicability of the automatic stay and the procedures for obtaining relief from such stay prior to proceeding under paragraph (a) of this section.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.917 [Redesignated as § 1.914]**

■ 19. Section 1.917 is redesignated as new § 1.914 and is revised to read as follows:

**§ 1.914 Collection in installments.**

(a) Whenever feasible, VA shall collect the total amount of a debt in one lump sum. If a debtor is financially unable to pay a debt in one lump sum, VA may accept payment in regular installments. VA should obtain financial statements from debtors who represent that they are unable to pay in one lump sum and independently verify such representations whenever possible. If VA agrees to accept payments in regular installments, VA should obtain a legally enforceable written agreement from the debtor that specifies all of the terms of the arrangement and contains a provision accelerating the debt in the event of default.

(b) The size and frequency of installment payments should bear a reasonable relation to the size of the debt and the debtor's ability to pay. If possible, the installment payments should be sufficient in size and frequency to liquidate the debt in 3 years or less.

(c) Security for deferred payments should be obtained in appropriate cases. However, VA may accept installment payments if the debtor refuses to execute a written agreement or to give security.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.918 [Removed]**

■ 20. Section 1.918 is removed.

**§ 1.919 [Redesignated as § 1.915]**

■ 21. Section 1.919 is redesignated as new § 1.915 and is amended by:

■ A. Revising paragraphs (a) and (c).

■ B. In paragraph (d), removing ''§ 1.919'' and adding, in its place, ''this section''.

■ C. Removing paragraph (f)(2) and its authority citation, and reserving paragraph (f)(2).

■ D. Revising paragraph (g).

The revisions read as follows:

**§ 1.915 Interest, administrative costs, and penalties.**

(a) Except as otherwise provided by statute, contract, or other regulation to the contrary, and subject to 38 U.S.C. 3485(e) and 5302, VA shall assess:

(1) Interest on all indebtedness to the United States arising out of participation in a VA benefit, medical care, or home loan program under authority of Title 38, U.S. Code.

(2) Interest and administrative costs of collection on such debts described in paragraph (a)(1) of this section where repayment has become delinquent (as defined in 31 CFR 900.2(b)), and

(3) Interest, administrative costs, and penalties in accordance with 31 CFR 901.9 on all debts other than those described in paragraph (a)(1) of this section.

* * * * *

(c) The rate of interest charged by VA shall be based on the rate established annually by the Secretary of the Treasury in accordance with 31 U.S.C. 3717 and shall be adjusted annually by VA on the first day of the calendar year. Once the rate of interest has been determined for a particular debt, the rate shall remain in effect throughout the duration of repayment of that debt. When a debtor defaults on a repayment agreement and seeks to enter into a new agreement, VA may require payment of interest at a new rate that reflects the current value of funds to the Treasury at the time the new agreement is executed. Interest shall not be compounded, that is, interest shall not be charged on accrued interest and administrative costs required by this section. If, however, a debtor defaults on a previous repayment agreement, interest and administrative costs that accrued but were not collected under the defaulted agreement shall be added to the principal under the new agreement.

* * * * *

(g) Administrative costs assessed under this section shall be the average costs of collection of similar debts, or actual collection costs as may be accurately determined in the particular case. No administrative costs of collection will be assessed under this section in any cases where the indebtedness is paid in full prior to the 30-day period specified in paragraph (e) of this section, or in any case where a repayment plan is proposed by the debtor and accepted by VA within that 30-day period, unless such repayment agreement becomes delinquent (as defined in 31 CFR 900.2(b)).

(Authority: 31 U.S.C. 3717; 38 U.S.C. 501, 5302, 5315).

**§ 1.920 [Removed]**

■ 22. Section 1.920 is removed.

**§ 1.921 [Removed]**

■ 23. Section 1.921 is removed.

**§ 1.922 [Redesignated as § 1.916]**

■ 24. Section 1.922 is redesignated as new § 1.916 and is amended by:

■ A. Revising paragraph (d)(2)(i).

■ B. Revising the authority citation at the end of the section.

The revisions read as follows:

**§ 1.916 Disclosure of debt information to consumer reporting agencies (CRA).**

* * * * *

(d) * * *

(2)(i) In accordance with § 1.911 and § 1.911a, VA shall notify each individual of the right to dispute the existence and amount of the debt and to request a waiver of the debt, if applicable.

* * * * *

(Authority: 31 U.S.C. 3711(e); 38 U.S.C. 501, 5701(g) and (i)).

**§ 1.923 [Redesignated as § 1.917]**

■ 25. Section 1.923 is redesignated as new § 1.917 and is amended by:

■ A. Revising paragraph (b) introductory text.

■ B. Adding paragraphs (c) through (e).

The revision and additions read as follows:

**§ 1.917 Contracting for collection services.**

* * * * *

(b) In accordance with 31 U.S.C. 3718(d), or as otherwise permitted by

law, collection service contracts may be funded in the following manner:

* * * * *

(c) VA shall use government-wide debt collection contracts to obtain debt collection services provided by private collection contractors. However, VA may refer debts to private collection contractors pursuant to a contract between VA and a private collection contractor only if such debts are not subject to the requirement to transfer debts to Treasury for debt collection. See 31 U.S.C. 3711(g), 31 CFR 285.12(e), and 38 CFR 1.910.

(d) VA may enter into contracts for locating and recovering assets of the United States, such as unclaimed assets.

(e) VA may enter into contracts for debtor asset and income search reports. In accordance with 31 U.S.C. 3718(d), such contracts may provide that the fee a contractor charges the agency for such services may be payable from the amounts recovered, unless otherwise prohibited by statute.

(Authority: 31 U.S.C. 3718; 38 U.S.C. 501).

■ 26. Section 1.924 is redesignated as § 1.918 and is amended by revising paragraphs (a) and (b) and the authority citation at the end of the section to read as follows:

**§ 1.918 Use and disclosure of mailing addresses.**

(a) When attempting to locate a debtor in order to compromise or collect a debt in accordance with §§ 1.900 through 1.953, VA may send a request to the Secretary of the Treasury, or his/her designee, in order to obtain the debtor's most current mailing address from the records of the Internal Revenue Service.

(b) VA is authorized to use mailing addresses obtained under paragraph (a) of this section to enforce collection of a delinquent debt and may disclose such mailing addresses to other agencies and to collection agencies for collection purposes.

* * * * *

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 27. Section 1.925 is redesignated as § 1.919 and is amended by revising paragraphs (a) and (b)(3) and the authority citation at the end of the section to read as follows:

**§ 1.919 Administrative offset against amounts payable from Civil Service Retirement and Disability Fund, Federal Employees Retirement System (FERS), final salary check, and lump sum leave payments.**

(a) Unless otherwise prohibited by law or regulation, and in accordance with 31 CFR 901.3(d), VA may request that money which is due and payable to a debtor from either the Civil Service Retirement and Disability Fund or FERS be administratively offset in reasonable amounts in order to collect, in one full payment or a minimal number of payments, debts that are owed to VA by the debtor. Such requests shall be made to the appropriate officials at the Office of Personnel Management (OPM) in accordance with such regulations prescribed by the Director of OPM. (See 5 CFR 831.1801 through 831.1808). In addition, VA may also offset against a Federal employee's final salary check and lump sum leave payment. See § 1.912 for procedures for offset against a final salary check and lump sum leave payment.

(b) * * *

(3) VA has complied with §§ 1.911, 1.911a, 1.912, 1.912a, and 31 CFR 901.3, to the extent applicable, including any required hearing or review.

* * * * *

(Authority: 5 U.S.C. 8461; 31 U.S.C. 3711, 3716; 38 U.S.C. 501).

■ 28. Section 1.926 is redesignated as § 1.920 and amended by revising paragraphs (a), (c)(6), and (e), and the authority citation at the end of the section, to read as follows:

**§ 1.920 Referral of VA debts.**

(a) When authorized, VA may refer an uncollectible debt to another Federal or State agency for the purpose of collection action. Collection action may include the offsetting of the debt from any current or future payment, except salary (see paragraph (e) of this section), made by such Federal or State agency to the person indebted to VA.

* * * * *

(c) * * *

(6) Other applicable notices required by §§ 1.911, 1.911a, 1.912, and 1.912a.

* * * * *

(e) The referral by VA of a VA debt to another agency for the purpose of salary offset shall be done in accordance with 38 CFR 1.980 through 1.995 and regulations prescribed by the Director of the Office of Personnel Management (OPM) in 5 CFR part 550, subpart K.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 29. Section 1.927 is redesignated as new § 1.921 and is revised to read as follows:

**§ 1.921 Analysis of costs.**

VA collection procedures should provide for periodic comparison of costs incurred and amounts collected. Data on costs and corresponding recovery rates for debts of different types and in various dollar ranges should be used to compare the cost effectiveness of alternative collection techniques, establish guidelines with respect to points at which costs of further collection efforts are likely to exceed recoveries, assist in evaluating offers in compromise, and establish minimum debt amounts below which collection efforts need not be taken.

(Authority: 31 U.S.C. 3711–3719; 38 U.S.C. 501).

■ 30. Section 1.928 is redesignated as new § 1.922 and is revised to read as follows:

**§ 1.922 Exemptions.**

(a) Sections 1.900 through 1.953, to the extent they reflect remedies or procedures prescribed by the Debt Collection Act of 1982 and the Debt Collection Improvement Act of 1996, such as administrative offset, use of credit bureaus, contracting for collection agencies, and interest and related charges, do not apply to debts arising under, or payments made under, the Internal Revenue Code of 1986, as amended (26 U.S.C. 1 *et seq.*); the Social Security Act (42 U.S.C. 301 *et seq.*), except to the extent provided under 42 U.S.C. 404 and 31 U.S.C. 3716(c); or the tariff laws of the United States. These remedies and procedures, however, may be authorized with respect to debts that are exempt from the Debt Collection Act of 1982 and the DCIA of 1996, to the extent that they are authorized under some other statute or the common law.

(b) This section should not be construed as prohibiting the use of §§ 1.900 through 1.953 when collecting debts owed by persons employed by agencies administering the laws cited in paragraph (a) of this section unless the debt arose under those laws.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 31. New § 1.923 is added to read as follows:

**§ 1.923 Administrative wage garnishment.**

(a) In accordance with the procedures set forth in 31 U.S.C. 3720D and 31 CFR 285.11, VA or Treasury may request that a non-Federal employer garnish the disposable pay of an individual to collect delinquent non-tax debt owed to VA. VA may pursue wage garnishment independently in accordance with this section or VA or Treasury may pursue garnishment after VA refers a debt to Treasury in accordance with § 1.910 of this part and 31 CFR 285.12. For the purposes of this section, any reference to Treasury also includes any private collection agency under contract to Treasury.

(b) At least 30 days prior to the initiation of garnishment proceedings,

VA or Treasury shall send a written notice, as described in 31 CFR 285.11(e), by first class mail to the debtor's last known address. This notice shall inform the debtor of:

(1) The nature and amount of the debt;

(2) The intention of VA or Treasury to initiate proceedings to collect the debt through deductions from the debtor's pay until the debt and all accumulated interest, and other late payment charges, are paid in full, and;

(3) An explanation of the debtor's rights, including the opportunity:

(i) To inspect and copy VA records pertaining to the debt;

(ii) To enter into a written repayment agreement with VA or Treasury under terms agreeable to VA or Treasury, and;

(iii) To a hearing in accordance with 31 CFR 285.11(f) and paragraph (c) of this section concerning the existence or amount of the debt or the terms of the proposed repayment schedule under the garnishment order. However, the debtor is not entitled to a hearing concerning the terms of the proposed repayment schedule if these terms have been established by written agreement under paragraph (b)(3)(ii) of this section.

(c) Any hearing conducted as part of the administrative wage garnishment process shall be conducted by the designated hearing official in accordance with the procedures set forth in 31 CFR 285.11(f). This hearing official may be any VA Board of Contract Appeals Administrative Judge or Hearing Examiner, or any other VA hearing official. This hearing official may also conduct administrative wage garnishment hearings for other Federal agencies.

(1) The hearing may be oral or written as determined by the designated hearing official. The hearing official shall provide the debtor with a reasonable opportunity for an oral hearing when the hearing official determines that the issue in dispute cannot be resolved by review of documentary evidence, for example, when the validity of the claim turns on the issue of credibility or veracity. The hearing official shall establish the time and place of any oral hearing. At the debtor's option, an oral hearing may be conducted either in person or by telephone conference call. A hearing is not required to be a formal, evidentiary-type hearing, but witnesses who testify in oral hearings must do so under oath or affirmation. While it is not necessary to produce a transcript of the hearing, the hearing official must maintain a summary record of the proceedings. All travel expenses incurred by the debtor in connection with an in-person hearing shall be borne by the debtor. VA or Treasury shall be responsible for all telephone expenses. In the absence of good cause shown, a debtor who fails to appear at a hearing will be deemed as not having timely filed a request for a hearing.

(2) If the hearing official determines that an oral hearing is not necessary, then he/she shall afford the debtor a ''paper hearing.'' In a ''paper hearing,'' the hearing official will decide the issues in dispute based upon a review of the written record.

(3) If the debtor's written request for a hearing is received by either VA or Treasury within 15 business days following the mailing of the notice described in paragraph (b) of this section, then VA or Treasury shall not issue a withholding order as described in paragraph (d) of this section until the debtor is afforded the requested hearing and a decision rendered. If the debtor's written request for a hearing is not received within 15 business days following the mailing of the notice described in paragraph (b) of this section, then the hearing official shall provide a hearing to the debtor, but will not delay issuance of a withholding order as described in paragraph (d) of this section, unless the hearing official determines that the delay in filing was caused by factors beyond the debtor's control.

(4) The hearing official shall notify the debtor of:

(i) The date and time of a telephone conference hearing;

(ii) The date, time, and location of an in-person oral hearing, or;

(iii) The deadline for the submission of evidence for a written hearing.

(5) Except as provided in paragraph (c)(6)of this section, VA or Treasury shall have the burden of going forward to prove the existence or amount of the debt, after which the debtor must show, by a preponderance of the evidence, that no debt exists or that the amount of the debt is incorrect. In general, this means that the debtor must show that it is more likely than not that a debt does not exist or that the amount of the debt is incorrect. The debtor may also present evidence that terms of the repayment agreement are unlawful, would cause a financial hardship, or that collection of the debt may not be pursued due to operation of law.

(6) If the debtor has previously contested the existence and/or amount of the debt in accordance with § 1.911(c)(1) or § 1.911a(c)(1) and VA subsequently rendered a decision upholding the existence or amount of the debt, then such decision shall be incorporated by reference and become the basis of the hearing official's decision on such matters.

(7) The hearing official shall issue a written decision as soon as practicable, but not later than 60 days after the date on which the request for such hearing was received by VA or Treasury. The decision will be the final action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*). The decision shall include:

(i) A summary of the facts presented;

(ii) The hearing official's findings, analysis, and conclusions, and;

(iii) The terms of the repayment schedule, if applicable.

(d) In accordance with 31 CFR 285.11(g) and (h), VA or Treasury shall send a Treasury-approved withholding order and certification form by first class mail to the debtor's employer within 30 days after the debtor fails to make a timely request for a hearing. If a timely request for a hearing has been filed by the debtor, then VA or Treasury shall send a withholding order and certification form by first class mail to the debtor's employer within 30 days after a final decision is made to proceed with the garnishment. The employer shall complete and return the certification form as described in 31 CFR 285.11(h).

(e) After receipt of the garnishment order, the employer shall withhold the amount of garnishment as described in 31 CFR 285.11(i) from all disposable pay payable to the applicable debtor during each pay period.

(f) A debtor whose wages are subject to a wage withholding order under 31 CFR 285.11 may request a review, under the procedures set forth in 31 CFR 285.11(k), of the amount garnished. A request for review shall only be considered after garnishment has been initiated. The request must be based on materially changed circumstances such as disability, divorce, or catastrophic illness which result in financial hardship that limit the debtor's ability to provide food, housing, clothing, transportation, and medical care for himself/herself and his/her dependents.

(Authority: 31 U.S.C. 3720D; 38 U.S.C. 501; 31 CFR 285.11).

■ 32. New § 1.924 is added to read as follows:

**§ 1.924 Suspension or revocation of eligibility for federal loans, loan insurance, loan guarantees, licenses, permits, or privileges.**

(a) In accordance with 31 U.S.C. 3720B and the procedures set forth in 31 CFR 285.13 and § 901.6, a person owing an outstanding non-tax debt that is in delinquent status shall not be eligible for Federal financial assistance unless

exempted under paragraph (d) of this section or waived under paragraph (e) of this section.

(b) Federal financial assistance or financial assistance means any Federal loan (other than a disaster loan), loan insurance, or loan guarantee.

(c) For the purposes of this section only, a debt is in a delinquent status if the debt has not been paid within 90 days of the payment due date or by the end of any grace period provided by statute, regulation, contract, or agreement. The payment due date is the date specified in the initial written demand for payment. Further guidance concerning the delinquent status of a debt may be found at 31 CFR 285.13(d).

(d) Upon the written request and recommendation of the Secretary of Veterans Affairs, the Secretary of the Treasury may grant exemptions from the provisions of this section. The standards for exemptions granted for classes of debts are set forth in 31 CFR 285.13(f).

(e)(1) VA's Chief Financial Officer or Deputy Chief Financial Officer may waive the provisions of paragraph (a) of this section only on a person-by-person basis.

(2) The Chief Financial Officer or Deputy Chief Financial Officer should balance the following factors when deciding whether to grant a waiver:

(i) Whether the denial of the financial assistance to the person would tend to interfere substantially with or defeat the purposes of the financial assistance program or otherwise would not be in the best interests of the Federal government; and

(ii) Whether the granting of the financial assistance to the person is contrary to the government's goal of reducing losses by requiring proper screening of potential borrowers.

(3) When balancing the factors described in paragraph (e)(2)(i) and (e)(2)(ii) of this section, the Chief Financial Officer or Deputy Chief Financial Officer should consider:

(i) The age, amount, and cause(s) of the delinquency and the likelihood that the person will resolve the delinquent debt; and

(ii) The amount of the total debt, delinquent or otherwise, owed by the person and the person's credit history with respect to repayment of debt.

(4) A centralized record shall be retained of the number and type of waivers granted under this section.

(f) In non-bankruptcy cases, in seeking the collection of statutory penalties, forfeitures, or other similar types of claims, VA may suspend or revoke any license, permit, or other privilege granted a debtor when the debtor inexcusably or willfully fails to pay such a debt. The debtor should be advised in VA's written demand for payment of VA's ability to suspend or revoke licenses, permits, or privileges. VA may suspend or disqualify any lender, contractor, or broker who is engaged in making, guaranteeing, insuring, acquiring, or participating in loans from doing further business with VA or engaging in programs sponsored by VA if such lender, contractor, or broker fails to pay its debts to the Government within a reasonable time, or if such lender, contractor, or broker has been suspended, debarred, or disqualified from participation in a program or activity by another Federal agency. The failure of any surety to honor its obligations in accordance with 31 U.S.C. 9305 should be reported to Treasury.

(g) In bankruptcy cases, before advising the debtor of the intention to suspend or revoke licenses, permits, or privileges, VA should seek legal advice from VA's General Counsel or Regional Counsel concerning the impact of the Bankruptcy Code, particularly 11 U.S.C. 362 and 525, which may restrict such action.

(Authority: 31 U.S.C. 3720B; 38 U.S.C. 501).

■ 33. The authority citation preceding § 1.930 is removed.

■ 34. Sections 1.930 through 1.936 are revised to read as follows:

**§ 1.930 Scope and application.**

(a) The standards set forth in §§ 1.930 through 1.936 of this part apply to the compromise of debts pursuant to 31 U.S.C. 3711. VA may exercise such compromise authority when the amount of the debt due, exclusive of interest, penalties, and administrative costs, does not exceed $100,000 or any higher amount authorized by the Attorney General.

(b) Unless otherwise provided by law, when the principal balance of a debt, exclusive of interest, penalties, and administrative costs, exceeds $100,000 or any higher amount authorized by the Attorney General, the authority to accept the compromise rests with the Department of Justice (DOJ). If VA receives an offer to compromise any debt in excess of $100,000, VA should evaluate the compromise offer using the same factors as set forth in § 1.931 of this part. If VA believes the offer has merit, it shall refer the debt to the Civil Division or other appropriate division in DOJ using a Claims Collection Litigation Report (CCLR). The referral shall include appropriate financial information and a recommendation for the acceptance of the compromise offer. DOJ approval is not required if VA decides to reject a compromise offer.

(c) The $100,000 limit in paragraph (b) of this section does not apply to debts that arise out of participation in a VA loan program under Chapter 37 of Title 38 of the U.S. Code. VA has unlimited authority to compromise debts arising out of participation in a Chapter 37 loan program, regardless of the amount of the debt.

(Authority: 31 U.S.C. 3711; 38 U.S.C 501, 3720).

**§ 1.931 Bases for compromise.**

(a) VA may compromise a debt if it cannot collect the full amount because:

(1) The debtor is unable to pay the full amount in a reasonable time, as verified through credit reports or other financial information;

(2) VA is unable to collect the debt in full within a reasonable time by enforced collection proceedings;

(3) The cost of collecting the debt does not justify the enforced collection of the full amount; or

(4) There is significant doubt concerning VA's ability to prove its case in court.

(b) In determining the debtor's inability to pay, VA will consider relevant factors such as the following:

(1) Age and health of the debtor;

(2) Present and potential income;

(3) Inheritance prospects;

(4) The possibility that assets have been concealed or improperly transferred by the debtor; and

(5) The availability of assets or income that may be realized by enforced collection proceedings.

(c) VA will verify the debtor's claim of inability to pay by using a credit report and other financial information as provided in paragraph (g) of this section. VA should consider the applicable exemptions available to the debtor under State and Federal law in determining the ability to enforce collection. VA also may consider uncertainty as to the price that collateral or other property will bring at a forced sale in determining the ability to enforce collection. A compromise effected under this section should be for an amount that bears a reasonable relation to the amount that can be recovered by enforced collection procedures, with regard to the exemptions available to the debtor and the time that collection will take.

(d) If there is significant doubt concerning VA's ability to prove its case in court for the full amount claimed, either because of the legal issues involved or because of a bona fide dispute as to the facts, then the amount accepted in compromise of such cases

should fairly reflect the probabilities of successful prosecution to judgment, with due regard given to the availability of witnesses and other evidentiary support for VA's claim. In determining the risks involved in litigation, VA will consider the probable amount of court costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. 2412, that may be imposed against the Government if it is unsuccessful in litigation.

(e) VA may compromise a debt if the cost of collecting the debt does not justify the enforced collection of the full amount. The amount accepted in compromise in such cases may reflect an appropriate discount for the administrative and litigative costs of collection, with consideration given to the time it will take to effect collection. Collection costs may be a substantial factor in the settlement of small debts. In determining whether the cost of collecting justifies enforced collection of the full amount, VA will consider whether continued collection of the debt, regardless of cost, is necessary to further an enforcement principle.

(f) VA generally will not accept compromises payable in installments. If, however, payment of a compromise in installments is necessary, VA will obtain a legally enforceable written agreement providing that, in the event of default, the full original principal balance of the debt prior to compromise, less sums paid thereon, is reinstated. Whenever possible, VA will also obtain security for repayment.

(g) To assess the merits of a compromise offer based in whole or in part on the debtor's inability to pay the full amount of a debt within a reasonable time, VA will obtain a current financial statement from the debtor showing the debtor's assets, liabilities, income, and expenses. Agencies also may obtain credit reports or other financial information to assess compromise offers.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§ 1.932 Enforcement policy.**

VA may compromise statutory penalties, forfeitures, or claims established as an aid to enforcement and to compel compliance, if VA's enforcement policy in terms of deterrence and securing compliance, present and future, will be adequately served by VA's acceptance of the sum to be agreed upon.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§ 1.933 Joint and several liability.**

(a) When two or more debtors are jointly and severally liable, VA will pursue collection activity against all debtors, as appropriate. VA will not attempt to allocate the burden of payment between the debtors but should proceed to liquidate the indebtedness as quickly as possible.

(b) VA will ensure that a compromise agreement with one debtor does not release VA's claim against the remaining debtors. The amount of a compromise with one debtor shall not be considered a precedent or binding in determining the amount that will be required from other debtors jointly and severally liable on the claim.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§ 1.934 Further review of compromise offers.**

If VA is uncertain whether to accept a firm, written, substantive compromise offer on a debt that is within its delegated compromise authority, it may refer the offer to VA General Counsel or Regional Counsel or to the Civil Division or other appropriate division in the Department of Justice (DOJ), using a Claims Collection Litigation Report (CCLR) accompanied by supporting data and particulars concerning the debt. DOJ may act upon such an offer or return it to the agency with instructions or advice.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§ 1.935 Consideration of tax consequences to the Government.**

In negotiating a compromise, VA will consider the tax consequences to the Government. In particular, VA will consider requiring a waiver of tax-loss-carry-forward and tax-loss-carry-back rights of the debtor.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§ 1.936 Mutual releases of the debtor and VA.**

In all appropriate instances, a compromise that is accepted by VA shall be implemented by means of a mutual release, in which the debtor is released from further non-tax liability on the compromised debt in consideration of payment in full of the compromise amount, and VA and its officials, past and present, are released and discharged from any and all claims and causes of action that the debtor may have arising from the same transaction. In the event a mutual release is not executed when a debt is compromised, unless prohibited by law, the debtor is still deemed to have waived any and all claims and causes of action against VA and its officials related to the transaction giving rise to the compromised debt.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

**§§ 1.937 and 1.938 [Removed]**

■ 35. Sections 1.937 and 1.938 are removed.

■ 36. Sections 1.940 and 1.941 are revised to read as follows:

**§ 1.940 Scope and application.**

(a) The standards set forth in §§ 1.940 through 1.944 apply to the suspension or termination of collection activity pursuant to 31 U.S.C. 3711 on debts that do not exceed $100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, after deducting the amount of partial payments or collections, if any. Prior to referring a debt to the Department of Justice (DOJ) for litigation, VA may suspend or terminate collection under this part with respect to the debt.

(b) If, after deducting the amount of any partial payments or collections, the principal amount of a debt exceeds $100,000, or such other amount as the Attorney General may direct, exclusive of interest, penalties, and administrative costs, the authority to suspend or terminate rests solely with DOJ. If VA believes that suspension or termination of any debt in excess of $100,000 may be appropriate, it shall refer the debt to the Civil Division or other appropriate division in DOJ, using the Claims Collection Litigation Report (CCLR). The referral should specify the reasons for VA's recommendation. If, prior to referral to DOJ, VA determines that a debt is plainly erroneous or clearly without legal merit, VA may terminate collection activity regardless of the amount involved without obtaining DOJ concurrence.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.941 Suspension of collection activity.**

(a) VA may suspend collection activity on a debt when:

(1) It cannot locate the debtor;

(2) The debtor's financial condition is expected to improve; or

(3) The debtor has requested a waiver or review of the debt.

(b) Based on the current financial condition of the debtor, VA may suspend collection activity on a debt when the debtor's future prospects justify retention of the debt for periodic review and collection activity and:

(1) The applicable statute of limitations has not expired; or

(2) Future collection can be effected by administrative offset, notwithstanding the expiration of the applicable statute of limitations for litigation of claims, and with due regard to the 10-year limitation for administrative offset prescribed by 31 U.S.C. 3716(e)(1); or

(3) The debtor agrees to pay interest on the amount of the debt on which collection will be suspended, and such suspension is likely to enhance the debtor's ability to pay the full amount of the principal of the debt with interest at a later date.

(c) Collection action may also be suspended, in accordance with §§ 1.911, 1.911a, 1.912, and 1.912a, pending VA action on requests for administrative review of the existence or amount of the debt or a request for waiver of collection of the debt. However, collection action will be resumed once VA issues an initial decision on the administrative review or waiver request.

(d) When VA learns that a bankruptcy petition has been filed with respect to a debtor, in most cases the collection activity on a debt must be suspended, pursuant to the provisions of 11 U.S.C. 362, 1201, and 1301, unless VA can clearly establish that the automatic stay does not apply, has been lifted, or is no longer in effect. VA shall seek legal advice immediately from either the VA General Counsel or Regional Counsel and, if legally permitted, take the necessary steps to ensure that no funds or money are paid by VA to the debtor until relief from the automatic stay is obtained.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 37. Section 1.942 is amended by adding paragraphs (g) and (h) to read as follows:

**§ 1.942 Termination of collection activity.**

* * * * *

(g) *Discharge in bankruptcy.* Generally, VA shall terminate collection activity on a debt that has been discharged in bankruptcy, regardless of the amount. VA may continue collection activity, subject to the provisions of the Bankruptcy Code, for any payments provided under a plan of reorganization. Offset and recoupment rights may survive the discharge of the debtor in bankruptcy and, under some circumstances, claims also may survive the discharge.

(h) Before terminating collection activity, VA should have pursued all appropriate means of collection and determined, based upon the results of the collection activity, that the debt is uncollectible. Termination of collection activity ceases active collection of the debt. The termination of collection activity does not preclude VA from retaining a record of the account for purposes of:

(1) Selling the debt, if the Secretary of the Treasury determines that such sale is in the best interests of the United States;

(2) Pursuing collection at a subsequent date in the event there is a change in the debtor's status or a new collection tool becomes available;

(3) Offsetting against future income or assets not available at the time of termination of collection activity; or

(4) Screening future applicants for prior indebtedness.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

■ 38. Section 1.943 is revised and § 1.944 is added to read as follows:

**§ 1.943 Exception to termination.**

When a significant enforcement policy is involved, or recovery of a judgment is a prerequisite to the imposition of administrative sanctions, VA may refer debts for litigation even though termination of collection activity may otherwise be appropriate.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.944 Discharge of indebtedness; reporting requirements.**

(a) Before discharging a delinquent debt (also referred to as a close out of the debt), VA shall take all appropriate steps to collect the debt in accordance with 31 U.S.C. 3711(g), including, as applicable, administrative offset, tax refund offset, Federal salary offset, referral to Treasury or Treasury-designated debt collection centers or private collection contractors, credit bureau reporting, wage garnishment, litigation, and foreclosure. Discharge of indebtedness is distinct from termination or suspension of collection activity under §§ 1.940 through 1.943 and is governed by the Internal Revenue Code (see 26 U.S.C. 6050P). When collection action on a debt is suspended or terminated, the debt remains delinquent and further collection action may be pursued at a later date in accordance with the standards set forth in §§ 1.900 through 1.953. When VA discharges a debt in full or in part, further collection action is prohibited. Therefore, VA should make the determination that collection action is no longer warranted before discharging a debt. Before discharging a debt, VA must terminate debt collection action.

(b) Upon discharge of an indebtedness, VA must report the discharge to the Internal Revenue Service (IRS) in accordance with the requirements of 26 U.S.C. 6050P and 26 CFR 1.6050P–1. VA may request Treasury or Treasury-designated debt collection centers to file such a discharge report to the IRS on VA's behalf.

(c) When discharging a debt, VA must request that any liens of record securing the debt be released.

(d) 31 U.S.C. 3711(i)(2) requires agencies to sell a delinquent nontax debt upon termination of collection action if the Secretary of the Treasury determines such a sale is in the best interests of the United States. Since the discharge of a debt precludes any further collection action (including the sale of a delinquent debt), VA may not discharge a debt until the requirements of § 3711(i)(2) have been met.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.950 Authority citation preceding [Removed]**

■ 39. The authority citation preceding § 1.950 is removed.

■ 40. Sections 1.950 through 1.953 are revised to read as follows:

**§ 1.950 Prompt referral.**

(a) VA shall promptly refer debts to Department of Justice (DOJ) for litigation where aggressive collection activity has been taken in accordance with §§ 1.900 through 1.953, and such debts cannot be compromised, or on which collection activity cannot be suspended or terminated, in accordance with §§ 1.930 through 1.936 and §§ 1.940 through 1.944. Debts for which the principal amount is over $1,000,000, or such other amount as the Attorney General may direct, exclusive of interest and other late payment charges, shall be referred to the Civil Division or other division responsible for litigating such debts at DOJ. Debts for which the principal amount is $1,000,000, or less, or such other amount as the Attorney General may direct, exclusive of interest or penalties, shall be referred to DOJ's Nationwide Central Intake Facility as required by the Claims Collection Litigation Report (CCLR) instructions. Debts should be referred as early as possible, consistent with aggressive agency collection activity and the observance of the standards contained in §§ 1.900 through 1.953, and, in any event, well within the period for initiating timely lawsuits against the debtors. VA shall make every effort to refer delinquent debts to DOJ for litigation within 1 year of the date such debts last became delinquent. In the case of guaranteed or insured loans, VA should make every effort to refer these delinquent debts to DOJ for litigation within 1 year from the date the loan was

presented to VA for payment or reinsurance.

(b) DOJ has exclusive jurisdiction over the debts referred to it pursuant to this section. VA shall immediately terminate the use of any administrative collection activities to collect a debt at the time of the referral of that debt to DOJ. VA should advise DOJ of the collection activities that have been utilized to date, and their result. VA shall refrain from having any contact with the debtor and shall direct all debtor inquiries concerning the debt to DOJ. VA shall immediately notify DOJ of any payments credited to the debtor's account after referral of a debt under this section. DOJ shall notify VA, in a timely manner, of any payments it receives from the debtor.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.951 Claims Collection Litigation Report (CCLR).**

(a) Unless excepted by the Department of Justice (DOJ), VA shall complete the CCLR, accompanied by a signed Certificate of Indebtedness, to refer all administratively uncollectible claims to DOJ for litigation. VA shall complete all of the sections of the CCLR appropriate to each claim as required by the CCLR instructions and furnish such other information as may be required in specific cases.

(b) VA shall indicate clearly on the CCLR the actions it wishes DOJ to take with respect to the referred claim.

(c) VA shall also use the CCLR to refer claims to DOJ to obtain approval of any proposals to compromise the claims or to suspend or terminate agency collection activity.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.952 Preservation of evidence.**

VA must take care to preserve all files and records that may be needed by the Department of Justice (DOJ) to prove its claims in court. VA ordinarily should include certified copies of the documents that form the basis for the claim when referring such claims to DOJ for litigation. VA shall provide originals of such documents immediately upon request by DOJ.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.953 Minimum amount of referrals to the Department of Justice.**

(a) Except as otherwise provided in paragraphs (b) and (c) of this section, VA shall not refer for litigation claims of less than $2,500, exclusive of interest, penalties, and administrative costs, or such other minimum amount as the Attorney General shall from time to time prescribe. The Department of Justice (DOJ) shall promptly notify referring agencies if the Attorney General changes this minimum amount.

(b) VA shall not refer claims of less than the minimum amount prescribed by the Attorney General unless:

(1) Litigation to collect such smaller claims is important to ensure compliance with VA's policies or programs;

(2) The claim is being referred solely for the purpose of securing a judgment against the debtor, which will be filed as a lien against the debtor's property pursuant to 28 U.S.C. 3201 and returned to VA for enforcement; or

(3) The debtor has the clear ability to pay the claim and the Government effectively can enforce payment, with due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

(c) VA should consult with the Financial Litigation Staff of the Executive Office for United States Attorneys, in DOJ, prior to referring claims valued at less than the minimum amount.

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501).

**§ 1.954 [Removed]**

■ 41. Section 1.954 is removed.

■ 42. Section 1.955 is amended by revising paragraphs (b) through (d) to read as follows:

**§ 1.955 Regional Office Committees on Waivers and Compromises.**

* * * * *

(b) *Selection.* The Director shall designate the employees to serve as Chairperson, members, and alternates. Except upon specific authorization of the Under Secretary for Benefits, when workload warrants a full-time committee, such designation will be part-time additional duty upon call of the Chairperson.

(c) *Control and staff.* The administrative control of each Committee on Waivers and Compromises is the responsibility of the station's Fiscal Officer. However, the station Director has the authority to reassign the administrative control function to another station activity, rather than the Fiscal Officer, whenever the Director determines that such reassignment is appropriate. The quality control of the professional and clerical staff of the Committee is the responsibility of the Chairperson.

(d) *Overall control.* The Assistant Secretary for Management is delegated complete management authority, including planning, policy formulation, control, coordination, supervision, and evaluation of Committee operations.

* * * * *

■ 43. Section 1.956 is amended by:

■ A. Revising paragraphs (a)(2)(i) and (a)(2)(ii).

■ B. Removing paragraph (a)(2)(iii).

■ C. Redesignating paragraph (a)(2)(iv) as new paragraph (a)(2)(iii).

■ D. Revising newly redesignated paragraph (a)(2)(iii).

■ E. Adding paragraph (a)(2)(iv).

■ F. Revising paragraphs (a)(3) and (b).

The revisions and addition read as follows:

**§ 1.956 Jurisdiction.**

(a) * * *

(2) Arising out of operations of the Veterans Health Administration:

(i) Debts resulting from services furnished in error (§ 17.101(a) of this chapter).

(ii) Debts resulting from services furnished in a medical emergency (§ 17.101(b) of this chapter).

(iii) Other claims arising in connection with transactions of the Veterans Health Administration (§ 17.103(c) of this chapter).

(iv) Fiscal officers at VA medical facilities are authorized to waive veterans' debts arising from medical care copayments (§ 17.105(c) of this chapter).

(3) Claims for erroneous payments of pay and allowances, and erroneous payments of travel, transportation, and relocation expenses and allowances, made to or on behalf of employees (5 U.S.C. 5584).

(b) The Under Secretary for Benefits may, at his or her discretion, assume original jurisdiction and establish an ad hoc Board to determine a particular issue arising within this section.

* * * * *

■ 44. Section 1.957 is amended by:

■ A. Revising paragraphs (a)(1) introductory text and (a)(1)(iii).

■ B. Removing paragraph (a)(3).

The revisions read as follows:

**§ 1.957 Committee authority.**

(a) * * *

(1) *Waivers.* A decision may be rendered to grant or deny waiver of collection of a debt in the following debt categories:

* * * * *

(iii) Services erroneously furnished (§ 17.101(a)).

* * * * *

■ 45. Section 1.958 is revised to read as follows:

**§ 1.958 Finality of decisions.**

A decision by the regional office Committee, operating within the scope of its authority, denying waiver of all or part of a debt arising out of participation

in a VA benefit or home loan program, is subject to appeal in accordance with 38 CFR parts 19 and 20. A denial of waiver of an erroneous payment of pay and allowances is subject to appeal in accordance with § 1.963a(a). There is no right of appeal from a decision rejecting a compromise offer.

(Authority: 38 U.S.C. 501 and 7104).

■ 46. Section 1.963a is revised to read as follows:

**§ 1.963a Waiver; erroneous payments of pay and allowances.**

(a) The provisions applicable to VA (including refunds) concerning waiver actions relating to erroneous payments to VA employees of pay and allowances, and travel, transportation, and relocation expenses and allowances, are set forth in 5 U.S.C. 5584. The members of Committees on Waivers and Compromises assigned to waiver actions under § 1.955 of this part are delegated all authority granted the Secretary under 5 U.S.C. 5584 to deny waiver or to grant waiver in whole or in part of any debt regardless of the amount of the indebtedness. Committee members also have exclusive authority to consider and render a decision on the appeal of a waiver denial or the granting of a partial waiver. However, the Chairperson of the Committee must assign the appeal to a different Committee member or members than the member or members who made the original decision that is now the subject of the appeal. The following are the only provisions of §§ 1.955 through 1.970 of this part applicable to waiver actions concerning erroneous payments of pay and allowances, and travel, transportation, and relocation expenses and allowances, under 5 U.S.C. 5584: §§ 1.955(a) through (e)(2), 1.956(a)(introductory text) and (a)(3), 1.959, 1.960, 1.963a, and 1.967(c).

(b) Waiver may be granted under this section and 5 U.S.C. 5584 when collection would be against equity and good conscience and not in the best interest of the United States. Generally, these criteria will be met by a finding that the erroneous payment occurred through administrative error and that there is no indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or other person having an interest in obtaining a waiver of the claim, and waiver would not otherwise be inequitable. Generally, waiver is precluded when an employee receives a significant unexplained increase in pay or allowances, or otherwise knows, or reasonably should know, that an erroneous payment has occurred, and fails to make inquiries or bring the matter to the attention of the appropriate officials. Waiver under this standard will depend upon the facts existing in each case.

(c) An application for waiver must be received within 3 years immediately following the date on which the erroneous payment was discovered.

(Authority: 5 U.S.C. 5584; 38 U.S.C. 501).

■ 47. Section 1.965 is amended by removing paragraph (b)(3).

■ 48. Section 1.966 is amended by adding an authority citation at the end of the section to read as follows:

**§ 1.966 Scope of waiver decisions.**

* * * * *

(Authority: 38 U.S.C. 501, 5302).

■ 49. Section 1.970 is amended by removing ''§§ 1.900 through 1.937'' and adding, in its place, ''§§ 1.930 through 1.936'' and by revising the authority citation at the end of the section to read as follows:

**§ 1.970 Standards for compromise.**

* * * * *

(Authority: 31 U.S.C. 3711; 38 U.S.C. 501, 3720).

■ 50. Section 1.980 is amended by:

■ A. Revising paragraphs (a) and (b).

■ B. Redesignating paragraphs (f) and (g) as paragraphs (h) and (i).

■ C. Adding new paragraphs (f) and (g).

■ D. Revising newly redesignated paragraph (h).

The revisions and additions read as follows:

**§ 1.980 Scope.**

(a) In accordance with 5 CFR part 550, subpart K, the provisions set forth in §§ 1.980 through 1.995 implement VA's authority for the use of salary offset to satisfy certain debts owed to VA.

(b) These regulations apply to offsets from the salaries of current employees of VA, or any other agency, who owe debts to VA. Offsets by VA from salaries of current VA employees who owe debts to other agencies shall be processed in accordance with procedures set forth in 5 CFR part 550, subpart K.

* * * * *

(f) These regulations do not apply to a routine intra-agency adjustment of pay that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of such adjustment, or as soon thereafter as practicable, the individual is provided written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.

(g) These regulations do not apply to any adjustment to collect a debt amounting to $50 or less, if at the time of such adjustment, or as soon thereafter as practicable, the individual is provided with written notice of the nature and amount of the adjustment and a point of contact for contesting such adjustment.

(h) These regulations do not preclude the compromise, suspension, or termination of collection action under the Federal Claims Collection Standards (FCCS) (31 CFR parts 900–904) and VA regulations 38 CFR 1.930 through 1.944.

* * * * *

■ 51. Section 1.982 is amended by revising paragraphs (a), (b), and (c)(3) to read as follows:

**§ 1.982 Salary offsets of debts involving benefits under the laws administered by VA.**

(a) VA will not collect a debt involving benefits under the laws administered by VA by salary offset unless the Secretary or appropriate designee first provides the employee with a minimum of 30 calendar days written notice.

(b) If the employee has not previously appealed the amount or existence of the debt under 38 CFR parts 19 and 20 and the time for pursuing such an appeal has not expired (§ 20.302), the Secretary or appropriate designee will provide the employee with written notice of the debt. The written notice will state that the employee may appeal the amount and existence of the debt in accordance with the procedures set forth in 38 CFR parts 19 and 20 and will contain the determination and information required by § 1.983(b)(1) through (5), (7), (9), (10), and (12) though (14). The notice will also state that the employee may request a hearing on the offset schedule under the procedures set forth in § 1.984 and such a request will stay the commencement of salary offset.

(c) * * *

(3) That the employee may request a waiver of the debt pursuant to 38 CFR 1.911(c)(2) subject to the time limits of 38 U.S.C. 5302.

* * * * *

■ 52. Section 1.983 is amended by revising paragraphs (b)(8) and (b)(13) to read as follows:

**§ 1.983 Notice requirements before salary offsets of debts not involving benefits under laws administered by VA.**

* * * * *

(b) * * *

(8) The VA employee's right to request an oral or paper hearing on the

Secretary or appropriate designee's determination of the existence or amount of the debt, or the percentage of disposable pay to be deducted each pay period, so long as a request is filed by the employee as prescribed by the Secretary. A VA Board of Contract Appeals Administrative Judge or Hearing Examiner shall conduct such a hearing for any VA employee. A VA Board of Contract Appeals Administrative Judge or Hearing Examiner, or any other VA hearing official, may also conduct an oral or paper hearing at the request of a non-VA employee on the determination by an appropriately designated official of the employing agency of the existence or amount of the debt, or the percentage of disposable pay to be deducted each pay period, so long as a hearing request is filed by the non-VA employee as prescribed by the employing agency.

* * * * *

(13) The employee's right, if applicable, to request waiver under 5 U.S.C. 5584 and 38 CFR 1.963a and any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

* * * * *

■ 53. Section 1.984 is amended by:

■ A. In paragraph (a), removing ''20 calendar days'' and adding, in its place, ''30 calendar days''.

■ B. In paragraph (b), removing ''20 day period'' and adding, in its place, ''30-day period''.

■ 54. In § 1.989, paragraph (a) is amended by removing ''20 calendar days'' and adding, in its place, ''30 calendar days''.

■ 55. In § 1.990, paragraph (a) is amended by removing ''20 calendar days'' and adding, in its place, ''30 calendar days''.

■ 56. Section 1.991 is amended by:

■ A. In paragraph (a), removing ''§§ 1.982, 19.1 through 19.200 or § 1.988'' and adding, in its place ''§ 1.982 or § 1.988, or parts 19 and 20''.

■ B. Revising paragraph (d) to read as follows:

**§ 1.991 Procedures for salary offset: when deductions may begin.**

* * * * *

(d) If an employee retires, resigns, or his or her employment ends before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to procedures for administrative offset (*see* 5 CFR 831.1801 through 831.1808, 31 CFR 901.3, and 38 CFR 1.912).

■ 57. Section 1.992 is amended by revising paragraph (c) and the authority citation following paragraph (c) to read as follows:

**§ 1.992 Procedures for salary offset.**

* * * * *

(c) Imposition of interest, penalties, and administrative costs. Interest, penalties, and administrative costs shall be charged in accordance with 31 CFR 901.9 and 38 CFR 1.915.

(Authority: 5 U.S.C. 5514; 38 U.S.C. 501).

■ 58. Section 1.995 is added to read as follows:

**§ 1.995 Requesting recovery through centralized administrative offset.**

(a) Under 31 U.S.C. 3716, VA and other creditor agencies must notify Treasury of all debts over 180 days delinquent so that recovery of such debts may be made by centralized administrative offset. This includes those debts that VA and other agencies seek from the pay account of an employee of another Federal agency via salary offset. Treasury and other disbursing officials will match payments, including Federal salary payments, against these debts. Where a match occurs, and all the requirements for offset have been met, the payment will be offset to satisfy the debt in whole or part.

(b) Prior to submitting a debt to Treasury for the purpose of collection by offset, including salary offset, VA shall provide written certification to Treasury that:

(1) The debt is past due and legally enforceable in the amount submitted to Treasury and that VA will ensure that any subsequent collections are credited to the debt and that Treasury shall be notified of such;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred to Treasury for offset within 10 years after VA's right of action accrues;

(3) VA has complied with the provisions of 31 U.S.C. 3716 and 38 CFR 1.912 and 1.912a including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) VA has complied with the provisions of 5 U.S.C. 5514 (salary offset) and 38 CFR 1.980 through 1.994 including, but not limited to, those provisions requiring that VA provide the debtor with applicable notices and opportunities for a hearing.

(c) Specific procedures for notifying Treasury of debts for purposes of collection by centralized administrative offset are contained in the 31 CFR 285.7. VA and other creditor agencies may notify Treasury of debts that have been delinquent for 180 days or less, including debts that VA and other creditor agencies seek to recover from the pay of an employee via salary offset.

(Authority: 31 U.S.C. 3716; 38 U.S.C. 501).

## PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 is revised to read as follows:

**Authority:** 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

■ 2. Section 2.6 is amended by:

■ A. Revising the heading of paragraph (c).

■ B. In paragraph (c)(1), removing ''Assistant Secretary for Finance and Information Resources Management'' and adding, in its place, ''Assistant Secretary for Management''.

■ C. In paragraph (c)(2), removing ''Assistant Secretary for Finance and Information Resources Management'' each time it appears and adding, in its place, ''Assistant Secretary for Management''.

■ D. Revising paragraph (d).

■ E. In paragraph (e), removing the heading of paragraph (e)(4) introductory text, and revising the authority citations following paragraphs (e)(4)(iii) and (e)(9).

The revisions read as follows:

**§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).**

* * * * *

(c) *Office of Management.*

* * * * *

(d) *Assistant Secretary for Management (Chief Financial Officer); administration heads and staff office directors.* The Assistant Secretary for Management (Chief Financial Officer) is delegated authority to take appropriate action (other than provided for in paragraphs (e)(3) and (e)(4) of this section) in connection with the collection of civil claims by VA for money or property, as authorized in § 1.900, *et seq.* The Assistant Secretary for Management (Chief Financial Officer) may redelegate such authority as he/she deems appropriate to administration heads and staff office directors.

(Authority: 38 U.S.C. 501, 512).

(e) * * *

(4) * * *

(iii) * * *

(Authority: 31 U.S.C. 3711(a)(2); 38 U.S.C. 501, 512).

* * * * *

(9) * * *

(Authority: 38 U.S.C. 501, 512, 1729(c)(1)).

* * * * *

[FR Doc. 04–23754 Filed 10–22–04; 8:45 am]

**BILLING CODE 8320–01–P**

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## DEPARTMENT OF VETERANS AFFAIRS

## 38 CFR 17

**RIN 2900–AK29**

## Waivers

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends VA's medical regulation to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care co-payments. This change in regulation will codify an existing 1995 delegation of authority to Fiscal Officers from the Secretary of Veterans Affairs. The purpose of this 1995 delegation was to increase the efficiency of the waiver process.

**DATES:** Effective Date: This rule shall become effective on November 24, 2004.

**FOR FURTHER INFORMATION CONTACT:** Eileen P. Downey, Business Policy, Veterans Health Administration, Chief Business Office (16), 810 Vermont Avenue, NW., Washington DC 20420, (202) 254–0347.

**SUPPLEMENTARY INFORMATION:** In a document published in the **Federal Register** on April 20, 2004 (69 FR 21075), we proposed amending 38 CFR 17.105 to give Fiscal Officers at VA medical facilities the authority to waive veterans' debts arising from the medical care co-payments.

We asked interested parties to submit comments on or before June 21, 2004. We received no comments. Based on the rationale noted above and as set forth in the proposed rule, we are adopting the proposed rule as a final rule without change.

### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule will have no such effect on State, local or tribal governments, or the private sector.

### Paperwork Reduction Act

Although this document contains provisions constituting a collection of information in 38 CFR 17.105 (c) referencing VA Form 5655, under the provision of the Paperwork Reduction Act (44 U.S.C. 3501–3521), no new or proposed revised collections of information are associated with this final rule. The Office of Management and Budget has approved this information collection in VA Form 5655 under control number 2900–0165.

### Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. The final rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), the final rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

### Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64.009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, 64.024 and 64.025.

### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and record-keeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: October 15, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

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

**Authority:** 38 U.S.C. 501, 1721, unless otherwise noted.

■ 2. Section 17.105 is amended by:

■ A. In paragraph (a), removing ''§ 17.101(a)'' and adding, in its place, ''§ 17.102''.

■ B. Redesignating paragraph (c) as (d).

■ C. Adding a new paragraph (c).

■ D. Adding the OMB information collection approval number parenthetical immediately following paragraph (d).

■ E. Adding an authority citation at the end of the section.

The additions read as follows:

**§ 17.105 Waivers.**

* * * * *

(c) *Of charges for copayments.* If the debt represents charges for outpatient medical care, inpatient hospital care, medication or extended care services copayments made under §§ 17.108, 17.110 or 17.111 of this chapter, the claimant must request a waiver by submitting VA Form 5655 (Financial Status Report) to a Fiscal Officer at a VA medical facility where all or part of the debt was incurred. The claimant must submit this form within the time period provided in § 1.963(b) of this chapter and may request a hearing under § 1.966(a) of this chapter. The Fiscal Officer may extend the time period for submitting a claim if the Chairperson of the Committee on Waivers and Compromises could do so under § 1.963(b) of this chapter. The Fiscal Officer will apply the standard ''equity and good conscience'' in accordance with §§ 1.965 and 1.966(a) of this chapter, and may waive all or part of the claimant's debts. A decision by the Fiscal Officer under this provision is final (except that the decision may be reversed or modified based on new and material evidence, fraud, a change in law or interpretation of law, or clear and unmistakable error shown by the evidence in the file at the time of the prior decision as provided in § 1.969 of this chapter) and may be appealed in accordance with 38 CFR parts 19 and 20.

* * * * *

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900–0165.)

(Authority: 38 U.S.C. 501, 1721, 1722A, 1724)

[FR Doc. 04–23758 Filed 10–22–04; 8:45 am]

**BILLING CODE 8320–01–P**

**DEPARTMENT OF DEFENSE**

**DEPARTMENT OF HOMELAND SECURITY**

**Coast Guard**

**DEPARTMENT OF VETERANS AFFAIRS**

**38 CFR Part 21**

**RIN 2900–AL80**

## Increase in Rates Payable Under the Montgomery GI Bill—Selected Reserve

**AGENCIES:** Department of Defense, Department of Homeland Security (Coast Guard), and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** By statute, the monthly rates of basic educational assistance payable to reservists under the Montgomery GI Bill—Selected Reserve must be adjusted each fiscal year. In accordance with the statutory formula, the regulations governing rates of basic educational assistance payable under the Montgomery GI Bill—Selected Reserve for Fiscal Year 2004 (October 1, 2003, through September 30, 2004) are changed to show a 2.2% increase in these rates.

**DATES:** *Effective Date:* This final rule is effective October 25, 2004.

*Applicability Date:* The changes in rates are applied retroactively to conform to statutory requirements. For more information concerning the dates of application, *see* the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Nelson, Education Adviser, Education Service (225C), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7294.

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 10 U.S.C. 16131(b) for Fiscal Year 2004, the rates of basic educational assistance under the Montgomery GI Bill—Selected Reserve payable to students pursuing a program of education full time, three-quarter time, and half time must be increased by 2.2%, which is the percentage by which the total of the monthly Consumer Price Index-W for July 1, 2002, through June 30, 2003, exceeds the total of the monthly Consumer Price Index-W for July 1, 2001, through June 30, 2002.

Title 10 U.S.C. 16131(b) requires that full-time, three-quarter time, and half-time rates be increased as noted above. In addition, 10 U.S.C. 16131(d) requires that monthly rates payable to reservists in apprenticeship or other on-the-job training must be set at a given percentage of the full-time rate. Hence, there is a 2.2% raise for such training as well.

Title 10 U.S.C. 16131(b) also requires that the Department of Veterans Affairs (VA) pay reservists training less than half time at an appropriately reduced rate. Since payment for less than half-time training became available under the Montgomery GI Bill—Selected Reserve in Fiscal Year 1990, VA has paid less than half-time students at 25% of the full-time rate. Changes are made consistent with the authority and formula described in this paragraph.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2003, in accordance with the applicable statutory provisions discussed above.

### Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

### Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because a notice of proposed rulemaking is not required for this rule. Even so, the Secretary of Defense, the Commandant of the Coast Guard, and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule directly affects only individuals and does not directly affect small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

### Catalog of Federal Domestic Assistance Program Numbers

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health programs, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 20, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

Dated: August 10, 2004.

**John D. Winkler,**

*Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower & Personnel).*

September 3, 2004.

**Kenneth T. Venuto,**

*Rear Admiral, U.S. Coast Guard, Assistant Commandant for Human Resources.*

■ For the reasons set out above, 38 CFR part 21, subpart L, is amended as set forth below.

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart L—Educational Assistance for Members of the Selected Reserve

■ 1. The authority citation for part 21, subpart L, continues to read as follows:

**Authority:** 10 U.S.C. ch. 1606; 38 U.S.C. 501(a), 512, ch. 36, unless otherwise noted.

■ 2. Section 21.7636 is amended by:

■ a. Revising paragraphs (a)(1) and (a)(2)(i) and tables at the end of each paragraph.

■ b. In paragraph (a)(3), removing ''September 30, 2002, and before October 1, 2003,'' and adding, in its place, ''September 30, 2003, and before October 1, 2004,''.

The revisions read as follows:

**§ 21.7636 Rates of payment.**

(a) *Monthly rate of educational assistance.* (1) Except as otherwise

provided in this section or in § 21.7639, the monthly rate of educational assistance payable for training that occurs after September 30, 2003, and before October 1, 2004, to a reservist pursuing a program of education is the rate stated in this table:

| Training | Monthly rate |
|---|---|
| Full | $282.00 |
| ¾ time | 212.00 |
| ½ time | 140.00 |
| ¼ time | 70.50 |

(2)(i) The monthly rate of basic educational assistance payable to a reservist for apprenticeship or other on-the-job training full time that occurs after September 30, 2003, and before October 1, 2004, is the rate stated in this table:

| Training period | Monthly rate |
|---|---|
| First six months of pursuit of training | $211.50 |
| Second six months of pursuit of training | 155.10 |
| Remaining pursuit of training | 98.70 |

* * * * *

[FR Doc. 04–23757 Filed 10–22–04; 8:45 am]

BILLING CODE 8320–01–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900–AL64**

### Increase in Rates Payable Under the Survivors' and Dependents' Educational Assistance Program

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** This document amends the regulations governing rates of educational assistance payable under the Survivors' and Dependents' Educational Assistance (DEA) program to reflect increases required by statutory provisions. The rates of educational assistance payable under the DEA program are changed to show a 1.5% increase for fiscal year 2003 (October 1, 2002, through September 30, 2003) and a 2.2% increase for fiscal year 2004 (beginning October 1, 2003). In addition, the Veterans Benefits Act of 2003 provided an increase in the rates payable effective July 1, 2004. The amendments show the pay tables for the three rate increases identified above.

**DATES:** *Effective Date:* This final rule is effective October 25, 2004.

*Applicability Dates:* The changes in rates are applied to conform to the respective statutory requirements. For more information concerning the dates of applicability, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Nelson, Education Advisor (225C), Education Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Ave. NW., Washington, DC 20420 (202) 273–7294.

**SUPPLEMENTARY INFORMATION:** Under the formula mandated by 38 U.S.C. 3564, the monthly rates of basic educational assistance payable under the Survivors' and Dependents' Educational Assistance (DEA) program must be adjusted each fiscal year. The regulations governing the rates of educational assistance payable under the DEA program for fiscal year (FY) 2003 (October 1, 2002, through September 30, 2003) are changed to reflect a 1.5% increase. The 1.5% increase is the percentage by which the total of the monthly Consumer Price Index-W (CPI–W) for July 1, 2001, through June 30, 2002, exceeds the total of the monthly CPI–W for July 1, 2000, through June 30, 2001.

The regulations are further amended to include the DEA rates payable during FY 2004. The FY 2004 rates reflect a 2.2% increase. The 2.2% increase is the percentage by which the total of the monthly CPI–W for July 1, 2002, through June 30, 2003, exceeds the total of the monthly CPI–W for July 1, 2001, through June 30, 2002.

In addition to the cost of living rate adjustments discussed above, Section 302 of the Veterans Benefits Act of 2003 (Pub. L. 108–183) provides an increase in the DEA rates effective July 1, 2004. A new paragraph (c) is added to Section 21.3131 to show the increased DEA rates effective July 1, 2004.

The changes set forth in this final rule are effective from the date of publication, but the changes in the rates for FY 2003 are effective October 1, 2002, the changes in the rates for FY 2004 are effective October 1, 2003, and the changes in rates provided for in Public Law 108–183 are effective July 1, 2004. This is in accordance with the applicable statutory provisions discussed above.

#### Administrative Procedure Act

Substantive changes made by this final rule merely reflect statutory requirements and adjustments made based on previously established formulas. Accordingly, there is a basis for dispensing with prior notice and comment and delayed effective date provisions of 5 U.S.C. 552 and 553.

#### Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

#### Regulatory Flexibility Act

The initial and final regulatory flexibility analyses requirements of sections 603 and 604 of the Regulatory Flexibility Act, 5 U.S.C. 601–612, are not applicable to this rule, because the agency is not required to publish a notice of proposed rulemaking for this rule. Even so, the Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. This final rule directly affects only individuals and does not directly affect small entities. Therefore, this final rule is also exempt pursuant to 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

#### Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1232, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule will have no such effect on State, local or tribal governments, or the private sector.

#### Catalog of Federal Domestic Assistance Program Numbers

The Catalog of Federal Domestic Assistance number for the program affected by this final rule is 64.117.

#### List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed Forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Health care, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 23, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

■ For the reasons set out in the preamble, 38 CFR part 21 (subpart C ) is amended as follows:

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart C—Survivors' and Dependents' Educational Assistance Under 38 U.S.C. Chapter 35

■ 1. The authority citation for part 21, subpart C, continues to read as follows:

**Authority:** 38 U.S.C. 501(a), 512, 3500–3566, unless otherwise noted.

■ 2. In § 21.3045, paragraph (h) is revised to read as follows:

**§ 21.3045 Entitlement charges.**

* * * * *

(h) *Entitlement charge for correspondence courses.* The charge against entitlement of a spouse or surviving spouse for pursuit of a course exclusively by correspondence will be 1 month for each of the following amounts paid as an educational assistance allowance:

(1) $680.00 paid after September 30, 2002, and before October 1, 2003;

(2) $695.00 paid after September 30, 2003, and before July 1, 2004; and

(3) $788.00 paid after June 30, 2004.

* * * * *

■ 3. In § 21.3046, paragraph (d)(4)(ii) is revised to read as follows

**§ 21.3046 Periods of eligibility; spouses and surviving spouses.**

* * * * *

(d) * * *

(4) * * *

(ii) The total additional amount of instruction that—

(A) $1,904 will provide during the period October 1, 2002, through September 30, 2003;

(B) $1,946 will provide during the period October 1, 2003, through June 30, 2004; or

(C) $2,206 will provide after June 30, 2004.

* * * * *

■ 4. Section 21.3131 is amended by:

■ a. Revising paragraphs (a) and (b).

■ b. Redesignating paragraphs (c), (d), and (e) as paragraphs (d), (e), and (f), respectively.

■ c. Adding a new paragraph (c).

The revisions and addition reads as follows:

**§ 21.3131 Rates—educational assistance allowance—38 U.S.C. chapter 35.**

(a) *Rates.* Except as provided in § 21.3132, educational assistance allowance is payable at the following rates for pursuit of education or training that occurs after September 30, 2002, and before October 1, 2003:

| Type of course | Monthly rate |
|---|---|
| Institutional: | |
| Full time | $680.00. |
| ¾ time | 511.00. |
| ½ time | 340.00. |
| Less than ½ but more than ¼ time [1] | 340.00. |
| ¼ time or less [1] | 170.00. |
| Cooperative training (other than farm cooperative) (Full time only) | 680.00. |
| Apprenticeship or on-the-job (full time only) [2]: | |
| First six months | 495.00. |
| Second six months | 370.00. |
| Third six months | 246.00. |
| Fourth six months and thereafter | 124.00. |
| Farm cooperative: | |
| Full time | 549.00. |
| ¾ time | 412.00. |
| ½ time | 275.00. |
| Correspondence | 55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. [3] |

[1] If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $340.00 or $170.00, as appropriate, per month, if the maximum allowance is not initially authorized.

[2] See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

[3] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(b) *Rates.* Except as provided in § 21.3132, educational assistance allowance is payable at the following rates for pursuit of education or training that occurs after September 30, 2003, and before July 1, 2004:

| Type of course | Monthly rate |
|---|---|
| Institutional: | |
| Full time | $695.00. |
| ¾ time | 522.00. |
| ½ time | 347.00 |
| Less than ½ but more than ¼ time [1] | 347.00. |
| ¼ time or less [1] | 173.75. |
| Cooperative training (other than farm cooperative) (Full time only) | 695.00. |

| Type of course | Monthly rate |
|---|---|
| Apprenticeship or on-the-job (full time only) [2]: | |
| First six months | 506.00. |
| Second six months | 378.00. |
| Third six months | 251.00. |
| Fourth six months and thereafter | 127.00. |
| Farm cooperative: | |
| Full time | 561.00. |
| ¾ time | 421.00. |
| ½ time | 281.00. |
| Correspondence | 55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly. [3] |

[1] If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $347.00 or $173.75, as appropriate, per month, if the maximum allowance is not initially authorized.

[2] See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

[3] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(c) *Rates.* Except as provided in § 21.3132, educational assistance allowance is payable at the following rates for pursuit of education or training that occurs after June 30, 2004:

| Type of course | Monthly rate |
|---|---|
| Institutional: | |
| Full time | $788.00. |
| ¾ time | 592.00. |
| ½ time | 394.00. |
| Less than ½ but more than ¼ time [1] | 394.00. |
| ¼ time or less [1] | 197.00. |
| Cooperative training (other than farm cooperative) (Full time only) | 788.00. |
| Apprenticeship or on-the-job (full time only) [2]: | |
| First six months | 574.00. |
| Second six months | 429.00. |
| Third six months | 285.00. |
| Fourth six months and thereafter | 144.00. |
| Farm cooperative: | |
| Full time | 636.00. |
| ¾ time | 477.00. |
| ½ time | 319.00. |
| Correspondence | 55 percent of the established charge for the number of lessons completed by the eligible spouse or surviving spouse and serviced by the school—Allowance paid quarterly.[3] |

[1] If an eligible person under 38 U.S.C. chapter 35 pursuing independent study on a less than one-half-time basis completes his or her program before the designated completion time, his or her award will be recomputed to permit payment of tuition and fees not to exceed $394.00 or $197.00, as appropriate, per month, if the maximum allowance is not initially authorized.

[2] See footnote 5 of § 21.4270(c) for measurement of full time and § 21.3132(c) for proportionate reduction in award for completion of less than 120 hours per month.

[3] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency or the actual cost to the eligible spouse or surviving spouse, whichever is less. VA considers the continuity of an enrollment broken when there are more than 6 months between the servicing of the lessons.

(Authority: 38 U.S.C. 3532(a), 3542(a), 3687(b)(2), (d))

* * * * *

■ 5. In § 21.3300, paragraph (c) is revised to read as follows:

**§ 21.3300 Special restorative training.**

* * * * *

(c) *Duration of special restorative training.* VA may provide special restorative training in excess of 45 months where an additional period of time is needed to complete the training. Entitlement, including any authorized in excess of 45 months, may be expended through an accelerated program requiring a rate of payment for tuition and fees in excess of—

(1) $213.00 a month for the period beginning October 1, 2002, and ending September 30, 2003;

(2) $218.00 a month for the period beginning October 1, 2003, and ending June 30, 2004; and

(3) $247.00 a month for months after June 30, 2004.

* * * * *

■ 6. Section 21.3333 is amended by:
■ a. In paragraph (a)(1), removing ''September 30, 2001, and before January 1, 2002.'' and adding, in its place, ''September 30, 2002, and before October 1, 2003:''.
■ b. In the rates table immediately following paragraph (a)(1), under the ''Monthly rate'' column, removing ''$608.00'' and adding, in its place, ''$680.00'; and under the ''Accelerated charges'' column, removing ''$190.00'' each place it appears, and adding, in its place, ''$213.00''.
■ c. In paragraph (a)(2), removing ''December 31, 2001:'' and adding, in its place, ''September 30, 2003, and before July 1, 2004:''.
■ d. In the rates table immediately following paragraph (a)(2), under the ''Monthly rate'' column, removing ''$670.00'' and adding, in its place, ''$695.00''; and under the ''Accelerated charges'' column, removing ''$210.00'' each place it appears, and adding, in its place, ''$218.00''.
■ e. Adding a new paragraph (a)(3) immediately following the authority citation at the end of paragraph (a)(2) rates table.
■ f. Revising paragraph (b)(1).

The addition and revision reads as follows:

**§ 21.3333 Rates.**

(a) * * *

(3) For special restorative training that occurs after June 30, 2004:

| Course | Monthly rate | Accelerated charges |
|---|---|---|
| Special restorative training ..... | $788.00 | If costs for tuition and fees average in excess of $247.00 per month, rate may be increased by training such amount in excess of $247.00. |

(Authority: 38 U.S.C. 3542)

(b) * * * (1) VA may pay the additional monthly rate if the parent or guardian concurs in having the eligible child's period of entitlement reduced by 1 day for each—

(i) $22.67 that the special training allowance exceeds the basic monthly rate of $680.00 for the period October 1, 2002, through September 30, 2003;

(ii) $23.17 that the special training allowance exceeds the basic monthly rate of $695.00 for the period October 1, 2003, through June 30, 2004; and

(iii) $26.27 that the special training allowance exceeds the basic monthly rate of $788.00 for months after June 30, 2004.

* * * * *

[FR Doc. 04–23755 Filed 10–22–04; 8:45 am]
BILLING CODE 8320–01–P

## DEPARTMENT OF DEFENSE

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 21

**RIN 2900–AL81**

### Veterans Education: Increased Allowances for the Educational Assistance Test Program

**AGENCIES:** Department of Defense and Department of Veterans Affairs.

**ACTION:** Final rule.

**SUMMARY:** The law provides that the Secretary of Defense shall adjust the rates of subsistence allowance and educational assistance under the Educational Assistance Test Program annually. The law further provides those rates must be adjusted based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After obtaining data from the Department of Education, the Department of Defense has determined that the rates for the 2003–04 academic year should be increased by 9.6 percent over the rates payable for the 2002–03 academic year. The regulations dealing with these rates are amended accordingly.

**DATES:** *Effective Date:* October 25, 2004.

*Applicability Date:* The changes in rates are applied retroactively to October 1, 2003, to conform to statutory requirements. For more information concerning the applicability date, see the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Lynn M. Nelson, Education Adviser (225C), Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–7294.

**SUPPLEMENTARY INFORMATION:** Section 2145 of title 10, United States Code, provides that the Secretary of Defense shall make adjustments in the amount of educational assistance offered in any academic year under the Educational Assistance Test Program and likewise, in the amount of subsistence allowance authorized under that program. This provision further requires that these adjustments will be consistent with the change in the average actual cost of attendance at public institutions of higher education over the preceding 12-month period. As required by sections 2145, 2143, and 2144 of title 10, the Department of Defense has obtained data from the Department of Education. The Department of Defense has calculated that the costs of educational assistance and subsistence allowance have each increased by 9.6 percent. Accordingly, this final rule changes 38 CFR 21.5820 and 21.5822 to reflect a 9.6 percent increase in the rates payable in the 2003–04 academic year, including changes needed to compensate for rounding.

The Secretary of Defense delegated the authority to administer the benefit payment portion of the Educational Assistance Test Program, also known as Section 901 benefits, to the Secretary of Veterans Affairs (VA). Thus, VA regulations include the educational assistance amounts payable under the program.

The changes set forth in this final rule are effective from the date of publication, but the changes in rates are applied from October 1, 2003, in accordance with the applicable statutory provisions discussed above.

**Administrative Procedure Act**

Since changes made by this final rule only reflect statutory requirements and adjustments based on previously established formulas, there is a basis for dispensing with notice-and-comment and a delayed effective date under 5 U.S.C. 552 and 553.

**Paperwork Reduction Act**

This document contains no provisions constituting a new collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

**Unfunded Mandates**

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This rule would have no such consequential effect on State, local, or tribal governments.

**Regulatory Flexibility Act**

The Secretary of Defense and the Secretary of Veterans Affairs hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 501–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

**Catalog of Federal Domestic Assistance**

There is no Catalog of Federal Domestic Assistance number for the program affected by this final rule.

**List of Subjects in 38 CFR Part 21**

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: July 28, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

August 26, 2004.

**William J. Carr,**

*Acting Deputy Under Secretary (Military Personnel Policy).*

■ For the reasons set out above, 38 CFR part 21, subpart H, is amended as set forth below:

## PART 21—VOCATIONAL REHABILITATION AND EDUCATION

### Subpart H—Educational Assistance Test Program

■ 1. The authority citation for part 21, subpart H, continues to read as follows:

**Authority:** 10 U.S.C. ch.107; 38 U.S.C. 501(a), 3695, 5101, 5113, 5303A; 42 U.S.C. 2000; sec. 901, Pub. L. 96–342, 94 Stat. 1111–1114, unless otherwise noted.

**21.5820 [Amended]**

■ 2. Section 21.5820 is amended by:

■ a. In paragraph (b)(1), removing ''2002–03'' and adding, in its place, ''2003–04'', and by removing ''$3,849'' and adding, it its place, ''$4,219''.

■ b. In paragraph (b)(2)(ii), removing ''2002–03'' and adding, in its place, ''2003–04''.

■ c. In paragraphs (b)(2)(ii)(A) and (b)(3)(ii)(A), removing ''$427.67'' and adding, in each place, ''$468.78'', and by removing ''$213.84'' and adding, in each place, ''$234.39''.

■ d. In paragraphs (b)(2)(ii)(B) and (b)(3)(ii)(B), removing ''$14.26'' and adding, in each place, ''$15.63'', and by removing ''$7.13'' and adding, in each place, ''$7.81''.

■ e. In paragraphs (b)(2)(ii)(C) and (b)(3)(ii)(C), removing ''3 cents'' and adding, in each place ''2 cents'', and by removing ''6 cents'' and adding, in each place ''1 cent''.

■ f. In paragraph (b)(3)(ii) introductory text, removing ''2002–03'' and adding, in its place, ''2003–04''.

**21.5822 [Amended]**

■ 3. Section 21.5822 is amended by:

■ a. In paragraphs (b)(1)(i) and (b)(2)(i), removing ''$959'' and adding, in each place, ''$1,051'', and by removing ''2002–03'' and adding, in each place, ''2003–04''.

■ b. In paragraphs (b)(1)(ii) and (b)(2)(ii), removing ''$479.50'' and adding, in each place, ''$525.50'', and by removing ''2002–03'' and adding, in each place, ''2003–04''.

[FR Doc. 04–23756 Filed 10–22–04; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[CO–001–0077a; FRL–7815–5]**

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Steamboat Springs

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final rule action to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado on July 31, 2002, for the purpose of redesignating the Steamboat Springs, Colorado area from nonattainment to attainment for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers ($PM_{10}$) under the 1987 standards. The Governor's submittal, among other things, documents that the Steamboat Springs area has attained the $PM_{10}$ national ambient air quality standards (NAAQS), requests redesignation to attainment and includes a maintenance plan for the area demonstrating maintenance of the $PM_{10}$ NAAQS for ten years. On August 5, 2004, EPA proposed to approve (69 FR 47399) in parallel with a direct final rule (69 FR 47366) Colorado's Steamboat Springs submittal in conjunction with Colorado's submittal to redesignate Lamar, Colorado. However, adverse comments pertaining to the Lamar $PM_{10}$ redesignation were received during the public comment period, therefore, EPA withdrew the approval of Lamar and Steamboat Springs. Since no comments were received during the public comment period on the approval of redesignating Steamboat Springs, EPA is acting to approve the redesignation in this final rule. EPA is approving this redesignation request and maintenance plan for Steamboat Springs because Colorado has met the applicable requirements of the Clean Air Act (CAA), as amended. Upon the effective date of this approval, the Steamboat Springs area will be designated attainment for the $PM_{10}$ NAAQS. This action is being taken under sections 107, 110, and 175A of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective November 24, 2004.

**ADDRESSES:** EPA has established a docket for this under Docket ID No. CO–001–0077a. Some information in the docket is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 999 18th Street, Suite 300, Denver, Colorado 80202–2466. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the docket. You may view the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays. Copies of the Incorporation by Reference material are also available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Libby Faulk, Air and Radiation Program, U.S. EPA, Region VIII, 999 18th Street, Ste. 300 (8P–AR), Denver, Colorado, 80202–2466. Telephone: (303) 312–6083. E-mail Address: *faulk.libby@epa.gov.*

**SUPPLEMENTARY INFORMATION:** For the purpose of this document, we are giving meaning to certain words or initials as follows:

(i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.

(ii) The words *EPA, we, us* or *our* mean or refer to the United States Environmental Protection Agency.

(iii) The initials *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* mean the State of Colorado, unless the context indicates otherwise.

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## I. EPA's Final Action

### *A. What Action Is EPA Taking in This Direct Final Rule?*

We are approving the Governor's submittal of July 31, 2002, that requests redesignation for the Steamboat Springs nonattainment area to attainment for the 1987 $PM_{10}$ standards. Included in Colorado's submittal are changes to the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)'' which we are approving, under section 110 of the CAA, into Colorado's SIP. We are also approving the maintenance plan for the Steamboat Springs $PM_{10}$ nonattainment area, which was submitted with Colorado's July 31, 2002 redesignation request. We are approving this request and maintenance plan because Colorado has adequately addressed all of the requirements of the CAA for redesignation to attainment applicable to the Steamboat Springs $PM_{10}$ nonattainment area. Upon the effective date of this action, the Steamboat Springs area designation status under 40 CFR Part 81 will be revised to attainment.

## II. Summary of Redesignation Request and Maintenance Plan

### *A. What Requirements Must Be Followed for Redesignations to Attainment?*

In order for a nonattainment area to be redesignated to attainment, the following conditions in section 107(d)(3)(E) of the CAA must be met:

(i) We must determine that the area has attained the NAAQS;

(ii) The applicable implementation plan for the area must be fully approved under section 110(k) of the CAA;

(iii) We must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions;

(iv) We must fully approve a maintenance plan for the area as meeting the requirements of CAA section 175A; and,

(v) The State containing such an area must meet all requirements applicable to the area under section 110 and part D of the CAA.

Our September 4, 1992 guidance entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment'' outlines how to assess the adequacy of redesignation requests against the conditions listed above.

The following is a brief discussion of how Colorado's redesignation request and maintenance plan meets the requirements of the CAA for redesignation of the Steamboat Springs area to attainment for $PM_{10}$.

### *B. Does the Steamboat Springs Redesignation Request and Maintenance Plan Meet the CAA Requirements?*

#### i. Attainment of the $PM_{10}$ NAAQS

A state must demonstrate that an area has attained the $PM_{10}$ NAAQS through submittal of ambient air quality data from an ambient air monitoring network representing maximum $PM_{10}$ concentrations. The data, which must be quality assured and recorded in the Aerometric Information Retrieval System (AIRS), must show that the average annual number of expected exceedances for the area is less than or equal to 1.0, pursuant to 40 CFR 50.6. In making this showing, the three most recent years of complete air quality data must be used.

Colorado operates two $PM_{10}$ monitoring sites in the Steamboat Springs $PM_{10}$ nonattainment area. Colorado submitted ambient air quality data from both monitoring sites which demonstrate that the area has attained the $PM_{10}$ NAAQS. These air quality data were quality assured and placed in AIRS. Two exceedances of the 24-hour $PM_{10}$ NAAQS were measured in 1993 and 1996. However, the 3-year average of estimated exceedances remained below 1.0 (per year) (40 CFR Part 50.6) and therefore did not result in a violation of the 24-hour $PM_{10}$ NAAQS. The three most recent years of data for the area (2000–2002) are complete (*i.e.*, data are available for at least 75% of the scheduled $PM_{10}$ samples per quarter) with no recorded violations. The annual $PM_{10}$ NAAQS has never been exceeded in Steamboat Springs. We believe that Colorado has adequately demonstrated, through ambient air quality data, that the $PM_{10}$ NAAQS have been attained in the Steamboat Springs area.

#### ii. State Implementation Plan Approval

Those States containing initial moderate $PM_{10}$ nonattainment areas were required by the 1990 amendments to the CAA to submit a SIP by November 15, 1991 which demonstrated attainment of the $PM_{10}$ NAAQS by December 31, 1994. To approve a redesignation request, the SIP for the area must be fully approved under section 110(k) and must satisfy all requirements that apply to that area. The Steamboat Springs area was designated nonattainment for $PM_{10}$ on December 21, 1993 (58 FR 67334). EPA fully approved the $PM_{10}$ SIP for Steamboat Springs on December 31, 1997 (62 FR 68188). The $PM_{10}$ SIP for Steamboat Springs is approved as meeting the moderate $PM_{10}$ nonattainment plan requirements.

#### iii. Improvement in Air Quality Due to Permanent and Enforceable Measures

Section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to emission reductions which are permanent and enforceable. The primary sources of $PM_{10}$ emissions in the Steamboat Springs area are re-entrained road dust (from highways, paved roads, chip sealed roads, and unpaved roads) and woodburning. The permanent and enforceable control measures that brought the Steamboat Springs $PM_{10}$ nonattainment area into attainment and were approved by EPA into Colorado's SIP in 1997 are described in detail below.

The City of Steamboat Springs and Routt County adopted local ordinance and resolutions that limit the number and types of woodburning devices in new construction in the Steamboat Springs area. Installation of new solid fuel burning devices is limited to one approved device for any building. The Steamboat Springs area adopted these measures in the late 1980s and early 1990s and the measures were included

in State regulation in 1993 (Section VIII.E. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). The rule was approved by EPA on December 31, 1997 (62 FR 68188).

The Steamboat Springs area adopted two street sanding control strategies for the nonattainment area. The first street sanding control strategy requires that any user that applies street sanding materials in the Steamboat Springs area must use materials containing less than two percent fines, except on U.S. Highway 40 from the junction of U.S. Highway 131 towards Rabbit Ears Pass. This strategy was included in State regulations in 1996 (Section VIII.B. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). The second street sanding control strategy requires that the Colorado Department of Transportation (CDOT) reduce the amount of sand applied on U.S. Highways 40 and 131 in the Steamboat Springs area by 10 percent. This strategy was included in State regulation in 1996 (Section VIII.C. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). Both the street sanding controls were approved by EPA on December 31, 1997 (62 FR 68188).

In addition, the Steamboat Springs area adopted street sweeping requirements for a defined section of Lincoln Avenue (Highway 40 in town). Street cleaning using vacuum sweepers or any other sweepers with equal efficiency must be performed four times within four days of the roadways becoming free and clear of snow and ice following each sanding deployment use. This strategy was included in State regulations in 1996 (Section VIII.D. of the ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Areas)). The rule was approved by EPA on December 31, 1997 (62 FR 68188).

In addition to the local control measures that have been adopted in the Steamboat Springs area, Colorado's July 31, 2002 submittal did cite several State-wide regulations that limit emissions from any new source that may locate in the Steamboat Springs area. These rules are: ''Air Pollution Emission Notices, Construction Permits and Fees, Operating Permits and Including the Prevention of Significant Deterioration'' (Regulation No. 3), ''Standards of Performance for New Stationary Sources'' (Regulation No. 6), and the ''Common Provisions Regulation.''

In addition to these State and Local control measures, the Federal Motor Vehicle Emission Control Program has helped reduce $PM_{10}$ emissions in Steamboat Springs as older, higher emitting diesel vehicles are replaced with newer vehicles that meet tighter emission standards. Overall, despite growth in the Steamboat Springs nonattainment area (*e.g.*, in population and vehicle miles traveled), attainment of the $PM_{10}$ NAAQS has been demonstrated. We have evaluated the various control measures, in addition to the 1999 attainment year emission inventory and the projected emissions described below, and have concluded that the continued attainment of the $PM_{10}$ NAAQS in the Steamboat Springs area has resulted from emission reductions that are permanent and enforceable.

iv. Fully Approved Maintenance Plan Under Section 175A of the CAA

Section 107(d)(3)(E) of the CAA requires that, for a nonattainment area to be redesignated to attainment, we must fully approve a maintenance plan which meets the requirements of section 175A of the CAA. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, Colorado must submit a revised maintenance plan demonstrating attainment for the 10 years following the initial 10 year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. (See sections 175A(b) and (d).) Our September 4, 1992 guidance outlines five core elements that are necessary to ensure maintenance of the relevant NAAQS in an area seeking redesignation from nonattainment to attainment. Those elements, as well as guidelines for subsequent maintenance plan revisions, are as follows:

*a. Attainment Inventory*

The maintenance plan should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to attain the NAAQS. An emission inventory for Steamboat Springs was developed for the attainment year 1999 as well as the projection inventory for the 2005 and 2010 interim years and the 2015 maintenance year. The emission inventory incorporates the emission estimates for aircrafts, restaurants, stationary sources, woodburning, mobile exhaust, and re-entrained road dust emissions from paved and unpaved roads that are contained in the nonattainment area SIP element that was approved by EPA on December 31, 1997 (62 FR 68188). Aircraft emissions were determined by using EPA and Colorado's Air Pollution Control Division (APCD) developed emission factors and activity data provided by the City of Steamboat Springs. Restaurant emissions were developed using emission factors and survey data of activity in the Steamboat Springs area. Woodburning emissions were determined by using EPA and APCD developed emission factors and survey data of woodburning activity and practices in the Steamboat Springs area. Re-entrained dust from paved and unpaved roads were developed using APCD and CDOT vehicle miles traveled data and emission factors that were calculated using the EPA-approved formula, local silt loading data, and the application of credits from street sweeping and street sand reduction control measures. Mobil exhaust was determined using EPA's PART5 model. Stationary source emission in the Steamboat Springs area were determined by calculating allowable emissions from three facilities in the area in existence in the mid-1990s. The Craig and Hayden power plants were modeled at allowable emissions for all years however these emissions were not included in the emission inventories because they are not located within the Steamboat Springs nonattainment—attainment/maintenance area and modeling domain. Summary emission figures from the 1999 attainment year inventory, the 2005 and 2010 interim years, and the 2015 projected inventory for the Steamboat Springs area are provided in Table 1 below.

TABLE 1.—1999, 2005, 2010 AND 2015 $PM_{10}$ TOTAL EMISSION INVENTORY IN POUNDS PER DAY FOR STEAMBOAT SPRINGS

| | $PM_{10}$ emissions (lbs./day) | | | |
|---|---|---|---|---|
| | 1999 | 2005 | 2010 | 2015 |
| Aircraft | 24 | 27 | 30 | 34 |
| Restaurant Grills | 99 | 114 | 127 | 143 |
| Vehicle Exhaust | 53 | 52 | 56 | 63 |
| Paved Roads | 9122 | 10059 | 11271 | 12630 |
| Unpaved Roads | 7519 | 7233 | 8104 | 9080 |
| Stationary Sources | 584 | 242 | 271 | 304 |
| Woodburning | 1057 | 1216 | 1353 | 1522 |

More detailed descriptions of the 1999 attainment year inventory, the 2005 and 2010 interim years, and the 2015 projected inventory for the Steamboat Springs area are documented in the maintenance plan in Chapter 3, section B and in the Colorado technical support documentation. Colorado's submittal contains detailed emission inventory information that was prepared in accordance with EPA emission inventory guidance.[1] Following our review, we have determined that Colorado prepared an adequate attainment inventory for the Steamboat Springs area.

*b. Maintenance Demonstration*

A state may generally demonstrate maintenance of the NAAQS by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. The maintenance demonstration for the Steamboat Springs area relied on the dispersion modeling methodology, which is the same level of modeling used in the original attainment demonstration for the moderate $PM_{10}$ SIP for this area. Maintenance is demonstrated when the highest modeled values at each receptor on the modeling grid are below the 150 $\mu g/m^3$. The emission inventories for 2005, 2010, and 2015 were input into the dispersion model to obtain 2005, 2010, and 2015 projected $PM_{10}$ concentrations. The dispersion modeling for the Steamboat Springs $PM_{10}$ maintenance area demonstrates that in 2005 the highest concentration is 121 $\mu g/m^3$, in 2010 the highest concentration is 132 $\mu g/m^3$, and in 2015 the highest concentration is 146 $\mu g/m^3$ for the 24-hour $PM_{10}$ NAAQS.

Since no exceedances of the $PM_{10}$ annual NAAQS have ever occurred in the Steamboat Springs area and since the maintenance demonstration clearly shows maintenance of the 24-hour $PM_{10}$ NAAQS in this area through the year 2015, it is reasonable and adequate to assume that protection of the 24-hour standard will be sufficient to protect the annual standard as well. Thus, EPA believes Colorado has adequately demonstrated that the Steamboat Springs area will maintain the $PM_{10}$ NAAQS for at least the next ten years. Detailed information regarding the dispersion modeling results and source apportionment can be found in Chapter 3, section C of the Steamboat Springs maintenance plan and in the technical support document.

*c. Monitoring Network*

Once a nonattainment area has been redesignated to attainment, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Colorado operates two $PM_{10}$ monitoring sites in the Steamboat Springs area. We approve these sites annually, and any future change would require discussion with, and approval from, us. In their July 31, 2002 submittal, Colorado committed to continue to operate the $PM_{10}$ monitoring stations in Steamboat Springs, in accordance with 40 CFR part 58.

*d. Verification of Continued Attainment*

A state's maintenance plan submittal should indicate how it will track the progress of the maintenance plan. This is necessary due to the fact that the emission projections made for the maintenance demonstration depend on assumptions of point and area source growth. Colorado commits to operating the Steamboat Springs $PM_{10}$ monitoring network and analyze the $PM_{10}$ concentrations in accordance with 40 CFR Part 58 to verify continued maintenance of the $PM_{10}$ NAAQS. In addition, Colorado commits to track the progress of the Steamboat Springs maintenance plan through a periodic review (every three years) of the assumptions made in the emissions inventories to verify continued maintenance of the $PM_{10}$ NAAQS in both areas. EPA relies on these commitments in approving the Steamboat Springs maintenance plan.

*e. Contingency Plan*

Section 175A(d) of the CAA requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. For the purposes of section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted expeditiously when a violation of the NAAQS has occurred in a redesignated area. The plan should clearly identify the measures to be adopted, a schedule and procedure for adoption and implementation, and a specific time limit for action by the State. The State should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

Chapter 3, section H, of the Steamboat Springs maintenance plan contains the area's $PM_{10}$ contingency plan. Exceedances trigger one level of response and violations trigger another. If there's an exceedance, the Air Pollution Control Division (APCD) and the local government staff will develop appropriate contingency measures intended to prevent or correct a violation of the $PM_{10}$ standard for the $PM_{10}$ maintenance area. APCD and local

[1] EPA's current guidance on the preparation of $PM_{10}$ emission inventories includes, ''$PM_{10}$ Emission Inventory Requirements,'' September 1994, ''Emission Inventory Improvement Program Technical Report Series, Volumes I–VII,'' July 1997 and September 1999, ''Revised 1999 National Emission Inventory Preparation Plan,'' February 2001.

government staff will consider relevant information, including information about historical exceedances, meteorological data, the most recent estimates of growth and emissions, and whether the exceedance might be attributed to an exceptional event. The Steamboat Springs maintenance plan indicates that the State will generally notify EPA and local governments in the $PM_{10}$ maintenance area within 30 days of the exceedance, but no later than 45 days. The process for exceedances will be completed within six months of the exceedance notification.

If a violation of the $PM_{10}$ NAAQS has occurred, a public hearing process at the State and local level will begin. If the Colorado Air Quality Control Commission (AQCC) agrees that the implementation of local measures will prevent further exceedances or violations, the AQCC may endorse or approve of the local measures without adopting State requirements. If, however, the AQCC finds locally adopted contingency measures to be inadequate, the AQCC will adopt State enforceable measures as deemed necessary to prevent additional exceedances or violations. Contingency measures will be adopted and fully implemented within one year of the $PM_{10}$ NAAQS violation. Any State-enforceable measures will become part of the next revised maintenance plan, submitted to us for approval.

The Steamboat Springs $PM_{10}$ maintenance plan specifies the following as potential contingency measures for the Steamboat Springs area: Reinstating the 10 percent street sand reduction requirement for State highways; increasing the Lincoln Avenue street sweeping frequency from two to four times after each sanding event; increased street sweeping requirements; road paving requirements; more stringent street sand specifications; voluntary or mandatory woodburning curtailment; bans on all woodburning; expanded, mandatory use of alternative de-icers; re-establishing nonattainment new source review permitting requirements for stationary sources; [2] transportation control measures designed to reduce vehicle miles traveled; or other emission control measures as deemed appropriate, considering various factors.

*f. Subsequent Maintenance Plan Revisions*

In accordance with section 175A(b) of the CAA, the State of Colorado is required to submit a revision to the maintenance plan eight years after the redesignation of the Steamboat Springs area to attainment for $PM_{10}$. This revision is to provide for maintenance of the NAAQS for an additional ten years following the first ten year period. Colorado committed, in the Steamboat Springs redesignation request, to submit a revised maintenance plan, for each area, to EPA eight years after the approval of the redesignation request and maintenance plan.

v. Meeting Applicable Requirements of Section 110 and Part D of the CAA

In order for an area to be redesignated to attainment, section 107(d)(3)(E) requires that it must have met all applicable requirements of section 110 and part D of the CAA. We interpret this to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to, or at the time of, submitting a complete redesignation request. In our evaluation of a redesignation request, we don't need to consider other requirements of the CAA that became due after the date of the submission of a complete redesignation request.

*a. Section 110 Requirements*

Section 110(a)(2) contains general requirements for nonattainment plans. These requirements were met for Steamboat Springs with Colorado's September 16, 1997 submittal for the Steamboat Springs $PM_{10}$ nonattainment area. EPA fully approved the Steamboat Springs $PM_{10}$ SIP on December 31, 1997 (62 FR 68188).

*b. Part D Requirements*

Before a $PM_{10}$ nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes the general requirements applicable to all nonattainment areas, subpart 4 of part D establishes specific requirements applicable to $PM_{10}$ nonattainment areas.

The requirements of sections 172(c) and 189(a) regarding attainment of the $PM_{10}$ NAAQS, and the requirements of section 172(c) regarding reasonable further progress, imposition of Reasonably Available Control Measures (RACM), the adoption of contingency measures, and the submission of an emission inventory, have been satisfied through our December 31, 1997 (62 FR 68188) approval of the Steamboat Springs $PM_{10}$ SIP.

Although EPA's regulations (see 40 CFR 51.396) require that states adopt transportation conformity provisions in their SIPs for areas designated nonattainment or subject to an EPA-approved maintenance plan, we have decided that a transportation conformity SIP is not an applicable requirement for purposes of evaluating a redesignation request under section 107(d) of the CAA. This decision is reflected in EPA's 1996 approval of the Boston carbon monoxide redesignation. (See 61 FR 2918, January 30, 1996.)

We approved the requirements of the part D new source review (NSR) permit program for the Steamboat Springs moderate $PM_{10}$ nonattainment area on December 31, 1997 (62 FR 68188). Colorado's nonattainment area NSR permitting regulations were fully approved on September 19, 1994 (59 FR 47807). Once the Steamboat Springs area is redesignated to attainment, the prevention of significant deterioration (PSD) requirements of part C of the CAA will apply. Colorado's PSD regulations, which we approved as meeting all applicable Federal requirements, apply to any area designated as unclassifiable or attainment and, thus, will become fully effective in the Steamboat Springs area upon redesignation of the area to attainment.

*C. Have the Transportation Conformity Requirements Been Met?*

Transportation conformity is required by section 176(c) of the CAA. Our conformity rule requires that transportation plans, programs and projects conform to SIPs and that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued a decision in *Environmental Defense Fund* v. *the Environmental Protection Agency,* No. 97–1637, that we must make an affirmative determination that the submitted motor vehicle emission budgets contained in State Implementation Plans (SIPs) are adequate before they are used to determine the conformity of Transportation Plans or Transportation Improvement Programs. In response to the court decision, we make any submitted SIP revision containing an emission budget available for public comment and respond to these comments before announcing our adequacy determination. The criteria and process by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4) and in the guidance ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' dated May 14, 1999.

In the Steamboat Springs maintenance plan, Colorado established a new mobile source emissions budget of 21,773 lbs./day for the year 2015 and beyond. The new mobile source emissions budget for Steamboat Spring is the total of the 2015 mobile source $PM_{10}$ emissions for the area and includes emissions from vehicle exhaust, highways, paved arterial and local roads, and gravel roads. EPA's approval of 21,773 lbs./day for Steamboat Springs as the budget for this area means that the value must be used for conformity determinations for 2015 and beyond.

EPA sent a letter to the Colorado Air Pollution Control Division (APCD) on September 25, 2002 stating that the motor vehicle emission budgets that was submitted with the Steamboat Springs $PM_{10}$ maintenance plan is adequate. This finding has also been announced on EPA's conformity Web site: *http://www.epa.gov/otaq/transp/conform/adequacy.htm.* We documented our adequacy determination for Steamboat Springs in the **Federal Register** on October 28, 2002 (67 FR 65789). The budgets took effect on November 12, 2002 (15 days after our announcement in the **Federal Register**).

*D. Did Colorado Follow the Proper Procedures for Adopting This Action?*

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing. Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing.

Colorado held a public hearing for the proposed rule changes on November 15, 2001. The rulemaking was adopted by the Air Quality Control Commission (AQCC) directly after the November 15, 2001 hearing and was formally submitted to EPA by the Governor on July 31, 2002. We have evaluated the Governor's submittal and have determined that Colorado met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

## III. Background

To implement our 1987 revisions to the particulate matter NAAQS, on August 7, 1987 (52 FR 29383), we categorized areas of the nation into three groups based on the likelihood that protection of the $PM_{10}$ NAAQS would require revisions of the existing SIP. We identified the Steamboat Springs area as a ''Group II'' area of concern, *i.e.*, areas where attainment of the NAAQS is uncertain and the SIP may require only slight adjustment.

Pursuant to sections 107(d)(4)(B) and 188(a) of the Act, areas previously identified as Group I (55 FR 45799, October 31, 1990) and other areas which had monitored violations of the $PM_{10}$ NAAQS prior to January 1, 1989 were, by operation of law upon enactment of the 1990 Clean Air Act Amendments (Pub. L. 101–549, 104 Stat. 2399), designated nonattainment and classified as moderate for $PM_{10}$. Formal codification in 40 CFR part 81 of those areas was announced in a **Federal Register** notice dated November 6, 1991 (56 FR 56694) (see also 57 FR 56762, November 30, 1992). All other areas of the country were designated unclassifiable for $PM_{10}$ by operation of law upon enactment of the 1990 Amendments (see section 107(d)(4)(B)(iii) of the Act). EPA redesignated and classified the Steamboat Springs area as a $PM_{10}$ moderate nonattainment area on December 21, 1993 (58 FR 67334) and fully approved the $PM_{10}$ SIP for Steamboat Springs on December 31, 1997 (62 FR 68188).

EPA promulgated new standards for $PM_{10}$ on September 18, 1997. Areas were to be designated under the new $PM_{10}$ standard by July 2000. On May 14, 1999, the United States Court of Appeals for the D.C. Circuit in *American Trucking Associations, Inc. et al.*, v. *United States Environmental Protection Agency* vacated the 1997 $PM_{10}$ standard. Because of the Court ruling, we are continuing to implement the pre-existing $PM_{10}$ standard, and are therefore approving redesignations to qualified $PM_{10}$ nonattainment areas. On July 31, 2002 the Governor of Colorado submitted a request to redesignate the Steamboat Springs moderate $PM_{10}$ nonattainment area to attainment (for the 1987 $PM_{10}$ NAAQS) and submitted maintenance plans for the areas.

## IV. Consideration of CAA Section 110(l)

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS or any other applicable requirement of the CAA. As stated above, the Steamboat Springs area has shown continuous attainment of the $PM_{10}$ NAAQS and has met the applicable Federal requirements for redesignation to attainment. The maintenance plan and associated SIP revision will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

## V. Statutory and Executive Order Review

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

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

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 27, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate Matter, Reporting and recordkeeping requirements.

*40 CFR Part 81*

Air pollution control.

Dated: September 9, 2004.

**Patricia D. Hull,**

*Acting Regional Administrator, Region 8.*

■ 40 CFR parts 52 and 81, chapter I, title 40 are amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(101) to read as follows:

### § 52.320 Identification of plan.

* * * * *

(c) * * *

(101) On July 31, 2002, the State of Colorado submitted a maintenance plan for the Steamboat Springs $PM_{10}$ nonattainment area and requested that this area be redesignated to attainment for the $PM_{10}$ National Ambient Air Quality Standards. The redesignation request and maintenance plan satisfies all applicable requirements of the Clean Air Act.

(i) Incorporation by reference.

(A) Colorado Air Quality Control Commission, ''State Implementation Plan—Specific Regulations for Nonattainment—Attainment/Maintenance Areas (Local Elements),'' 5 CCR 1001–20, revisions adopted November 15, 2001, effective December 30, 2001 as follows: Section VIII., titled ''Steamboat Springs $PM_{10}$ Attainment/Maintenance Area'' and supersedes and replaces all prior versions of Section VIII.

■ 3. Section 52.332 is amended by adding paragraph (n) to read as follows:

### § 52.332 Control strategy: Particulate matter.

* * * * *

(n) On July 31, 2002, the State of Colorado submitted a maintenance plan for the Steamboat Springs $PM_{10}$ nonattainment area and requested that this area be redesignated to attainment for the $PM_{10}$ National Ambient Air Quality Standards. The redesignation request and maintenance plan satisfies all applicable requirements of the Clean Air Act.

## PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In section 81.306, the table entitled ''Colorado–PM–10'' is amended by revising the entries under Routt County (part) for ''Steamboat Springs'' to read as follows:

### § 81.306 Colorado.

* * * * *

COLORADO.—PM–10

| Designated Area | Designation | | Classification | |
|---|---|---|---|---|
| | Date | Type | Date | Type |
| * * * | * | * | * | * |
| Routt County (part)—Steamboat Springs ..... | November 24, 2004. | Attainment. | | |
| On the East—The Routt National Forest. | | | | |
| On the South—The southern border of sections 19, 10, 21, T4N, R84W of the 6th P.M. and the southern border of sections 23, 24, T4N, R85W of the 6th P.M. | | | | |

COLORADO.—PM–10—Continued

| Designated Area | Designation | | Classification | |
|---|---|---|---|---|
| | Date | Type | Date | Type |
| On the West—Beginning at the southwestern corner of section 23, T4N, R85W of the 6th P.M. North along the western border of sections 23, 14, 11, T4N, R85W. Thence, along the ridge which bisects sections 35, 36, 25, 24, 13, 14, 11, 12, 1, T5N, R85W, and sections 36, 25, 24, T6N, R85W. Thence heading northwest along the ridge which bisects sections 23, 15, 10, 9, 4, T6N, R85W of 6th P.M. Thence, heading northeast along the ridge which bisects sections 33, 34, 35, 36, 25, T7N, R85W and sections 30 and 10 of T7N, R84W. Thence, north along the N 1/2 of the western edge of section 19, to the NW corner of section 18, T7N, R84W. | | | | |
| On the North—The northern boundary of sections 16, 17, 18, T7N, R84W of 6th P.M. | | | | |
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[FR Doc. 04–23840 Filed 10–22–04; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 262

**[OA–2004–0004; FRL–7830–1]**

**RIN 2090–AA13**

## National Environmental Performance Track Program; Corrections

**AGENCY:** Environmental Protection Agency (EPA)

**ACTION:** Direct final rule; corrections.

**SUMMARY:** EPA is taking direct final action to revise and correct certain provisions in the Resource Conservation and Recovery Act (RCRA) program applicable only to members of the National Environmental Performance Track Program. The revisions concern the proposed rule published on August 13, 2002 (67 FR 52674), and the subsequent final rule published on April 22, 2004 (69 FR 21737). Both the proposal and the final rule contained an inconsistency between the preamble language and regulatory language. The final rule also inadvertently omitted three references to applicable regulatory provisions that were properly referenced in the proposed rule. The proposed and final rules cover provisions under both the Clean Air Act and RCRA. Today's direct final rule applies only to the RCRA provisions. The Clean Air Act provisions are unchanged.

The regulatory proposal of August 13, 2002 was published with a description in the preamble that was inconsistent with the proposed regulatory language. EPA used the word ''or'' in the preamble description of the provision requiring notice when a generator accumulates hazardous waste, while the subject regulatory language used the word ''and.'' No public comment was received during the public comment period concerning the inconsistent language, and the April 2004 rule repeated the inconsistency between the preamble and the regulatory language.

Today's rule corrects the preamble language to clarify that the rule requires notification to both the Regional Administrator and the authorized State.

In addition, the April 2004 final rule did not include three applicable regulatory provisions that were included in the original preamble of August 13, 2002 (67 FR 52674) proposal. The applicable regulatory provisions omitted from the final rule were correctly published in the proposal. Today's rule corrects the April 2004 final rule to include the applicable regulatory provisions.

EPA is publishing today's direct final rulemaking to address the inconsistency between the preamble and regulatory language, and to correct the inadvertently omitted applicable regulatory provisions. The applicable regulatory provisions corrected and finalized today are the same as the language that was proposed in August 2002 and received public comment.

Today's corrections are being published as a direct final rule because EPA believes these revisions to be non-controversial and does not anticipate any adverse comment. We are approving these revisions to correct the earlier inconsistency and omissions.

**DATES:** This direct final rule is effective December 27, 2004 unless EPA receives adverse comments by November 24, 2004. If the Agency receives adverse comments it will withdraw this direct final rule by publishing a timely withdrawal in the **Federal Register**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OA–2004–0004, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- Agency Web site: *http://www.epa.gov/edocket*. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.
- Mail: Mr. Robert D. Sachs, Environmental Protection Agency, Mail code 1807T, 1200 Pennsylvania Avenue, Washington, DC 20460 telephone number 202–566–2884; fax number 202–566–0966; e-mail address: *sachs.robert@epa.gov*.
- Hand Delivery: Office of Environmental Information Docket, Environmental Protection Agency, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. OA–2004–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET,

regulations.gov, or e-mail. The EPA EDOCKET and the federal regulations.gov websites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Office of Environmental Information Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Environmental Information Docket is (202) 566–1752.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert D. Sachs, Performance Incentives Division, Office of Business and Community Innovation, Office of Policy, Economics and Innovation, Office of Administrator, Mail Code 1807T, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460, telephone number 202–566–2884; fax number 202–566–0966; e-mail address: *sachs.robert@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

## I. General Information

### *A. Is There a Parallel Proposal to Today's Action?*

There is a parallel proposal to today's action. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment, since these provisions were previously proposed, the Agency accepted public comment, and no comments were received concerning the subject issues today's action addresses. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to revise the RCRA provisions described in this action if adverse comments are filed. This rule will be effective on December 27, 2004 without further notice unless we receive adverse comment by November 24, 2004. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

### *B. Does This Action Apply to Me?*

Categories and entities potentially regulated by this action include all entities regulated by EPA, pursuant to its authority under the various environmental statutes, who voluntarily decide to join the Performance Track Program. Thus, potential respondents may fall under any North American Industry Classification System (NAICS) Code. The following table lists the Primary NAICS Codes for all current Performance Track members.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is eligible to be regulated by this action, you should carefully examine the qualifying criteria for the Performance Track Program at *http://www.epa.gov/performancetrack*. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

PRIMARY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES OF CURRENT PERFORMANCE TRACK MEMBERS

| Industry group | SIC | NAICS |
|---|---|---|
| Surgical Appliance and Supplies Manufacturing | | 339113 |
| Laboratory Apparatus and Furniture Manufacturing | | 339111 |
| Pharmaceutical Preparation Manufacturing | | 325412 |
| All Other Miscellaneous Chemical Product and Preparation Manufacturing | | 325998 |
| Fossil Fuel Electric Power Generation | | 221112 |
| Dry Cleaning and Laundry Services (except Coin-Operated) | | 812320 |
| Heating Oil Dealers | | 454311 |
| Paper (except Newsprint) Mills | | 322121 |
| Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing | | 334220 |
| Surgical and Appliance and Supplies Manufacturing | | 339113 |
| Research and Development in the Physical, Engineering, and Life Sciences | | 541710 |
| Plastics Material and Resin Manufacturing | | 325211 |
| Wood Preservation | | 321114 |
| All Other Basic Organic Chemical Manufacturing | | 325199 |
| Ball and Roller Bearing Manufacturing | | 332991 |
| Tire Manufacturing (except Retreading) | | 326211 |
| Semiconductor and Related Device Manufacturing | | 334413 |
| All Other Motor Vehicle Parts Manufacturing | | 336399 |
| Fruit and Vegetable Canning | | 311421 |
| Paperboard Mills | | 322130 |
| Commercial Screen Printing | | 323113 |

PRIMARY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES OF CURRENT PERFORMANCE TRACK MEMBERS—Continued

| Industry group | SIC | NAICS |
|---|---|---|
| Unlaminated Plastics Film and Sheet (except Packaging) Manufacturing | | 326113 |
| Electronic Computer Manufacturing | | 334111 |
| Other Motor Vehicle Electrical and Electronic Equipment Manufacturing | | 336322 |
| Surgical and Medical Instrument Manufacturing | | 339112 |
| Ophthalmic Goods Manufacturing | | 339115 |
| All Other Miscellaneous Manufacturing | | 339999 |
| Hydroelectric Power Generation | | 221111 |
| Electric Bulk Power Transmission and Control | | 221121 |
| Electric Power Distribution | | 221122 |
| Medicinal and Botanical Manufacturing | | 325411 |
| All Other Miscellaneous Nonmetallic Mineral Product Manufacturing | | 327999 |
| Printed Circuit Assembly (Electronic Assembly) Manufacturing | | 334418 |
| Motor Vehicle Body Manufacturing | | 336211 |
| Dry, Condensed, and Evaporated Dairy Product Manufacturing | | 311514 |
| Carpet and Rug Mills | | 314110 |
| Cut Stock, Re-sawing Lumber, and Planing | | 321912 |
| All Other Basic Inorganic Chemical Manufacturing | | 325188 |
| Soap and Other Detergent Manufacturing | | 325611 |
| Custom Compounding of Purchased Resins | | 325991 |
| All Other Plastics Product Manufacturing | | 326199 |
| Concrete Block and Brick Manufacturing | | 327331 |
| Iron and Steel Mills | | 331111 |
| Aluminum Die-Casting Foundries | | 331521 |
| Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers | | 332812 |
| Farm Machinery and Equipment Manufacturing | | 333111 |
| Office Machinery Manufacturing | | 333313 |
| Pump and Pumping Equipment Manufacturing | | 333911 |
| Electron Tube Manufacturing | | 334411 |
| Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing | | 334511 |
| Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals | | 334515 |
| Prerecorded Compact Disc (except Software), Tape, and Record Reproducing | | 334612 |
| Magnetic and Optical Recording Media Manufacturing | | 334613 |
| Motor and Generator Manufacturing | | 335312 |
| Motor Vehicle Transmission and Power Train Parts Manufacturing | | 336350 |
| Aircraft Manufacturing | | 336411 |
| Guided Missile and Space Vehicle Manufacturing | | 336414 |
| Sporting and Athletic Goods Manufacturing | | 339920 |
| Solid Waste Combustors and Incinerators | | 562213 |
| National Security | | 928110 |
| Potash, Soda, and Borate Mineral Mining | | 212391 |
| Malt Manufacturing | | 311213 |
| Cigarette Manufacturing | | 312221 |
| Canvas and Related Product Mills | | 314912 |
| Reconstituted Wood Product Manufacturing | | 321219 |
| Wood Window and Door Manufacturing | | 321911 |
| Pulp Mills | | 322110 |
| Nonfolding Sanitary Food Container Manufacturing | | 322215 |
| Synthetic Organic Dye and Pigment Manufacturing | | 325132 |
| Synthetic Rubber Manufacturing | | 325212 |
| Noncellulosic Organic Fiber Manufacturing | | 325222 |
| In-Vitro Diagnostic Substance Manufacturing | | 325413 |
| Adhesive Manufacturing | | 325520 |
| Polish and Other Sanitation Good Manufacturing | | 325612 |
| Surface Active Agent Manufacturing | | 325613 |
| Printing Ink Manufacturing | | 325910 |
| Rubber Product Manufacturing for Mechanical Use | | 326291 |
| All Other Rubber Product Manufacturing | | 326299 |
| Plate Work Manufacturing | | 332313 |
| Metal Can Manufacturing | | 332431 |
| Other Ordnance and Accessories Manufacturing | | 332995 |
| Printing Machinery and Equipment Manufacturing | | 333293 |
| Food Product Machinery Manufacturing | | 333294 |
| Optical Instrument and Lens Manufacturing | | 333314 |
| Photographic and Photocopying Equipment Manufacturing | | 333315 |
| Turbine and Turbine Generator Set Units Manufacturing | | 333611 |
| Bare Printed Circuit Board Manufacturing | | 334412 |
| Electronic Capacitor Manufacturing | | 334414 |
| Automatic Environmental Control Manufacturing for Residential, Commercial, and Appliance Use | | 334512 |
| Instruments and Related Products Manufacturing for Measuring, Displaying, and Controlling Industrial Process Variables. | | 334513 |
| Other Communication and Energy Wire Manufacturing | | 335929 |

PRIMARY NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) CODES OF CURRENT PERFORMANCE TRACK MEMBERS—Continued

| Industry group | SIC | NAICS |
|---|---|---|
| Current-Carrying Wiring Device Manufacturing | | 335931 |
| Automobile Manufacturing | | 336111 |
| Truck Trailer Manufacturing | | 336212 |
| Gasoline Engine and Engine Parts Manufacturing | | 336312 |
| Motor Vehicle Air Conditioning Manufacturing | | 336391 |
| Dental Equipment and Supplies Manufacturing | | 339114 |
| Musical Instrument Manufacturing | | 339992 |
| Other Nonhazardous Waste Treatment and Disposal | | 562219 |
| Industrial Launderers | | 812332 |
| Regulation and Administration of Transportation Programs | | 926120 |
| Space Research and Technology | | 927110 |

Entities potentially affected by this final action also include state, local, and Tribal governments that have been authorized to implement these regulations.

*Outline.* The information presented in this preamble is organized as follows:

I. General Information
A. Is there a parallel proposal to today's action?
B. Does this action apply to me?
II. Overview
A. What is the National Environmental Performance Track Program?
B. What is the history of this action?
C. What is EPA's rationale for this rule?
III. Final Rulemaking Changes to 180-Day accumulation time for Performance Track hazardous waste generators
A. What are the current requirements for large quantity generator accumulation, and what is in today's final rule?
1. Standards for facilities to notify to States and EPA
2. Standards for waste management in containers
3. Standards for waste management in tanks
4. Standards for preparedness and prevention; and contingency plan and emergency procedures
5. Typographical corrections to the 2004 preamble at 69 FR 21737
B. How will today's final rule affect applicability of RCRA rules in authorized States?
IV. Summary of Environmental, Energy, and Economic Impacts
A. What are the cost and economic impacts?
B. What are the health, environmental, and energy impacts?
V. Effective Date for Today's Requirements
VI. Administrative Requirements
A. Executive Order 12866, Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health & Safety Risks
H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Congressional Review Act
VII. Statutory Authority
VIII. Judicial Review

## II. Overview

### A. What is the National Environmental Performance Track Program?

The National Environmental Performance Track Program is a voluntary EPA program that recognizes and rewards private and public facilities that demonstrate strong environmental performance beyond current requirements. The program is based on the premise that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing cost and spurring technological innovation.

Since the program's inception in June 2000, Performance Track membership has grown and has produced solid results. Performance Track encourages participation by small, medium, and large facilities, and its members are located throughout the United States, including Puerto Rico. A broad range of industries are represented, with manufacturers of chemical, electronic and electrical, and medical equipment comprising nearly 40 percent of the members, and both large and small facilities. Over the last three years, Performance Track has received 508 applications and accepted 409. Currently there are 304 members.

Performance Track also provides recognition, regulatory flexibility, and other incentives that promote high levels of environmental performance and provides a learning network where best practices can be shared. In addition, the program encourages continuous environmental improvement through the use of environmental management systems, and fosters public outreach, community involvement, and performance measurement.

Once accepted, members remain in the program for three years, as long as they continue to meet the program criteria. After three years they may apply to renew their membership through a streamlined application process. Facilities applying to Performance Track must have: (1) An Environmental Management System in place for at least one full cycle that has been assessed by an independent party; (2) a history of sustained compliance; (3) past environmental achievements and a commitment to continuous environmental improvement; and (4) community outreach and annual reporting.

For a closer look at the activities and accomplishments of Performance Track members to date, as well as member's goals for future achievements, please refer to the program Web site at *http://www.epa.gov/performancetrack*.

### B. What Is the History of This Action?

The revisions EPA is finalizing today concern the August 13, 2002 proposed rule (67 FR 52674), and April 22, 2004 final rule (69 FR 21737) that include provisions under both the Clean Air Act and RCRA. However, today's action applies only to the RCRA provisions. The provisions under the MACT program finalized at 69 FR 21737 are unchanged by today's action.

Today's action revises RCRA regulations to allow hazardous waste generators who are members of Performance Track to extend on-site storage of hazardous waste. Performance Track members may extend storage time to 180 days, and in certain cases 270 days, to accumulate their hazardous waste without a RCRA permit or interim status.

EPA is issuing today's direct final rule to correct one inconsistency and three omissions that were published in the

April 2004 final rule. Since there was a proposed rule on August 13, 2002 during which the Agency accepted public comment, and no comments were received with regard to the subject provisions being corrected today, EPA believes this to be a non-controversial revision and anticipates no adverse comments as a result of today's action.

*C. What Is EPA's Rationale for This Rule?*

EPA is publishing today's direct final rule solely to revise the inconsistency and omissions from the proposed rule (67 FR 52674), and final rule (69 FR 21737).

**III. Final Rulemaking Changes: 180-Day Accumulation Time for Performance Track Hazardous Waste Generators**

There are four provisions in today's direct final rule, and three corrections of typographical errors from the rule finalized on April 22, 2004 (69 FR 21737). The preamble section describing § 262.34(j)(2) is corrected, and the regulatory language in §§ 262.34(j)(3)(i), 262.34(j)(3)(ii), and 262.34(j)(7) are corrected to include applicable regulatory provisions that were unintentionally omitted from the April 22, 2004 final rule. There were also three typographical errors on 69 FR page 21748; these are corrected today as described below in section III A 5.

*A. What are the Current Requirements for Large Quantity Generator Accumulation, and What Is in Today's Final Rule?*

1. Standards for Facilities To Notify States and EPA

Section 262.34(j)(2), facility notification. The April 2004 preamble description of § 262.34(j)(2) is inconsistent with the regulatory language as finalized. Section 262.24(j)(2) requires a facility to submit a notification to the authorized State and the EPA. However, the preamble incorrectly described this notification to be submitted to the authorized State or EPA. The following paragraph replaces the April 22, 2004 preamble section at 69 FR 21747. The description of this section is entitled ''Initial Notice.''

The revised preamble section now reads as follows: ''Initial Notice. Under § 262.34(j)(2), Performance Track generators need to give prior notice to EPA and the authorized State agency of their intent to accumulate hazardous waste in excess of 90 days in accordance with this rule. These notices will assist EPA and state agencies in monitoring implementation of this incentive. Public comments to the proposal expressed concern that such notifications may place an additional burden on facilities with dynamic waste streams if re-notifications are required for each new waste stream. EPA acknowledges this concern, clarifies that notifications are generally one-time events, and estimates that this burden will be of minimal impact to member facilities.''

2. Standards for Waste Management in Containers

Section 262.34(j)(3)(i) of the regulatory language in the April 2004 final rule (69 FR 21754) inadvertently omitted a reference for compliance with subparts AA, BB, and CC of 40 CFR part 265 and 40 CFR 264.175 that was included in the preamble of the August 2002 proposal. The reference to subpart I remained in that section of the final rule. The omitted applicable regulatory provisions refer to compliance with RCRA secondary containment standards, and air emission standards for process vents; equipment leaks; and tanks, surface impoundments, and containers. This reference was included at the proposal stage (67 FR 52674), and inadvertently omitted from the final rule. Therefore, the regulatory language in Section 262.34(j)(3)(i) is amended today to read: ''Containers, in accordance with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265 and 40 CFR 264.175; or * * *''

3. Standards for Waste Management in Tanks

Section 262.34(j)(3)(ii) of the regulatory language in the April 2004 final rule at 69 FR 21754 omitted the reference to comply with sections AA, BB, and CC of 40 CFR part 265, and omitted an exception to compliance with 40 CFR 265.197(c). The reference to subpart J remained in that section of the final rule. Subparts AA, BB, and CC of 40 CFR part 265 refer to compliance with air emission standards for process vents; equipment leaks; and tanks, surface impoundments, and containers; 40 CFR 265.197(c) refers to interim status standards for closure and post-closure care for tanks. These applicable regulatory provisions were included at the proposal stage (67 FR 52674), and inadvertently omitted from the final rule.

Also in section 262.34(j)(3)(ii), the reference to § 265.200 remained, but the clause ''except for § 265.197(c)'' was omitted. The effect of omitting § 265.197(c) is that it inadvertently required compliance with § 265.200 (waste analysis and trial tests for tanks), rather than waive the requirement to comply with § 265.200.

Therefore, the regulatory language in § 262.34(j)(3)(ii) is amended today to read: ''Tanks, in accordance with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265 except for §§ 265.197(c) and 265.200; or * * *''

When EPA finalized the rule in April 2004, the **Federal Register** preamble section on pages 69 FR 21747–8 correctly described §§ 262.34(j)(3)(i) and 262.34(j)(3)(ii). Since EPA is today correcting the regulatory language, we are repeating the description of that preamble language for clarity.

The preamble section describing §§ 262.34(j)(3)(i) and 262.34(j)(3)(ii) continues to read as follows: ''Standards for Accumulation Units. Condition (§ 262.34(j)(3)) in today's rule requires Performance Track generators to accumulate hazardous wastes in storage units (such as containers, tanks, drip pads, and containment buildings) that meet the standards for storing hazardous wastes at RCRA interim status facilities (see subparts I, J, W, and DD of 40 CFR part 265, respectively). These are standard requirements for large quantity generators.

If Performance Track facilities use containers for extended accumulation of hazardous wastes, today's rule additionally requires secondary containment systems for containers to prevent releases into the environment that might be caused by handling accidents, deterioration, or other circumstances. Secondary containment is a standard requirement for RCRA-permitted facilities that use containers to store hazardous wastes containing free liquids and certain listed hazardous wastes (*i.e.*, F020, F021, F023, F026, and F027). It is not, however, typically required for hazardous waste generators or interim status facilities. Public comments (received on the initial proposal 67 FR 52674) on the secondary containment requirement included support for the proposal, concerns about the costs of secondary containment, and recommendations for more stringent requirements. EPA believes that requiring secondary containment in the context of this rule is a reasonable, common-sense precaution to take in exchange for extending accumulation time limits and increasing the volume limit.''

4. Standards for Preparedness and Prevention; and Contingency Plan and Emergency Procedures

Section 262.34(j)(7) of the regulatory language at 69 FR 21754 of the April 2004 final rule omitted a reference to comply with subparts C and D of Part 265. The second sentence of the

regulatory language was correct as published. Subparts C and D of 40 CFR Part 265 are provisions for preparedness and prevention, and contingency plan and emergency procedures. The reference to subparts C and D was included in the regulatory language at the proposal stage (67 FR 52674), and inadvertently omitted from the final rule. EPA is amending § 262.34(j)(7) today by correcting the omission that occurred in the final rule. To remain consistent with **Federal Register** publication guidelines, EPA is publishing both sentences of § 262.34(j)(7), even though the second sentence is unchanged from the April 2004 final rule. Therefore, the regulatory language in § 262.34(j)(7) is amended today to read: ''The generator complies with the requirements for owners and operators in subparts C & D in 40 CFR part 265, and with §§ 265.16, and 268.7(a)(5). In addition, such a generator is exempt from all the requirements in Subparts G and H of part 265 of this chapter, except for §§ 265.111 and 265.114; and * * *''

The preamble section from the final rule at 69 FR 21737 that described § 262.34(j)(7) was correct as published. EPA repeats the preamble language here.

*General Facility Standards.* Under current regulations, all hazardous waste generators are subject to certain general facility standards relating to personnel training, preparedness and prevention, and contingency plans and emergency procedures.

These general facility requirements also apply to Performance Track generators, and have been included in this rule for the sake of clarity.

5. Typographical Corrections to the 2004 Preamble at 69 FR 21737

69 FR 21748, middle column, third line. This preamble paragraph as published refers to ''§ 262.24(j)(6).'' EPA clarifies that it should refer to § 262.34(j)(6).

69 FR 21748, middle column, the first paragraph under Pollution Prevention refers to § 262.34(j)(7), but should refer to § 262.34(j)(8).

69 FR 21748, middle column, the third paragraph under Pollution Prevention refers to § 262.34(8), but should refer to § 262.34(j)(8).

*B. How Will Today's Final Rule Affect Applicability of RCRA Rules in Authorized States?*

Under section 3006 of RCRA, EPA may authorize a qualified State to administer and enforce a hazardous waste program within the State in lieu of the Federal program, and to issue and enforce permits in the State. (*See* 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, a State continues to have enforcement responsibilities under its law to pursue violations of its hazardous waste program. EPA continues to have independent authority under RCRA sections 3007, 3008, 3013, and 7003.

After authorization, Federal rules written under RCRA provisions that predate the Hazardous and Solid Waste Amendments of 1984 (HSWA) no longer apply in the authorized state. New Federal requirements imposed by those rules that predate HSWA do not take effect in an authorized State until the State adopts the requirements as State law.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time they take effect in non-authorized States. EPA is directed to carry out HSWA requirements and prohibitions in authorized States until the State is granted authorization to do so.

Today's final rule is not promulgated under HSWA authorities. Consequently, it does not amend the authorized program for states upon promulgation, as EPA does not implement the rule. The authorized RCRA program will change when EPA approves a State's application for a revision to its RCRA program.

For today's Performance Track rule, EPA encourages States to expeditiously adopt Performance Track regulations and begin program implementation. To revise the Federally-authorized RCRA program, States need to seek formal authorization for the Performance Track rule after program implementation. EPA encourages States to begin implementing this incentive as soon as it is allowable under State law, while the RCRA authorization process proceeds.[1]

## IV. Summary of Environmental, Energy, and Economic Impacts

Today's direct final rule corrects provisions finalized on April 22, 2004 (69 FR 21737). The economic impact of RCRA § 262.34(j) is not changed by today's rulemaking. That is, the economic analysis conducted by EPA for the Performance Track Rule published in April 2004 at 69 FR 21737 addresses completely the changes being made today.

*A. What Are the Cost and Economic Impacts?*

There are no cost or economic impacts as a result of today's rulemaking.

*B. What Are the Health, Environmental, and Energy Impacts?*

There are no health, environmental, or energy impacts to today's rulemaking. Today's changes do not loosen the underlying environmental obligations of Performance Track facilities.

## V. Effective Date for Today's Requirements

The changes contained in this final rule will take effect on December 27, 2004. These rule changes apply only to members of the Performance Track, which is a voluntary program. The changes are intended to provide regulatory relief and do not impose new requirements.

## VI. Administrative Requirements

*A. Executive Order 12866, Regulatory Planning and Review*

Today's direct final rule corrects provisions finalized on April 22, 2004 (69 FR 21737). The economic impact of RCRA § 262.34(j) is not changed by today's rulemaking. That is, the economic analysis conducted by EPA for the Performance Track Rule published in April 2004 at 69 FR 21737 addresses completely the changes being made today.

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

*B. Paperwork Reduction Act*

This action does not impose any new information collection burden. This rule makes corrections to a rule published in April 2004 (69 FR 21737), and requires no additional information collection requirements. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2010–0032, and EPA ICR number 1949.04. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

[1] EPA encourages States to take this approach for less stringent Federal requirements where rapid implementation is important. For example, EPA encouraged States to implement State Corrective Action Management Unit Regulations, once adopted as a matter of State law, prior to authorization (*see* 58 FR 8677, February 16, 1993).

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

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

*C. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rule requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business according to the Small Business Administration definition for the business's NAICS code; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This final rule will not impose any requirements on small entities. Today's direct final rule corrects provisions finalized on April 22, 2004 (69 FR 21737) in 40 CFR § 262.34(j). The economic impact of RCRA § 262.34(j) is not changed by today's rulemaking. That is, the economic analysis conducted by EPA for the Performance Track rule published in April 2004 at 69 FR 21737 addresses completely the changes being made today.

*D. Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 04–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written Statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written Statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any one year. Participation by facilities in the Performance Track is voluntary, and so is participation by State or local government agencies. There are no significant or unique effects on State, local, or Tribal governments. Today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

*E. Executive Order 13132: Federalism*

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule makes minor corrections to a final rule published in April 2004 at 69 FR 21737. Executive Order 13132 does not apply to this rule.

Stakeholders, including many States, were consulted during the development of the Performance Track Program. Many suggestions and ideas generated by States and other stakeholders provided the basis for some of the provisions in the performance track program. In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically sought comment on the 2002 proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This final rule does not have Tribal implications. It will not have substantial

direct effects on Tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and Tribal governments, EPA specifically sought additional comment on the 2002 proposed rule from Tribal officials.

*G. Executive Order 13045: Protection of Children From Environmental Health & Safety Risks*

Executive Order 13045: ''Protection of Children From Environmental Health & Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

*H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use*

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, EPA has concluded that this rule is not likely to have any adverse energy effects.

*I. National Technology Transfer Advancement Act*

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note), directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory and procurement activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (such as materials specifications, test methods, sampling procedures, business practices) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the National Fire Protection Association (NFPA), and the Society of Automotive Engineers (SAE). The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an Agency does not use available and applicable voluntary consensus standards.

This final rule does not involve technical standards. Thus, the provisions of NTTAA do not apply to this rule and EPA is not considering the use of any voluntary consensus standards.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This final rule is effective on December 27, 2004.

## VII. Statutory Authority

The statutory authority for this action is provided by sections 2002 and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 U.S.C. 6912 and 6922).

## VIII. Judicial Review

Under section 6976(a) of the Resource Conservation and Recovery Act, judicial review of the RCRA-portion of this final rule is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by December 27, 2004. Under this same section 6976(a) of RCRA, the requirements that are the subject of this final rule may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

## List of Subjects in 40 CFR Part 262

Exports, Hazardous materials transportation, Hazardous waste, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

Dated: October 19, 2004.

**Michael O. Leavitt,**

*Administrator.*

■ 40 CFR part 262 is amended as follows:

## PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

■ 1. The authority citation for part 262 continues to read as follows:

**Authority:** 42 U.S.C. 6906, 6912, 6922–6925, 6937, and 6938.

## Subpart C—[Amended]

■ 2. Section 262.34 is amended by revising paragraphs (j)(3)(i), (j)(3)(ii), and (j)(7) to read as follows:

### § 262.34 Accumulation time.

* * * * *

(j) * * *

(3) * * *

(i) Containers, in accordance with the applicable requirements of subparts I, AA, BB, and CC of 40 CFR part 265 and 40 CFR 264.175; or

(ii) Tanks, in accordance with the applicable requirements of subparts J, AA, BB, and CC of 40 CFR part 265, except for §§ 265.197(c) and 265.200; or

* * * * *

(7) The generator complies with the requirements for owners and operators in subparts C and D in 40 CFR part 265, with § 265.16, and with § 268.7(a)(5). In addition, such a generator is exempt from all the requirements in subparts G and H of part 265 of this chapter, except for §§ 265.111 and 265.114; and

* * * * *

[FR Doc. 04–23842 Filed 10–22–04; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 43 and 64

**[IB Docket Nos. 02–324 and 96–261, FCC 04–53; DA 04–671]**

### In the Matter of International Settlements Policy Reform and International Settlement Rates

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rules; announcement of effective date.

**SUMMARY:** This document containing information collection requirements announces the effective date of the rules published on April 28, 2004 and July 2, 2004. Those rules modified the application of its International Settlements Policy.

**DATES:** The amendments to §§ 43.51(d), 43.51(e), 64.1001, and 64.1002(c) published at 69 FR 23151 (April 28, 2004) are effective on October 25, 2004. The amendments to § 64.1001, adopted in 69 FR 40326 (July 2, 2004) are effective on October 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Peggy Reitzel, (202) 418–1460.

**SUPPLEMENTARY INFORMATION:** On March 3, 2004, the Commission released a Report and Order adopting a number of amendments to the Commission's rules regarding the International Settlements Policy (ISP), a summary of which was published in the **Federal Register**. *See* 69 FR 23151, April 28, 2004. We stated that the rules were effective on May 28, 2004, except for those sections containing new information collection requirements, which required approval by the Office of Management and Budget (OMB). Additional revisions to § 64.1001 were adopted later, 69 FR 29894 (May 26, 2004), and a correction to those later revisions was published in the **Federal Register**. *See* 69 FR 40326, July 2, 2004. The information collection requirements were approved by OMB on September 30, 2004. See OMB No. 3060–0454. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04–23093 Filed 10–22–04; 8:45 am]

BILLING CODE 6712–01–P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

**[DA 04–3173; MB Docket No. 04–146; RM–10871]**

### Radio Broadcasting Services; Fort Rucker, Ozark and Slocomb, AL

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** In response to petition for rule making filed by Styles Media Group, LLC and Styles Broadcasting of Dothan, Inc. this document substitutes Channel 263C3 for Channel 263A at Fort Rucker, Alabama, reallots Channel 263C3 to Slocomb, Alabama, and modifies the Station WXUS license to specify operation on Channel 263C3 at Slocomb. In order to replace the loss of the sole local service at Fort Rucker, this document also reallots Channel 280C3 from Ozark, Alabama, to Fort Rucker and modifies the Station WJRL license to specify Fort Rucker as the community of license. *See* 68 FR 25873, May 10, 2004. The reference coordinates for the Channel 263C3 allotment at Slocomb, Alabama, are 31–06–36 and 85–35–40. The reference coordinates for the Channel 280C3 allotment at Fort Rucker, Alabama, are 31–26–33 and 85–32–21. With this action, the proceeding is terminated.

**DATES:** Effective November 22, 2004.

**FOR FURTHER INFORMATION CONTACT:** Robert Hayne, Media Bureau (202) 418–2177.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the *Report and Order* in MB Docket No. 04–146 adopted October 6, 2004, and released October 8, 2004. The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

**List of Subjects in 47 CFR Part 73**

Radio, Radio Broadcasting.

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

## PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

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

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 263A and by adding Channel 280C3 at Fort Rucker, by removing Channel 280C3 at Ozark and adding Slocomb, Channel 263C3.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04–23834 Filed 10–22–04; 8:45 am]

BILLING CODE 6712–01–P

# Proposed Rules

Federal Register
Vol. 69, No. 205
Monday, October 25, 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.

## FARM CREDIT ADMINISTRATION

### 12 CFR Part 615

**RIN 3052–AC23**

### Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Investments in Farmers' Notes

**AGENCY:** Farm Credit Administration.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** The Farm Credit Administration (FCA, Agency, or we) is reopening the comment period on the proposed rule to amend the Agency's regulations governing investments in Farmers' notes so all interested parties will have more time to respond.

**DATES:** Please send your comments to the FCA by November 24, 2004.

**ADDRESSES:** Send us your comments by electronic mail to *reg-comm@fca.gov,* through the Pending Regulations section of our Web site at *http://www.fca.gov,* or through the government-wide Web site *http://www.regulations.gov.* You may also submit your comments in writing to S. Robert Coleman, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, or by facsimile transmission to (703) 734–5784. You may review copies of all comments we receive in the Office of Policy and Analysis, Farm Credit Administration.

**FOR FURTHER INFORMATION CONTACT:** Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

**SUPPLEMENTARY INFORMATION:** On September 14, 2004, we published a proposed rule in the **Federal Register** seeking public comment on amendments to regulations governing investments in Farmers' notes. The comment period expired on October 14, 2004. *See* 69 FR 55362, September 14, 2004. One member of the public has requested that the FCA provide interested parties an additional 30 days to comment. In response to this request, we are reopening the comment period until November 24, 2004, so all interested parties have more time to respond. Separately, the proposed rule contained an incorrect facsimile number. The correct number is (703) 734–5784. The FCA supports public involvement and participation in its regulatory and policy process and invites all interested parties to review and provide comments on the proposed rule.

Dated: October 20, 2004.

**Jeanette C. Brinkley,**
*Secretary, Farm Credit Administration Board.*

[FR Doc. 04–23833 Filed 10–22–04; 8:45 am]

**BILLING CODE 6705–01–P**

## COMMODITY FUTURES TRADING COMMISSION

### 17 CFR Part 171

**RIN 3038–AC12**

### Rules Relating To Review of National Futures Association Decisions in Disciplinary, Membership Denial, Registration and Member Responsibility Actions

**AGENCY:** Commodity Futures Trading Commission.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Commodity Futures Trading Commission (''Commission'' or ''CFTC'') proposes to amend its rules relating to the scope of Commission review of National Futures Association (''NFA'') decisions in disciplinary, membership denial, registration and member responsibility actions. First, the Commission proposes to make a technical amendment to add the NFA's Hearing Committee to the list of committees covered by that section. This will conform Rule 171.1(b)(4) to changes in NFA's committee structure since part 171 was first adopted in October 1990. Secondly, the Commission proposes to add a new provision to exclude from Commission review any appeal concerning NFA suspension of a member for failing to pay a settlement or arbitration award (''award suspension cases''), unless there are extraordinary circumstances that would otherwise warrant Commission review.

**DATES:** Submit comments on or before November 24, 2004.

**ADDRESSES:** Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, attention: Office of the Secretariat. Comments may be sent by facsimile to (202) 418–5521, or by e-mail to *secretary@cftc.gov.* Reference should be made to ''NFA Decisions Review.'' Comments may also be submitted to the Federal eRulemaking Portal: *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Thuy Dinh or Gail Scott, Office of the General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5120.

**SUPPLEMENTARY INFORMATION:**

#### I. Scope of Commission Review

On June 15, 1990, the Commission published proposed rules establishing standards and procedures for its review of decisions of registered futures associations such as NFA in disciplinary actions, membership denial actions, registration actions and member responsibility actions. 55 FR 24254. Under the proposed rules, two categories of decisions were excluded from Commission review: (a) Disciplinary decisions in which the aggrieved party failed to pursue his or her appeal rights to the NFA Appeals Committee and no extraordinary circumstances warranted Commission review; and (b) decisions in arbitration actions. *See* 171.1(b)(1) and 171.1(b)(2), respectively. Two comment letters were received in response to the request for public comment. Of particular interest to the Commission was a letter it received from the NFA.[1]

In its letter, the NFA proposed that the Commission exclude any appeal arising from NFA suspension of an association member based solely on that member's failure to pay NFA dues or

[1] August 31, 1990 NFA Letter (''NFA Letter'').

arbitration awards.[2] In its final rules published on October 9, 1990, the Commission agreed that the suspension for non-payment of dues should not generally be considered a disciplinary action subject to Commission review and accordingly amended the proposed rules by adding 171.1(b)(3) under ''*Matters excluded*'' in the publication of its final rules. *See* 55 FR 41061. However, the Commission specifically rejected NFA's request to exclude from Commission review the suspension of a member for failing to pay arbitration awards, stating:

> The Commission is reluctant at this time * * * to exclude suspension of a member for failing to pay arbitration awards. When the Commission has excluded NFA arbitration decisions themselves from its review, one of the reasons it has done so is that these decisions can be reversed in the court system. In contrast, membership suspension raises somewhat different issues which generally go to the core of the Commission's role in reviewing NFA actions affecting membership status. Pending additional experience on the issue the Commission has determined not to exclude such NFA action from its appellate jurisdiction.

*Id.* at 41064.

From 1990 to the present, the Commission has received a total of five appeals related to the suspension of a member for failing to pay an arbitration award. The Commission first considered this issue in 1991, shortly after part 171 was adopted. In the initial case, the respondent asked the Commission to stay the suspension while he worked out a payment schedule. In rejecting the petition, the Commission stated, ''NFA's ministerial imposition of a pre-determined sanction for a member's failure to perform an undisputed duty of membership [to pay an arbitration award] is not, without more, a proper subject for Commission review.'' *Machin* v. *NFA*, [1990–1992 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 25,041 at 37,893 (CFTC Apr. 25, 1991).

There were no other appeals of this nature until 1997, when the Commission dismissed an appeal from an award suspension where the appeal was predicated on alleged procedural and substantive errors in the underlying arbitration. The Commission stated, ''it would be inappropriate to consider either procedural or substantive errors in NFA's resolution of the issues raised in the arbitration.'' *Indelicato* v. *NFA* [1996–1998 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 27,130 at 45,287 (CFTC Aug. 7, 1997). Citing *Machin*, the Commission further noted, ''the imposition of a suspension for failing to pay an arbitration award might be reviewable upon a showing that NFA acted arbitrarily in imposing the suspension. Here, however, as in *Machin*, petitioners have failed to establish such arbitrariness.'' *Id.*

The Commission's denials of review in three recent cases, from March 2003 to February 2004, have followed *Machin* and *Indelicato*, *i.e.*, declining to accept any appeal from this type of suspension unless it ''involves something more than the ministerial application of a pre-determined sanction.'' *See Howell* v. *NFA*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,702 at 55,993 (CFTC Feb. 27, 2004); *Mawhorr* v. *NFA*, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 29,633 at 55,717 (CFTC Nov. 28, 2003); *Bunyard* v. *NFA*, CRAA 03–01 (CFTC Mar. 5, 2003). In *Bunyard*, the Commission stated, ''[only] an appeal raising a colorable claim that the NFA acted arbitrarily—or a similar claim that goes to the core of the Commission's role in ensuring the reliability of NFA's membership process—would fall within our jurisdiction.'' *Id.* at 2.

Against this backdrop, the NFA this year again proposed that the Commission exclude from its jurisdiction membership suspension cases based solely on the members' failure to pay arbitration awards. *See* April 15, 2004, NFA Letter at 5. The NFA discussed the Commission's disposition of these types of appeals during the last 14 years. Noting that the Commission has routinely rejected such appeals, the NFA proposes that the part 171 Rules be amended to reflect the Commission's actual practice, which is to limit review to cases presenting ''extraordinary circumstances.'' *Id.* at 4.

The Commission has reviewed its case history in this area and reached the following conclusions: (a) Such appeals are very infrequent; and (b) and the few cases that have reached the Commission did not raise a colorable challenge to the fundamental fairness of the proceeding, and fell squarely into the ''ministerial'' category that would not warrant Commission review. Based on this experience, the Commission proposes to exclude these routine matters from appellate review. The Commission would exercise its appellate jurisdiction in the extraordinary case where an appeal based on an award suspension involves ''something more than a ministerial application of a predetermined sanction.'' The amendment would be effected by adding a new section (5) to Rule 171.1(b) (''*Matters excluded*''). The proposed rule incorporates the Commission's language used in *Machin* and *Indelicato*.

## II. Technical Amendment

Commission Rule 1.63 bars persons with certain disciplinary histories from serving on ''a disciplinary committee'' or in other leadership positions of any self-regulatory organization. Rule 171.1(b)(4) provides that NFA decisions made pursuant to Rule 1.63 are excluded from Commission review. As currently written, it forecloses appeals by an NFA member who is disqualified from service on NFA's ''Board of Directors, Business Conduct Committees or arbitration panels.'' Since Rule 171.1(b)(4) was promulgated, NFA has established a Hearing Committee as part of its disciplinary function. The Commission proposes a technical amendment to Rule 171.1(b)(4) to add the Hearing Committee to the list of committees covered by the rule.

## III. Related Matters

### *A. Regulatory Flexibility Act*

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires agencies that propose rules to consider the impact those rules will have on small businesses. With respect to persons seeking Commission reviews of NFA adjudicatory decisions, the proposed amendments would impose no additional regulatory burden. Commission review of NFA disciplinary and membership denial actions has been carried out pursuant to 17 CFR part 171 since 1990. These proposed amendments do not present any significant changes and would in fact ease the regulatory burden to some extent by providing greater certainty and predictability concerning the standards and procedures governing such review. Accordingly, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the proposed amendments will not have a significant economic impact on a substantial number of small businesses.

[2] The NFA presumed that ''actions in these areas would not be deemed disciplinary actions'' within Commission review under part 171. NFA Letter at 7. Section 10(g) of NFA's Code of Arbitration (Code) and Section 10(g) of NFA's Member Arbitration Rules (Member Rules) authorize NFA to summarily suspend an NFA member or associate if such member or associate fails to pay an NFA award or settlement reached in an NFA arbitration or mediation proceeding within 30 days. Members and associates receive a 30-day written notice before the suspension becomes effective, giving them a minimum of 60 days to satisfy the award or the settlement. Once the suspension becomes effective, a member or associate can get it lifted at any time by paying the amount due. A member or associate can also file a motion to vacate the award. A timely motion to vacate an award stays the suspension while the motion is pending in a court of competent jurisdiction.

*B. Paperwork Reduction Act*

The proposed amendments to part 171 rules do not impose a burden within the meaning and intent of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.*

*C. Cost-Benefit Analysis*

Section 15(a) of the Commodity Exchange Act, 7 U.S.C. 19(a), requires the Commission to consider the costs and benefits of its action before issuing a new regulation. The Commission understands that, by its terms, section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Nor does it require that each proposed rule be analyzed in isolation when that rule is a component of a larger package of rules or rule revisions. Rather, section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the Commission can, in its discretion, give greater weight to any one of the five enumerated areas of concern and can, in its discretion, determine that notwithstanding its costs, a particular rule is necessary or appropriate to protect the public interest or to effectuate any of the provisions, or accomplish any of the purposes, of the Commodity Exchange Act.

The proposed amendments to part 171 will not create any significant change in the Commission's appellate process. In fact, the proposed amendments should enhance the protection of market participants and the public by excluding from the Commission's review matters that represent routine enforcement of an NFA pre-determined sanction, freeing both the Commission's and NFA's resources. In addition, since the proposed amendments retain the Commission's ability to consider appeals that present ''extraordinary circumstances,'' public interest considerations for fundamental fairness and the Commission's supervisory authority regarding self-regulated organizations will not be compromised.

After considering these factors, the Commission has determined to propose the amendments to part 171, as set forth below.

**List of Subjects in 17 CFR Part 171**

Administrative practice and procedure, Commodity exchanges, Commodity futures.

In consideration of the following, the Commission proposes to amend chapter I of title 17 of the Code of Federal Regulations as follows:

## PART 171—RULES RELATING TO REVIEW OF NATIONAL FUTURES ASSOCIATION DECISIONS IN DISCIPLINARY, MEMBERSHIP DENIAL, REGISTRATION AND MEMBER RESPONSIBILITY ACTIONS

1. The authority citation for part 171 continues to read as follows:

**Authority:** 7 U.S.C. 4a, 12a, and 21.

2. Section 171.1 is amended in paragraph (b)(4) to add '', Hearing Committee'' between ''Business Conduct Committees'' and ''or arbitration panels''; and replacing ''.'' with '';'' at the end of (b)(4); and by adding new paragraph (b)(5):

**§ 171.1 Scope of rules.**

* * * * *

(b) * * *

(5) Suspension of a member or a person associated with a member based solely on that person's failure to pay an arbitration award or a settlement agreement resulting from an arbitration action brought pursuant to Section 17(b)(10) of the Act or rules and regulations of the National Futures Association, or a settlement agreement resulting from a mediation proceeding sponsored by the National Futures Association, unless there are extraordinary circumstances that involve something more than the ministerial application of a predetermined sanction, or raise a colorable claim that the NFA has acted arbitrarily.

* * * * *

Issued in Washington, DC on the 19th of October 2004, by the Commission.

**Jean A. Webb,**

*Secretary of the Commission.*

[FR Doc. 04–23828 Filed 10–22–04; 8:45 am]

BILLING CODE 6351–01–P

## DEPARTMENT OF THE TREASURY

## Internal Revenue Service

## 26 CFR Part 25

**[REG–163679–02]**

**RIN 1545–BB72**

## Qualified Interests

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

**ACTION:** Correction to notice of proposed rulemaking and notice of public hearing.

**SUMMARY:** This document contains a correction to a notice of proposed rulemaking that was published in the **Federal Register** on Monday, July 26, 2004 (69 FR 44476), relating to the gift tax special valuation rules and qualified interests.

**FOR FURTHER INFORMATION CONTACT:** Juli Ro Kim (202) 622–3090 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

### Background

The notice of proposed rulemaking (REG–163679–02), that is the subject of this correction is under section 2702 of the Internal Revenue Code.

### Need for Correction

As published, the notice of proposed rulemaking (REG–163679–02), contains an error that may prove to be misleading and is in need of clarification.

### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking and notice of public hearing (REG–163679–02), which was the subject of FR Doc. 04–16593, is corrected as follows:

On page 44476, column 2, in the preamble, under the caption **DATES**, line 2, the language ''must be received by October 21, 2004.'' is corrected to read ''must be received by October 25, 2004.''

**Guy R. Traynor,**

*Federal Register Liaison, Publication and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedures & Administration).*

[FR Doc. 04–23748 Filed 10–22–04; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### 26 CFR Part 301

**[REG–124872–04]**

**RIN 1545–BD37**

### Clarification of Definitions; Hearing Cancellation

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

**ACTION:** Cancellation of public hearing on proposed rulemaking by cross-reference to temporary regulations.

**SUMMARY:** This document cancels a public hearing on a notice of proposed rulemaking by cross-reference to temporary regulations under section 7701 of the Internal Revenue Code that provide clarification of the definitions of a corporation and a domestic entity in circumstances where the business entity is considered to be created or organized in more than one jurisdiction.

**DATES:** The public hearing originally scheduled for November 3, 2004, at 10 a.m., is cancelled.

**FOR FURTHER INFORMATION CONTACT:** Sonya M. Cruse of the Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration), (202) 622–4693 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking by cross-reference to temporary regulations and notice of public hearing that appeared in the **Federal Register** on Thursday, August 12, 2004 (69 FR 49840), announced that a public hearing was scheduled for November 3, 2004 at 10 a.m., in the auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC. The subject of the public hearing is under section 7701 of the Internal Revenue Code.

The public comment period for these regulations expired on October 15, 2004. The notice of proposed rulemaking instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be addressed. As of Wednesday, October 20, 2004, no one has requested to speak. Therefore, the public hearing scheduled for November 3, 2004, is cancelled.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).*

[FR Doc. 04–23843 Filed 10–22–04; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Fiscal Service

### 31 CFR Part 344

**[Department of the Treasury Circular, Public Debt Series No. 3–72]**

### U.S. Treasury Securities—State and Local Government Series; Extension of Comment Period

**AGENCY:** Bureau of the Public Debt, Fiscal Service, Treasury.

**ACTION:** Notice of proposed rulemaking; extension of comment period.

**SUMMARY:** The Department of the Treasury is extending the comment period for the notice of proposed rulemaking published September 30, 2004, proposing revisions of the regulations governing State and Local Government Series (SLGS) securities. SLGS securities are non-marketable Treasury securities that are only available for purchase by issuers of tax-exempt securities. The notice of proposed rulemaking provided for a comment period to end on November 1, 2004. Treasury is extending the comment period to November 16, 2004, in response to industry requests for more time to provide comments.

**DATES:** Comments must be received no later than November 16, 2004.

**ADDRESSES:** You may submit comments, identified by Docket Number BPD–02–04, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Agency Web Site: *http://www.publicdebt.treas.gov*. Follow the instructions for submitting comments via e-mail to *opda-sib@bpd.treas.gov*.
- E-mail: *opda-sib@bpd.treas.gov*. Include Docket Number BPD–02–04 in the subject line of the message.
- Fax: 304–480–5277.
- Mail: Keith Rake, Deputy Assistant Commissioner, Office of the Assistant Commissioner, Bureau of the Public Debt, Department of the Treasury, P.O. Box 396, Parkersburg, WV 26101–0396, or Edward Gronseth, Deputy Chief Counsel, Elizabeth Spears, Senior Attorney, or Brian Metz, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, P.O. Box 1328, Parkersburg, WV 26106–1328.
- Hand Delivery/Courier: Keith Rake, Deputy Assistant Commissioner, Office of the Assistant Commissioner, Bureau of the Public Debt, Department of the Treasury, 200 3rd St., Parkersburg, WV 26101, or Edward Gronseth, Deputy Chief Counsel, Elizabeth Spears, Senior Attorney, or Brian Metz, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, 200 3rd St., Parkersburg, WV 26101.

*Instructions:* All submissions received must be addressed to the Bureau of the Public Debt and include the Docket Number for this notice of proposed rulemaking, BPD–02–04. All comments received will be posted without change to *http://www.publicdebt.treas.gov*. The posting will include any personal information that you provide in the submission.

**FOR FURTHER INFORMATION CONTACT:** Keith Rake, Deputy Assistant Commissioner, Office of the Assistant Commissioner, Bureau of the Public Debt, P.O. Box 396, Parkersburg, WV 26106–0396, (304) 480–5101, or by e-mail at *opda-sib@bpd.treas.gov* or Edward Gronseth, Deputy Chief Counsel, Elizabeth Spears, Senior Attorney, or Brian Metz, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, Department of the Treasury, P.O. Box 1328, Parkersburg, WV 26106–1328, (304) 480–8692, or by e-mail at *opda-sib@bpd.treas.gov*.

**SUPPLEMENTARY INFORMATION:** The notice of proposed rulemaking for which the comment period is being extended was published on September 30, 2004, at 69 FR 58756. In order to provide ample time for interested parties to review and comment on the notice of proposed rulemaking, the comment period is extended until November 16, 2004.

Dated: October 20, 2004.

**Donald V. Hammond,**

*Fiscal Assistant Secretary.*

[FR Doc. 04–23897 Filed 10–21–04; 10:19 am]

BILLING CODE 4810–39–P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Parts 3 and 20

**RIN 2900–AL86**

### Dependency and Indemnity Compensation: Surviving Spouse's Rate; Payments Based on Veteran's Entitlement to Compensation for Service-Connected Disability Rated Totally Disabling for Specified Periods Prior to Death

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** The Department of Veterans Affairs (VA) proposes to amend its

adjudication regulations concerning payment of dependency and indemnity compensation (DIC) for certain non-service-connected deaths and the rate of DIC payable to a surviving spouse for either service-connected or non-service-connected deaths. The proposed rules would clarify VA's interpretation of similar statutes governing both matters, which provide for payments to the survivors of veterans who were, at the time of death, in receipt of or entitled to receive disability compensation for service-connected disability that was rated totally disabling for a specified period prior to death. The proposed rules would also reorganize and revise the regulations governing surviving spouses' DIC rate with the intent of making them easier to identify and understand. VA also proposes to reissue, with a minor nonsubstantive change, the Board of Veterans' Appeals rule concerning the effect of unfavorable decisions during a veteran's lifetime on claims for death benefits by the veteran's survivors. This reissuance is necessitated by a court decision vacating VA's prior action in revising that rule.

**DATES:** Comments must be received on or before December 27, 2004.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave., Room 1068, NW., Washington, DC 20420; or fax comments to (202) 273–9026; or e-mail comments to *VAregulations@mail.va.gov;* or, through *www.Regulations.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AL86.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

**FOR FURTHER INFORMATION CONTACT:** David Barrans, Staff Attorney (022), Office of General Counsel, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–6332.

**SUPPLEMENTARY INFORMATION:** VA proposes to revise its regulations relating to DIC to clarify its interpretation of two statutory provisions and to reorganize and restate provisions in current VA regulations. Specifically, we propose to move the provisions of current 38 CFR 3.5(e) to a new regulation at 38 CFR 3.10, to revise those provisions, and to revise 38 CFR 3.22(b).

DIC is a benefit paid to survivors of veterans in cases of service-connected death or certain cases of non-service-connected death. Provisions governing entitlement to DIC for service-connected death are set forth in 38 CFR 3.5(b), while provisions governing entitlement to DIC in cases of certain non-service-connected deaths are set forth in 38 CFR 3.22. Provisions governing the rate of DIC payable to a surviving spouse in either circumstance are set forth in 38 CFR 3.5(e). Because those payment-rate provisions apply to DIC awarded under either § 3.5 or § 3.22, their placement in § 3.5 may cause unnecessary confusion. Accordingly, we propose to delete paragraph (e) from current § 3.5, and to establish a separate regulation in 38 CFR 3.10 to govern the rate of DIC payment to a surviving spouse. In new § 3.10, we propose to reorganize the existing provisions of § 3.5(e), to revise certain language for clarity, and to significantly elaborate upon the criteria governing one basis for entitlement to DIC payment at a level above the basic DIC rate, as explained below.

Current § 3.5(e)(1) states that, for deaths occurring on or after January 1, 1993, DIC will be paid at a flat rate specified in 38 U.S.C. 1311(a)(1). Section 3.5(e)(1) further states, however, that the basic rate may be increased by a specified amount in the case of the death of a veteran who at the time of death was in receipt of or ''entitled to receive'' compensation for a service-connected disability that was rated as totally disabling for a continuous period of at least eight years immediately preceding death. In a decision in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs*, 314 F.3d 1373 (Fed. Cir. 2003) (''*NOVA*''), the United States Court of Appeals for the Federal Circuit criticized VA for not elaborating upon the meaning of the phrase ''entitled to receive'' in this provision, as VA had done in § 3.22, where that phrase is also used. The Court ordered VA to revise its regulations for clarity and consistency. Although the court gave VA the option of amending either § 3.5(e) or 38 CFR 20.1106, VA has concluded that the meaning of the phrase ''entitled to receive'' logically should be explained in a revision to § 3.5(e), the regulation that uses that phrase and sets forth the substantive criteria governing DIC payment rates. Because we propose to move the relevant provisions of § 3.5(e) to 38 CFR 3.10, we will address the meaning of the phrase ''entitled to receive'' in § 3.10.

VA has concluded that the phrase ''entitled to receive'' should be given the same meaning for purposes of both § 3.22 and § 3.5(e) and the Federal Circuit upheld that conclusion in its January 2003 *NOVA* decision. Section 3.22 implements 38 U.S.C. 1318, which provides that basic entitlement to DIC may be established in certain cases of non-service-connected deaths, if the veteran, at the time of death, was in receipt of or ''entitled to receive'' compensation for a service-connected disability that was either continuously rated totally disabling for a period of ten or more years immediately preceding death, or was so rated continuously for a period of not less than five years from the date of separation from service to the date of death, or in the case of a former prisoner of war who died after September 30, 1999, was so rated for a period of not less than one year immediately preceding death. Section 3.5(e) implements 38 U.S.C. 1311(a)(2), which provides that a survivor having entitlement to DIC at the basic rate may receive an enhanced DIC payment in cases where the veteran was, at the time of death, in receipt of or ''entitled to receive'' compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death.

In the **Federal Register** of April 5, 2002, VA published a final rule amending 38 CFR 20.1106 to provide, in effect, that a survivor's claim under either section 1311 or 1318 must be decided with reference to decisions rendered during the veteran's lifetime. 67 FR 16309 (2002). That rule reflects our conclusion that a veteran could have been in receipt of or entitled to receive total disability compensation for a specified number of years prior to death only if VA had granted such benefits during the veteran's lifetime or had denied the benefits based on an error that could be corrected retroactively under the laws governing veterans' benefits. We have explained the basis for this conclusion in several prior notices in the **Federal Register**. *See* 67 FR 16309 (2002); 66 FR 65861 (2001); 65 FR 3388 (2000). In its January 2003 *NOVA* decision, however, the Federal Circuit stated that VA's regulations were disparate in that § 3.22 contained a detailed definition of the phrase ''entitled to receive'' for purposes of 38 U.S.C. 1318, but neither § 3.5(e) nor § 20.1106 contained a similarly detailed definition of that phrase for purposes of 38 U.S.C. 1311. To eliminate that disparity, we propose to include in new § 3.10 a definition of the phrase ''entitled to receive'' that will be nearly identical to the definition in § 3.22(b), with only minor differences

necessary to reference the different durational requirements of the two governing statutes. As explained below, we propose to revise the definitional provisions of current § 3.22(b) in two respects, and those revisions will be reflected in the definition of ''entitled to receive'' included in new § 3.10.

Section 3.22(b) currently defines the phrase ''entitled to receive'' to mean that, at the time of death, the veteran had service-connected disability that was rated totally disabling by VA but was not receiving compensation because: (1) VA was paying the compensation to the veteran's dependents; (2) VA was withholding the compensation to offset an indebtedness of the veteran; (3) the veteran had applied for compensation but had not received total disability compensation for the required number of years prior to death due solely to a clear and unmistakable error in a VA decision; (4) the veteran had not waived retired or retirement pay; (5) VA was withholding payments under the provisions of 10 U.S.C. 1174(h)(2); (6) VA was withholding payments because the veteran's whereabouts were unknown but the veteran was otherwise entitled to payment; or (7) VA was withholding payments under 38 U.S.C. 5308 but determines that benefits were payable under 38 U.S.C. 5309. We propose to adopt these criteria into new § 3.10 with certain changes discussed below, which will be made in both § 3.10 and § 3.22(b).

**Revision of § 3.22(b)**

We propose to revise § 3.22(b) in two respects. First, we propose to reorganize and restate the provision concerning correction of clear and unmistakable error (CUE) to eliminate a potential ambiguity in the current regulation. Second, we propose to include one additional circumstance under which a veteran may be found to have been ''entitled to receive'' total disability compensation for the specified period prior to death.

We propose to revise for clarity the provisions of § 3.22(b) regarding correction of CUE as a basis for DIC entitlement. Current § 3.22(b) states that the phrase ''entitled to receive'' means that, at the time of death, the veteran had service-connected disability rated totally disabling by VA but was not receiving compensation for one of seven specified reasons, including the fact that the veteran was not receiving total disability compensation at the time of death due solely to CUE in a VA decision. This provision is potentially ambiguous as to whether DIC may be paid in circumstances where the CUE is not corrected until after the veteran's death. In cases involving CUE, the veteran's disability may not actually have been rated totally disabling at the time of death. Once VA has issued a decision correcting CUE, the veteran would be deemed, as a matter of law, to have held a service-connected total disability rating at the time of death, because 38 U.S.C. 5109A(b) and 7111(b) mandate that a decision correcting CUE has the same effect as if it had been made at the time of the prior erroneous decision.

VA has consistently construed the statutes and regulations to permit DIC payment based on correction of CUE after a veteran's death. We note, however, that the requirement in current § 3.22(b) that the veteran's disability was rated totally disabling at the time of death, may not adequately convey this conclusion to readers. Accordingly, we propose to revise § 3.22(b) to contain a separate paragraph addressing DIC awards based on correction of CUE, which will not contain the requirement of a total disability rating existing at the time of the veteran's death. We note that 38 U.S.C. 1311(a)(2) and 1318 both require that the veteran have been entitled to receive total disability benefits at the time of death for a service-connected disability that was rated totally disabling by VA for a specified period. We continue to believe that awards based on correction of CUE will satisfy this requirement, due to the retroactive effect of decisions correcting CUE. In order to avoid confusion, however, we believe it is clearer to state simply that the phrase ''entitled to receive'' includes circumstances where the veteran would have received total disability compensation at the time of death for a service-connected disability rated totally disabling for the specified period but for a CUE committed by VA in a decision on a claim filed during the veteran's lifetime, without expressly requiring a finding that such entitlement existed at the time of death. We will retain the requirement of entitlement existing at the time of the veteran's death with respect to the other six criteria in current § 3.22(b), because we do not believe there is similar potential for confusion with respect to those criteria.

We also propose to add a provision to § 3.22(b) explaining that the phrase ''entitled to receive'' includes circumstances where new and material evidence consisting solely of service department records provides a basis for reopening a claim finally decided during the veteran's lifetime and for awarding a total service-connected disability rating retroactively in accordance with 38 CFR 3.156(c) and 3.400(q)(2) for the relevant continuous period required by 38 CFR 3.22(a)(2). The reasons for this change are discussed below. In light of the Federal Circuit's January 2003 decision in *NOVA*, however, it is also necessary to explain why VA does not propose to extend DIC entitlement to cases where a survivor submits new and material evidence consisting of items other than such contemporaneous service department records and alleges that such evidence establishes that the veteran was entitled to receive total disability compensation for a retroactive period of several years before the veteran's death and before such evidence was submitted to VA.

In its January 2003 decision in *NOVA*, the Federal Circuit held that VA regulations implementing 38 U.S.C. 1311(a)(2) and 1318 are reasonable insofar as they reflect the conclusion that DIC cannot be paid under those statutes in cases where the veteran had never filed a claim for VA disability compensation during his or her lifetime. *NOVA*, 314 F.3d at 1378–80. The court concluded, however, that VA had not adequately addressed whether entitlement to DIC under those statutes may be established in cases where the veteran had filed a claim during his or her lifetime, but had not received a rating meeting the duration or degree-of-disability requirements of section 1311 or 1318, and the survivor seeks to reopen the claim based on new and material evidence submitted after the veteran's death. *Id.* at 1380–81. The court directed VA to address the issue of whether reopening based on new and material evidence may provide a means of establishing entitlement to DIC under sections 1311 and 1318.

As a general matter, the submission of new and material evidence cannot establish any person's entitlement to benefits for a past period. Congress has established a statutory scheme prescribing in detail the starting date and duration of any benefit award based on original claims or claims reopened by new and material evidence. As explained below, those statutes define VA's authority to award—and thus, a veteran's entitlement to receive—benefits for any specific period.

Pursuant to 38 U.S.C. 7104(b) and 7105(c), VA decisions are final once a final appellate decision has been made or the period for seeking appeal has expired. As these provisions state, VA decisions are ''final,'' and the finality serves as a bar to subsequent consideration of the claim as well as to a subsequent award of benefits based on

the claim. There are two statutory exceptions to this bar. One exception, permitting correction of CUE, operates retroactively, as explained above. *See* 38 U.S.C. 5109A(b) and 7111(b). Accordingly, a claim of CUE that is brought after a veteran's death may nevertheless operate retroactively to establish that the veteran was entitled to total disability compensation for the required period prior to the veteran's death.

The other exception to the finality of VA decisions derives from 38 U.S.C. 5108, which permits a previously-disallowed claim to be reopened if new and material evidence is obtained. In contrast to the correction of CUE, however, a reopening based on new and material evidence generally does not have retroactive effect and cannot establish an individual's entitlement to benefits for past periods. The effective dates of benefit awards are governed by 38 U.S.C. 5110. Section 5110(a) states that, unless specifically provided otherwise by statute, the effective date of an award based on a claim reopened after final adjudication ''shall not be earlier than the date of receipt of application therefor.'' VA has consistently interpreted this statute to provide that an award based on a reopened claim generally can be effective no earlier than the date the claim for reopening was filed, and the United States Court of Appeals for the Federal Circuit has upheld that interpretation. *See Sears* v. *Principi,* 349 F.3d 1326 (Fed. Cir. 2003), *cert. denied,* 124 S. Ct. 1723 (2004). The CAVC has further explained that a reopening under 38 U.S.C. 5108 ''is not a reactivation of the previous claim, based upon the original application for benefits,'' and that ''even upon a reopening, the prior claim is still 'final' in a sense'' because any award based on the reopening can be effective no earlier than the date of the application to reopen. *Spencer* v. *Brown,* 4 Vet. App. 283, 293 (1993), *aff'd,* 17 F.3d 368 (Fed. Cir. 1994).

VA has concluded that the different temporal effects of these two finality exceptions, as prescribed by statute, are significant in the context of 38 U.S.C. 1311 and 1318. By statute, when VA corrects CUE, it is required to give retroactive effect to its decision and to grant entitlement retroactive to the date of a previously denied claim. Accordingly, correction of CUE even after a veteran's death clearly may result in a conclusion that the veteran was entitled to receive total disability compensation for a number of years prior to death. In contrast, when VA awards benefits in a reopened claim, it is prohibited by statute from giving retroactive effect to its decision or from awarding benefit entitlement for any period prior to the date of the application for reopening. Thus, the reopening of a claim after a veteran's death ordinarily could not establish that the veteran was entitled to total disability compensation for any period prior to death.

We believe it is logical to conclude that, when Congress conditioned a survivor's DIC eligibility on the extent and duration of a veteran's entitlement to benefits, it intended that VA would apply the existing statutory provisions governing the extent and duration of the veteran's entitlement, including those prohibiting VA from according retroactive effect to decisions based on new and material evidence.

We also conclude that adherence to the provisions regarding the nonretroactivity of decisions based on new and material evidence is consistent with the purpose of the DIC statutes as indicated by their legislative history. In providing for payment of DIC based on the veteran's entitlement to total disability compensation during his or her lifetime, Congress explained that its purpose was to replace the source of income the veteran's family would otherwise lose when the veteran died and his or her compensation payments ceased. The Senate Committee on Veterans' Affairs explained this purpose by stating:

> The appropriate Federal obligation to these survivors should, in the Committee's view, be the replacement of the support lost when the veteran dies. For example, assume that a veteran who is totally blind from service-connected causes dies at the age of 55 from a heart attack, having been so disabled from the age of 22—a period of 33 years. During that period, his wife and he depended upon his disability compensation for income support, but, because his death is not service connected, she would not receive DIC.

S. Rep. No. 1054, 95th Cong., 2nd Sess. 28 (1978), *reprinted in,* 1978 U.S.C.C.A.N. 3465, 3486. Permitting survivors to rely on new and material evidence to establish a veteran's entitlement to benefits that were not actually awarded during the veteran's lifetime—and could not have been awarded to the veteran retroactively if he or she had survived—would be contrary to the stated purpose to replace income that veterans and their families had come to depend on by virtue of having received total disability payments for a prolonged period prior to death.

In 1982, Congress expanded DIC eligibility under what is now 38 U.S.C. 1318, by authorizing DIC in cases where the veteran would have received total disability compensation for the specified period prior to death but for CUE committed by VA in a decision on a claim submitted during the veteran's lifetime. The stated purpose of that change was ''to provide that the existence of a clear and unmistakable error should not defeat entitlement to the survivors' benefits.'' S. Rep. No. 550, 97th Cong., 2nd Sess. 35 (1982), *reprinted in* 1982 U.S.C.C.A.N. 2877, 2898. The legislative history further explained that, ''[u]nder the amendment, a veteran would not need actually to have been ''in receipt'' of total disability benefits for the requisite period of time in order to provide eligibility to the survivors if a clear and unmistakable error had been made that resulted in a shorter period of receipt than should have been provided.'' *Id.*

Permitting survivors to rely on new and material evidence to establish a veteran's entitlement to benefits that were not actually awarded during the veteran's lifetime would go well beyond the stated purpose to provide DIC in cases where CUE resulted in a shorter period of entitlement than should have been provided. As noted above, new and material evidence does not have retroactive effect and could not establish a longer period of compensation entitlement for any veteran, as correction of CUE may do. The legislative history of the 1982 statute reasonably reflects the principle that veterans and their families should not be penalized in cases where the veteran did everything necessary to establish entitlement to a total disability rating for the required period, but VA's error prevented the timely assignment of such rating. The purpose of that amendment was clearly remedial, in the same way that the general authority to correct CUE retroactively is remedial. In contrast, the authority to reopen and grant claims upon receipt of new and material evidence is not remedial, in the sense that it does not correct any past error, but merely permits a new adjudication informed by new evidence.

In view of the stated congressional purpose, we believe it is appropriate to recognize the distinction between statutory procedures that may result in the retroactive assignment of a total disability rating for periods prior to death (i.e., correction of CUE) and those that may not (i.e., reopening based on new and material evidence). It is, further, appropriate to recognize a distinction between procedures designed to remedy VA error (i.e., correction of CUE) and those that are not (i.e., reopening based on new and material evidence). In view of

Congress's stated purpose to allow DIC where VA's error was the only obstacle to the veteran's receipt of benefits, we find no basis for extending DIC to circumstances where there was no VA error and, moreover, where VA would have no statutory authority to award retroactive entitlement to the veteran, if the veteran were still alive.

Finally, VA notes that interpreting 38 U.S.C. 1311 and 1318 to permit reopening based on new and material evidence concerning past disability would have significant practical effects on VA claims processing. In VA's view, those statutes require determinations based on an existing record of evidence and adjudications made during the veteran's lifetime. Either VA had awarded a total disability rating during the veteran's lifetime or the evidentiary record established during the veteran's lifetime demonstrates that VA committed CUE in failing to award such a rating. Moreover, the duration of the veteran's entitlement could be readily established by reference to existing ratings or to the effective-date provisions of 38 U.S.C. 5110. In contrast, if new and material evidence were a basis for establishing DIC entitlement under 38 U.S.C. 1311 and 1318, VA potentially would be required to conduct significant new evidentiary development, including requesting medical opinions as necessary to resolve issues concerning the extent and duration of past disability. In addition, if VA were required to ignore the provisions of 38 U.S.C. 5110 prohibiting retroactive awards based on new and material evidence, determinations concerning the duration of the veteran's ''entitlement'' would be a matter of significant uncertainty and dispute. Inasmuch as Congress's stated purpose is limited to cases involving existing ratings and correction of CUE in an existing record, we cannot conclude that Congress intended to impose the burdens of the much more complex, uncertain, and hypothetical adjudicative actions that would be necessary in determinations based on new and material evidence.

For the foregoing reasons, VA has concluded that new and material evidence submitted after a veteran's death generally may not provide a basis for establishing that the veteran was ''entitled to receive'' benefits not awarded during the veteran's lifetime and thus may not provide a basis for establishing entitlement to DIC under 38 U.S.C. 1318.

As noted above, however, there is one circumstance in which additional evidence submitted after a veteran's death may result in retroactive benefit awards, potentially for several years prior to the date of reopening—where the additional evidence consists of service department records that existed at the time of a final decision by VA during the veteran's lifetime but for some reason were not previously considered by VA.

Arguably, VA regulation 38 CFR 3.156(c) indicates that retroactive entitlement is potentially possible for several years prior to the date of reopening of a previously denied claim based upon the submission of new evidence consisting of either previously-existing service department records that VA presumes to have been lost or mislaid at the time of a prior decision or supplemental service department reports correcting a prior service department record. However, as discussed below, regulatory provisions governing the assignment of effective dates for awards clearly establish that retroactive entitlement for several years prior to the date of a reopening of a previously denied claim is potentially possible only when a claim has been reopened and granted based upon the submission of new evidence in the form of service department records that existed when the prior decision was made and which VA presumes to have been previously lost or mislaid. 38 CFR 3.400(q)(2). When a claim has been reopened and granted based upon the submission of new and material evidence in the form of corrected service department records, entitlement to such awards is limited to the date of filing the application for change, correction, or modification with the service department; the date VA received a prior claim if it disallowed the claim; or the date one year prior to the date of reopening of the disallowed claim, whichever is later. 38 CFR 3.400(g).

A VA regulation, 38 CFR 3.400(q)(2), states that when a claim is reopened and granted based on new and material evidence in the form of records from a service department (i.e., the Army, Navy, or Air Force) that VA considers to have been lost or mislaid, benefits may be awarded retroactive to the date of the previously denied claim. Under the plain language of this section, new and material evidence in the form of presumably lost or mislaid official service department records submitted after a veteran's death potentially may establish that the veteran was entitled to total disability benefits for retroactive periods during his or her lifetime. This regulation reflects a longstanding VA policy of treating service department records that were presumably lost or mislaid as providing a basis for an award of benefits based on the veteran's original claim. Moreover, this regulation is clearly intended to remedy error (the loss or misplacement of service department records or failure to associate pertinent service department records with the file) affecting the prior final decision.

VA regulation 38 CFR 3.400(g) prohibits the awarding of retroactive entitlement for several years prior to the date of reopening of a previously denied claim when a claim has been reopened and granted based on the submission of new and material evidence in the form of corrected military records. This implementing regulation mirrors its authorizing statutory provision, 38 U.S.C. 5110(i). Section 5110(i) provides that, ''[w]henever any disallowed claim is reopened and thereafter allowed on the basis of new and material evidence resulting from the correction of the military records of the proper service department under section 1552 of title 10, or the change, correction, or modification of a discharge or dismissal under section 1553 of title 10, or from other corrective action by competent authority, the effective date of commencement of the benefits so awarded shall be the date on which the application was filed for the correction of the military record or for the change, modification, or correction of a discharge or dismissal, as the case may be, or the date the disallowed claim was filed, whichever date is later, *but in no event shall such award of benefits be retroactive for more than one year from the date of reopening of such disallowed claim*.'' 38 U.S.C. 5110(i) (emphasis added). Accordingly, a reopening based on new and material evidence in the form of corrected service department records could establish a veteran's entitlement to benefits for no more than one year prior to the date of reopening, and could not satisfy the periods of entitlement necessary to support a survivor's DIC award under 38 U.S.C. 1311 and 1318. Reopenings based on corrected military records are therefore excluded from this regulation.

As noted above, we believe 38 U.S.C. 1311 and 1318 are most reasonably construed as requiring VA to apply its existing statutes and regulations in determining the extent and duration of a veteran's entitlement to benefits. Further, those statutes reflect an intent that a survivor's DIC entitlement should not be defeated solely by VA error. Although the misplacement of service department records may have been due to error by the service department, rather than VA, we believe it would be consistent with the language and purpose of 38 U.S.C. 1311 and 1318 to

permit DIC in cases where new and material evidence solely in the form of presumably lost or misplaced service department records results in assignment of a total disability rating with a retroactive effective date sufficient to satisfy the requirements of those statutes. Accordingly, we propose to add provisions to 38 CFR 3.10 and 3.22(b) to reflect this determination.

Although VA regulation 38 CFR 3.400(q)(2) refers to records that VA considers to have been lost or mislaid, we do not believe it requires a factual determination that the records were actually lost or mislaid. The reference to records ''considered'' to have been lost or mislaid serves to draw a distinction between service department records that existed at the time of the prior VA decision and therefore presumably could or should have been available for VA's consideration when the veteran's original claim was filed, and the type of post-service corrections of service department records that are separately addressed in 38 CFR 3.400(g). If a service department record existed at the time of VA's prior decision, but for some reason was not provided to and considered by VA at the time of its decision on the veteran's original claim, VA will presume that the record was lost or mislaid. In order to clarify the distinction between this type of service department record covered by 38 CFR 3.400(q)(2) and the type of post-service corrections covered by 38 CFR 3.400(g), we propose to state that DIC entitlement under 38 U.S.C. 1311 and 1318 may be established where additional evidence consisting solely of service department records that existed at the time of VA's prior decision but were not previously considered by VA provide a basis for reopening a claim finally decided during the veteran's lifetime and for awarding a total service-connected disability rating in accordance with § 3.156(c) and § 3.400(q)(2) for the retroactive period specified in 38 U.S.C. 1311 or 1318.

**Provisions in New 38 CFR 3.10**

As explained above, we propose to move provisions currently in 38 CFR 3.5(e) to a new provision codified at 38 CFR 3.10. We further propose to reorganize those provisions for clarity, and to add provisions mirroring those in 38 CFR 3.22(b), as modified by these proposed rules.

Proposed § 3.10 will state rules governing the DIC rate payable to the surviving spouse of a deceased veteran. Paragraph (a) of § 3.10 will state that the rate of DIC payable to a surviving spouse will be the total of a basic monthly rate and any applicable increases. This provision would merely provide a general summary of the existing provisions in § 3.5(e), and would not effect any change in existing requirements.

Paragraph (b) of proposed § 3.10 is a restatement of the first sentence of current § 3.5(e)(1), which states the basic monthly rate of DIC. Current § 3.5(e)(1) states that this rate is payable for deaths occurring on or after January 1, 1993. Under 38 U.S.C. 1311(a)(3) and current 38 CFR 3.5(e)(2), however, this rate may also be paid for deaths occurring prior to that date, if it would be greater than the alternative rate payable for such deaths, which is discussed below. To avoid confusion regarding this point, we propose to delete the reference to deaths occurring on or after January 1, 1993, in this provision. As explained below, we propose a separate paragraph explaining the alternative rate that may be payable for deaths occurring before January 1, 1993. No substantive change is intended by this revision.

Paragraph (c) of proposed § 3.10 is a restatement of the second sentence of current § 3.5(e)(1). It would explain that the basic monthly rate may be increased in cases where the veteran, at the time of death, was receiving, or was entitled to receive, compensation for service-connected disability that was rated by VA as totally disabling for a continuous period of at least eight years immediately preceding death. We propose to refer to this increase as the ''veteran's compensation increase'' in the caption of paragraph (c) and in subsequent references in other paragraphs of proposed § 3.10. We further propose to state that determinations of entitlement to that increase will be made in accordance with provisions in paragraph (f) of § 3.10.

Paragraph (d) of proposed § 3.10 is a restatement of the first two sentences of current § 3.5(e)(2). This provision states that, in the case of death occurring before January 1, 1993, the basic monthly rate of DIC is a rate specified in 38 U.S.C. 1311(a)(3), based on the veteran's pay grade, but only if such rate would be greater than the total of the basic monthly rate under paragraph (b) of proposed § 3.10 and the veteran's compensation increase, if applicable, payable under paragraph (c) of proposed § 3.10.

Paragraph (e) of proposed § 3.10 addresses three additional increases that may augment the monthly DIC rate. Paragraph (e)(1) restates, without substantive change, the provisions of current § 3.5(e)(3), governing additional amounts for children. Paragraph (e)(2) restates, without substantive change, the first sentence of current § 3.5(e)(4), governing additional amounts based on the surviving spouse's need for regular aid and attendance. Paragraph (e)(3) restates, without substantive change, the second sentence of current § 3.5(e)(4), governing additional amounts based on the surviving spouse's housebound status.

Paragraph (f) of the proposed rule states criteria governing entitlement to the veteran's compensation increase under paragraph (c) of the proposed rule. We propose to place those criteria in a separate paragraph at the end of the regulation, rather than including them in paragraph (c), due to their length. We believe proposed § 3.10 will be easier to follow if it provides a succinct statement of the DIC rates and allowances payable to a surviving spouse in paragraphs (b) through (e), and the lengthy explanation necessary to fully explain the veteran's compensation increase is reserved for the end.

Proposed paragraph (f)(1) states that the surviving spouse must have been married to the veteran for the entire eight-year period referenced in paragraph (c) in order to qualify for the veteran's compensation increase. This is a restatement of the third sentence of current § 3.5(e)(1), which says that, in determining the eight-year period, only periods during which the veteran was married to the surviving spouse shall be considered. We believe it is clearer to state simply that the surviving spouse must have been married to the veteran for the entire period required by paragraph (c). No substantive change is intended by this different wording.

Proposed paragraph (f)(2) states that the phrase ''rated by VA as totally disabling,'' as used in paragraph (c), includes total disability ratings based on unemployability. This paragraph would contain a reference to 38 CFR 4.16, which provides that, even though a veteran's service-connected disability does not qualify for a 100% rating under VA's disability rating schedule, VA may assign a total disability rating if the veteran's service-connected disability prevents him or her from pursuing substantially gainful employment. Current § 3.5(e) does not contain this provision. However, proposed paragraph (f)(2) would mirror the provision in current 38 CFR 3.22(c) defining the phrase ''rated by VA as totally disabling'' for purposes of 38 U.S.C. 1318. We propose to add a similar statement in § 3.10(f)(2) based on our conclusion that the language of 38 U.S.C. 1311(a)(2) and 38 U.S.C. 1318, must be interpreted in the same manner.

Proposed paragraph (f)(3) would define the phrase ''entitled to receive'' as used in proposed paragraph (c). Paragraph (f)(3) is based on the provisions of 38 CFR 3.22(b), which define the phrase ''entitled to receive'' for purposes of 38 U.S.C. 1318. We have previously explained the basis for our interpretation of the phrase ''entitled to receive'' in 38 U.S.C. 1318 and our reasons for concluding the phrase must be interpreted in the same manner for purposes of 38 U.S.C. 1311(a)(2). *See* 67 FR 16309 (2002); 66 FR 65861 (2001); 65 FR 3388 (2000). The Federal Circuit upheld that determination in its January 2003 *NOVA* decision. Accordingly, we propose to include in paragraph (f)(3) of § 3.10 a provision mirroring the provisions of 38 CFR 3.22(b), as proposed to be amended by this document.

**Reissuance of 38 CFR 20.1106**

In the **Federal Register** of April 5, 2002 (67 FR 16309), VA published a final rule amending 38 CFR 20.1106, the Board of Veterans' Appeals regulation governing the effect of adverse decisions during a veteran's lifetime on a survivor's claim for death benefits. As amended, the final rule stated that, except with respect to benefits under 38 U.S.C. 1311 and 1318 and certain cases involving veterans whose benefits have been forfeited for treason or subversive activities under 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior disposition of those issues during the veteran's lifetime. That rule reflects VA's longstanding practice of adjudicating de novo the issue of service connection for the cause of a veteran's death even if VA had denied the veteran's claim during his or her lifetime for compensation for the disease or injury that later caused death. The April 2002 final-rule notice explained that claims under 38 U.S.C. 1311 and 1318 were excepted from that principle because VA construed those statutes to require that determinations regarding the veteran's entitlement to receive total disability compensation for a specified number of years prior to death must be made with reference to decisions rendered during the veteran's lifetime.

The final rule was issued pursuant to the Federal Circuit's August 2001 order in *National Organization of Veterans' Advocates, Inc.* v. *Secretary of Veterans Affairs*, 260 F.3d 1365 (2001). In its January 2003 order in *NOVA*, the Federal Circuit concluded that the final rule did not fully comply with the court's prior order. Specifically, the Federal Circuit stated that VA had not amended either 38 CFR 3.5 or 20.1106 to state criteria similar to those in 38 CFR 3.22 and that the final rule did not explain the scope of the rule concerning prior adjudications. The court stated that it could not sustain the final rule, but instead ''vacate[d] and remand[ed] for a further rulemaking proceeding.''

In response to the court's order, we are proposing to revise the provisions currently in 38 CFR 3.5(e) to explain the criteria governing entitlement to benefits under 38 U.S.C. 1311. The proposed revision will make clear that the veteran must have filed a claim for disability compensation during his or her lifetime in order for the survivors to be eligible for DIC under section 1311, and will explain the circumstances under which DIC may be paid based on correction of CUE or submission of new and material evidence.

We have concluded that these provisions are more appropriately included in proposed § 3.10 than in 38 CFR 20.1106. Section 3.10 will be the VA regulation specifically implementing 38 U.S.C. 1311 and will be codified in part 3 of title 38, Code of Federal Regulations, the part containing the regulations governing awards of compensation, pension, and DIC. Section 20.1106, in contrast, implements 38 U.S.C. 7104(b), governing the finality of Board decisions, rather than 38 U.S.C. 1311 or 1318, and the regulation is codified in the portion of title 38, Code of Federal Regulations, setting forth the rules of the Board of Veterans' Appeals. Section 20.1106 states a general rule of finality applicable to a broad range of statutory provisions and is not limited to 38 U.S.C. 1311. We believe the revision to 38 CFR 3.5(e) proposed in this notice will satisfy the requirements of the Federal Circuit's remand order.

We further conclude that the provisions of 38 CFR 20.1106 issued in our April 2002 **Federal Register** notice properly reflect VA's interpretation of 38 U.S.C. 1311 and 1318 and are consistent with the VA regulations implementing those statutes. As revised in April 2002, section 20.1106 provides in effect that claims under 38 U.S.C. 1311 and 1318 will be decided with regard to decisions during the veteran's lifetime. This comports with our conclusion, stated above and in our April 2002 final-rule notice, that DIC entitlement under those statutes may exist when ratings during the veteran's lifetime granted total disability compensation, or would have granted such compensation but for CUE, or where new and material evidence in the form of presumably lost or mislaid service department records warrants a retroactive award of total disability compensation.

Where a DIC claim is based on the allegation of CUE in a decision made during the veteran's lifetime, the DIC claim must be made with regard to the prior decision, in order to determine whether there was error in that decision. Similarly, where a DIC claim is based on new and material evidence in the form of presumably lost or mislaid service department records, the claim must be made with regard to the prior decision on the veteran's claim. As the CAVC stated in *Spencer* v. *Brown*, 4 Vet. App. at 293, ''where the claim is reopened on the basis of new and material evidence from service department reports, the VA has consistently treated it as a true 'reopening' of the *original claim* and a review of the *former disposition* in light of the service department reports which were considered to have been lost or mislaid.'' (Emphasis in original).

For the foregoing reasons, we conclude that the final rule issued in April 2002 revising 38 CFR 20.1106 is valid and reasonable. However, because the status of that rule is uncertain in light of the Federal Circuit's January 2003 order ''vacat[ing]'' the matter before it, we propose to reissue the provisions of the April 2002 rule, with one minor, nonsubstantive change discussed below.

Although the caption of current § 20.1106 refers to ''unfavorable'' decisions during made a veteran's lifetime, the term ''unfavorable'' does not appear in the text of the regulation, which states that, with certain exceptions, issues involved in a survivor's claim for death benefits will be decided without regard to ''any prior disposition'' of those issues during the veteran's lifetime. We propose to add the word ''unfavorable'' before ''disposition'' in the text of the regulation, to clarify that VA generally will disregard only unfavorable decisions made during the veteran's lifetime. This change will resolve any ambiguity that could result from the different terminology used in the caption and text of the current regulation.

The added language does not alter the meaning of the regulation, but merely clarifies VA's existing interpretation of the regulation as requiring VA to disregard only unfavorable decisions. As noted above, the caption of the current regulation indicates that it is intended to apply only to prior unfavorable decisions. Further, the statutory authority cited for the current regulation, 38 U.S.C. 7104(b), addresses the finality of Board decisions that have ''disallowed'' a claim. Section 20.1106

implements that statute by prescribing rules to govern the finality of prior unfavorable decisions, and the proposed amendment would merely clarify that purpose.

*Unfunded Mandates*

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any given year. This proposed amendment would have no such effect on State, local, or tribal governments, or the private sector.

*Executive Order 12866*

The Office of management and Budget has reviewed this document under Executive Order 12866.

*Paperwork Reduction Act*

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

*Regulatory Flexibility Act*

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries and their survivors could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

*Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance program numbers are 64.109, and 64.110.

**List of Subjects**

*38 CFR Part 3*

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

*38 CFR Part 20*

Administrative practice and procedure, Claims, Veterans.

Approved: July 13, 2004.

**Anthony J. Principi,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR parts 3 and 20 are proposed to be amended as follows:

## PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A continues to read as follows:

**Authority:** 38 U.S.C. 501(a), unless otherwise noted.

**§ 3.5 [Amended]**

2. Section 3.5 is amended by removing paragraph (e).

3. Section 3.10 is added to read as follows:

**§ 3.10 Dependency and indemnity compensation rate for a surviving spouse.**

(a) *General determination of rate.* When VA grants a surviving spouse entitlement to DIC, VA will determine the rate of the benefit it will award. The rate of the benefit will be the total of the basic monthly rate specified in paragraph (b) or (d) of this section and any applicable increases specified in paragraph (c) or (e) of this section.

(b) *Basic monthly rate.* Except as provided in paragraph (d) of this section, the basic monthly rate of DIC for a surviving spouse will be the amount set forth in 38 U.S.C. 1311(a)(1).

(c) *Veteran's compensation increase.* The basic monthly rate under paragraph (b) of this section shall be increased by the amount specified in 38 U.S.C. 1311(a)(2) if the veteran, at the time of death, was receiving, or was entitled to receive, compensation for service-connected disability that was rated by VA as totally disabling for a continuous period of at least eight years immediately preceding death. Determinations of entitlement to this increase shall be made in accordance with paragraph (f) of this section.

(d) *Alternative basic monthly rate for death occurring prior to January 1, 1993.* The basic monthly rate of DIC for a surviving spouse when the death of the veteran occurred prior to January 1, 1993, will be the amount specified in 38 U.S.C. 1311(a)(3) corresponding to the veteran's pay grade in service, but only if such rate is greater than the total of the basic monthly rate and veteran's compensation increase (if applicable) the surviving spouse is entitled to receive under paragraphs (b) and (c) of this section. The Secretary of the concerned service department will certify the veteran's pay grade and the certification will be binding on VA. DIC paid pursuant to this paragraph may not be increased by the veteran's compensation increase under paragraph (c) of this section.

(e) *Additional increases.* One or more of the following increases may be paid in addition to the basic monthly rate and veteran's compensation increase.

(1) *Increase for children.* If the surviving spouse has one or more children under the age of 18 of the deceased veteran (including a child not in the surviving spouse's actual or constructive custody, or a child who is in active military service), the monthly DIC rate will be increased by the amount set forth in 38 U.S.C. 1311(b) for each child.

(2) *Increase for regular aid and attendance.* If the surviving spouse is determined to be in need of regular aid and attendance under the criteria in § 3.352 or is a patient in a nursing home, the monthly DIC rate will be increased by the amount set forth in 38 U.S.C. 1311(c).

(3) *Increase for housebound status.* If the surviving spouse does not qualify for the regular aid and attendance allowance but is housebound under the criteria in § 3.351(f), the monthly DIC rate will be increased by the amount set forth in 38 U.S.C. 1311(d).

(f) *Criteria governing veteran's compensation increase.* In determining whether a surviving spouse qualifies for the veteran's compensation increase under paragraph (c) of this section, the following standards shall apply.

(1) *Marriage requirement.* The surviving spouse must have been married to the veteran for the entire eight-year period referenced in paragraph (c) of this section in order to qualify for the veteran's compensation increase.

(2) *Determination of total disability.* As used in paragraph (c) of this section, the phrase ''rated by VA as totally disabling'' includes total disability ratings based on unemployability (§ 4.16 of this chapter).

(3) *Definition of ''entitled to receive''.* As used in paragraph (c) of this section, the phrase ''entitled to receive'' means that the veteran filed a claim for disability compensation during his or her lifetime and one of the following circumstances is satisfied:

(i) The veteran would have received total disability compensation for the period specified in paragraph (c) of this section but for clear and unmistakable error committed by VA in a decision on a claim filed during the veteran's lifetime; or

(ii) Additional evidence submitted to VA before or after the veteran's death, consisting solely of service department records that existed at the time of a prior VA decision but were not previously considered by VA, provides a basis for reopening a claim finally decided during the veteran's lifetime and for awarding a total service-connected

disability rating retroactively in accordance with §§ 3.156(c) and 3.400(q)(2) of this part for the period specified in paragraph (c) of this section; or

(iii) At the time of death, the veteran had a service-connected disability that was continuously rated totally disabling by VA for the period specified in paragraph (c) of this section, but was not receiving compensation because:

(A) VA was paying the compensation to the veteran's dependents;

(B) VA was withholding the compensation under the authority of 38 U.S.C. 5314 to offset an indebtedness of the veteran;

(C) The veteran had not waived retired or retirement pay in order to receive compensation;

(D) VA was withholding payments under the provisions of 10 U.S.C. 1174(h)(2);

(E) VA was withholding payments because the veteran's whereabouts were unknown, but the veteran was otherwise entitled to continued payments based on a total service-connected disability rating; or

(F) VA was withholding payments under 38 U.S.C. 5308 but determines that benefits were payable under 38 U.S.C. 5309.

(Authority: 38 U.S.C. 501(a), 1311, 1314, and 1321).

4. Section 3.22 is amended by revising paragraph (b) to read as follows:

**§ 3.22 DIC benefits for survivors of certain veterans rated totally disabled at time of death.**

* * * * *

(b) For purposes of this section, ''entitled to receive'' means that the veteran filed a claim for disability compensation during his or her lifetime and one of the following circumstances is satisfied:

(1) The veteran would have received total disability compensation at the time of death for a service-connected disability rated totally disabling for the period specified in paragraph (a)(2) of this section but for clear and unmistakable error committed by VA in a decision on a claim filed during the veteran's lifetime; or

(2) Additional evidence submitted to VA before or after the veteran's death, consisting solely of service department records that existed at the time of a prior VA decision but were not previously considered by VA, provides a basis for reopening a claim finally decided during the veteran's lifetime and for awarding a total service-connected disability rating retroactively in accordance with §§ 3.156(c) and 3.400(q)(2) of this part for the relevant period specified in paragraph (a)(2) of this section; or

(3) At the time of death, the veteran had a service-connected disability that was continuously rated totally disabling by VA for the period specified in paragraph (a)(2), but was not receiving compensation because:

(i) VA was paying the compensation to the veteran's dependents;

(ii) VA was withholding the compensation under authority of 38 U.S.C. 5314 to offset an indebtedness of the veteran;

(iii) The veteran had not waived retired or retirement pay in order to receive compensation;

(iv) VA was withholding payments under the provisions of 10 U.S.C. 1174(h)(2);

(v) VA was withholding payments because the veteran's whereabouts were unknown, but the veteran was otherwise entitled to continued payments based on a total service-connected disability rating; or

(vi) VA was withholding payments under 38 U.S.C. 5308 but determines that benefits were payable under 38 U.S.C. 5309.

* * * * *

## PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

5. The authority citation for part 20 continues to read as follows:

**Authority:** 38 U.S.C. 501(a) and as noted in specific sections.

### Subpart L—Finality

6. Section 20.1106 is revised to read as follows:

**§ 20.1106 Rule 1106. Claim for death benefits by survivor—prior unfavorable decisions during veteran's lifetime.**

Except with respect to benefits under the provisions of 38 U.S.C. 1311(a)(2), 1318, and certain cases involving individuals whose Department of Veterans Affairs benefits have been forfeited for treason or for subversive activities under the provisions of 38 U.S.C. 6104 and 6105, issues involved in a survivor's claim for death benefits will be decided without regard to any prior unfavorable disposition of those issues during the veteran's lifetime.

(Authority: 38 U.S.C. 7104(b))

[FR Doc. 04–23488 Filed 10–22–04; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 262

[OA–2004–0004; FRL–7829–9]

RIN 2090–AA13

## National Environmental Performance Track Program, Parallel Proposal To Direct Final Rule for RCRA Corrections

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed Rule.

**SUMMARY:** This proposed rulemaking is a parallel proposal to the direct final rulemaking EPA is also publishing today. EPA is taking direct final action on the National Environmental Performance Track Program, Direct Final Rule for RCRA Corrections. The revisions concern the proposed rule published on August 13, 2002 (67 FR 52674), and the subsequent final rule published on April 22, 2004 (69 FR 21737). Both the 2002 proposal and the 2004 final rule contained an inconsistency between the preamble language and regulatory language. The final rule also inadvertently omitted three references to applicable regulatory provisions that were properly referenced in the proposed rule. We are proposing today's revisions to address the inconsistency between the preamble and regulatory language, and to correct the inadvertently omitted applicable regulatory provisions.

In the ''Rules and Regulations'' section of today's **Federal Register**, we are approving these revisions and corrections in a direct final rulemaking because we view this as a noncontroversial amendment and anticipate no adverse comment. We have explained our reasons for this approval in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the direct final rule and it will not take effect, and we will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**DATES:** Written comments must be received by November 24, 2004.

**ADDRESSES:** Submit your comments, identified by Docket ID No. OA–2004–0004, by one of the following methods:

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

• *Agency Web site: http://www.epa.gov/edocket.* EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

• *Mail:* Mr. Robert D. Sachs, Environmental Protection Agency, Mail code 1807T, 1200 Pennsylvania Avenue, Washington, DC 20460 telephone number 202–566–2884; fax number 202–566–0966; e-mail address: *sachs.robert@epa.gov.*

• *Hand Delivery:* Office of Environmental Information Docket, Environmental Protection Agency, EPA West Building, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. OA–2004–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.epa.gov/edocket,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, *regulations.gov,* or e-mail. The EPA EDOCKET and the federal *regulations.gov* Web sites are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the EDOCKET index at *http://www.epa.gov/edocket.* Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at the Office of Environmental Information Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Office of Environmental Information Docket is (202) 566–1752.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert D. Sachs, Performance Incentives Division, Office of Business and Community Innovation, Office of Policy, Economics and Innovation, Office of Administrator, Mail Code 1807T, United States Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460 telephone number 202–566–2884; fax number 202–566–0966; e-mail address: *sachs.robert@epa.gov.*

**SUPPLEMENTARY INFORMATION:** This document concerns revisions to the Resource Conservation and Recovery Act to address an inconsistency between the preamble and regulatory language at 67 FR 52674 and 69 FR 21737, and to correct three inadvertently omitted applicable regulatory provisions at 69 FR 21737. The revisions proposed here are identical to those contained in the Direct Final Rule located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please refer to the preamble and regulatory text of the direct final action for further information and the actual text of the revisions. Additionally, all information regarding Statutory and Executive Orders for this proposed rule can be found in the Statutory and Executive Order Review section of the direct final action.

Dated: October 19, 2004.

**Michael O. Leavitt,**

*Administrator.*

[FR Doc. 04–23841 Filed 10–22–04; 8:45 am]

BILLING CODE 6560–50–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### 50 CFR Part 17

**RIN 1018–AT57**

## Endangered and Threatened Wildlife and Plants; Reopening of the Public Comment Period for the Draft Economic Analysis and Proposed Designation of Critical Habitat for the Santa Ana Sucker

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of the public comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the draft economic analysis on the proposed designation of critical habitat for the Santa Ana sucker (*Catostomus santaanae*) and on the proposed designation itself. The comment period will provide the public, Federal, State, and local agencies, and tribes with an additional opportunity to submit written comments on this proposal and its respective draft economic analysis. Comments previously submitted for this proposed rule and draft economic analysis need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decision.

**DATES:** The public comment period on the proposed designation and draft economic analysis is now reopened until November 24, 2004. We will accept comments and information until 5 p.m. p.s.t. on that date.

**ADDRESSES:** Written comments and materials may be submitted to us by one of the following methods:

1. You may submit written comments and information to the Field Supervisor, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, California, 92009.

2. You may hand-deliver written comments and information to our Carlsbad Fish and Wildlife Office at the above address, or fax your comments to (760) 431–9618.

3. You may send comments by electronic mail (e-mail) to *fw1sasu@r1.fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

Comments and materials received, as well as supporting documentation used in preparation of the proposed critical habitat rule for the Santa Ana sucker and the draft economic analysis on the

proposed designation, will be available for public inspection, by appointment, during normal business hours at the above address. Any comments received after the closing date may not be considered in the final decisions on this action. You may obtain copies of the proposed critical habitat designation by contacting the Carlsbad Fish and Wildlife Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Bartel, Field Supervisor, Carlsbad Fish and Wildlife Office, at the above address (telephone (760) 431–9440; facsimile (760) 431–9618).

**SUPPLEMENTARY INFORMATION:**

## Public Comments Solicited

We solicit comments or suggestions from the public, other concerned governmental agencies, tribes, the scientific community, industry, or any other interested parties concerning our proposed designation of critical habitat for the Santa Ana sucker and our draft economic analysis for the proposed critical habitat designation. We particularly seek comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of Santa Ana sucker habitat, and what habitat is essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities or families;

(5) Whether the economic analysis adequately addresses the likely effects and resulting costs arising from the California Environmental Quality Act and other State laws as a result of the proposed critical habitat designation;

(6) Whether the economic analysis makes appropriate assumptions, and is consistent with the Service's listing regulations regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat for the Santa Ana sucker;

(7) The benefits of including or excluding lands covered by a Natural Community Conservation Plan or Habitat Conservation Plan or any other lands covered by an adequate management plan;

(8) Whether the analysis adequately addresses the indirect effects, *e.g.*, property tax losses due to reduced home construction, losses to local business due to reduced construction activity;

(9) Whether the economic analysis appropriately identifies land and water use regulatory controls that could result from the proposed critical habitat designation for this species;

(10) Whether the analysis accurately defines and captures opportunity costs;

(11) Whether the economic analysis correctly assesses the effect on regional costs (*e.g.*, housing costs) associated with land use controls that could arise from the designation of critical habitat for this species;

(12) Whether the designation of critical habitat for the sucker will result in disproportionate economic or other impacts to specific areas that should be evaluated for possible exclusion from the final designation;

(13) Whether the economic analysis is consistent with the Service's listing regulations because this analysis should identify all costs related to the designation of critical habitat for the Santa Ana sucker and this designation was intended to take place at the time this species was listed; and

(14) The draft economic analysis includes an appendix which provides an assessment of the potential benefits that may accrue to homeowners resulting from the amenity associated from living in the vicinity of a protected riparian corridor.

a. Please comment on the appropriateness of including the analysis of amenities as identified in the appendix as a potential benefit associated with critical habitat designation without doing a complete analysis of that class of economic effect (such as stigma effects) in general and the Santa Ana sucker designation in particular.

b. Please comment on the method employed to estimate this effect which relies on the combined results of two studies that measure the premium to homes located near protected or restored urban streams (Colby and Wishart 2002, Streiner and Loomis 1995).

c. Please comment on the appropriateness of the application itself, which applied the benefits to all areas of the designation.

(15) Whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

If you wish to comment, you may submit your comments and materials concerning this rule by any one of several methods (*see* **ADDRESSES** section). Please submit Internet comments to *fw1sasu@r1.fws.gov* in ASCII file format and avoid the use of special characters or any form of encryption. Please also include ''Attn: Santa Ana Sucker Critical Habitat'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Carlsbad Fish and Wildlife Office (*see* **FOR FURTHER INFORMATION CONTACT** section).

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 address, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comments. However, we will not consider anonymous comments. To the extent consistent with applicable law, 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.

## Background

On February 26, 2004, we concurrently published in the **Federal Register** a final rule (69 FR 8839) and a proposed rule (69 FR 8911) to designate critical habitat for the Santa Ana sucker. In order to comply with the designation deadline established by the district court in *California Trout* v. *DOI*, No. 97–3779 (N.D. Cal.), we were unable to open a public comment period, hold a public hearing, or complete an economic analysis of the final rule. We refer the reader to the final rule (69 FR 8839) for a complete explanation of our reasons for dispensing with the notice and comment procedures generally required under the Administrative Procedure Act. To give the public an opportunity to comment on the critical habitat designation, including the opportunity to request and hold a public hearing, and to enable us to complete and circulate for public review an economic analysis of critical habitat designation, we published and solicited comment on a proposed rule (69 FR 8911) to designate critical habitat for the Santa Ana sucker on approximately 21,129 acres (ac) (8,550 hectares (ha)) of

land in Los Angeles and San Bernardino Counties, California. We indicated that, after taking public comment, we would issue a new final designation that would replace the designation put into place on February 26, 2004. The original comment period on the proposed rule closed on April 26, 2004.

On August 19, 2004, we published a notice in the **Federal Register** that announced the reopening of the comment period on the proposed designation of critical habitat for the Santa Ana sucker and the scheduling of a public hearing on September 9, 2004, in Pasadena, California (69 FR 58876). The comment period was open until 5 p.m. p.s.t on September 20, 2004.

In order to eliminate any confusion as to the current status of the February 26, 2004 final rule designating critical habitat, we reiterate our determination and supporting reasons presented in that rule; that rule will remain in effect during the short period of time necessary to allow this reopened comment period on the February 26, 2004 proposed critical habitat rule, and associated draft economic analysis, and to make a final determination on that rule.

*Economic Analysis*

Section 4(b)(2) of the Act requires that we designate or revise critical habitat on the basis of the best scientific and commercial data available, after taking into consideration economic and any other relevant impacts of specifying any particular area as critical habitat. Based upon the February 26, 2004, proposed rule to designate critical habitat for the Santa Ana sucker, we prepared a draft economic analysis on the proposed critical habitat designation. Retrospective costs total $4.2 million, with transportation comprising $3.4 million of those costs. The remainder of retrospective costs was split among OHV recreation, flood control agencies, and Federal agencies. Total prospective costs are $30.5 million assuming a three percent discount rate and $21.8 million with a seven percent discount rate. Annual prospective costs are estimated to be $2.0 million. Costs associated with transportation contribute 49 percent of the annual costs and overall prospective costs. Other leading activities include water supply, flood control agencies, and residential and commercial development. The draft economic analysis also includes an appendix which provides an assessment of the potential benefits that may accrue to homeowners resulting from the amenity associated from living in the vicinity of a protected riparian corridor. The method employed to estimate this effect relies on the combined results of two studies that measure the premium to homes located near protected or restored urban streams (Colby and Wishart 2002, Streiner and Loomis 1995).

On October 1, 2004, we published a notice in the **Federal Register** announcing the reopening of the comment period on the proposed designation of critical habitat for the Santa Ana sucker and on the draft economic analysis for the proposal (69 FR 51416). The comment period was open until 5 p.m. p.s.t on October 12, 2004.

In order to give the public, Federal, State, and local agencies, and Tribes additional time to review and comment on the draft economic analysis, we are reopening the public comment period for another 30 days. We are now soliciting public comment on the draft economic analysis and appendix until the date specified above in **DATES**. We will also continue to accept comments concerning our proposed designation of critical habitat for the Santa Ana sucker during this period.

**References Cited**

Colby, Bonnie and Steve Wishart. 2002. Quantifying the Influence of Desert Riparian Areas on Residential Property Values, The Appraisal Journal, July.

Streiner, Carol and John B. Loomis. 1995. Estimating the Benefits of Urban Stream Restoration Using the Hedonic Price Method, Rivers 5(4).

## Author

The primary authors of this notice are the staff of the Carlsbad Fish and Wildlife Office (*see* **ADDRESSES** section).

## Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: October 20, 2004.

**Paul Hoffman,**

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 04–23968 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–55–P**

# Notices

Federal Register

Vol. 69, No. 205

Monday, October 25, 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

### Office of the Secretary

### Notice of the USDA Technology and eGovernment Advisory Council Meeting

**AGENCY:** Office of the Chief Information Officer, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2, the United States Department of Agriculture announces a meeting of the USDA Technology and eGovernment Advisory Council. The Council will advise the Secretary and the Chief Information Officer in planning and developing strategies for technology and eGovernment Initiatives. The purpose of the meeting is to discuss USDA information technology investments as well as the current status and future of eGovernment Initiatives.

**DATES:** The USDA Technology and eGovernment Advisory Council will meet on November 9, 2004 from 8:30 a.m. to 4:30 p.m.; and November 10, 2004 from 8:30 a.m. to 4 p.m. Written comments for the public record will be welcomed before or up to two weeks after the meeting and should be submitted to the Contact Person in this notice. All comments will become part of the official record of the Advisory Council.

**ADDRESSES:** The meeting will take place at the Jamie L. Whitten Building, Room 104A, 1400 Independence Ave., SW., Washington, DC 20250. Please send written comments to the Contact Person identified herein at: Office of the Chief Information Officer, 1400 Independence Ave., SW., Room 405W, Jamie L. Whitten Building, United States Department of Agriculture, Washington, DC 20250; and electronic comments to the Contact Person at: *sandy.facinoli2@usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Sandy Facinoli, Designated Federal Official, USDA Technology and eGovernment Advisory Council; telephone: (202) 720–2786; fax: (202) 205–2831.

**SUPPLEMENTARY INFORMATION:** On Tuesday and Wednesday, November 9, 2004 from 8:30 a.m. to 4 p.m., the USDA Technology and eGovernment Advisory Council will hold a meeting at the Jamie L. Whitten Building, United States Department of Agriculture, 1400 Independence Ave. SW, Washington, DC 20250. A copy of the agenda may be obtained by sending a request to the Contact Person in this notice.

The Council meeting will be open to the public on November 9, 2004 from 10 a.m. to 12 noon. Members of the public will be asked to register at the door. The meeting will be closed to the public on November 9, 2004 from 8:30 a.m. to 10 a.m.; and from 1:30 p.m. to 4:30 p.m.; and on November 10, 2004 from 8:30 a.m. to 12 noon and from 1:30 p.m. to 4 p.m. so that the Council can conduct administrative matters.

**Scott Charbo,**

*Chief Information Officer.*

[FR Doc. 04–23829 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### Members of Performance Review Boards

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the appointment of members of the Performance Review Boards (PRB's) for the U.S. Department of Agriculture (USDA). The USDA PRB's ensure meaningful distinctions in performance as they review Senior Executive Service (SES) performance appraisals and make recommendations to the Secretary of Agriculture, regarding final performance ratings, performance awards, salary adjustments, and Presidential Rank Awards for SES members.

**DATES:** Effective upon publication in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Barbara Holland, Office of Human Resources Management, Executive Resources and Services Division, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250, (202) 720–2101.

**SUPPLEMENTARY INFORMATION:** The publication of PRB membership is required by Section 4314(c)(4) of Title 5, U.S.C. The following membership list represents a standing register, from which specific PRB's will be constituted.

Acevedo, Jose J.
Aldaya, George W.
Allen, Lindsay H.
Alsop, James C.
Anderson, Curtis M.
Anderson, Byron E.
Arnette, Donald E.
Ashworth, Warren R.
Axtell, Jeanne O.
Bange, Gerald A.
Barnes, Darlene L.
Bartuska, Ann M.
Bartz, Merlin E.
Bass, Robert T.
Bell, Charles W.
Bell, Theodore O.
Betschart, Antoinette A.
Blackburn, Wilbert H.
Blackwell, Jack, A.
Blum, J. Lawrence
Bosecker, Raymond R.
Bost, Eric M.
Bosworth, Dale N.
Braasch, Sara J.
Brady, George A.
Brady, Terence M.
Braley, James H.
Brennan, Deborah L.
Brewer, John G.
Brouha, Paul
Brown, Charles S.
Bryant, Arthur Ray
Bryson, Nancy S.
Bschor, Dennis E.
Bumbary-Langston, Inga P.
Butler, Larry D.
Buxton, Dwayne R.
Cables, Rick D.
Carey, Priscilla B.
Carpenter, Barry L.
Chadwick, Kristine M.
Chambliss, Mary T.
Charbo, Lawrence Scott
Cherry, John P.
Christensen, Thomas W.
Cielo, Angel B.
Clark, Lawrence E.
Clay, William H.
Clayton, Kenneth C.
Cleaves, David A.
Clifford, John R.

Cohen, Kenneth E.
Cole, Darrell F.
Coler, Katherine Anne
Collins, Keith J.
Collins, Sarah D.
Collins, Wanda W.
Conklin, Neilson C.
Connelly, Steven A.
Conner, Charles F.
Conway, Roger K.
Conway, Thomas
Cooksie, Carolyn B.
Coombe, Richard
Cooper, George E.
Coppedge, James R.
Couvillion, Lynda A.
Cunningham, Gary L.
Dantzler, Marshall L.
Davidson Jr., Ross J.
Davis, Russell T.
Dedrick, Allen R.
Dehaven William R.
Derfler, Philip S.
Dewhurst, Stephen B.
Diaz-Soltero, Hilda
Dick, Jere L.
Diez, Jose R.
Donoghus, Linda R.
Dorr, Thomas C.
Duncan III, John P.
Dunkle, Richard L.
Eav, Bov Bang
Ebaugh, Mary L.
Eggert, Paul R.
Elias, Thomas S.
Engeljohn, Daniel L.
Epstein, Robert L.
Estill, Elizabeth
Evans, Marlane T.
Farrish, Hubert O.
Fiala, Patricia K.
Fleischman, Joyce N.
Fong, Phyllis K.
Forsgren II, Harvey L.
Fowler, Jerry L.
Frago, Douglas W.
Frost, Alberta C.
Fulton, Philip N.
Gaibler, Floyd D.
Garbarino, Joseph S.
Gause, Kathleen M.
Gelburd, Diane E.
Gipson, Chester A.
Golden, Michael L.
Golden, John
Gomez, Christopher A.
Gonzalez, Gilbert
Goodman, Linda D.
Gordh, Gordon
Grahn, David P.
Granger, Larry M.
Gray, David R.
Gray, Roy Mack
Green, Alan S.
Greene, Frank C.
Gugulis, Katherine C.
Guldin, Richard W.
Gutierrez, Paul
Haggstrom, Glenn D.
Hagy III, William F.
Hamer Jr., Hubert
Hammond, Andrew C.
Hanan, Tamara L.
Hannah, Thomas E.
Hanuschak, George A.
Harrison, Alisa
Hatch, David C.
Hawk, Gilbert R.
Hawks, William
Healy, Patricia E.
Heerwagen, David A.
Hefferan, Colien J.
Hennings, Carlos F.
Hentges, Eric J.
Hewings, Adrianna D.
Hicks, Ronald F.
Hill, Ronald W.
Hinton-Henry, Annie S.
Hobbie, Mary K.
Hobbs, Alma C.
Hoffeller, Thomas B.
Hohenstein, William G.
Holden, Ollice C.
Holladay, Jon M.
Holland, David G.
Holman, Pred Dwight
Holtrop, Joel D.
House, James E.
House, Carol C.
Hudnall Jr., William J.
Hulebak, Karen L.
Jackson, Vicki A.
Jackson, Keith D.
Jackson, Ruthie F.
Jacobs, Robert
James, William O.
Jen, Joseph
Jennings, Allen L.
Jett, Carole E.
Johnsen, Peter B.
Johnson, John A.
Johnson, Elizabeth K.
Johnson, Phyllis E.
Jordan, John P.
Kaiser, Janette S.
Kaplan, Dennis L.
Kappes, Steven M.
Kashdan, Hank
Keeney, Robert C.
Kelly, James Michael
Kimbell, Abigail R.
King, Jessie L.
King Jr., Edgar G.
Knight, Bruce I.
Knipling, Edward B.
Korcak, Ronald F.
Kronenberger Jr., Donald R.
Kugler, Daniel E.
Kuhn, Betsey A.
Lambert, Charles D.
Lange, Loren D.
Leaman, Samuel R.
Legg, Hilda G.
Leland, Arlean
Levings, Randall
Lewis, David N.
Lilja, Janice Grassmuck
Linden, Ralph A.
Lindsay, Jerome A.
Little, James R.
Lohfink, Cyrus G.
Lopez, John
Ludwig, William E.
Lugo, Ariel E.
Maczka, Carol A.
Maloney, Kathryn P.
Mangold, Robert D.
Mann, Curt J.
Manning, Gloria
Maresch, Wayne M.
Margheim, Gary A.
Marlow, Ronald L.
Martinez, Wilda H.
Masters, Barbara J.
Maupin, Gary T.
Mausbach, Maurice J.
Mazie, Sara M.
McCaskey, Patrick C.
McClanahan, Melinda L.
McDill, Norma R.
McPhail-Gray, Mary
Mendoza Jr., Martin
Messmore, Karen
Mezainis, Valdis E.
Miller, W. Kirk
Millet, Thomas W.
Milton Jr., William P.
Moore, Dale W.
Moore, Randy
Morgan, Andrea M.
Morgan, Gary J.
Morris, Craig A.
Moseley, James R.
Munno, Joanne L.
Murano, Elsa
Murano, Peter S.
Murray, Peter K.
Murrin, Suzanne M.
Narang, Sudhir K.
Nealon, John Patrick
Neruda, Michael E.
Ng, Allen
Niedermayer, Chris S.
Norbury, Frederick L.
Novak, Jon E.
Offutt, Susan E.
Onstad, Charles A.
Orr, David M.
Otto, Ralph A.
Palmisano, Anna
Parham, Gregory L.
Parker, Henry S.
Parker, Vernon B.
Patton-Mallory, Marcia
Payne, Larry R.
Penn, J.B.
Petersen, Kenneth E.
Poling, Janet A.
Prucha, John C.
Purcell, Roberta D.
Pyron, Christopher L.
Quick, Bryce R.
Quigley, Thomas M.
Rains, Michael T.
Reaves, Jimmy L.
Reed, Craig A.
Reifschneider, Donna L.

Reilly, Joseph T.
Rexroad Jr., Caird E.
Rey, Mark E.
Reynolds, James R.
Riemenschneider, Robert A.
Riggins, Judith W.
Risbrudt, Christopher D.
Roberts, Richard K.
Robinson, Barbara C.
Rockey, Sarah J.
Roussopoulos, Peter J.
Ruff, Michael D.
Rundle, Kathleen A.
Salazar, Roberto
Santiago, Perfecto R.
Scarbrough, Frank
Schaub, James D.
Sedell, James R.
Seiber, James N.
Sexton, Thomas J.
Shahin, Jessica H.
Sharp, Audrey Diane
Shea, Anthony Kevin
Shehan, Francis Robert
Sheikh, Patricia R.
Shipman, David R.
Silverman, Steven C.
Smith, Katherine R.
Smith, Cynthia J.
Smith Jr., William C.
Snow, Wendy E.
Spence, Joseph
St. John, Judith B.
Steele, W. Scott
Stokes, E. Vaughn
Stuck, Karen D.
Surina, John C.
Swacina, Linda
Swenson, Richard D.
Taitano, Dennis J.
Tanner, Steven N.
Tenny, David P.
Terpstra, A. Ellen
Thiermann, Alejandro B.
Thomas, Irving W.
Thomas, Peter Jon
Thompson, Clyde
Thompson, Robin L.
Thompson, Tommy L.
Torrey, Michael K.
Troyer, Jack G.
True, Sadhna G.
Underwood Jr., Marvin M.
Vail, Kenneth H.
Van Blargan, Richard T.
Veneman, Ann M.
Villano, David J.
Vogel, Ronald J.
Wachs, Lawrence
Walker, Larry A.
Wallace, Charles L.
Walsh, Thomas E.
Walton, Thomas M.
Waterfield, Joann
Waters, Mary
Weber, Barbara C.
Whitmore, Charles
Williams, Jerry Thomas
Williams, John W.
Witt, Timothy Blaine
Wiyatt, Steven D.
Woods, Mark R.
Worthen, Michael V.
Yates, Archie
Yonts-Shepard, Susan E.
York, Dana D.
Yost, Michael W.
Young, Michael Lee
Young, Peter
Young Jr., Robert W.
Zorn, Frances E.

Dated: October 19, 2004.

**Ann M. Veneman,**

*Secretary.*

[FR Doc. 04–23822 Filed 10–22–04; 8:45 am]

**BILLING CODE 3410–06–M**

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## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Public Meeting on Implementation of Electronic Warehouse Receipts and Other Electronic Documents for Grain and Rice

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Department of Agriculture (USDA) will conduct a public meeting to solicit comments and options regarding the implementation of electronic warehouse receipts (EWRs) and other electronic documents (OEDs) for grain and rice as authorized by the Grain Standards and Warehouse Improvement Act of 2000 ((Pub. L. 106–472) (7 U.S.C. 241 *et seq.*) (United States Warehouse Act (USWA)), enacted November 9, 2000. The meeting will be open to the public, with attendance limited to available space on a first-come basis. Attendees are asked to be prepared to share information concerning their views on implementing the EWRs and OEDs for grain and rice within the current operational environment as well as future e-commerce activities. No registration or fee is required to attend or participate in the public meeting.

**DATES:** November 9–10, 2004, from 8 a.m. to 5 p.m.

**ADDRESSES:** The meeting will take place at USDA's Beacon Building, 6501 Beacon Drive, Kansas City, Missouri 64133–4676.

Requests to address the meeting and written comments may be sent to: Roger Hinkle, USWA Program Manager, Warehouse and Inventory Division, Farm Service Agency, USDA, 1400 Independence Avenue, SW., STOP 0553, Washington DC 20250–0553; FAX: (202) 690–3123; e-mail: *Roger.Hinkle@usda.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. David Kirkland, (816) 823–1144 (telephone); or (816) 448–5622 (facsimile); or by e-mail at *David.Kirkland@kcc.usda.gov.*

Persons with disabilities who require special accommodation to attend or participate in the meeting should contact Laurie Montgomery, telephone: (202) 205–7832; e-mail: *laurie.montgomery@usda.gov,* by November 1, 2004.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is to provide all interested parties an opportunity to discuss the development and implementation of EWRs and OEDs for grain and rice as authorized under the USWA and its regulations at 7 CFR part 735. A copy of the USWA, its regulations and Provider Agreements can be found online at *http://www.fsa.usda.gov/daco/uswa.htm.* The USWA was enacted in part to be more relevant to today's agricultural marketing and financial systems. The USWA provides authorization for the issuance and transfer of EWRs and OEDs relating to the shipment, payment, and financing of the sale of agricultural products, and the standardization of such electronic documents.

The agenda will include, but is not limited to the following:

(1) Current status of EWR and OED—Provider Agreements,

(2) Review Draft Provider Agreements Addendum for grain and rice EWRs,

(3) Completing the addendum, making sure all data requirements for grain and rice are included,

(4) FSA-Price Support Division's (PSD's) requirements in developing a Commodity Credit Corporation (CCC) User Agreement for grain and rice EWRs,

(5) Discuss requirements for a USWA and CCC pilot grain and rice EWR program,

(6) Integration of Electronic Data Interfaces with grain and rice warehouse accounting software,

(7) Discuss current and prospective EWR systems or concepts,

(8) Expectations of grain and rice companies and cooperatives,

(9) Expectations of grain and rice commodity exchanges,

(10) Expectations of banks, lenders, sureties and insurance underwriters,

(11) Expectations of current and prospective EWR providers, and

(12) Next steps for USDA.

This meeting is open to the public. Persons wishing to make a brief presentation up to 15 minutes are asked to provide a written request with a description of the general subject to Mr.

Hinkle, at the address shown above, no later than noon, October 25, 2004. It is requested that 50 copies of the written statement be submitted at the time of the meeting for distribution and placement in the official file.

Persons with comments or suggestions should provide Mr. Hinkle, at the address shown above, with a written copy of their comments no later than October 25, 2004.

Signed at Washington, DC: October 15, 2004.

**James R. Little,**

*Administrator, Farm Service Agency.*

[FR Doc. 04–23831 Filed 10–22–04; 8:45 am]

**BILLING CODE 3410–05–P**

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Revised Land and Resource Management Plan, Manti-La Sal National Forest, Utah

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an Environmental Impact Statement for a revised Land and Resource Management Plan for the Manti-La Sal National Forest, with portions of the Forest located in Utah, Juab, Emery, Carbon, Sanpete, Grand, San Juan and Sevier Counties in Utah and Mesa and Montrose Counties in Colorado.

**SUMMARY:** The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement (EIS) in conjunction with revision of the Land and Resource Management Plan (Forest Plan).

This notice describes the needs for change in the current Forest Plan that have been identified by Manti-La Sal National Forest Supervisor, Alice B. Carlton, to be revised; the environmental issues to be considered in the revision; the estimated dates for filing the EIS; information concerning public participation; and the names and addresses of the responsible agency official and the individual who can provide additional information.

**DATES:** Comments regarding the scope of the analysis should be received in writing by December 21, 2004. The agency expects to file a Draft EIS in the fall of 2005 and a Final EIS in the late winter of 2006 or early spring of 2007.

**ADDRESSES:** Send written comments to: Alice B. Carlton, Forest Supervisor, Manti-La Sal National Forest, 599 West Price River Drive, Price, Utah 84501.

**FOR FURTHER INFORMATION CONTACT:** Marlene DePietro, Recreation and Planning Staff Officer, Manti-La Sal National Forest, (435) 636–3539.

*Responsible Official:* Jack Troyer, Intermountain Regional Forester, 324 25th St., Ogden, Utah 84401.

**SUPPLEMENTARY INFORMATION:** Pursuant to Part 36 Code of Federal Regulations (CFR) 219.10(g), the Regional Forester for the Intermountain Region gives notice of the agency's intent to prepare an Environmental Impact Statement to revise the Manti-La Sal National Forest Plan. According to 36 CFR 219.10(g), land and resource management plans shall ordinarily be revised on a 10 to 15 year cycle. The existing plan was approved November 5, 1986.

The Regional Forester gives notice that the Manti-La Sal National Forest is beginning an environmental analysis and the decision-making process for this proposed programmatic action to revise the Manti-La Sal Forest Plan.

The authorization of project-level activities on a forest occurs through project or site-specific decisions. Project-level decisions must comply with National Environmental Policy Act (NEPA) procedures and must include a determination that the project is consistent with the forest plan.

#### Needs for Change in the Current Forest Plan

The current Forest Plan was approved 17 years ago and has been amended 18 times. Experience and monitoring have shown the need for changes in management direction for some resources or programs. Several sources have highlighted needed changes in the current Forest Plan.

- Public involvement has identified new information and public values.
- Monitoring and scientific research has identified new information and knowledge gained.
- Forest Plan implementation has identified management concerns to find better ways for accomplishing desired conditions.
- Changes have occurred in Agency policy and direction (*i.e.*, Four Threats, Forest Service Strategic Plan).

In addition to changing public views about how these lands should be managed, information and the scientific understanding of these ecosystems have evolved.

Each need for change was placed into one of three categories: required by law, requiring immediate attention; or able to be postponed and addressed later through the continuous assessment process.

#### Proposed Action

The following topics are being proposed for revision in the Forest Plan. Needs for change are addressed in the following sections, with a short description of what each change entails and why it is necessary. The proposed action for each topic is identified by italics.

*1. Goals and Objectives, Standards and Guidelines, and Identification of Suitable Uses*

- We propose to clarify and expand, where necessary, the description of the desired conditions for all physical, biological, social, and economic components associated with the Forest, including addressing the unique components of each geographic area. The desired conditions will be utilized to clarify overall Forest-wide resource management goals and facilitate development of objectives to reach those goals and desired conditions. Additionally, these desired conditions will identify the Forest's niche, describe how the Forest contributes to the broader vision for the Intermountain Region and the Forest Service as a whole, and provide a vision of the Forest's contribution to the human dimension.
- We propose to identify objectives that when implemented will take the Forest resources and uses toward desired conditions. These objectives will be developed considering realistic future budget expectations and will be based on expected personnel availability to implement projects to meet the objectives.
- We propose to redefine the management boundaries, identifying geographic areas that will provide a sense of place for the local publics and communities, as well as other recreating publics, when discussing activities and uses within them. Forest-wide and geographic area suitable uses will be identified.

*2. Monitoring and Evaluation Requirements*

Evaluation and monitoring provide knowledge and information to keep the Forest Plan viable. The appropriate selection of indicators, and monitoring and evaluation of key results helps determine if Forest Plan management direction is being met. Evaluation and monitoring also helps determine if there should be changes made to the goals and objectives, or monitoring methods.

The tie between monitoring and Forest Plan desired conditions, goals, and objectives needs to be strengthened. Priorities need to be established for monitoring elements to ensure that important items are accomplished with available funding.

Federal Regulations (36 CFR 219.19) require forests to select management indicator species (MIS). Management indicator species in the current Forest Plan were selected because their habitat requirements encompass a diverse range of conditions. Monitoring and management experience with MIS since the Plan was implemented indicate that some species may not be the best indicator for the habitat they were chosen to represent; their population trends may be affected by factors other than forest management; they are difficult to monitor accurately; and/or monitoring techniques were so complex they could not be adequately completed within present forest budgets. A revised list will better indicate the effects of management activities on fish and wildlife habitats.

• We propose to develop a meaningful, realistic, and implementable monitoring and evaluation program, focusing monitoring activities on required monitoring items (meet intent of law), eliminating duplicate monitoring requirements, and developing reasonable reporting schedules.

• We propose to revise the list of Management Indicator Species (MIS).

*3. Recommendations to Congress of Areas Eligible for Wilderness Designation*

The regulations implementing the National Forest Management Act (36 CFR 219.17) require that ''roadless areas * * * shall be evaluated and considered for recommendation as potential wilderness areas during the forest planning process.'' The 1984 Utah Wilderness Act (Pub. L. 98–428) also requires that a roadless inventory be completed during forest plan revision. Further requirements for evaluation and designation of wilderness are in the Forest Service Manual (FSM 1923, FSM 2320) and Handbook (FSH 1909.12, Chapter 7). The Manti-La Sal National Forest has completed the draft roadless area inventory.

The awareness of ecological and social values associated with roadless areas has increased since the development of the current Forest Plan. Roadless areas meeting the criteria for potential wilderness recommendation will be evaluated accordingly. Suitable uses will be determined for areas not recommended to Congress for wilderness designation.

• We propose to evaluate inventoried roadless areas for wilderness potential and make wilderness recommendations as appropriate.

• We propose to develop management direction and identify suitable uses for roadless areas that are not recommended for wilderness designation.

*4. Re-evaluation of Lands Not Suited for Timber Production*

• We propose to review all forested lands to determine those lands deemed not suited for timber production as required by NFMA (36 CFR 219.14).

• We propose to review and adjust as necessary the long-term sustained yield capacity, and in turn the allowable sale quantity as appropriate, in response to:

a. Changes in forest growing stock resulting from insect-related mortality.

b. Proposed changes in management direction for forest resources, as appropriate.

c. Final identification of lands suited for timber production.

*5. Wild and Scenic Rivers*

The Wild and Scenic Rivers Act of 1968 (Pub. L. 90–542) was enacted to protect and preserve, in their free-flowing condition, certain selected rivers of the Nation and their immediate environments. The Act established the National Wild and Scenic Rivers System (NWSRS); designated rivers included in the system, established policy for managing designated rivers, and prescribed a process for designating additional rivers to the system. The Act requires consideration of Wild and Scenic Rivers as part of the ongoing planning process. In March 2003, the Manti-La Sal National Forest, in consultation with tribal governments and State and other Federal agencies, completed an eligibility determination of all of the rivers on the Forest. Fourteen rivers segments were found to be free-flowing and to possess at least one outstandingly remarkable value, making them eligible for a suitability analysis and potential recommendation for designation into the Wild and Scenic Rivers System.

• We propose to complete the suitability analysis on the Fish Creek and Gooseberry Creek, lower left fork of Huntington Creek, Huntington Creek, Hammond Canyon, and the north fork of Whiskers (including Whiskers Draw) eligible river segments during Forest Plan revision. We propose to develop interim direction for management of activities and uses that have the potential to affect the outstandingly remarkable values for the remaining nine eligible river segments. This interim direction will be utilized for management of each river segment until the suitability analysis can be completed (post-revision), at which time the segment will either be recommended for inclusion in the Wild and Scenic River System or not.

*6. Areas Where Change May Be Needed*

The Forest Supervisor, Forest Leadership Team, and Forest Plan Interdisciplinary team have identified four major topics the Forest proposes to address during Forest Plan revision. Those major topics are:

• Recreation Management
• Watershed Health
• Minerals Management
• Fire/Fuels Management

The needs for change in these resource areas are evident. Because the solutions may generate some controversy or multiple solution possibilities, alternatives will be developed to determine the type and amount of change.

a. Recreation Management

By mid-century our Nation's population is projected to increase by nearly 50 percent. Simultaneously, public access to privately owned forestland is expected to continue to decline. This situation will increase the pressure on public lands to provide recreational opportunities. If public lands are to meet increased demand for recreational opportunities without experiencing unacceptable impacts to resources, emphasis must be placed on effective management solutions. In particular, it is critical that management of off-highway vehicle access and use on National Forest System lands is improved to preserve high-quality experiences for all recreational users.

The Forest Plan stated that over the planning period new developed sites would be constructed on average of about 20 PAOTS (people at one time) each year. In actuality, new construction occurred in the form of hardened dispersed sites that provide the social setting people desire while providing the resource protection needed to allow intensive use of these areas. The current Forest Plan predicted the demand for developed recreation facilities would occasionally exceed supply. The capacity of developed recreation facilities has not been exceeded. The public's demand for an unconfined camping experience has resulted in more and larger dispersed recreation sites across the Forest.

Beyond the issue of developed and dispersed recreation, the Forest Plan does not discuss the necessity of providing a broad range of recreation opportunities that would ensure the breadth of recreational experiences in a natural setting would be available for future generations.

Current Forest Plan direction focused on construction issues and occasionally on overall capacities using Recreation Opportunity Spectrum (ROS) classes to set limits for both dispersed recreation and trail use. The Plan did not anticipate dispersed recreation and off-highway vehicles as dominant forms of recreation on the Forest. Current direction focuses on recreation management units (Developed Recreation Sites, Undeveloped Motorized Areas, Semi-Primitive Recreation Areas) and does not provide guidance for ROS classes currently available on the Forest. The current ROS map is outdated and does not reflect opportunities available on the Forest. A new ROS inventory is needed to ensure that all recreation settings available are maintained to provide a variety of opportunities into the future.

The Forest Plan does not provide adequate recreation guidelines or direction for the management of winter recreation activities. Increased winter use of the Forest has led to conflicts between motorized users and nonmotorized recreationists. The best areas for motorized winter use are also the best areas for nonmotorized use.

Resource damage often takes place when unauthorized motorized or mechanized use occurs off designated routes. Current trail definitions (FSH 2309.18) do not distinguish width requirements for the range of off-highway vehicles. Off-highway vehicle routes can range from singletrack to doubletrack to roads depending on the vehicle type.

The Forest has issued numerous Outfitter and Guide (O&G) permits covering a variety of activities including guided hunts, mountain bike and OHV touring, and other recreation related activities. A demand for additional permits exists. A capacity study will be completed later as a Continuous Assessment and Planning (CAP) project to determine the need and capacity for outfitted recreational activities.

- We propose to emphasize management of dispersed recreation opportunities to address user conflicts and minimize resource impacts, while providing the recreational opportunities sought by the public.
- We propose to identify desired recreation environments using the Recreation Opportunity Spectrum (ROS). Management direction would be expanded for recreation opportunities and settings in both winter and summer seasons that balance current and anticipated visitor needs while sustaining or enhancing resources. Suitable recreational opportunities would be identified within each geographic area.
- We propose to clarify management direction for roads, off-highway vehicle routes, and hiking/biking trail systems.
- We propose to develop direction to facilitate the determination of how outfitter/guide operations may be utilized to provide recreational opportunities for that segment of the recreating public who require such services to experience the variety of recreational opportunities available on the Forest.

b. Watershed Health

Conservation of the soil and water resources of forest ecosystems is vital to all aspects of sustainable resource management. These resources, the building blocks of all ecosystems, are also the most complex elements in the landscape to consistently and comprehensively assess.

**Water Resources**

*Streams:* Management direction for mineral resources, in part, emphasizes protection for perennial sections of the drainage network that support aquatic life. The Plan does not address management of activities or permitted uses within intermittent and ephemeral stream reaches and springs, the source areas for perennial stream segments.

Streambank trampling, in areas of concentrated livestock and recreational use, is resulting in soil compaction, the loss of stabilizing vegetation, streambank erosion, increased sediment delivery, and changes in channel structure and function.

*Springs:* In some instances, uses of and activities that occur around spring developments (by wildlife, livestock, and recreation activities) are resulting in undesirable effects to soil, vegetation, wildlife habitats, and riparian ecosystems. In addition, spring developments involving flow diversions are affecting the dependent, associated riparian ecosystem as surface flows are reduced and/or diverted.

*Wetlands:* Wetlands are included in the general definition and management direction for riparian areas. The Plan does not separate wetlands from other riparian areas to reflect their unique soils, vegetation, landform, sensitivity to disturbances, recovery potentials, and legal protections.

*Proper Use Criteria:* The proper use criteria for rangelands in the current Plan lacks the specificity recommended by the Regional Office to provide for the desired resource conditions on lands affected by grazing and browsing animals.

Concerns have arisen over the sustainability of riparian and upland browse species due to browsing pressure on young plants, the effects of streambank trampling, the physiological differences of hydric and non-hydric species in the greenline, and the inconsistency in definition and terminology for soil disturbance in the riparian zone.

*Soil Productivity:* Increasing knowledge and understanding has led to a greater emphasis on long-term soil productivity. Management direction in the current Plan does not address the role of effective ground cover and above ground organic matter, which protects and/or contributes nutrients to the soil resource.

*Water Quality/Quantity:* Best Management Practices (BMPs) have been developed in cooperation with the Utah Department of Environmental Quality and other State and Federal agencies as part of a statewide Non-Point Source Management Plan for Silvicultural Activities. This plan identifies standard management practices to reduce non-point source pollution from silvicultural activities. These standard practices, which are not addressed in the current Plan, can provide similar soil/water protection from other management activities and permitted uses.

Since the current Plan was approved, some stream segments on the Forest have been identified as water quality impaired under the Clean Water Act. These impaired stream segments are known as 303d waterbodies. The current Plan does not address 303d waterbodies.

The Forest Plan is too general to secure favorable water flow to meet Forest purposes and to sustain ecological functions. Forest specialists have identified concerns regarding continued water depletions and/or diversions and their effects on high-value aquatic sites such as riparian areas, recreational streams, Colorado cutthroat conservation/recovery watersheds, wetlands, wild and scenic rivers, research natural areas, and other water dependent sites.

**Municipal Watershed Management**

Numerous municipalities depend on the Forest for all or a portion of their culinary water. The Plan currently identifies only a small fraction of the actual municipal water sources under the municipal water supply (MWS) management prescription. The Plan is inconsistent in its identification and management direction for municipal water supply areas.

As per the 1996 amendment to the Safe Drinking Water Act, all municipalities are required to identify their drinking water source areas, evaluate the risk of accidental contamination, and develop source protection plans accordingly. Drinking water source protection plans have not been evaluated to ensure Forest Service management activities or permitted uses do not jeopardize drinking water source areas.

While Forest Plan direction seems generally adequate, it does promote vegetation management for the protection of municipal water supply areas from catastrophic events, such as wildland fire, which may result in large-scale impacts to vegetation, soil, and ultimately, water quality and water supply system infrastructure.

• We propose to clarify desired conditions and strengthen existing direction for management of activities and uses within stream-side riparian areas, wetlands, and springs, including emphasizing the need to provide for water quality/quantity needs for ecosystems and threatened and endangered species. Specific items we propose to address include:

(a) Clarify appropriate protections for perennial, intermittent, and ephemeral stream reaches, with an emphasis on management of activities and uses within habitat associated with aquatic environments.

(b) Clarify direction limiting streambank alteration to levels which minimize effects to streambank soils and vegetation, allowing streams to maintain normal channel morphology and function.

(c) Clarify and update direction for spring developments to include protection for wildlife, the spring source area, and the associated riparian area.

(d) Clarify direction, as appropriate, to sustain and protect wetland function and values.

(e) Revise proper use criteria to ensure livestock grazing is managed to meet desired conditions for browse species, hydric and non-hydric species in the greenline, and ensure sufficient ground cover in riparian zones.

(f) Incorporate description and role of effective ground cover and above ground organic matter.

(g) Incorporate direction from Best Management Practices (BMPs) for soil and water resources, as appropriate.

(h) Incorporate direction for 303d listed waterbodies to ensure management activities or permitted uses do not contribute to further degradation or new listings.

(i) Include direction for qualifying and quantifying consumptive and non-consumptive water needs for instream flows, in-place standing water, and conservation pools. To facilitate identification of suitable uses, we propose to develop criteria to identify sites where water developments, diversions, and occupancy to divert may be prohibited, or situations where mitigation may be required to protect and provide for National Forest resources and uses.

(j) Clarify direction for management of suitable uses within those areas where municipal water sources areas exist.

c. Minerals Management

*Oil and Gas Leasing:* The Nation's forests play a significant role in meeting America's need for the production and transmission of energy. Unless otherwise restricted, National Forest System lands are available for energy exploration and development. The Oil and Gas Leasing FEIS made a determination of areas not available for leasing (NAL) and identified a number of sensitive resources that require protection through stipulations. The Record Of Decision on Oil and Gas Leasing stated decisions that designated lands as not available for leasing would be revisited. Current leasing stipulations should be reviewed relative to current laws and agency roles.

*Coal Suitability:* Federal regulations (43 CFR 3420.1–4) require: (1) identification of areas acceptable for further consideration for coal leasing take place during forest planning or in a land use analysis, and (2) a land use plan contain an estimate of the amount of coal recoverable by either surface or underground mining operations or both. Coal unsuitability criteria and changes in other resources (such as additional threatened, endangered, and sensitive species) require a review of unsuitability, and management direction revised based on the review.

*Common Variety Minerals:* Demand for common variety minerals (gravel, sand, and stone) is expected to increase. Because of limited supplies of common variety mineral sources, Forest Service and local government needs should be considered over commercial uses by private developers. Criteria for issuing free-use permits to other agencies, local governments, and the public for non-commercial uses of common variety minerals are not discussed in the Plan.

*Mine Reclamation:* Several abandoned uranium/vanadium mines and other mining area sites have been inventoried for reclamation. These abandoned mines present a hazard and are sources of potentially polluting materials.

*Gypsum:* The existence of gypsum deposits is not acknowledged in the 1986 Forest Plan.

*Paleontological Resources:* The Manti-La Sal National Forest contains a large variety of invertebrate and vertebrate, as well as plant fossils. Regulations provide for protection of paleontological resources (*e.g.*, fossils). The Forest Plan does not provide direction for issuing permits or for the documentation and curation of discoveries.

• We propose to review areas currently identified as Not Administratively Available for Leasing (NAL), review oil/gas (including coalbed methane) leasing and occupancy stipulations, and clarify/update as needed.

• We propose to review coal leasing unsuitability criteria and determine if any additional lands are unsuitable for leasing or if any previously identified suitable areas are now unsuitable. We also propose to:

(a) Incorporate estimates of remaining recoverable coal reserves.

(b) Review and clarify/update coal stipulations.

(c) Identify areas for withdrawal as appropriate.

• We propose to focus management of common variety minerals for Forest, local government, or small/limited personal use, and limit commercial use or development.

• We propose to emphasize reclamation of abandoned mines.

• We propose to update locatable minerals definition and management direction to include gypsum.

• We propose to clarify direction for management of paleontological resources (such as research opportunities and interpretation).

d. Fire and Fuels Management

New policy and legislation has been enacted since the Utah Fire Amendment updated fire management direction in the Forest Plan. The amendment was approved prior to the National Fire Plan (2001), the 10-Year Comprehensive Wildland Fire Strategy (2001), the Healthy Forests Initiative (2000), and the Healthy Forests Restoration Act (2003).

Residential communities and recreation residences continue to expand into areas within and around the boundaries of the Manti-La Sal National Forest. This boundary zone between forestland and developed, private lands is known as the wildland-urban interface. The wildland-urban interface has been recognized as a high priority area for fire and fuels management given the risks to life and property from wildfire. The current

Forest Plan does not address management of the wildland-urban interface to provide a defensible space from wildland fire.

• We propose to review and update the Forest Plan, as necessary, to reflect current policy, legislation, and terminology for fire and hazardous fuel management. This will include a fire regime/condition class assessment and identification of management direction for vegetation and fuel treatments within the wildland-urban interface. Criteria may be developed to facilitate identification of priority treatment areas in coordination with the local communities.

**Topics Where Existing Direction Does Not Fully Convey the Intent of Forest Plan, Ecosystem Management, Four Threats, and Strategic Plan Goals**

How management of each of these resource areas contributes to addressing Forest Plan, Ecosystem Management, Four Threats, and Forest Service Strategic Plan goals were considered in identifying specific items associated with each resource area to be addressed through revision.

**Forest and Rangeland Health/Condition**

*Invasive Species:* Invasive species such as cheat grass and tamarisk are present on the Forest. Forest users and management activities have the potential to introduce or spread invasive species. The current Plan does not address invasive species.

*Noxious Weeds:* Current Plan direction focuses more heavily on noxious weed control than prevention. Forest users and management activities continue to contribute to the establishment and spread of noxious weeds.

*Native Seed Collection:* The Manti-La Sal National Forest offers several permits for the collection of native seed, much of which is used for revegetation projects on State and Federal lands. Forest resource specialists have voiced concerns regarding the collection of native seed such as collection in protected areas, timing and method of harvest, plant and seed depletions from continuous harvesting, and accuracy in seed source identification. The current Plan does not provide direction regarding the collection of native seed.

• We propose to incorporate objectives for invasive species and noxious weeds that focus on prevention, early detection, and control to restrict their colonization and expansion on the Forest.

• We propose to incorporate direction for the collection of native seed to address protection of Forest resources.

**Terrestrial and Aquatic Species**

The current Forest Plan addresses many of the key indicators of biological diversity. These indicators are largely described and analyzed as separate functional entities. There is little information as to how these indicators interact with one another and with natural processes, particularly at the broad, forest-level scale.

The Northern Goshawk Amendment provided specific direction for activities occurring around active goshawk nests. The current Plan does not provide standards for habitat management or protection measures for other raptor species. Under the Migratory Bird Treaty Act, Eagle Protection Act, and Endangered Species Act, the Forest is required to protect raptors, their nests, or eggs.

• We propose to clarify/update management direction for species and communities in which they occur (the whole instead of pieces). As appropriate, management direction will be incorporated from approved conservation agreements and strategies for threatened, endangered, and sensitive terrestrial and aquatic species found on the Forest.

• We propose to provide direction that contributes to the maintenance/improvement of native species habitat on National Forest System lands.

• We propose to incorporate guidance for management activities and permitted uses around active raptor nest sites (for species other than northern goshawk) from nest site selection to fledging.

**Topics Where Existing Direction is Inconsistent With Meeting Agency Direction**

This topic represents inadequate or outdated Forest Plan direction that should be updated to bring the Forest Plan current with national direction.

*Scenery Management*

The current Forest Plan includes Forest-wide standards that were developed under the Visual Management System (1974). In 1995, the Forest Service adopted the Scenery Management System (SMS). The new system is designed to incorporate ecological concepts and valued cultural features to better address and complement other resource needs and management strategies. In response to an appeal on November 18, 1993, an agreement between the Forest Service, Southern Utah Wilderness Alliance, and Owen Severance was reached stating that the Forest Service would complete a visual resource inventory for the Monticello Ranger District prior to revision of the Forest Plan.

• We propose to develop scenery management objectives as part of the desired conditions, which will utilize an inventory of landscape character, visual sensitivity, and scenic integrity. These attributes, along with the objectives, will provide the framework for the Scenery Management System.

*Heritage Resources*

While Forest Plan direction is adequate and appropriate to meet the basic requirements of section 106 of the law, new legislation, agency direction, and trends in public use warrant review and revision of current Forest Plan direction. Forest-wide direction does not address changes in the areas of tribal consultation and provide emphasis on the requirements of Section 110 of the National Historic Preservation Act.

• We propose to clarify objectives for cultural resource areas and provide direction for the proactive identification, preservation, and nomination to the National Register of Historic Properties of historical and archeological properties on lands within the Forest's jurisdiction.

**Topics Where Corrections Would Not Require Significant Revision Resources**

Addressing the following topics during revision would simplify and clarify the intent of the Forest Plan and would likely not require significant resource expenditures.

• Remove administrative or procedural direction to reduce redundancy of agency requirements.

• Correct typographical and description errors. These editorial corrections, clarifications, and updates will result in more accurate Forest Plan.

• Eliminate objectives and implementation schedules that are not required. Many of the objectives and schedules in the existing Forest Plan are not required and are quickly out-of-date.

• Eliminate redundant monitoring requirements.

• Update acreages and other ''Current Situation'' data in the Forest Plan.

• Move management direction for paleontological resources from the Heritage program to the Minerals program.

• Clarify direction to allow for flexibility in determining a grazing system strategy dependent on allotment needs.

• Assess rangeland capability as per current national and regional direction using current data and technology.

• Clarify timber management direction to provide for the protection of aspen regeneration projects.

• Update special designations list with research natural areas and special

interest areas designated since current Forest Plan implementation and incorporate management direction for these areas as found in establishment records.

**Topics Not Addressed in the Forest Plan Revision That Will Be Addressed Through the Continuous Assessment and Planning (CAP) Process**

The following topics are areas where existing management direction needs to be clarified, refined, or changed. Addressing these topics during Forest Plan revision would require significant resources. These topics are better addressed at a later time and may need to be analyzed at a different scale.

CONTINUOUS ASSESSMENT AND PLANNING PROJECTS (CAP)

| | |
|---|---|
| Lands | • Review and update guidance for long-term use or occupancy, such as utility corridor designations and communication sites. Evaluate and designate new sites as appropriate.<br>• Develop a Land Adjustment Plan.<br>• Prepare a Rights-of-Way Acquisition Plan. |
| Recreation | • Complete a capacity analysis for the land to accommodate outfitter and guide services.<br>• Establish use capacity in some areas of the forest to minimize conflicts and ensure quality experiences.<br>• Develop a recreation facilities master plan.<br>• Develop a recreation and trails business plan. |
| Watershed health | • Review municipal drinking water source protection plans and develop management direction as appropriate. |
| Special interest areas | • Evaluate potential Special Interest Areas (SIAs).<br>○ Maple Canyon, White Mountain, Maloy Park, and Little Dry Mountain have been identified by Forest specialists for potential SIA designation.<br>• Evaluate proposed expansion of Mont E Lewis Botanical Area.<br>• Identify and review archeological resource sites for potential SIA designation. |
| Research natural areas | • Evaluate potential and proposed research natural areas (RNAs). Sinbad Ridge has been proposed by the Nature Conservancy for RNA designation. |
| Transportation | • Update the travel management plan. system management<br>• Complete watershed scale roads analyses. |
| Wilderness management | • Develop a wilderness plan for Dark Canyon Wilderness.<br>• Analyze capacity study and set group size limits to mitigate the impacts on wilderness resources. |
| Wild and scenic rivers suitability | • Complete suitability analysis for the nine remaining eligible river segments. |

**Potential Alternatives**

The No Action Alternative, continuing management under the present Forest Plan, will be considered in the analysis of the proposed action. The No Action Alternative would not include any of the legally mandated revision topics.

Topics to be addressed in the proposed action were described previously. No other alternatives have been developed at this time. However, additional alternatives will likely be developed based upon public comments.

**Involving the Public**

The Forest Service is seeking information, comments and assistance from individuals, organizations, tribal governments, and Federal, State, and local agencies that may be interested in or affected by the proposed action (36 CFR 219.6).

Public participation will be solicited by notifying (in person and/or by mail) known interested and affected publics. News releases will be used to give the public general notice, and public involvement opportunities will be offered. Public participation activities include written comments, open houses, focus groups, and collaborative forums.

Public participation will be sought throughout the revision process, but will be particularly important at several points along the way. The first formal opportunity to comment is during the scoping process (40 CFR 1501.7). Five public collaborative forums will be scheduled in early November 2004. The locations and exact dates/times have yet to be determined. When locations, dates and times have been arranged, the public will be notified through mailings, news releases, and public notices.

**Release and Review of the EIS**

The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and will be available for public comment in the late fall/early winter of 2005. At that time, the EPA will publish a notice of availability in the **Federal Register**. The comment period on the Draft EIS will be at least 90 days from the date EPA publishes the Notice of Availability in the **Federal Register**, as required by planning regulations.

The Forest Service believes that 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 objections that could be raised at the Draft EIS stage but are not raised until after completion of the Final EIS may be waived or dismissed by the courts; *City of Angoon* v. *Hodel,* 803 F 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.,* v. *Harris,* 490 F Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the comment period and that substantive comments and objectives 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 programmatic actions, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Counsel on Environmental Quality Regulations for implementing the procedural to the Counsel on Environmental Quality Regulations for

implementing the procedural provisions of the National Environmental Policy Act (NEPA) at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the Draft EIS, comments 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 the spring/summer of 2007. The responsible official will consider the comments, responses, and environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies in making decisions regarding the revision. The responsible official will document decisions and reasons for the decisions in a Record of Decision for the revised plan. The decisions will be subject to appeal in accordance with 36 CFR, part 217. Jack Troyer, Intermountain Regional Forester, is the responsible official for this EIS.

Dated: October 8, 2004.

**Alice B. Carlton,**

*Forest Supervisor.*

[FR Doc. 04–23210 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–11–P

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Wednesday, November 10, 2004, at the Sunnyslope Fire Station, Rural County Fire District #1, 206 Easy Street, Wenatchee, Washington. The meeting will begin at 9 a.m. and continue until 3 p.m. During this meeting we will share information on new developments relating to the Northwest Forest Plan, an update on Burned Area Recovery projects, report on fuels reduction and fuels accomplishments in 2004, discuss the Healthy Forest Restoration Act as it relates to the Okanogan and Wenatchee National Forest, and discuss future needs for a Snoqualimie Pass Adaptive Management Area Subcommittee. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public.

**FOR FURTHER INFORMATION CONTACT:** Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–664–9200.

Dated: October 19, 2004.

**Paul Hart,**

*Designated Federal Official, Okanogan and Wenatchee National Forests.*

[FR Doc. 04–23812 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Glenn/Colusa County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Glenn/Colusa County Resource Advisory Committee (RAC) will meet in Willows, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Welcome New Members, (5) Web site Update, (6) General Discussion, (7) Next Agenda.

**DATES:** The meeting will be held on October 25, 2004, from 1:30 p.m. and end at approximately 4:30 p.m.

**ADDRESSES:** The meeting will be held at the Mendocino National Forest Supervisor's Office, 825 N. Humboldt Ave., Willows, CA 95988. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

**FOR FURTHER INFORMATION CONTACT:** Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, P.O. Box 164, Elk Creek, CA 95939. (530) 968–5329; EMAIL *ggaddini@fs.fed.us.*

**SUPPLEMENTARY INFORMATION:** The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by October 22, 2004 will have the opportunity to address the committee at those sessions.

Dated: October 18, 2004.

**James F. Giachino,**

*Designated Federal Official.*

[FR Doc. 04–23811 Filed 10–22–04; 8:45 am]

BILLING CODE 3410–11–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–588–845]**

### Stainless Steel Sheet and Strip in Coils from Japan; Final Results of the Expedited Sunset Review of the Antidumping Duty Order

**AGENCY:** AGENCY:Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Final Results of Expedited Sunset Review of the Antidumping Duty Order on Stainless Steel Sheet and Strip in Coils from Japan.

**SUMMARY:** On June 1, 2004, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on stainless sheet and strip in coils (''SSSSC'') from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate substantive response filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department conducted an expedited (120–day) sunset review. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

**EFFECTIVE DATE:** October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Hilary E. Sadler, Esq., Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4340.

**SUPPLEMENTARY INFORMATION:**

**Background:**

On June 1, 2004, the Department published the notice of initiation of the sunset review of the antidumping duty order on SSSSC from Japan.[1] On June 16, 2004, the Department received a Notice of Intent to Participate from Nucor Corporation; Allegheny Ludlum Corporation; North American Stainless; the United Steelworkers of America, AFL–CIO; the local 3303 United Auto Workers; and Zanesville Armco Independent Organization, Inc. (collectively ''domestic interested

[1] *See Initiation of Five-Year (''Sunset'') Reviews*, 69 FR 30874 (June 1, 2004)(*''Initiation Notice''*).

parties'') within the deadline specified in section 315.218(d)(1)(i) of the Department's regulations. The domestic interested parties claimed interested party status under sections 771(9)(C) and (D) of the Act, as domestic manufacturers of SSSSC or certified unions whose workers are engaged in the production of SSSSC in the United States. On July 1, 2004, the Department received a complete substantive response collectively from the domestic interested parties within the deadline specified in section 351.218(d)(3)(i) of the Department's regulations. We did not receive responses from any respondent interested parties to this proceeding. As a result, pursuant to section 751(c)(3)(B) of the Act and section 351.218(e)(1)(ii)(C)(2) of the Department's regulations, the Department determined to conduct an expedited review of this order.

**Scope of the Order:**

For purposes of this review, the products covered are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (e.g., cold–rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing. The merchandise subject to this order is currently classifiable in the Harmonized Tariff Schedule of the United States (''HTS'') at subheadings: 7219.13.0031, 7219.13.0051, 7219.13.0071, 7219.1300.81[2], 7219.14.0030, 7219.14.0065, 7219.14.0090, 7219.32.0005, 7219.32.0020, 7219.32.0025, 7219.32.0035, 7219.32.0036, 7219.32.0038, 7219.32.0042, 7219.32.0044, 7219.33.0005, 7219.33.0020, 7219.33.0025, 7219.33.0035, 7219.33.0036, 7219.33.0038, 7219.33.0042, 7219.33.0044, 7219.34.0005, 7219.34.0020, 7219.34.0025, 7219.34.0030, 7219.34.0035, 7219.35.0005, 7219.35.0015, 7219.35.0030, 7219.35.0035, 7219.90.0010, 7219.90.0020, 7219.90.0025, 7219.90.0060, 7219.90.0080, 7220.12.1000, 7220.12.5000, 7220.20.1010, 7220.20.1015, 7220.20.1060, 7220.20.1080, 7220.20.6005, 7220.20.6010, 7220.20.6015, 7220.20.6060, 7220.20.6080, 7220.20.7005, 7220.20.7010, 7220.20.7015, 7220.20.7060, 7220.20.7080, 7220.20.8000, 7220.20.9030, 7220.20.9060, 7220.90.0010, 7220.90.0015, 7220.90.0060, and 7220.90.0080. Although the HTS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the review of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (i.e., flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (i.e., cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat–rolled product of stainless steel, not further worked than cold–rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. See chapter 72 of the HTS, ''Additional U.S. Note'' 1(d). Flapper valve steel is also excluded from the scope of the order. This product is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length. Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron. Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[3]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The

[2] Due to changes to the HTS numbers in 2001, 7219.13.0030, 7219.13.0050, 7219.13.0070, and 7219.13.0080 are now 7219.13.0031, 7219.13.0051, 7219.13.0071, and 7219.13.0081, respectively.

[3] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

product is currently available under proprietary trade names such as ''Gilphy 36.''[4]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium, and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[5]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (e.g., carpet knives).[6] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6''.[7]

[4] ''Gilphy 36'' is a trademark of Imphy, S.A.

[5] ''Durphynox 17'' is a trademark of Imphy, S.A.

[6] This list of uses is illustrative and provided for descriptive purposes only.

[7] ''GIN4 Mo,'' ''GIN5,'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

**Analysis of Comments Received**

All issues raised in these reviews are addressed in the ''Issues and Decision Memorandum'' (''Decision Memo'') from Ronald K. Lorentzen, Acting Director, Office of Policy, Import Administration, to Jeffrey A. May, Acting Assistant Secretary for Import Administration, dated October 15, 2004, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in room B–099 of the main Commerce Building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''October 2004.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

**Final Results of Reviews**

We determine that revocation of the antidumping duty order on SSSSC from Japan would be likely to lead to continuation or recurrence of dumping at the following percentage weighted–average percentage margins:

| Manufacturers/Exporters/Producers | Weighted Average Margin (percent) |
|---|---|
| Kawasaki Steel Corporation | 40.18 percent |
| Nippon Steel Corporation | 57.87 percent |
| Nisshin Steel Co., Ltd. | 57.87 percent |
| Nippon Yakin Kogyo | 57.87 percent |
| Nippon Metal Industries | 57.87 percent |
| All Others | 40.18 percent |

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 15, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E4–2837 Filed 10–25–04; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[C–351–829]**

### Hot–rolled Flat–Rolled Carbon–Quality Steel Products from Brazil; Extension of Time Limit for the Final Results of Sunset Review of Countervailing Duty Order

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Extension of Time Limit for the Final Results of Sunset Review of Countervailing Duty Order: Hot–Rolled Flat–Rolled Carbon–Quality Steel Products from Brazil.

**SUMMARY:** The Department of Commerce (''the Department'') is extending the time limit for its final results in the sunset review of the countervailing duty order on hot–rolled flat–rolled carbon–quality steel products (''hot–rolled steel'') from Brazil. The Department intends to issue the final results of this sunset reviews on or about November 22, 2004.

**EFFECTIVE DATE:** October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Hilary Sadler, Esq., Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4340.

**Extension of Final Results of Review:**

On May 3, 2004, the Department initiated a sunset review of the countervailing duty order on hot–rolled steel from Brazil. *See Initiation of Five–Year (Sunset) Reviews*, 69 FR 24118 (May 3, 2004). The Department, in this proceeding, determined that it would conduct an expedited sunset review of this order based on inadequate responses to the notice of initiation from respondent interested parties. The Department's final results of this review were originally scheduled for August 31, 2004 and were extended on August 31, 2004 to October 15, 2004. *See Certain Hot–Rolled Flat–Rolled Carbon–Quality Steel Products from Brazil; Extension of Final Results of Expedited Sunset Review of the Suspended Countervailing Duty Investigation*, 69 FR 54647 (September 9, 2004). The

Department, however, needs additional time to consider issues related to the appropriate countervailing duty rate likely to prevail if the order is revoked which the Department will provide to the International Trade Commission. Thus, the Department intends to issue the final results on or about November 22, 2004, in accordance with sections 751(c)(5)(B) and 751(c)(5)(C)(ii) of the Tariff Act of 1930, as amended.

Dated: October 15, 2004.

**Jeffrey A. May,**

*Acting Assistant Secretary for Import Administration.*

[FR Doc. E4–2839 Filed 10–22–04; 8:45 am]

**BILLING CODE 3510–DS–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[Docket Number 041013281–4281–01]**

### NOAA Line Office Strategic Plans

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Oceanic and Atmospheric Administration (NOAA) is revising the Strategic Plans of five Line Offices. NOAA recently updated its Strategic Plan for the period 2005–2010 to reflect updated stakeholder priorities, recent external events, and changes to NOAA's operations. The plan establishes the goals for NOAA and the approaches taken to account for results. The following five NOAA Line Offices are now updating their Strategic Plans to be consistent with the new NOAA Strategic Plan: National Environmental Satellite, Data, and Information Service (NESDIS), National Marine Fisheries Service (NMFS), National Ocean Service (NOS), National Weather (NWS) and the Office of Oceanic and Atmospheric Research (OAR). NOAA is seeking broad public review of the Line Office Strategic Plans. NOAA encourages all stakeholders and users to review the Line Office Plans and provide comments. All comments received will be reviewed and considered in the final drafting of the NOAA Line Office Strategic Plans.

**DATES:** Public comments on this document must be received at the appropriate mailing or e-mail address (*see* **ADDRESSES**) on or before 5 p.m., local time, November 30, 2004.

**ADDRESSES:** Send comments to Dr. James H. Butler, Acting Director, NOAA Strategic Planning Office, Office of Program Planning and Integration, National Oceanic and Atmospheric Administration (NOAA), Room 15755, 1315 East-West Highway, Silver Spring, MD 20910. Comments may be submitted via e-mail to *strategic.planning@noaa.gov.* The draft NOAA Line Office Strategic Plans and the New NOAA Strategic Plan have been posted at *http://www.spo.noaa.gov/*, and NOAA will post the final Line Office Strategic Plans at *http://www.spo.noaa.gov/.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Joshua Lott, phone: 301–713–1622, Extension 210, fax: 301–713–0585.

**SUPPLEMENTARY INFORMATION:** NOAA is soliciting general comments on each of the five Line Office Plans. All of the plans describe how the Line Offices will execute programs and activities to achieve NOAA's strategic outcomes. The NESDIS plan focuses on providing quality observations and timely access to global environmental data and information in support of the Nation's economy, security, environment, and quality of life. The NMFS plan describes how the Line Office activities directly support achieving NOAA's strategic goal to Protect, Restore, and Manage the Use of Coastal and Ocean Resources through an Ecosystem Approach to Management, and how NMFS' activities also support NOAA's goal to Understand Climate Variability and Change to Enhance Society's Ability to Plan and Respond. The NOS plan lists the Line Office priorities, and focuses on furthering the NOA Ecosystems, Weather and Water, and Commerce and Transportation Mission Goals. The NWS plan explains how the Line Office intends to fulfill its mission of providing weather, water, air quality, space weather, and climate forecasts and warnings for the United States, its territories, adjacent waters, and ocean areas for the protection of life and property and the enhancement of the national economy. Finally, the OAR plan describes how it intends to fulfill its mission of conducting environmental research, providing scientific information and research leadership, and transferring research into products and services to meet evolving economic, social, and environmental needs.

Dated: October 19, 2004.

**Mary M. Glackin,**

*NOAA Assistant Administrator for Program Planning and Integration.*

[FR Doc. 04–23853 Filed 10–22–04; 8:45 am]

**BILLING CODE 3510–NW–M**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

October 19, 2004.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting limits.

**EFFECTIVE DATE:** October 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 344–2650, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing and special shift.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 59923, published on October 20, 2003.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

October 19, 2004.

Commissioner,
*Bureau of Customs and Border Protection, Washington, DC 20229.*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 14, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber

apparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on October 26, 2004, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

| Category | Twelve-month restraint limit [1] |
|---|---|
| Levels in Group I | |
| 335 | 400,148 dozen. |
| 338/339 | 3,726,052 dozen. |
| 359–C/659–C [2] | 1,313,887 kilograms. |
| 447 | 10,037 dozen. |
| 635 | 350,784 dozen. |
| 638/639 | 2,919,984 dozen. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010; Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. E4–2815 Filed 10–22–04; 8:45 am]

**BILLING CODE 3510–DR–S**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Republic of Vietnam

October 19, 2004.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner, Bureau of Customs and Border Protection.

**EFFECTIVE DATE:** October 26, 2004.

**FOR FURTHER INFORMATION CONTACT:** Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 344–2650, or refer to the Bureau of Customs and Border Protection website at http://www.cbp.gov. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel website at http://otexa.ita.doc.gov.

**SUPPLEMENTARY INFORMATION:**

**Authority:** Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 69673, published on December 15, 2003.

**James C. Leonard III,**

*Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

October 19, 2004.

Commissioner,

*Bureau of Customs and Border Protection, Washington, DC 20229*

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 10, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man–made fiber textiles and textile products, produced or manufactured in Vietnam and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on October 26, 2004, you are directed to adjust the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and Vietnam:

| Category | Restraint limit [1] |
|---|---|
| 332 | 99,807 dozen pairs. |
| 340/640 | 2,304,364 dozen. |
| 345 | 193,413 dozen. |
| 359–S/659–S [2] | 608,811 kilograms. |
| 632 | 100,820 dozen pairs. |

[1] The limits have not been adjusted to account for any imports exported after December 31, 2003.

[2] Category 359-S: only HTS numbers 6112.39.0010, 6112.49.0010, 6211.11.8010, 6211.11.8020, 6211.12.8010 and 6211.12.8020; Category 659-S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James C. Leonard III,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. E4–2816 Filed 10–22–04; 8:45 am]

**BILLING CODE 3510–DR–S**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by November 24, 2004.

*Title, Form, and OMB Number:* Tender of service and Letter of Intent for Personal Property Household Goods and Unaccompanied Baggage Shipments; DD Form 619, Statement of Accessorial Services Performed and DD Form 619–1, Statement of Accessorial Services Performed (Storage-In-Transit Delivery and Reweigh); OMB Control Number 0702–0022.

*Type of Request:* Reinstatement.

*Number of Respondents:* 2,636.

*Responses Per Respondent:* 168 (average).

*Annual Responses:* 441,677.

*Average Burden Per Response:* 5 minutes.

*Annual Burden Hours:* 70,548.

*Needs and Uses:* Since household goods (HHG) move at Government expense, data is needed to choose the best service at the lowest cost to the Government. The information provided by the carrier serves as a bid for contract to transport HHG, unaccompanied baggage, mobile homes, and boats. This information is collected on a regular basis, but is submitted intermittently throughout the year. Best-service-for-least-cost carrier received the contract. DD Form 619 certified that accessorial services were actually performed. The government would not know which carrier to use for shipping personal property if they could not collect this information.

*Affected Public:* Businesses or other for profit.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Ms. Jacqueline Zeiher. Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: October 5, 2004.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04–23762 Filed 10–22–04; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by November 24, 2004.

*Title and OMB number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 232, Contract Financing, and related clause at DFARS 252.232–7007 Limitation of Government's Obligation; OMB Control Number 0704–0359.

*Type of Request:* Extension.

*Number of Respondents:* 800.

*Responses Per Respondent:* 1.

*Annual Responses:* 800.

*Average Burden Per Response:* 1 hour.

*Annual Burden Hours:* 800.

*Needs and Uses:* This information collection requires contractors that are awarded incrementally funded, fixed-price DoD contracts to notify the Government when the work under the contract will, within 90 days, reach the point at which the amount payable by the government (including any termination costs) approximates 85 percent of the funds currently allotted to the contract. This information will be used to determine what course of action the government will take (*e.g.,* allot performance, terminate the contract, or terminate certain contract line items).

*Affected Public:* Businesses or other profit and not-for-profit institutions.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Ms. Jacqueline Zeiher. Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing. Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202–4326.

Dated: October 5, 2004.

**Particia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer.*

[FR Doc. 04–23763 Filed 10–22–04; 8:45 am]

BILLING CODE 5001–06–M

## DEPARTMENT OF EDUCATION

### Office of Postsecondary Education

### Overview Information; Teacher Quality Enhancement Grants Program—Teacher Quality Enhancement (TQE) Grants for States; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2005

*Catalog of Federal Domestic Assistance (CFDA) Number:* 84.336A.

**DATES:** Applications Available: October 25, 2004.

Deadline For Transmittal of Applications: December 17, 2004.

Deadline for Intergovernmental Review: February 15, 2005.

*Eligible Applicants:* Eligible States, as defined in sections 103(16) and 202(b) of the Higher Education Act of 1965, as amended (HEA). A State that received a previous grant under this program is not eligible for a FY 2005 grant. The following States are eligible: Alaska, Delaware, Hawaii, Iowa, Montana, New York, the Commonwealth of Northern Mariana Islands, Guam, and the United States Virgin Islands.

*Estimated Available Funds:* The Administration has requested $88,887,451 for this program for FY 2005. Of that amount, $39,999,353 would be allocated to TQE Grants for States under current law. Of this, approximately $30,624,151 would be available for new awards. The Department has requested appropriations language to override the statutory requirements that 45 percent of program funds be allocated for the State program and allow excess funds to be used where unmet demand for program funds exists. If this request is not approved, the Department will use funds allocated to Grants to States to provide additional years of funding for the awardees. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

*Estimated Range of Awards:* $500,000—$5,000,000.

*Estimated Average Size of Awards:* $2,038,000 per year.

*Estimated Number of Awards:* 9.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

### Full Text of Announcement

*I. Funding Opportunity Description*

*Purpose of Program:* The purpose of this program is to provide grants to promote improvements in the quality of new teachers, with the ultimate goal of increasing student achievement in the nation's K–12 classrooms. State grants are designed to improve the quality of a State's teaching force by supporting the implementation of comprehensive statewide reform activities in areas such as teacher licensing and certification, accountability for high-quality teacher preparation, and recruitment.

*Priorities:* In accordance with 34 CFR 75.105(b)(2)(ii), these priorities are taken from the regulations for this program (34 CFR 611.13).

*Competitive Preference Priority:* For FY 2005, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 10 points to an application, depending on how well the application meets these priorities.

These priorities are:

The Secretary provides a competitive preference on the basis of how well the State's proposed activities in any one or more of the following statutory priorities are likely to yield successful and sustained results: (a) Initiatives to reform State teacher licensure and certification requirements so that current and future teachers possess strong teaching skills and academic content knowledge in the subject areas in which they will be certified or licensed to teach; (b) innovative reforms to hold higher education institutions with teacher preparation programs

accountable for preparing teachers who are highly competent in the academic content areas and have strong teaching skills; or (c) innovative efforts to reduce the shortage (including the high turnover) of highly competent teachers in high-poverty urban and rural areas.

*Program Authority:* 20 U.S.C. 1021 *et seq.*

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 97, 98 and 99. (b) The regulations for this program in 34 CFR part 611.

*II. Award Information*

*Type of Award:* Discretionary grants.

*Estimated Available Funds:* The Administration has requested $88,887,451 for this program for FY 2005. Of that amount, $39,999,353 would be allocated to TQE Grants for States under the current law. Of this, approximately $30,624,151 would be available for new awards. The Department has requested appropriations language to override the statutory requirements that 45 percent of program funds be allocated for the State program and allow excess funds to be used where unmet demand for program funds exists. If this request is not approved, the Department will use funds allocated to Grants to States to provide additional years of funding for the awardees. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

*Estimated Range of Awards:* $500,000–$5,000,000.

*Estimated Average Size of Awards:* $2,038,000 per year.

*Estimated Number of Awards:* 9.

**Note:** The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

*III. Eligibility Information*

1. *Eligible Applicants:* Eligible States, as defined in sections 103(16) and 202(b) of the Higher Education Act of 1965, as amended (HEA). A State that received a previous grant under this program is not eligible for a FY 2005 grant. The following States are eligible: Alaska, Delaware, Hawaii, Iowa, Montana, New York, the Commonwealth of Northern Mariana Islands, Guam, and the United States Virgin Islands.

2. *Cost Sharing or Matching:* See 34 CFR 611.62.

**IV. Application and Submission Information**

1. *Address to Request Application Package:* Luretha Kelley, U.S. Department of Education, 1990 K Street, NW., room 7096, Washington, DC 20006–8526. Telephone: (202) 502–7645 or by e-mail: *luretha.kelley@ed.gov.*

If you use a telecommunication device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

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 person listed in this section.

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 competition. Page Limit: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application.

You must limit the application narrative to the equivalent of no more than 50 pages. In addition, you must limit the: Accompanying abstract to the equivalent of no more than one page; work plan to the equivalent of no more than 10 pages; budget narrative to the equivalent of no more than 10 pages; and evaluation plan to the equivalent of no more than 5 pages.

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, work plan, budget narrative and evaluation plan, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

The page limit does not apply to Part I, the cover sheet; Part II, the budget forms, the assurances and certifications; the resumes, the bibliography, or the letters of support.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:* Applications Available: October 24, 2004. Deadline for Transmittal of Applications: December 17, 2004.

We do not consider an application that does not comply with the deadline requirements.

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 (including dates and times) about how to submit your application electronically or to request a waiver of the electronic submission requirement, please refer to Section IV. 6. *Other Submission Requirements* in this notice.

Deadline for Intergovernmental Review: February 15, 2005.

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 competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically, unless you request a waiver of this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Teacher Quality Enhancement Grants Program for States—CFDA Number 84.336A must be submitted electronically using e-Application available through the Department's e-Grants system, accessible through the e-Grants portal page at: *http://e-grants.ed.gov.*

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: Luretha Kelley, U.S. Department of Education, 1990 K Street, NW., room 7096, Washington, DC 20006–8526. Please submit your request no later than two weeks before the application deadline date. Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

If, within two weeks of the application deadline date, including on the application deadline date itself, you are unable to submit an application electronically, you must submit a paper application in accordance with the mail or hand delivery instructions described

in this notice. 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 electronically.

While completing your electronic application, you will be entering data online that will be saved into a database. You may not e-mail an electronic copy of any part of a grant application to us.

Please note the following:

• You must complete the electronic submission of your grant application by 4:30 p.m., Washington, DC time, on the application deadline date. The e-Application system will not accept an application for this competition after 4:30 p.m., Washington, DC time, on the application deadline date. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the application process.

• The regular hours of operation of the e-Grants Web site are 6 a.m. Monday until 7 p.m. Wednesday; and 6 a.m. Thursday until midnight Saturday, Washington, DC time. Please note that the system is unavailable on Sundays, and between 7 p.m. on Wednesdays and 6 a.m. on Thursdays, Washington, DC time, for maintenance. Any modifications to these hours are posted on the e-Grants Web site.

• You will not receive additional point value because you submit the application in electronic format, nor will we penalize you if you request a waiver and submit the application in paper format because you were prevented from submitting the application electronically as required.

• You must submit all documents electronically, including the Application for Federal Education Assistance (ED 424) and all necessary assurances and certifications.

• Your electronic application must comply with any page limit requirements described in this notice.

• Prior to submitting your electronic application, you may wish to download it and print a copy of it for your records.

• After you electronically submit your application to the Department, you will receive an automatic acknowledgement that 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 ED 424 to the Application Control Center after following these steps:

1. Print ED 424 from e-Application.

2. The applicant'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. Fax the signed ED 424 to the Application Control Center at (202) 245–6272.

• We may request that you provide us original signatures on other forms at a later date.

*Application Deadline Date Extension in Case of System Unavailability:* If you are prevented from electronically 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 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 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 person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT** (see VII. Agency Contact) or (2) the e-Grants help desk at 1–888–336–8930. If the system is down and therefore the application deadline is extended, a message will be posted on the e-Grants Web site (*http://e-grants.ed.gov*) and an e-mail is sent to all registered users who have initiated an application.

Extensions referred to in this section apply only to the unavailability of the Department's e-Application system. If the e-Application system is available, and, for any reason, you are unable to submit your application electronically or you do not receive an automatic acknowledgement of your submission, you may submit your application in paper format by mail or hand delivery in accordance with the instructions in this notice.

b. *Submission of Paper Applications by Mail.*

If you have requested a waiver of the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your paper application to the Department. You must send the original and two copies of the application, before the application deadline date, to the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.336A), 400 Maryland Ave., SW., Washington, DC 20202.

You must show proof of mailing consisting of one of the following:

1. A legibly dated U.S. Postal Service Postmark;

2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service;

3. A dated shipping label, invoice, or receipt from a commercial carrier; or

4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If you mail the application through the U.S. Postal Service, please note that we do not accept either of the following as proof of mailing:

1. A private metered postmark, or

2. A mail receipt that is not dated by the U.S. Postal Service. If your application is postmarked after the application deadline date, we will not consider your application.

**Note:** Applicants should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

c. *Submission of Paper Applications by Hand Delivery.*

If you have requested a waiver of the electronic submission requirement, you (or a courier service) may deliver the paper application to the Department by hand. You must deliver the original and two copies of your application by hand on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.336A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays. A person delivering an application must show photo identification to enter the building.

*Note for Mail or Hand Delivery of Paper Applications:* If you mail or hand deliver your application to the Department:

1. You must indicate on the envelope and—if not provided by the Department—in Item 4 of the ED 424, the CFDA number—and suffix letter, if any—of the competition under which you are submitting the application.

2. The Application Control Center will mail a Grant Application Receipt Acknowledgment to you. If you do not receive the notification of application

receipt within 15 days from the mailing of your application, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

*V. Application Review Information*

*Selection Criteria:* The selection criteria for this competition are in 34 CFR 611.11 and 611.12.

*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 Notification (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 an 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:* Under the Government Performance and Results Act (GPRA), one measure has been developed for evaluating the overall effectiveness of the Teacher Quality Enhancement Grants Program for State Grants. The goal of this program is to improve the quality of teacher education and initial certification standards, and to improve the knowledge and skills of all teachers, particularly new teachers and teachers who work in high-need areas.

The indicator for this performance measure is: Pass rates will increase for pre-service teachers taking subject matter competency tests as a part of the State licensure requirements, in the States that receive funds from the Teacher Quality Enhancement Grants Program for States to prepare teachers that are highly competent in the academic content areas in which they plan to teach (HEA, Title II, Sec. 202 (d)(1)). All grantees will be expected to submit an annual performance report documenting their success in addressing this performance measure.

*VII. Agency Contact*

**FOR FURTHER INFORMATION CONTACT:** Luretha Kelley, U.S. Department of Education, 1990 K Street, NW., room 7096, Washington, DC 20006–8526. Telephone: (202) 502–7645 or by e-mail: *Luretha.Kelley@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 person 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: *http://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: *http://www.gpoaccess.gov/nara/index.html.*

Dated: October 20, 2004.

**Sally L. Stroup,**

*Assistant Secretary, Office of Postsecondary Education.*

[FR Doc. 04–23849 Filed 10–22–04; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR05–2–000]**

### Acacia Natural Gas Corporation; Notice of Petition for Rate Approval

October 19, 2004.

Take notice that on October 12, 2004, Acacia Natural Gas Corporation (Acacia) filed pursuant to section 284.123(b)(2) of the Commission's regulations, a petition for rate approval requesting that the Commission approve the proposed rates as fair and equitable for firm and interruptible transmission services performed under section 311 of the Natural Gas Policy Act of 1978 (NGPA). Acacia proposes an effective date of January 1, 2004.

Acacia states that it is an intrastate pipeline company providing services through its facilities located in Texas.

Pursuant to section 284.123(b)(2)(ii), if the Commission does not act within 150 days of the date of this filing, the rates will be deemed to be fair and equitable and not in excess of an amount which interstate pipelines would be permitted to charge for similar transportation service. The Commission may, prior to the expiration of the 150 day period, extend the time for action or institute a proceeding to afford parties an opportunity for written comments and for the oral presentation of views, data, and arguments.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

*Intervention and Protest Date:* 5 p.m. eastern time on November 2, 2004.

**Magalie R. Salas,**
*Secretary.*
[FR Doc. E4–2823 Filed 10–22–04; 8:45 am]
BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP00–70–006]**

### Algonquin Gas Transmission, LLC; Notice of Negotiated Rate

October 19, 2004.

Take notice that on October 14, 2004, Algonquin Gas Transmission, LLC (Algonquin) tendered for filing as a part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 2004:

Original Sheet No. 59
Sheet Nos. 60–89

Algonquin states that it is also filing a copy of the service agreement reflecting the negotiated rates for firm transportation service to be rendered to the New England Gas Company-Rhode Island (New England Gas).

Algonquin states that the purpose of this filing is to implement the negotiated rate agreement for firm transportation service to be rendered to New England Gas by means of the facilities approved by the Commission in Docket Nos. CP01–5, *et al.*

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**
*Secretary.*
[FR Doc. E4–2824 Filed 10–22–04; 8:45 am]
BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP04–201–003]**

### ANR Pipeline Company; Notice of Compliance Filing

October 18, 2004.

Take notice that on October 12, 2004, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following pro forma tariff sheets:

Seventeenth Revised Sheet No. 2,
Sixth Revised Sheet No. 92,
Fifth Revised Sheet No. 193,
Fourth Revised Sheet No. 194.

ANR states that the filing is being made in compliance with the Commission's order issued on July 13, 2004, in the above-captioned docket.

ANR states that the pro forma tariff sheets implement a fuel tracker with a true-up mechanism pending the Commission's action on pending rehearing requests, as further directed in the Commission's October 8, 2004 order.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**
*Secretary.*
[FR Doc. E4–2832 Filed 10–22–04; 8:45 am]
BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–26–000]**

### Dauphin Island Gathering Partners; Notice of Tariff Filing

October 19, 2004.

Take notice that on October 15, 2004, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 247 to become effective November 15, 2004.

Dauphin Island states that this tariff sheet reflects changes to Dauphin Island's Internet Web site address.

Dauphin Island states that copies of the filing are being served contemporaneously on its customers and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as

appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2827 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–24–000]**

### El Paso Natural Gas Company; Notice of Tariff Filing

October 18, 2004.

Take notice that on October 12, 2004, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, Fourth Revised Sheet No. 290A and Second Revised Sheet No. 419, to become effective November 12, 2004.

El Paso states that the tariff sheets are filed to provide it with the flexibility to agree to a contractual right-of-first-refusal (ROFR).

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2834 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. PR04–16–000]**

### Enogex Inc.; Notice of Petition for Rate Approval

October 19, 2004.

Take notice that on September 30, 2004, Enogex Inc. (Enogex) filed a petition for approval for a rate for interruptible section 311 transportation service on the Enogex System. The rate will become effective January 1, 2005. Enogex proposes a rate of $0.3117 per MMBtu for interruptible service furnished on the Enogex System on and after January 1, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, on or before the date as indicated below. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Intervention and Protest Date: 5 p.m. Eastern Time on November 2, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2822 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP99–518–064]**

### Gas Transmission Northwest Corporation; Notice of Negotiated Rate

October 19, 2004.

Take notice that on October 14, 2004, Gas Transmission Northwest Corporation (GTN) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, the following tariff sheets, to become effective October 15, 2004:

Second Revised Sheet No. 24,
First Revised Sheet No. 25,
Original Sheet No. 26,
Sheet Nos. 27–29.

GTN states that these sheets are being filed to update GTN's reporting of negotiated rate transactions that it has entered into.

GTN further states that a copy of this filing has been served on GTN's jurisdictional customers and interested State regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**
*Secretary.*

[FR Doc. E4–2821 Filed 10–22–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP98–18–017]**

### Iroquois Gas Transmission System, L.P.; Notice of Negotiated Rate

October 18, 2004.

Take notice that on October 8, 2004, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Original Sheet No. 6F, to be effective on October 8, 2004.

Iroquois states that the revised tariff sheet reflects two negotiated rate agreements between Iroquois and Consolidated Edison Company of New York, Inc. for transportation under Rate Schedule RTS beginning October 8, 2004 through April 1, 2007.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested State regulatory agencies and all parties to the proceeding.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**
*Secretary.*

[FR Doc. E4–2829 Filed 10–22–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–25–000]**

### North Baja Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

October 19, 2004.

Take notice that on October 14, 2004, North Baja Pipeline, LLC (NBP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective November 15, 2004:

Third Revised Sheet No. 6
Original Sheet No. 9
Second Revised Sheet No. 116
Original Sheet No. 116a
Original Sheet No. 203
Original Sheet No. 204
Sheet Nos. 205–229

NBP states that these tariff sheets are being submitted to (1) appropriately reference MGI Supply Ltd.'s contract as non-conforming within NBP's Tariff, (2) add reservation charge credit language to NBP's General Terms and Conditions (''GT&C''), and (3) add a new paragraph to NBP's GT&C that will allow original shippers to rationalize capacity in anticipation of an expansion of the NBP system designed to allow for receipts of LNG supplies from Mexico.

NBP further states that a copy of this filing has been served on NBP's jurisdictional customers and interested State regulatory agencies.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and

Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2826 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP04–509–001]**

### Northwest Pipeline Corporation; Notice of Compliance Filing

October 19, 2004.

Take notice that on October 14, 2004, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Seventh Revised Sheet No. 275 and Original Sheet No. 275–A, to be effective October 1, 2004.

Northwest states that the purpose of this filing is to comply with the Commission's September 30, 2004 Order in Docket No. RP04–509–000 by filing revised tariff sheets setting forth specific times of day that Northwest will post prearranged deals for available capacity for a primary term of 31 days or less subject to one hour bidding.

Northwest states that a copy of this filing has been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2825 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP05–23–000]**

### Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff and Filing of Non-Conforming Service Agreement

October 18, 2004.

Take notice that on October 12, 2004, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Ninth Revised Sheet No. 373 and Original Sheet No. 374, to become effective November 12, 2004. Northwest also tendered for filing a Rate Schedule TF–1 non-conforming service agreement.

Northwest states that the purpose of this filing is to (1) Submit a Rate Schedule TF–1 service agreement containing contract-specific operational flow order provisions that do not conform to the Rate Schedule TF–1 form of service agreement contained in Northwest's tariff, and (2) add this agreement to the list of non-conforming service agreements in Northwest's tariff.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations(18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for

review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2833 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. ER04–931–000, et al.]**

## Ameren Corp., et al.; Electric Rate and Corporate Filings

October 18, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

### 1. Ameren Corp.

[Docket No. ER04–931–002]

Take notice that on October 12, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) and Ameren Services Company (Ameren) submitted a Contract among Southwestern Power Administration, Ameren Service Company, as designated agent for Union Electric Company d/b/a AmerenUE, and the Midwest ISO, in compliance with the Commission's order issued August 12, 2004 in Docket No. ER04–931–000.

Midwest ISO and Ameren state that copies of the filing were served upon the service list compiled by the Secretary in this proceeding and the parties to the agreement.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 2. Southern California Edison Company

[Docket Nos. ER04–1145–001, ER04–1146–001]

Take notice that on October 12, 2004 Southern California Edison Company (SCE) submitted for filing substitute tariff sheets for the Graham Street Service Agreement for Wholesale Distribution Service, Service Agreement No. 115 under SCE's Wholesale Distribution Access Tariff (WDAT), FERC Electric Tariff, First Revised Volume No. 5, and the Globe Street WDAT Service Agreement, Service Agreement No. 117 under the WDAT, between SCE and the City of Moreno Valley, California (Moreno Valley) originally filled on August 23, 2004.

SCE states that copies of the filing were served on parties on the official service list in the above captioned proceedings and Moreno Valley.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 3. Illinois Power Company

[Docket No. ER04–1262–001]

Take notice that on October 12, 2004 Illinois Power Company (Illinois Power) submitted a request to withdraw Service Agreement 349 from the Notice of Cancellation for certain service agreements under Illinois Power's Open Access Transmission Tariff filed on September 30, 2004 in Docket No. ER04–1262–000.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 4. Southern Company Services, Inc.

[Docket No. ER03–1381–003]

Take notice that on October 12, 2004, Southern Company Services, Inc., (SCS as agent for Georgia Power Company, submitted a compliance filing in accordance with the Commission's order issued September 10, 2004 in *Southern Company Services, Inc.*, 108 FERC 61,229 (2004).

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 5. Southern Company Services, Inc.

[Docket No. ER05–13–000]

Take notice that on October 1, 2004, Southern Company Services, Inc. (SCS) acting on behalf of Georgia Power Company, (GPC) filed with the Commission a Notice of Cancellation of Interconnection Agreement between Southern Power Company and GPC (Service Agreement No. 463 under Southern Companies' Open Access Transmission Tariff, Fourth Revised Volume No. 5). SCS requests an effective date of September 1, 2004.

*Comment Date:* 5 p.m. Eastern Time on October 28, 2004.

### 6. American Electric Power Service Corporation

[Docket No. ER05–31–000]

Take notice that on October 12, 2004, the American Electric Power Service Corporation (AEPSC) tendered for filing First Revised FERC Rate Schedule I&M No. 22 which supersedes Original FERC Rate Schedule I&M No. 22 between Indiana Michigan Power Company and Northern Indiana Public Service Company. AEPSC requests an effective date of October 11, 2004.

AEPSC states that a copy of the filing was served upon Northern Indiana Public Service Company and the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 7. Mirant Delta, LLC, Mirant Potrero, LLC.

[Docket No. ER05–32–000]

Take notice that, on October 12, 2004, Mirant Delta, LLC (Mirant Delta) and Mirant Potrero, LLC (Mirant Potrero) (collectively, Mirant) tendered for filing certain revised tariff sheets to the Reliability Must-Run Service Agreements between Mirant Delta, Mirant Potrero, and the California Independent System Operator Corporation. Mirant states that the revisions amend the ramp rates set forth in Schedule A of Mirant's RMR Agreements. Mirant requests an effective date of October 1, 2004.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 8. Delmarva Power & Light Company

[Docket No. ER05–33–000]

Take notice that on October 12, 2004, Delmarva Power & Light Company (Delmarva) tendered for filing a Notice of Cancellation and an Order No. 614 compliant cancelled rate schedule sheet (collectively referred to as Cancellation Documents) terminating a previously filed interconnection agreement between Delmarva and the Delaware City of Dover. Delmarva also tendered for filing an executed Interconnection Agreement with the City of Dover (Dover IA). Delmarva requests an effective date of September 11, 2004 for the Cancellation Documents and an effective date of September 12, 2004 for Dover IA.

Delmarva states that copies of the filing were served upon the City of Dover and the Delaware Public Service Commission.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

### 9. Tenaska-Oxy Power Services, L.P.

[Docket No. ER05–38–000]

Take notice that on October 12, 2004, Tenaska-Oxy Power Services, L.P (TOPS), tendered for filing with the Commission, pursuant to 18 CFR 35.13 (2004), a petition to amend its market-based rate tariff to sell ancillary services and resell transmission rights.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

**10. Tenaska Power Services Co.**

[Docket No. ER05–39–000]

Take notice that on October 12, 2004, Tenaska Power Services Co. (TPS), tendered for filing with the Commission, pursuant to 18 CFR 35.13 (2004), a petition to amend its market-based rate tariff to sell ancillary services and resell transmission rights.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

**11. Entergy Services, Inc.**

[Docket No. ER05–40–000]

Take notice that on October 12, 2004, Entergy Services, Inc. (Entergy), tendered a Notice of Cancellation of Service Agreements between Entergy and American Energy Solutions, Inc., Columbia Energy Power Marketing Corporation, Continental Energy Services, L.L.C., DePere Energy Marketing, Inc., Edison Source, MidCon Power Services Corporation, PEC Energy Marketing, Inc., Power Company of America, L.P., and Statoil Energy Trading, Inc., under Entergy's FERC Electric Tariff, Second Revised Volume No. 3, pursuant to 35.13 of the Commission Rules and Regulations. 18 CFR 35.15 (2004).

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

**12. Oasis Power Partners, LLC.**

[Docket No. ER05–41–000]

Take notice that on October 12, 2004, Oasis Power Partners, LLC (Oasis) filed an initial rate schedule to sell capacity, energy, and ancillary services at market-based rates.

*Comment Date:* 5 p.m. Eastern Time on November 2, 2004.

**13. Baltimore Gas and Electric Company**

[Docket No. ES05–3–000]

Take notice that on October 8, 2004, Baltimore Gas and Electric Company (BG&E) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue not later than December 31, 2006, short-term unsecured promissory notes, commercial paper notes, medium term notes, and guarantees or assumptions of liabilities or obligations, in amounts outstanding at any one time totaling not in excess of $700 million.

*Comment Date:* 5 p.m. Eastern Time on November 4, 2004.

**14. Old Dominion Electric Cooperative**

[Docket No. ES05–5–000]

**New Dominion Electric Cooperative**

[Docket No. ES05–6–000]

**New Dominion Electric Cooperative**

[Docket No. ES05–7–000]

Take notice that on October 12, 2004, Old Dominion Electric Cooperative (Old Dominion) and New Dominion Electric Cooperative (New Dominion) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization: (1) For Old Dominion to guarantee obligations of New Dominion in an amount not to exceed an aggregate of $500 million outstanding at any one time; (2) for New Dominion to guarantee obligations of Old Dominion in an amount not to exceed an aggregate of $1,500 million outstanding at any one time; and (3) for New Dominion to issue and renew short-term debt, including without limitation, commercial paper, notes or other obligations, in an amount not to exceed an aggregate of $500 million outstanding at any one time.

Old Dominion and New Dominion also request a waiver from the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

*Comment Date:* 5 p.m. Eastern Time on October 29, 2004.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2836 Filed 10–22–04; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 2233–043]**

## Oregon Portland General Electric Company; Notice of Availability of Final Environmental Assessment

October 18, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Willamette Falls Hydroelectric Project, located on the Willamette River near Oregon City, Oregon and has prepared a Final Environmental Assessment (FEA) for the project.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the FEA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number P–2233 to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

For further information, contact John Blair (202) 502–6092.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2831 Filed 10–22–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Project No. 803–068–California]**

## Pacific Gas and Electric Company; Notice of Scoping Meetings and Soliciting Scoping Comments

October 19, 2004.

a. *Type of Filing:* Notice of Intent to File a License Application and Pre-Filing Document (PAD) under the Commission's Integrated Licensing Process and Commencing Licensing Proceeding.

b. *Project No.:* 803–068.

c. *Dated Filed:* October 4, 2004.

d. *Submitted By:* Pacific Gas and Electric Company.

e. *Name of Project:* DeSabla-Centerville Hydroelectric Project.

f. *Location:* On the Butte Creek and West Branch Feather River, in Butte County, California. The project occupies approximately 178 acres of United States Lands, managed by Forest Service and Bureau of Land Management.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* Randal Livingston, Senior Director, Power Generation, Pacific Gas and Electric Company, 245 Market, Room 1103 (N11E), P.O. Box 770000, San Francisco, CA 94177; (415) 973–6950, facsimile (415) 973–5323.

i. *FERC Contact:* Susan O'Brien at (202) 502–8449 or e-mail at *susan.obrien@ferc.gov.*

j. Pacific Gas and Electric Company filed a Pre-Application Document (PAD) including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

k. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

l. With this notice, we are soliciting comments on the Scoping Document 1 (SD1). All comments on SD1 should be sent to the address above in paragraph h. In addition, all comments on SD1, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (DeSabla-Centerville Hydroelectric Project) and number (P–803–068), and bear the heading ''Comments on Scoping Document 1.'' Any individual or entity interested in commenting on SD1 must do so by February 1, 2005.

Comments on SD1and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings.

See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

### Scoping Meetings

Commission staff will hold three scoping meetings in the vicinity of the project at the times and place noted below. The agenda for each meeting is also listed below. We invite all interested individuals, organizations, and agencies to attend one or all of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. We encourage all attendees to review the PAD before the meetings to facilitate effective discussion.

The times, location, and agendas of these meetings are as follows:

All meetings will be held in the same location: Masonic Family Center, 1110 West East Ave., Chico, CA 95926.

### Day 1—Daytime Scoping Meeting

Date: Wednesday, November 17, 2004.
Time: 1 p.m.–4 p.m. (PST).
Agenda:

—Brief overview of the identified issues.
—Open discussion of issues, management objectives, existing information, data gaps, and information needs.
—Discussion of integrated process plan.

### Day 1—Evening Scoping Meeting

Date: Wednesday, November 17, 2004.
Time: 6 p.m.–9 p.m.(PST).
Agenda:

Session 1—6–7 p.m.:
—''Open House'' atmosphere.
—All interested parties bring forth issues for discussion on a one-on-one basis with FERC staff.
—All issues and comments will be summarized.

Session 2—7–9 p.m.:
—Brief overview of the identified issues.
—Summary of the daytime meeting and Open House Session.
—Open discussion of issues, management objectives, existing information, data gaps, and information needs
—Discussion of integrated process plan.

### Day 2—Morning Scoping Meeting

Date: Wednesday, November 17, 2004.
Time: 9 a.m.–12 p.m. (PST).
Agenda:

—Conclusion of issue discussion.
—Finalize integrated process plan.

SD1, which outlines the subject areas to be addressed in the environmental document, will be mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph k above. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a revised list of issues identified through the scoping process.

### Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of federal, state, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe

acting as a cooperating agency for development of an environmental document.

**Meeting Procedures**

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2828 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 12451–001]**

### SAF Hydroelectric, LLC (SAF); Notice of Settlement Agreement and Soliciting Comments

October 18, 2004.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement Agreement (Settlement).

b. *Project No.:* 12451–001.

c. *Date Filed:* October 14, 2004.

d. *Applicant:* SAF Hydroelectric, LLC (SAF).

e. *Name of Project:* Lower St. Anthony Falls Hydroelectric Project.

f. *Location:* On the Mississippi River, in the Town of Minneapolis, Hennepin County, Minnesota. The project would affect 5.9 acres of land owned by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602.

h. *Applicant Contact:* Douglas A. Spaulding P.E., Spaulding Consultants, 1433 Utica Avenue South Suite 162, Minneapolis, MN 55416, (952) 544–8133 or Robert Larson, 33 South 6th Street, Minneapolis, MN 55402, (612) 343–2913.

i. *FERC Contact:* Kim Carter at (202) 502–6486, or *kim.carter@ferc.gov.*

j. *Deadline for Filing Comments:* The deadline for filing comments on the Settlement is 20 days from the date of this notice. The deadline for filing reply comments is 30 days from the date of this notice. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions of the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

k. The Minnesota Department of Natural Resources (Minnesota DNR) filed a Settlement on behalf of itself, St. Anthony Falls Hydroelectric, LLC (SAF), and the Minnesota Department of Administration. The purpose of the Settlement is to resolve, among the signatories, issues related to SAF's pending application for an original major license for the Lower St. Anthony Falls Hydroelectric Project. The Settlement provides a negotiated settlement for fish turbine entrainment and requires, in lieu of SAF conducting an on-site fish turbine entrainment study, SAF pay the Minnesota DNR $27,500 annually to be used for fisheries management and enhancement/or mitigation projects in the project area.

l. A copy of the Settlement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the addresses in item h above.

Register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2835 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Intention To Hold Public Meetings To Discuss the Draft Environmental Impact Statement for the Stanislaus River Hydropower Projects

October 18, 2004.

Tri-Dam Project [Project Nos. 2005–012 and 2067–020—California]

Pacific Gas and Electric Company [Project Nos. 2130–033 and 2118–007—California]

On September 30, 2004, the Commission staff mailed the Stanislaus River Projects Draft Environmental Impact Statement (DEIS) to the Environmental Protection Agency, resource and land management agencies, and interested organizations and individuals.

The DEIS was noticed in the **Federal Register** on October 8, 2004, and comments are due December 7, 2004. The DEIS evaluates the environmental consequences of the construction, operation, and maintenance of the Stanislaus River Projects in California. The DEIS also evaluates the environmental effects of implementing the applicant's proposals, agency and NGO recommendations, staff's recommendations, and the no-action alternative. All of the Beardsley/Donnells Project, most of the Spring Gap-Stanislaus Project, and all of the Donnell-Curtis Transmission Line Project are located within the Stanislaus National Forest.

Two public meetings are scheduled for Tuesday, November 16, 2004, from 2 p.m. to 4 p.m. (PST) and 6:30 p.m. to 8:30 p.m. (PST) at the Best Western Sonora Oaks Conference Center, 19551 Hess Ave, Sonora, CA 95370. At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the DEIS for the Commission's public record. These meetings will be recorded by an official stenographer.

For further information, please contact Susan O'Brien at (202) 502–8449, or by e-mail at *susan.obrien@ferc.gov.*

**Magalie R. Salas,**

*Secretary .*

[FR Doc. E4–2830 Filed 10–22–04; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[OW–2003–0017, FRL–7830–2]**

## Agency Information Collection Activities: Proposed Collection; Comment Request; Underground Injection Control (UIC) Program; EPA ICR No. 0370.18; OMB Control No. 2040–0042

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Underground Injection Control Program, EPA ICR No. 0370.18, OMB No. 2040–0042 which is scheduled to expire on January 31, 2005. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

**DATES:** Comments must be submitted on or before December 27, 2004.

**ADDRESSES:** Submit your comments, referencing docket ID number OW–2003–0017, to EPA online using EDOCKET (our preferred method), by e-mail to *OW-Docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, Water Docket, MC 4101T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Robert E. Smith, Office of Ground Water and Drinking Water's Drinking Water Protection Division/Underground Injection Control Program, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; Telephone: 202–564–3895, fax number: 202–564–3756, e-mail address: *Smith.Robert-Eu@epa.gov*.

**SUPPLEMENTARY INFORMATION:** EPA has established a public docket for this ICR under Docket ID number OW–2003–0017, which is available for public viewing at the Water Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket*. Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above. Any comments related to this ICR should be submitted to EPA within 60 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, see EPA's **Federal Register** notice describing the electronic docket at 67 *FR* 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket*.

*Affected entities:* Entities potentially affected by this action are owners and operators of underground injection wells, State Underground Injection Control (UIC) primacy Agencies, and, in some instances, U.S. EPA Regional Offices and Staff.

*Title:* Underground Injection Control Program (OMB Control No. 2040–0042; EPA ICR No. 0370.18.)

*Abstract:* The Underground Injection Control (UIC) Program under the Safe Drinking Water Act established a Federal and State regulatory system to protect underground sources of drinking water (USDWs) from contamination by injected fluids. Owners/operators of underground injection wells must obtain permits, conduct environmental monitoring, maintain records, and report results to EPA or the State UIC primacy agency. States must report to EPA on permittee compliance and related information. The mandatory information is reported using standardized forms, and the regulations are codified at 40 CFR Parts 144 through 148. The data are used to ensure the protection of underground sources of drinking water from UIC authorities.

EPA expects that the total burden for the continuing Program ICR for the period 2005–2007 will exceed the reporting burden estimated in the previous ICR. EPA estimates that the total annual burden will increase by 100,566 hours, and the total cost will increase by $16.8 million. The projected increase over the approved ICR period is primarily due to the following factors: (1) There will be a significant increase in activities related to the 1999 Class V Rule as the regulatory deadlines related to closure of large-capacity cesspools or closure/permitting of motor vehicle waste disposal wells will occur; (2) There will be increased cost to operators associated with quarterly wastewater testing and annual sludge sampling required under the Class V Rule; and (3) The labor rates for all well classes reflect Bureau of Labor Statistics Occupational Employment Statistics for 2003, which are higher than labor estimates for 2001. The Agency has continued to explore burden and cost reduction as required by the Paperwork Reduction Act of 1995. Specifically, EPA is examining how the UIC program could reduce the reporting burden on the States via electronic reporting forms. The Agency will continue work with States on this effort as we finalize the 2005–2007 ICR renewal. Any recommendations from the underground injection control regulated community and the general public on this issue will also be given consideration by the Agency. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

EPA would like to solicit comments to:

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

(ii) 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;

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

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automatic electronic, mechanical, or other technological collection techniques or other forms of

information technology, *e.g.*, permitting electronic submission of responses.

*Burden Statement:* The public reporting and record-keeping burden for this collection of information is estimated to average 2.90 hours, or $203.50 per response annually.

*Estimated Number of Likely Respondents:* 41,141.

*Frequency of Response:* Varies.

*Estimated Total Annual Hour Burden:* 1,192,512 hours.

*Estimated Total Annualized Cost Burden:* $83,678,101.

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

Dated: October 18, 2004.

**Cynthia C. Dougherty,**

*Director, Office of Ground Water and Drinking Water.*

[FR Doc. 04–23838 Filed 10–22–04; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7829–8]**

## Guide To Analyzing Environmental Innovations

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice on guide to analyze environmental innovations.

**SUMMARY:** The U.S. Environmental Protection Agency's National Center for Environmental Innovation (NCEI) promotes the use of innovative approaches to environmental problem-solving efforts that deliver improved environmental results. As part of this process, the Evaluation Support Division (ESD) within NCEI promotes and conducts rigorous evaluations to determine whether innovations deliver environmental results that surpass the traditional way of doing business and to identify lessons that can be applied more broadly. To guide its efforts and ensure consistency, NCEI developed a set of evaluation modules that outline core questions to be answered as part of any evaluation, either within EPA or outside the Agency. Because the field of environmental evaluation is fairly young, and EPA did not have one comprehensive method for evaluating innovation projects, ESD produced a ''Companion User's Guide'' and corresponding questions in a modular format called, ''Modular Approach to Analyzing Environmental Innovation,'' to help innovation practitioners analyze environmental innovations. The analysis modules include a series of questions that encourage critical thinking and assessment of successes, obstacles and lessons learned . The modules can be applied in a variety of scenarios, including developing an innovative project, informing future evaluation efforts, assessing environmental outcomes, and evaluating the potential transferability of an innovation. The following six modules are currently being tested on innovative projects: Background Information on the Innovation gathers information on project goals, purpose, focus, stakeholders, tools used, and legal/regulatory/programmatic issues; Environmental Outcomes evaluates measurement approach and project results and both qualitative and quantitative data; Costs and Cost-Effectiveness examines costs to the regulators, costs to other stakeholders, unintended costs, benefits of the project, resulting economic activity, cost analysis for future projects, and relative cost advantage; Compliance Assistance looks at reporting requirements, accountability, enforceability, and effectiveness compared to the traditional regulatory approaches; Transferability looks at the issue of whether the innovation could easily be transferred to other contexts and projects; and Public Involvement analyzes the degree to which the public was involved in the innovation, and the associated successes and lessons learned. The module questions were developed to be flexible enough to fit a variety of innovative experiments that are conducted both inside and outside EPA. The modules and user's guide are available for review at *http://www.epa.gov/evaluate*. If you do not have Internet access, please contact Suganthi Simon at 202–566–2199 or by mail, to receive hardcopies of the documents.

**DATES:** We must receive your comments on or before November 30, 2004.

**ADDRESSES:** Address all comments about the innovation analysis modules to Suganthi Simon, U.S. EPA, 1200 Pennsylvania Avenue, MC 1807T, Washington, DC 20460. If you prefer to send your comments by email, use the following address: *simon.suganthi@epa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Suganthi Simon at (202) 566–2199.

**SUPPLEMENTARY INFORMATION:**

### Invitation To Comment

We invite you to submit comments regarding the draft guide to analyzing environmental innovations and module questions. Comments on whether or not you think this tool could be widely applied and is flexible enough to meet performance measurement and analytical needs of a variety of environmental innovations are welcome. Please note that this notice does not solicit applications nor mandates the use of the guide or module questions in innovative projects and programs.

Dated: October 18, 2004.

**Elizabeth A. Shaw,**

*Director, Office of Environmental Policy Innovation.*

[FR Doc. 04–23839 Filed 10–22–04; 8:45 am]

**BILLING CODE 6560–50–P**

## FEDERAL MARITIME COMMISSION

## Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may obtain copies of agreements by contacting the Commission's Office of Agreements at 202–523–5793 or via e-mail at *tradeanalysis@fmc.gov.* Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

*Agreement No.:* 011539–011.

*Title:* Montemar/Lykes/TMM Space Charter and Sailing Agreement.

*Parties:* Lykes Lines Limited, LLC; Montemar Maritima S.A., d/b/a Pan American Independent Line; and TMM Lines Limited, LLC.

*Filing Party:* Walter H. Lion, Esq.; McLaughlin & Stern LLP; 260 Madison Avenue; New York, NY 10016.

*Synopsis:* The modification substitutes Montemar for Companhia Libra de Navegacao as a participating party under the agreement. The parties request expedited review.

*Agreement No.:* 011852–013.

*Title:* Maritime Security Discussion Agreement.

*Parties:* China Shipping Container Lines, Co., Ltd.; CMA CGM, S.A.; COSCO Container Lines Company, Ltd.; Evergreen Marine Corp.; Hanjin Shipping Company, Ltd.; Hapag Lloyd Container Linie GmbH; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Limited; P&O Nedlloyd Limited; Yang Ming Marine Transport Corp.; Zim Integrated Shipping Services, Ltd.; Alabama State Port Authority; APM Terminals North America, Inc.; Ceres Terminals, Inc.; Cooper/T. Smith Stevedoring Co., Inc.; Eagle Marine Services Ltd.; Global Terminal & Container Services, Inc.; Howland Hook Container Terminal, Inc.; Husky Terminal & Stevedoring, Inc.; International Shipping Agency; International Transportation Service, Inc.; Lambert's Point Docks Inc.; Long Beach Container Terminal, Inc.; Maersk Pacific Ltd.; Maher Terminals, Inc.; Marine Terminals Corp.; Maryland Port Administration; Massachusetts Port Authority; Metropolitan Stevedore Co.; P&O Ports North American, Inc.; Port of Tacoma; South Carolina State Ports Authority; Stevedoring Services of America, Inc.; Trans Bay Container Terminal, Inc.; TraPac Terminals; Universal Maritime Service Corp.; Virginia International Terminals; and Yusen Terminals, Inc.

*Filing Parties:* Carol N. Lambos; Lambos & Junge; 29 Broadway, 9th Floor; New York, NY 10006 and Charles T. Carroll, Jr.; Carroll & Froelich, PLLC; 2011 Pennsylvania Avenue, NW.; Suite 301; Washington, DC 20006.

*Synopsis:* The amendment removes Australia-New Zealand Direct Line; CP Ships (UK) Limited; Canada Maritime; Contship Container Lines; Italia di Navigazione, LLC; Lykes Lines Limited, LLC; and TMM Lines Limited, LLC as carrier participants in the agreement.

Dated: October 19, 2004.

By Order of the Federal Maritime Commission.

**Bryant L. VanBrakle,**

*Secretary.*

[FR Doc. 04–23810 Filed 10–22–04; 8:45 am]

**BILLING CODE 6730–01–P**

## FEDERAL RESERVE SYSTEM

### Agency information collection activities: Proposed collections; comment request

**AGENCY:** Board of Governors of the Federal Reserve System

**SUMMARY:** Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**Request for comment on information collection proposals**

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collections of information are necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collections, 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 information collections on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Comments must be submitted on or before December 27, 2004.

**ADDRESSES:** You may submit comments, identified by FR 2058, FR Y–7, FR Y–9, FR Y–11, or FR 2314 by any of the following methods:

- Agency Web Site: *http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E–mail: *regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- FAX: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed forms and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statements, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Cynthia Ayouch, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

**Proposal to approve under OMB delegated authority the extension for three years, without revision, the following report:**

*Report title:* Notification of Foreign Branch Status

*Agency form number:* FR 2058

*OMB control number:* 7100–0069

*Frequency:* on occasion

*Reporters:* Member banks, bank holding companies, and Edge and agreement corporations

*Annual reporting hours:* 20 hours

*Estimated average hours per response:* 15 minutes

*Number of respondents:* 79

*General description of report:* This information collection is mandatory (12 U.S.C. 321, 601, and 602 (member banks)); (12 U.S.C. 615 (Edge corporations)); (12 U.S.C. 601 (agreement corporations)); and (12 U.S.C. 1844(c) (bank holding companies)) and is not regarded as confidential.

*Abstract:* Member banks, bank holding companies, and Edge and agreement corporations are required to notify the Federal Reserve of the opening, closing, or relocation of a foreign branch. The Federal Reserve needs the information collected on the FR 2058 to fulfill supervisory responsibilities specified in Regulation K including the supervision of foreign branches of U.S. banking organizations. The information submitted on the FR 2058 notification is the primary means by which the Federal Reserve monitors the current operating status of foreign branches of U.S banking organizations. The information is needed in order to evaluate the organization's international exposure and to update the Federal Reserve's structure files on U.S. banking organizations. The information enables the Federal Reserve to evaluate an organization's development over time. The FR 2058 notification is the only source of this information.

**Proposal to approve under OMB delegated authority the extension for three years, with revision, of the following reports:**

*1. Report title:* Reports of Foreign Banking Organizations.

Agency form numbers: FR Y–7, FR Y–7N, FR Y–7NS, and FR Y–7Q.

*OMB control number:* 7100–0125.

*Frequency:* Quarterly and annually.

*Reporters:* Foreign banking organizations (FBOs).

*Annual reporting hours:* 5,384 hours.

*Estimated average hours per response:*
FR Y–7: 3.50 hours,
FR Y–7N (quarterly): 6 hours,
FR Y–7N (annual): 6 hours,
FR Y–7NS: 1 hour,
FR Y–7Q (quarterly): 1.25 hours,
FR Y–7Q (annual): 1 hour.

*Number of respondents:*
FR Y–7: 257,
FR Y–7N (quarterly): 129,
FR Y–7N (annual): 137,
FR Y–7NS: 170,
FR Y–7Q (quarterly): 52,
FR Y–7Q (annual): 136.

*General description of report:* This information collection is mandatory (12 U.S.C. §§ 601–604a, 611–631, 1844(c), 3106, and 3108(a)). Confidential treatment is not routinely given to the data in these reports. However, the FR Y–7Q data will be held confidential until 120 days after the as–of date. Also, confidential treatment for information, in whole or in part, on any of the reporting forms can be requested in accordance with the instructions to the form, pursuant to sections (b)(4) and (b)(6) of the Freedom of Information Act [5 U.S.C. §§ 522(b)(4) and (b)(6)].

*Abstract:* The FR Y–7 is filed by all foreign banking organizations (FBOs) that engage in banking in the United States, either directly or indirectly, to update their financial and organizational information. The Federal Reserve uses information to assess an FBO's ability to be a continuing source of strength to its U.S. banking operations and to determine compliance with U.S. laws and regulations.

The FR Y–7N collects financial information for U.S. nonbank subsidiaries held by FBOs other than through a U.S. bank holding company or bank. This report consists of a balance sheet and income statement; information on changes in equity capital, changes in the allowance for loan and lease losses, off–balance–sheet items, and loans; and a memoranda section. The FR Y–7NS collects net income, total assets, equity capital, and total off–balance–sheet items for smaller, less complex subsidiaries.

The FR Y–7Q collects consolidated capital and asset information from all FBOs. The report collects tier 1 capital, total risk–based capital, risk–weighted assets, and total assets.

*Current Actions:* The Federal Reserve proposes to revise the FR Y–7 by requiring that only top–tier FBOs file the FR Y–7 report, modifying the cover pages, changing the order of the report and instructions, and clarifying several areas in the instructions. The Federal Reserve proposes to revise the FR Y–7 to be consistent with the reporting requirements detailed in the Annual Report of Bank Holding Companies (FR Y–6; OMB No. 7100–0124), Report of Changes in Organizational Structure (FR Y–10; OMB No. 7100– 0297), and the Report of Changes in FBO Organizational Structure (FR Y–10F; OMB No. 7100– 0297). The proposed revisions to the FR Y–7 would be effective beginning with fiscal year–ends of December 31, 2004; the Federal Reserve requests specific comment on this effective date. The Federal Reserve also proposes to revise the FR Y– 7N reporting instructions with respect to balances due from related organizations, to insure consistent reporting of unconsolidated subsidiaries, and to parallel changes proposed for other nonbank subsidiary reports. The revisions to the FR Y–7N would be effective as of the March 31, 2005, report date.

*2. Report title:* Financial Statements for Bank Holding Companies

*Agency form number:* FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9CS, and FR Y–9ES

*OMB control number:* 7100–0128

*Frequency:* Quarterly, semiannually, and annually

*Reporters:* Bank holding companies (BHCs)

*Annual reporting hours:* 399,192

*Estimated average hours per response:*
FR Y–9C: 35.40 hours,
FR Y–9LP: 4.75 hours,
FR Y–9SP: 4.85 hours,
FR Y–9ES: 30 minutes,
FR Y–9CS: 30 minutes.

*Number of respondents:*
FR Y–9C: 2,240,
FR Y–9LP: 2,590,
FR Y–9SP: 3,253,
FR Y–9ES: 87,
FR Y–9CS: 600.

*General description of report:* This information collection is mandatory (12 U.S.C. 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6)and (b)(8) of the Freedom of Information Act [5 U.S.C. §§ 522(b)(4), (b)(6) and (b)(8)].

*Abstract:* The FR Y–9C collects basic financial data from a domestic bank holding company (BHC) on a consolidated basis in the form of a balance sheet, an income statement, and detailed supporting schedules, including a schedule of off–balance–sheet items, similar to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031 &041; OMB No.7100–0036). The FR Y–9C collects data from the BHC as of the end of March, June, September, and December. The FR Y–9C is filed by top–tier BHCs with total consolidated assets of $150 million or more and lower–tier BHCs that have total consolidated assets of $1 billion or more. In addition, multibank holding companies with total consolidated assets of less than $150 million with debt outstanding to the general public or engaged in certain nonbank activities must file the FR Y–9C.

The FR Y–9LP collects basic financial data from domestic BHCs on an unconsolidated, parent–only basis in the form of a balance sheet, an income statement, and supporting schedules relating to investments, cash flow, and certain memoranda items. This report is

filed as of the end of March, June, September, and December on a parent company only basis by each BHC that files the FR Y–9C. In addition, for tiered BHCs, a separate FR Y–9LP must be filed for each lower–tier BHC.

The FR Y–9SP is a parent company only financial statement filed by smaller BHCs as of the end of June and December. Respondents include one–bank holding companies with total consolidated assets of less than $150 million and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This form is a simplified or abbreviated version of the more extensive parent company only financial statement for large BHCs (FR Y–9LP). This report collects basic balance sheet and income information for the parent company, information on intangible assets, and information on intercompany transactions.

The FR Y–9CS is a free form supplement that may be utilized to collect any additional information deemed to be critical and needed in an expedited manner. It is intended to supplement the FR Y–9C and FR Y–9SP reports.

The FR Y–9ES collects financial information from employee stock ownership plans (ESOPs) that are also BHCs on their benefit plan activities as of December 31. It consists of four schedules: Statement of Changes in Net Assets Available for Benefits, Statement of Net Assets Available for Benefits, Memoranda, and Notes to the Financial Statements.

*Current Actions:* The Federal Reserve proposes to modify information collected on the FR Y–9C and FR Y–9SP to: identify private equity merchant banking activity, identify firms providing auditing services to the BHC, add an item for subordinated notes payable to trusts issuing trust preferred securities to the FR Y–9C balance sheet, and add a memoranda item for nonvoting equity capital to the FR Y–9SP. Additionally, the Federal Reserve requests public comment on modifying the FR Y–9LP filing deadline to be consistent with the FR Y–9C. The FR Y–9ES and FR Y–9CS would not be revised.

**FR Y–9C**

The Federal Reserve proposes to make the following revisions to the FR Y–9C, effective as of March 31, 2005. Implementation of the proposed revisions to Schedule HC–M would be concurrent with the proposed changes to the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y–12; OMB No. 7100–0300), effective March 31, 2005.

**Proposed Revisions to the Accelerated Filing Deadline.** The U.S. Securities and Exchange Commission (SEC) announced on August 26, 2004, a proposal to postpone, for one year, the final phase–in period for acceleration of report deadlines for certain larger companies. The SEC has proposed this change to allow additional time and opportunity for accelerated filers and their auditors to focus on the new requirements regarding internal control over financial reporting mandated by Section 404 of the Sarbanes–Oxley Act. In keeping with the SEC's proposed postponement, the Federal Reserve proposes to postpone for one year the accelerated filing deadline for quarterly reporting for top–tier BHCs to 35 days until the June 2006 reporting date. The 35–day filing deadline would be effective for each quarter thereafter, except for the December reporting date, which would remain at 45 days.

**Schedule HC – Balance Sheet**

(1) The Federal Reserve proposes to add a new item 19.b, ''Subordinated notes payable to trusts issuing trust preferred securities,'' and renumber current item 19, ''Subordinated notes and debentures'' as item 19.a. Information on subordinated notes payable to trusts issuing trust preferred securities (TPS) would no longer be included in Schedule HC, item 20, ''Other liabilities.'' In addition, TPS would no longer be reported in Schedule HC–R, memoranda item 3.d, ''Other cumulative preferred stock eligible for inclusion in Tier 1 capital (e.g., trust preferred securities) (included in Schedule HC, item 20 or 22).'' The caption for memoranda item 3.d would be modified to remove the reference to TPS.

Currently, the amount of TPS eligible for inclusion in Tier 1 capital is included in Schedule HC–R, memoranda item 3.d, ''Other cumulative preferred stock eligible for inclusion in Tier 1 capital,'' along with any other hybrid instruments that are eligible for inclusion in Tier 1 capital. In addition, TPS are included in Schedule HC, item 20, on the balance sheet. The Federal Reserve proposes to move the reporting of TPS directly to the balance sheet as a separate line item and to exclude TPS as part of Schedule HC, item 20 and as part of Schedule HC–R, memoranda item 3.d. Therefore memoranda item 3.d would only collect information on the amount of any other hybrid securities (other than TPS) that are eligible for inclusion in Tier 1 capital and reported in ''Other liabilities'' or as minority interest on the balance sheet. This change does not represent any change to the risk–based capital treatment for trust preferred securities. BHCs should continue to include the allowable amount of eligible TPS in their tier 1 capital for regulatory purposes.

The proper reporting classification (debt or equity) of TPS has been under debate and scrutiny during the past several years. In the last two years, the Financial Accounting Standards Board (FASB) has ruled that trust preferred securities should be reported as liabilities on the balance sheet. In March 2004, BHCs were instructed to include TPS in ''Other liabilities.'' Subsequently, the Federal Reserve decided that the reporting of TPS separately on the balance sheet would be consistent with how TPS are presented in other BHC public financial statements. The Federal Reserve believes it is more appropriate to report these instruments in a separate line item than to require them to be reported with many other items in ''Other liabilities.'' The proposed revisions would allow the Federal Reserve to continue to measure and monitor all TPS issued out of special purpose entities.

(2) The Federal Reserve proposes to add a new memoranda item 1 to collect the name and address of the BHC's external auditing firm and the name and email address of the engagement partner. The item would be collected initially in the March 31, 2005, report and then annually as of December 31.

This information would identify firms providing full–scope auditing services to top–tier BHCs in which an opinion is rendered on their financial statements. BHCs that do not have a full–scope audit conducted of their financial statements would not need to complete this item. This information would be used by the Federal Reserve to facilitate more efficient supervision of the banking industry on issues related to accounting and auditing. The information would also enable the Federal Reserve to more readily identify firms that may be interested in participating in regional CPA and examiner roundtable discussions and similar programs designed to improve communication between the accounting profession and the regulatory community. The name and email address of the engagement partner would be considered confidential, consistent with the treatment given to other contact information provided on the FR Y–9C.

**Schedule HC–M–Memoranda**

The Federal Reserve proposes to modify or delete items used to

determine if the reporting bank holding company must complete the FR Y–12 and add items to identify private equity merchant banking (PEMB) activity by institutions exempt from filing the FR Y–12.

(1) Modify item 17, ''Do your aggregate nonfinancial equity investments equal or exceed the lesser of $200 million (on an acquisition cost basis) or 5 percent of the BHC's consolidated Tier 1 capital as of the report date?'' to decrease the aggregate nonfinancial equity investments threshold from $200 million to $100 million and increase the consolidated Tier 1 capital threshold from 5 percent to 10 percent. The current reporting criterion tends to require information to be reported by the very largest and the very smallest PEMB investors, but fails to identify mid–level participants. The reduction in the dollar threshold should lead to retrieving information from midsize participants, broadening the scope of monitoring PEMB activity. The proposed increase in the Tier 1 capital threshold would reduce burden for respondents, while continuing to screen for the smaller BHCs with a significant concentration of capital invested in this asset class. The Federal Reserve notes that there is limited usefulness in collecting detailed information on this type of activity from small BHCs with a minor concentration of capital invested in this asset class. This item would be renumbered as item 18.

(2) Delete item 18, ''Has the bank holding company made an effective election to become a financial holding company?'' This information is readily available on the National Information Center database.

(3) Add new item 19(a), ''Has the bank holding company sold or otherwise liquidated its holding of any nonfinancial equity investment since the previous reporting period?'' This information would be used as a measure to track PEMB transaction activity, including activity by BHCs that are not required to file the FR Y–12. This indicator would alert the Federal Reserve to the BHC's heightened risk profile in this activity and could lead to increased supervisory scrutiny.

(4) Modify item 19, ''Does the bank holding company hold, directly or indirectly, an Edge corporation, Agreement corporation or Small Business Investment Company (SBIC) subsidiary or hold equities under section 4(c)(6) or 4(c)(7) of the Bank Holding Company Act?'' to clarify the legal authority by restating the question as ''Does the bank holding company hold, either directly or indirectly through a subsidiary or affiliate, any nonfinancial equity investments (see instructions for definition) within a Small Business Investment Company (SBIC) structure, or under section 4(c)(6) or 4(c)(7) of the Bank Holding Company Act, or pursuant to the merchant banking authority of section 4(k)4(H) of the Bank Holding Company Act, or pursuant to the investment authority granted by Regulation K?'' This item would be renumbered as item 17.

(5) Add new item 19(b), ''Does the bank holding company manage any nonfinancial equity investments for the benefit of others?'' This information would be used to identify PEMB participants, including participants that are not required to file the FR Y–12, and would provide a measure of the assumed additional legal and reputational risk associated with managing these investments for others.

Proposed items 17 and 18 would be used to determine if the reporting BHC must complete the FR Y–12. If the answer to item 17 is no, then the BHC does not need to complete the FR Y–12 and can skip item 18. If the answer to item 17 is yes and the answer to item 18 is no, then the BHC does not need to complete the FR Y–12. If the answer to both item 17 and item 18 is yes, then the BHC must complete the FR Y–12 report. All respondents that are not required to file the FR Y–12 must complete items 19(a) and 19(b).

The changes to Schedule HC–M are intended to dovetail with changes to information collected on the FR Y–12 regarding the supervision of merchant banking investments.

**Instructions**

In addition to modifying instructions to incorporate the proposed reporting changes, instructions would be revised and clarified in an attempt to achieve greater consistency in reporting by respondents.

**FR Y–9LP**

The Federal Reserve proposes to make the following revisions to the FR Y–9LP, effective as of March 31, 2005.

**Filing Deadline –** A number of BHCs have requested that the filing deadline for the FR Y–9LP be made consistent with the FR Y–9C. Because the FR Y–9LP serves as source information for completing the FR Y–9C, information on the FR Y–9LP must be compiled prior to filing the FR Y–9C. Therefore filing the FR Y–9LP on the same time frame as the FR Y–9C would not entail any additional reporting burden and could actually result in less reporting burden due to fewer follow–up calls from the Federal Reserve. Instructions would be clarified in an attempt to achieve greater consistency in reporting by respondents.

**FR Y–9SP**

The FR Y–9SP is a parent company only financial statement filed by smaller BHCs as of the end of June and December. Respondents include one–bank holding companies with total consolidated assets of less than $150 million and multibank holding companies with total consolidated assets of less than $150 million that meet certain other criteria. This form is a simplified or abbreviated version of the more extensive parent company only financial statement for large BHCs (FR Y–9LP). This report collects basic balance sheet and income information for the parent company, information on intangible assets, and information on intercompany transactions.

The Federal Reserve proposes to make the following changes to the FR Y–9SP, effective as of June 30, 2005. Implementation of the proposed revisions to Schedule SC–M would be concurrent with the proposed changes to the FR Y–12, effective March 31, 2005.

**Schedule SC–Balance Sheet**

The Federal Reserve proposes to add a new memoranda item 1 to collect the name and address of the BHC's external auditing firm and the name and email address of the engagement partner. The item would be collected initially in the June 30, 2005, report and then annually as of December 31. This information would identify firms providing full–scope auditing services to top–tier BHCs in which an opinion is rendered on the financial statements. BHCs that do not have a full–scope audit conducted of their financial statements would not need to complete this item. This information would be used by the Federal Reserve to facilitate more efficient supervision of the banking industry on issues related to accounting and auditing. The information would also enable the Federal Reserve to more readily identify firms that may be interested in participating in regional CPA and examiner roundtable discussions and similar programs designed to improve communication between the accounting profession and the regulatory community. The name and email address of the engagement partner would be considered confidential, consistent with the treatment given to other contact information provided on the FR Y–9SP.

**Schedule SC–M–Memoranda**

**Private Equity Merchant Banking–** The Federal Reserve proposes to modify

or delete items used to determine if the reporting bank holding company must complete the FR Y–12 and add items to identify private equity merchant banking (PEMB) activity by institutions exempt from filing the FR Y–12.

(1) Modify item 18, ''Do your aggregate nonfinancial equity investments equal or exceed (on an acquisition cost basis) 5 percent of the BHC's total capital as of the report date?'' to increase the total capital threshold from 5 percent to 10 percent. The proposed increase in the total capital threshold would reduce burden for respondents, while continuing to screen for the smaller BHCs with a significant concentration of capital invested in this asset class. The Federal Reserve notes that there is limited usefulness in collecting detailed information on this type of activity from small BHCs with a minor concentration of capital invested in this asset class. This item would be renumbered as item 19.

(2) Delete item 19, ''Has the bank holding company made an effective election to become a financial holding company?'' This information is readily available on the National Information Center database.

(3) Add new item 20(a), ''Has the bank holding company sold or otherwise liquidated its holding of any nonfinancial equity investment since the previous reporting period?'' This information would be used as a measure to track PEMB transaction activity, including activity by BHCs that are not required to file the FR Y–12. This indicator would alert the Federal Reserve to the BHC's heightened risk profile in this activity and could lead to increased supervisory scrutiny.

(4) Modify item 20, ''Does the bank holding company hold, directly or indirectly, an Edge corporation, Agreement corporation or Small Business Investment Company (SBIC) subsidiary or hold equities under section 4(c)(6) or 4(c)(7) of the Bank Holding Company Act?'' to clarify the legal authority by restating the question as ''Does the bank holding company hold, either directly or indirectly through a subsidiary or affiliate, any nonfinancial equity investments (see instructions for definition) within a Small Business Investment Company (SBIC) structure, or under section 4(c)(6) or 4(c)(7) of the Bank Holding Company Act, or pursuant to the merchant banking authority of section 4(k)4(H) of the Bank Holding Company Act, or pursuant to the investment authority granted by Regulation K?'' This item would be renumbered as item 18.

(5) Add new item 20(b), ''Does the bank holding company manage any nonfinancial equity investments for the benefit of others?'' This information would be used to identify PEMB participants, including participants that are not required to file the FR Y–12, and would provide a measure of the assumed additional legal and reputational risk associated with managing these investments for others.

Proposed items 18 and 19 would be used to determine if the reporting BHC must complete the FR Y–12. If the answer to item 18 is no, then the BHC does not need to complete the FR Y–12 and can skip item 19. If the answer to item 18 is yes and the answer to item 19 is no, then the BHC does not need to complete the FR Y–12. If the answer to both item 18 and item 19 is yes, then the BHC must complete the FR Y–12 report. All respondents that are not required to file the FR Y–12 must complete items 20(a) and 20(b).

The changes to Schedule SC–M are intended to dovetail with changes to information collected on the FR Y–12 regarding the supervision of merchant banking investments.

**Nonvoting Equity Capital –** The Federal Reserve proposes to add a new item 4, ''Amount of nonvoting equity capital, including related surplus (included in balance sheet items 16.a, 16.b, 16.c, and 16.d).'' This item would include the amount of retained earnings and accumulated other comprehensive income that is associated with perpetual preferred and other stock which does not possess voting rights.

Collecting nonvoting equity information would enable examiners and analysts to more readily evaluate the adequacy of the quality of capital in BHCs and to assess the significance of any changes that occur in the quality of capital in the organization. This additional detail has become necessary as the Federal Reserve's supervision function performs more off–site monitoring of BHCs in lieu of inspections or other on–site supervision. This information would facilitate monitoring the proportion of nonvoting and voting stock of a BHC as it approaches the threshold for filing the FR Y–9C, and becomes subject to the consolidated Capital Adequacy Guidelines.

**Instructions**

In addition to modifying instructions to incorporate the proposed reporting changes, instructions would be revised and clarified in an attempt to achieve greater consistency in reporting by respondents.

*3. Report title:* Financial Statements of U.S. Nonbank Subsidiaries of U.S. Bank Holding Companies.

*Agency form number:* FR Y–11 and FR Y–11S

*OMB control number:* 7100–0244.

*Frequency:* Quarterly and annually.

*Reporters:* Bank holding companies (BHCs).

*Annual reporting hours:* 31,877 hours.

*Estimated average hours per response:*
FR Y–11 (quarterly): 6 hours,
FR Y–11 (annual): 6 hours,
FR Y–11S (annual): 1 hour.

*Number of respondents:*
FR Y–11 (quarterly): 1,246,
FR Y–11 (annual): 218,
FR Y–11S (annual): 665.

*General description of report:* This information collection is mandatory (12 U.S.C. §§ 1844(c)). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6)and (b)(8) of the Freedom of Information Act [5 U.S.C. §§ 522(b)(4), (b)(6) and (b)(8)].

*Abstract:* The FR Y–11 and FR Y–11S collect financial information for individual U.S. nonbank subsidiaries of BHCs located in the United States. The FR Y–11 consists of a balance sheet and income statement; information on changes in equity capital, changes in the allowance for loan and lease losses, off–balance–sheet items, and loans; and a memoranda section. The FR Y–11S is an abbreviated form that comprises four data items: net income, total assets, equity capital, and total off–balance–sheet items. The data are used in conjunction with data from other BHC reports to assess the condition of BHCs that are heavily engaged in nonbanking activities and to monitor the volume, nature, and condition of their nonbanking operations.

*Current Actions:* The Federal Reserve proposes to revise the FR Y–11 reporting instructions with respect to balances due from related organizations, to insure consistent reporting of unconsolidated subsidiaries. The revisions to the FR Y–11 would be effective as of the March 31, 2005, report date.

*4. Report title:* Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations.

*Agency form number:* FR 2314 and FR 2314S.

*OMB control number:* 7100–0073.

*Frequency:* Quarterly and annually.

*Reporters:* Foreign subsidiaries of U.S. state member banks, bank holding companies, and Edge or agreement corporations.

*Annual reporting hours:* 4,855 hours.

*Estimated average hours per response:*

FR 2314 (quarterly): 6 hours,

FR 2314 (annual): 6 hours,

FR 2314S (annual): 1 hour.

*Number of respondents:*

FR 2314 (quarterly): 156,

FR 2314 (annual): 143,

FR 2314S (annual): 253.

*General description of report:* This information collection is mandatory (12 U.S.C. §§ 324, 602, 625, and 1844). Confidential treatment is not routinely given to the data in these reports. However, confidential treatment for the reporting information, in whole or in part, can be requested in accordance with the instructions to the form, pursuant to sections (b)(4), (b)(6) and (b)(8) of the Freedom of Information Act [5 U.S.C. §§ 522(b)(4) (b)(6) and (b)(8)].

*Abstract:* The FR 2314 reports are collected from U.S. member banks, Edge and agreement corporations, and BHCs for their direct or indirect foreign subsidiaries. The FR 2314 reports collect information on assets, income, equity capital, and off–balance sheet items. The FR 2314S is an abbreviated form that comprises four data items: net income, total assets, equity capital, and total off–balance sheet items. The data are used to identify current and potential problems at the foreign subsidiaries of U.S. parent companies, to monitor the activities of U.S. banking organizations in specific countries, and to develop a better understanding of activities within the industry, in general, and of individual institutions, in particular. The FR 2314 is the only source of comprehensive and systematic data on the assets, liabilities, and earnings of the foreign bank and nonbank subsidiaries of U.S. SMBs, BHCs, and Edge and agreement corporations.

*Current Actions:* The Federal Reserve proposes to revise the FR 2314 reporting instructions with respect to balances due from related organizations, to insure consistent reporting of unconsolidated subsidiaries. The revisions to the FR 2314 would be effective as of the March 31, 2005, report date.

Board of Governors of the Federal Reserve System, October 19, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04–23787 Filed 10–22–04; 8:45 am]

**BILLING CODE: 6210–01–S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Solicitation of Nominations for Membership on the Secretary's Advisory Committee on Human Research Protections

**AGENCY:** Department of Health and Human Services (HHS), Office of the Secretary, Office of Public Health and Science.

**ACTION:** Notice.

**Authority:** 42 U.S.C. 217a, Section 222 of the Public Health Service (PHS) Act, as amended. The Committee is governed by the provisions of Pub. L. 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory committees.

**SUMMARY:** The Office for Human Research Protections (OHRP), a program office within the Office of Public Health and Science, HHS, is seeking nominations of qualified candidates to be considered for appointment as a member of the Secretary's Advisory Committee on Human Research Protections (SACHRP). SACHRP was established by the Secretary of Health and Human Services on October 1, 2002. The Committee provides advice and recommendations to the Secretary of Health and Human Services and the Assistant Secretary for Health on matters pertaining to the continuance and improvement of functions within the authority of the Department directed toward protections for human subjects in research. Individuals selected to serve as members of the Committee are appointed by the Secretary.

The terms of three Committee members are scheduled to end in January 2005. OHRP is seeking applications of qualified candidates to nominate for appointment to the Committee to fill the pending vacancies.

**DATES:** Nominations for membership on the Committee must be received no later than 5 p.m. e.s.t. on November 19, 2004, at the address listed below.

**ADDRESSES:** Dr. Bernard Schwetz, Director, Office for Human Research Protections, Department of Health and Human Services, 1101 Wootton Parkway, Suite 200; Rockville, MD 20852. Nominations will not be accepted by either e-mail or facsimile.

**FOR FURTHER INFORMATION CONTACT:** Ms. Catherine Slatinshek, Executive Director, SACHRP, Office for Human Research Protections, 1101 Wootton Parkway, Suite 200, Rockville, MD 20852. Telephone: 1–301–496–7005.

A copy of the Committee charter and list of the current membership can be obtained by contacting Ms. Slatinshek or by accessing the SACHRP Web site, *sachrp@osophs.dhhs.gov.*

**SUPPLEMENTARY INFORMATION:**

1. The Committee shall advise on matters pertaining to the continuance and improvement of functions within the authority of HHS directed toward protections for human subjects in research. Specifically, the Committee will provide advice relating to the responsible conduct of research involving human subjects with particular emphasis on: Special populations, such as neonates and children, prisoners, and the decisionally impaired; pregnant women, embryos, and fetuses; individuals and populations in international studies; populations in which there are individually identifiable samples, data, or information; and investigator conflicts of interest.

In addition, the Committee is responsible for reviewing selected ongoing work and planned activities of the OHRP and other offices/agencies within HHS responsible for human subjects protection. These evaluations may include but are not limited to a review of assurance systems, the application of minimal research risk standards, the granting of waivers, education programs sponsored by OHRP, and the ongoing monitoring and oversight of institutional review boards (IRBs) and the institutions that sponsor research.

2. Nominations. Nominations of potential candidates for consideration are being sought from a wide array of career fields, including but not limited to: Public health and medicine; behavioral and social sciences; health administration; biomedical ethics. To qualify for consideration of appointment to the Committee, an individual must possess demonstrated experience and expertise in any of the several disciplines and fields pertinent to human subjects protection and/or clinical research.

An individual selected for appointment to the Committee will serve as a voting member. An individual selected for appointment to the Committee can be invited to serve a term of up to four years. Committee members receive a stipend for attending Committee meetings and conducting other business in the interest of the Committee, including per diem and reimbursement for travel expenses incurred.

Nominations should be typewritten. The following information should be included in the package of material submitted for each individual being

nominated for consideration: (1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (i.e., specific attributes which qualify the nominee for service in this capacity), and a statement that the nominee is willing to serve as a member of the Committee; (2) the nominator's name, address and daytime telephone number, and the home and/or work address, telephone number, and email address of the individual being nominated; and (3) a current copy of the nominee's curriculum vitae. The names of Federal employees should not be nominated for consideration of appointment to this Committee.

The Department makes every effort to ensure that the membership of HHS Federal advisory committees is fairly balanced in terms of points of view represented and the committee's function. Every effort is made to ensure that a broad representation of geographic areas, females, ethnic and minority groups, and the disabled are given consideration for membership on HHS Federal advisory committees. Appointment to this Committee shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status. Nominations must state that the nominee is willing to serve as a member of SACHRP and appears to have no conflict of interest that would preclude membership. Potential candidates are required to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts to permit evaluation of possible sources of conflict of interest.

Dated: October 19, 2004.

**Bernard A. Schwetz,**

*Executive Secretary, Secretary's Advisory Committee on Human Research Protections, Director, Office for Human Research Protections.*

[FR Doc. 04–23764 Filed 10–22–04; 8:45 am]

BILLING CODE 4150–36–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60Day–05AA]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–498–1210 or send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–E11, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

**Proposed Project**

EHDI Hearing Screening and Follow-up Survey—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

*Background and brief description:* CDC, National Center on Birth Defects and Developmental Disabilities promotes the health of babies, children, and adults with disabilities. As part of the mission of CDC, the National Center on Birth Defects and Developmental Disabilities is actively involved in addressing hearing loss (HL) among newborns and infants. HL is a common birth defect that affects approximately 12,000 infants each year and, when left undetected, can result in developmental delays. As awareness about infant HL increases, so does the demand for accurate information about rates of screening, referral, loss to follow-up, and incidence. This information is important for helping to ensure infants and children are receiving recommended screening and follow-up services, documenting the occurrence and etiology of differing degrees of HL among infants, and determining the overall impact of infant HL on future outcomes, such as cognitive development, and family dynamics. These data will also assist state EHDI programs with quality improvement activities and provide information that will be helpful in assessing the impact of Federal initiatives. The public will be able to access this information via the CDC–EHDI Web site *http://www.cdc.gov/ncbddd/ehdi/*.

Given the lack of a standardized and readily accessible source of data, CDC's Early Hearing Detection and Intervention (EHDI) program has developed a survey to be used annually that utilizes uniform definitions to collect aggregate, standardized EHDI data from states and territories. This survey is based on a form developed by the Directors of Speech and Hearing Programs in State Health and Welfare Agencies (DSHPSHWA), which is a nongovernmental agency that gave CDC–EHDI permission to use their survey form. After year 2004, DSHPSHWA no longer plans to disseminate this or any other EHDI-related data collection form. There are no costs to respondents other than their time.

ANNUALIZED BURDEN TABLE

| Respondents | Number of respondents | Number of responses per respondent | Average burden per response (in hrs.) | Total burden hours |
|---|---|---|---|---|
| State and territory EHDI Program Coordinators | 53 | 1 | 4 | 212 |
| Total | | | | 212 |

Dated: October 18, 2004.

**Alvin Hall,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 04–23813 Filed 10–22–04; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Iowa Ordnance Plant

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice.

**SUMMARY:** The Department of Health and Human Services gives notice of a decision to evaluate a petition to designate a class of employees at the Iowa Ordnance Plant, also known as the Iowa Army Ammunition Plant, in Burlington, Iowa to be included in the Special Exposure Cohort under the Energy Employees Occupational Illness Compensation Program Act of 2000. The initial proposed definition for the class being evaluated, subject to revision as warranted by the evaluation, is as follows:

*Facility:* Iowa Ordnance Plant, Burlington, Iowa.

*Locations:* Line 1 (which includes Yard C, Yard G, Yard L, Firing Site Area, Burning Field ''B'', and Storage Sites for Pits and Weapons including Buildings 73 and 77).

*Job Titles and/or Job Duties:* All Technicians (Laboratory, Health Physics, Chemical, X-ray, etc.), Production Personnel (hourly and salaried), Engineers, Inspectors, Safety Personnel, Physical Security Personnel, and Maintenance Persons. Period of Employment: 1947–1974.

**FOR FURTHER INFORMATION CONTACT:** Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: October 18, 2004.

**James D. Seligman,**

*Associate Director for Program Services, Centers for Disease Control and Prevention.*

[FR Doc. 04–23814 Filed 10–22–04; 8:45 am]

**BILLING CODE 4163–19–M**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Public Health Service

### National Toxicology Program; Call for Additional Public Comments on 21 Substances, Mixtures and Exposure Circumstances Proposed for Review for Listing or Changing the Current Listing in the Report on Carcinogens, Twelfth Edition

#### Background

The National Toxicology Program (NTP) initially announced its intent to review additional agents, substances, mixtures and exposure circumstances for possible listing or changing the current listing in the Report on Carcinogens (RoC), Twelfth Edition in a May 19, 2004 **Federal Register** notice (69 FR 28940 (May 19, 2004)). Based on some of the comments received in response to this notice, the NTP is concerned that there might have been confusion about the procedures that will be used for review of nominations to the 12th RoC. A detailed description of the current review procedures, including the steps in the formal review process, is available on the Web at *http://ntp-server.niehs.nih.gov* (select on Report on Carcinogens) or can be obtained by contacting: Dr. C.W. Jameson, National Toxicology Program, Report on Carcinogens, 79 Alexander Drive, Building 4401, Room 3118, PO Box 12233, Research Triangle Park, NC 27709; phone: (919) 541–4096, fax: (919) 541–0144, e-mail: *jameson@niehs.nih.gov.*

#### Public Comment Requested

Because of the possibility of confusion over the review procedures for the 12th RoC nominations, additional comments concerning the nominations for listing or changing the current listing in the 12th RoC will be accepted by the NTP for a period of 30 days from the publication date of this announcement in the **Federal Register**. The following table identifies the 21 nominations the NTP may consider for review in 2004 or 2005, as either a new listing in or changing the current listing in the 12th RoC. These nominations are provided with their Chemical Abstracts Services (CAS) Registry numbers (where available) and pending review action. Additional nominations for the 12th RoC or modifications to the nominations in the attached table may be identified and would be announced in future **Federal Register** notices. The NTP solicits public input on these 21 nominations and asks for relevant information concerning their carcinogenesis, as well as current production data, use patterns, or human exposure information. The NTP also invites interested parties to identify any scientific issues related to the listing of a specific nomination in the RoC that they feel should be addressed during the reviews.

Individuals who submitted comments in response to the May 19, 2004 **Federal Register** (69 FR 28940 (May 19, 2004)) that initially announced the 12th RoC nominations need not re-submit their comments as they are already part of the public record. Individuals submitting new or additional public comments are asked to include relevant contact information (name, affiliation (if any), address, telephone, fax, and e-mail). Comments or questions should be directed to Dr. C.W. Jameson at the address listed above.

#### Additional Nominations Encouraged

The NTP solicits and encourages the broadest participation from interested individuals or parties in nominating agents, substances, or mixtures for review for the Twelfth and future RoCs. Nominations should contain a rationale for review. Appropriate background information and relevant data (*e.g.*, journal articles, NTP Technical Reports, IARC listings, exposure surveys, release inventories, etc.), which support the review of a nomination, should be provided or referenced when possible. Contact information for the nominator should also be included (name, affiliation (if any), address, telephone, fax, and email). Nominations should be sent to Dr. Jameson's attention at the address given above.

Dated: October 15, 2004.

**Samuel Wilson,**

*Deputy Director, National Institute of Environmental Health Sciences.*

SUMMARY FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TO BE REVIEWED IN 2004–2005 FOR POSSIBLE LISTING THE REPORT ON CARCINOGENS, TWELFTH EDITION

| Nomination to be reviewed/CAS number | Primary uses or exposures | Nominated by | Basis for nomination |
|---|---|---|---|
| Aristolochia-Related Herbal Remedies. | Several Aristolochia species (notably A. contorta, A. debilis, A. fangchi and A. manshuriensis) have been used in traditional Chinese medicine as anti-rheumatics, as diruretics, in the treatment of edema and for other conditions such as hemorrhoids, coughs and asthma. | NIEHS [1] | Herbal remedies containing the plant genus Aristolochia: IARC [2] finding evidence of carcinogenicity in humans (Vol. 83, 2002). |
| Aristolochic Acid | Aristolochic acid, the principle extract from Aristolochia, is a mixture of nitrophenanthrene carboxylic acids. | NIEHS [1] | Naturally occurring mixtures of aristolochic acids: IARC [2] finding of sufficient evidence of carcinogenicity in animals and limited evidence in humans (Vol. 83, 2002). |
| Asphalt fumes | Asphalt is a petroleum product used in paving and roofing operations. Asphalt fumes are a cloud of small particles generated from the gaseous state after volatilization of asphalt aggregates. | John Schelp of NAACP–Durham Chapter. | Human epidemiological studies have reported an increased risk in lung cancer among workers exposed to asphalt fumes and asphalt fumes caused skin tumors in experimental animals. Additionally, known human carcinogens (PAHs) have been found in asphalt fumes. |
| Atrazine (192–24–9) | Atrazine is an herbicide used to control grass and broad-leaved weeks. Atrazine has been detected at levels that exceeded or approached the MCL for atrazine in 200 community surface drinking water systems. | NIEHS [1] | IARC [2] finding of sufficient evidence of carcinogenicity in animals (Vol. 73, 1999). |
| Benzofuran (271–89–6) | Benzofuran is produced by isolation from coal-tar oils. Benzofuran is used in the manufacture of coumarone-indene resins, which harden when heated and are used to make floor titles and other products. | NIEHS [1] | Results of a NTP bioassay (TR 370, 1989), which reported clear evidence of carinogenicity in male and female mice and some evidence of carcinogenicity in female rats. |
| Captafol (2425–06–01) | Captafol is a fungicide that has been widely used since 1961 for the control of fungal diseases in fruits, vegetables and some other plants. Use of captafol in the United States was banned in 1999. | NIEHS [1] | IARC [2] finding of sufficient evidence of carcinogenicity in animals (Vol. 53, 1991). IARC also noted that captafol is positive in many genetic assays, including the in-vivo assay for dominant lethal mutation. |
| Cobalt/Tungsten-Carbide Hard Metal Manufacturing. | Hard-metals are manufactured by a process of powder metallurgy from tungsten and carbon (tungsten carbide), and small amounts of other metallic compounds using cobalt as a binder. Hard metals are used to make cutting and grinding tools, dies, and wear products for a broad spectrum of industries including oil and gas drilling, and mining. | NIEHS [1] | Recent human cancer studies on the hard metal manufacturing industry showing an association between exposure to hard metals (cobalt tungsten-carbide) and lung cancer. |
| Di (2-Ethylhexyl) phthalate (DEHP) (117–81–7). | DEHP is mainly used as a plasticizer in polyvinyl chloride (PVC) resins for fabricating flexible vinyl products. PVC resins have been used to manufacture toys, dolls, vinyl upholstery, tablecloths and many other products. | Jun Ki-Chul, President of Aekyung Petrochemical Co., LTD of Seoul, Korea (for delisting). | Currently listed in the RoC as reasonably anticipated to be a human carcinogen.<br>IARC reclassification as not classifiable as to its carcinogenicity to humans (Group 3) (Vol. 73, 2000). IARC stated that there was sufficient evidence for the carcinogenicity in experimental animals; however, the mechanism for liver tumor involves peroxisome proliferation that is not relevant to humans. |
| Etoposide in combination with cisplatin and bleomycin. | Etoposide in combination with cisplating and bleomycin is used to treat testicular germ cell cancers. | NIEHS [1] | IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 76, 2000). |
| Etoposide (33419–42–0). | Etoposide is a DNA topoisomerase II inhibitor used in chemotherapy for non-Hodgkin's lyumphoma, small-cell lung cancer, testicular cancer, lymphomas and a variety of childhood malignancies. | NIEHS [1] | IARC [2] finding of limited evidence of carcinogenicity in humans (Vol. 76, 2000). |

SUMMARY FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TO BE REVIEWED IN 2004–2005 FOR POSSIBLE LISTING THE REPORT ON CARCINOGENS, TWELFTH EDITION—Continued

| Nomination to be reviewed/CAS number | Primary uses or exposures | Nominated by | Basis for nomination |
|---|---|---|---|
| Glass wool (respirable size): Two nominations:<br>(1) Insulation glass wool fibers.<br>(2) Special purposes glass fibers. | The major uses of glass wool are in thermal, electrical, and acoustical insulation, weatherproofing, and filtration media. In 1980, approximately 80% of the glass wool produced for structural insulation was used in houses. Special purpose fibers are used for high-efficiency air filtration media, and acid battery separators. | North American Insulation Manufacturers Association nominated glass wool (respirable size) for delisting.<br>Special purpose glass wool fibers: NIEHS [1]. | Glass wool (respirable size) is currently listed in the RoC as reasonably anticipated to be a human carcinogen.<br>Insulation glass wool: IARC [2] finding of limited evidence of carcinogenicity in animals and evaluation as not classifiable as to its carcinogenicity to humans (Group 3) (Vol. 81, 2002).<br>Special-purpose glass fibers: IARC [2] finding of sufficient evidence of carcinogenicity in animals (Vol. 81, 2002). |
| Metalworking Fluids ..... | Metal working fluids are complex mixtures that may contain mixtures of oil, emulsifiers, anti-weld agents, corrosion inhibitors, extreme pressure additives, buffers biocides and other additives. They are used to cool and lubricate tools and working surfaces in a variety of industrial machining and grinding operations. | NIEHS [1] ..... | Recent human cancer studies of metal working fluid that show an association between exposure to these materials and cancer at several tissue sites. |
| otho-Nitrotolume (88–72–2). | ortho-Nitrotoluene is used to synthesize agricultural and rubber chemicals, azo and sulfur dyes, and dyes for cotton, wool, silk, leather, and paper. | NIEHS [1] ..... | Results of a NTP bioassay (TR 504, 2002), which reported clear evidence of carcinogenicity in rats and mice. |
| Oxazepam (604–75–1) | Oxazepam is a benzodiazepine used extensively since the 1960s for the treatment of anxiety and insomnia and in the control of symptoms of alcohol withdrawal. | NIEHS [1] ..... | Results of a NTP bioassay (TR 443, 1993), which reported clear evidence of carcinogenicity in male and female mice. |
| Riddelliine (23246–96–0). | Riddelliine is found in class of plants growing in western US. Cattle, horses and sheep ingest these toxic plants. Residues have been found in milk and honey. | NIEHS [1] ..... | Results of a NTP bioassay (TR 508, 2003), which reported clear evidence of carcinogenicity in male and female rats and mice. |
| Styrene (100–42–5) ..... | Styrene is used in the production of polystyrene, acrylonitrile-butadiene-styreen resins, styrene-butadiene rubbers and latexes, and unsaturated polystyrene resins. | Lorenzo Tomatis ..... | IARC [2] finding of limited evidence of carcinogenicity in animals and limited evidence of carcinogenicity in humans (Vol. 82, 2002). |
| Talc—Two nominations<br>(1) Cosmetic talc<br>Occupational exposure to talc | Talc occurs in various geological settings around the world. Exposure to general population occurs through use of products such as cosmetics. Occupational exposure occurs during mining, milling and processing. | NIEHS [1] ..... | The NTP deferred consideration of listing talc (asbestiform and non-asbestiform talc) in the 20th RoC because its 2000 review of talc found confusion in the scientific literature over the mineral nature of talc. Given the confusion over defining exposure to talc based on asbestiform fibers, the NTP has decided that the most appropriate approach would be to characterize talc exposure as cosmetic talc and occupational exposure to talc. The basis for the review of talc is as follows:<br>Cosmetic talc: Human epidemiological studies reporting an increased risk of ovarian cancer among women using talc for personal use.<br>Occupational exposure to talc: Human epidemiological studies reporting an increase risk of cancer among workers exposed to talc. |
| Teniposide (29767–20–2). | Teniposide is a DNA topoisomerase II inhibitors used mainly in the treatment of adult and childhood leukemia. | NIEHS [1] ..... | IARC [2] finding of limited evidence of carcinogenicity in humans (Vol. 76, 2000). |

SUMMARY FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TO BE REVIEWED IN 2004–2005 FOR POSSIBLE LISTING THE REPORT ON CARCINOGENS, TWELFTH EDITION—Continued

| Nomination to be reviewed/CAS number | Primary uses or exposures | Nominated by | Basis for nomination |
|---|---|---|---|
| Vinyl Mono-Halides as a class. | Vinyl halides are used in the production of polymers and copolymers. Vinyl bromide is mainly used in polymers as a flame retardant and in the production of monoacrylic fibers for carpet-backing materials. Vinyl Chloride is used to produced polyvinyl chloride and copolymers. Vinyl Fluoride is used in the production of polyvinyl fluoride, which when laminated with aluminum, steel and other materials is used as a protective surface for the exteriors of residential and commercial buildings. | NIEHS [1] ..... | Vinyl Fluoride and Vinyl Bromide are currently listed in the RoC as reasonably anticipated to be a human carcinogen and Vinyl Chloride is currently listed in the RoC as known to be a human carcinogen in the Reports on Carcinogens.<br>Vinyl Mono-Halides: Structural similarities and common mechanisms of tumor formation. |

[1] The National Institute of Environmental Health Sciences (NIEHS).
[2] International Agency for Research on Cancer (IARC).

[FR Doc. 04–23788 Filed 10–22–04; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Notice of Cancellation of Customs Broker License

**AGENCY:** Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker licenses are canceled with prejudice.

| Name | License No. | Issuing port |
|---|---|---|
| International Customs Brokers. | 13684 | Houston. |
| Diana M. Cachia ..... | 05635 | New York. |

Dated: October 8, 2004.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

[FR Doc. 04–23806 Filed 10–22–04; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Notice of Cancellation of Customs Broker License

**AGENCY:** Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license is canceled without prejudice.

| Name | License No. | Issuing port |
|---|---|---|
| J.E. Lowden & Co. ... | 05118 | San Francisco. |

Dated: October 8, 2004.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

[FR Doc. 04–23807 Filed 10–22–04; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Cancellation of Customs Broker License Due to Death of the License Holder

**AGENCY:** Bureau of Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** Notice is hereby given that, pursuant to Title 19 of the Code of Federal Regulations § 111.51(a), the following individual Customs broker license and any and all permits have been cancelled due to the death of the broker:

| Name | License No. | Port name |
|---|---|---|
| Richard J. Oates ..... | 05109 | Mobile |

Dated: October 8, 2004.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

[FR Doc. 04–23808 Filed 10–22–04; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF HOMELAND SECURITY

### Bureau of Customs and Border Protection

### Notice of Cancellation of Customs Broker National Permit

**AGENCY:** Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

**ACTION:** General Notice.

**SUMMARY:** Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker national permits are canceled without prejudice.

| Name | Permit No. | Issuing port |
|---|---|---|
| J.E. Lowden & Co. | 99–00190 | Headquarters. |
| Word Asia Logistics, Inc. | 99–00281 | Headquarters. |

Dated: October 8, 2004.

**Jayson P. Ahern,**

*Assistant Commissioner, Office of Field Operations.*

[FR Doc. 04–23805 Filed 10–22–04; 8:45 am]

**BILLING CODE 4820–02–P**

## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

### Notice of Adjustment of the Coverage Amount Under the Group Flood Insurance Program (GFIP), for Policies Issued for Disasters Declared on or Before October 14, 2002

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

**ACTION:** Notice.

**SUMMARY:** FEMA gives notice that the coverage amount for Group Flood Insurance Policies issued by the Individual and Family Grant (IFG) program for disasters declared on or before October 14, 2002 is increased.

**DATES:** Effective October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Berl Jones, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–4235.

**SUPPLEMENTARY INFORMATION:** 44 CFR 61.17 sets the amount of coverage under the GFIP. Although the current version of § 61.17 sets this amount as equivalent to the maximum grant amount established under section 408 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (the Stafford Act) (42 U.S.C. 5174,) prior to October 15, 2002, this regulation set the amount of coverage as equivalent to the maximum grant amount under the Individual and Family Grant (IFG) program under section 411 of the Stafford Act (42 U.S.C. 5178) *see* 67 FR 61462, Sept. 30, 2002. Section 411 was repealed as of October 15, 2002. Because FEMA's policy is to apply regulations in force on the date of a disaster declaration to all assistance provided during that disaster (which in this case is also the time that the policies were issued), we will set the coverage for GFIP based upon the same criteria used to adjust the maximum IFG grant amount under section 411 for GFIP polices issued for those disasters declared prior to the repeal of section 411. Since section 411 has been repealed, this adjustment is made solely for purposes of establishing the GFIP coverage amount for policies issued for disasters declared on or before October 14, 2002.

The Stafford Act prescribed that grants made under section 411, IFG program, shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor. If the IFG program were still in effect, the maximum grant amount for the IFG program under section 411 of the Act would have been increased to $15,800 for fiscal year 2005. As a result, the coverage amount for GFIP is adjusted to $15,800.

FEMA bases the adjustments on an increase in the Consumer Price Index for All Urban Consumers of 2.7 percent for the 12-month period that ended in August 2004. The Bureau of Labor Statistics of the U.S. Department of Labor released the information on September 16, 2004.

(Catalog of Federal Domestic Assistance No. 97.035, Individual and Family Grant Program)

Dated: October 18, 2004.

**Michael D. Brown,**

*Under Secretary, Emergency Preparedness and Response, Department of Homeland Security.*

[FR Doc. 04–23825 Filed 10–22–04; 8:45 am]

**BILLING CODE 9110–10–P**

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

### Agency Information Collection Activities: Comment Request

**ACTION:** 30-Day Notice of information collection under review; National Interest Waivers; supplemental evidence to I–140 and I–485; OMB–22.

The Department of Homeland Security, U.S. Citizenship and Immigrations Services (CIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on January 13, 2004 at 69 FR 1989, allowed a 60-day public comment period. No comments were received by the CIS on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until November 24, 2004. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

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

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

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

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

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* National Interest Waivers; Supplemental Evidence to I–140 and I–485.

(3) *Agency Form Number, If Any, and the Applicable Component of the Department of Homeland Security Sponsoring the Collection:* No Agency Form Number; File No. OMB–22. U.S. Citizenship and Immigration Services.

(4) *Affected Public Who Will Be Asked or Required to Respond, as Well as a Brief Abstract:* Primary: Individuals or Households. The U.S. Citizenship and Immigration Services will use information collected via the supplemental documentation to determine the eligibility of requests for national interest waivers, and to finalize requests to adjust the lawful permanent resident status.

(5) *An Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:* 8,000 responses at one (1) hour per response.

(6) *An Estimate of the Total Public Burden (in Hours) Associated With the Collection:* 8,000 annual burden hours.

If you have comments, suggestions, or need a copy of the information collection instrument with instructions, please contact Mr. Richard A. Sloan, Director, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security, 111 Massachusetts

Avenue, NW., Washington, DC 20529. Additionally, comments and/or suggestions regarding the estimated public burden and associated response time may also be directed to Richard A. Sloan.

Dated: October 20, 2004.

**Richard A. Sloan,**

*Director, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 04–23850 Filed 10–25–04; 8:45 am]

**BILLING CODE 4410–10–M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4903–N–84]**

### Notice of Submission of Proposed Information Collection to OMB; Compliance Inspection Report Mortgagee's Assurance of Completion

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

This is a request for approval to continue a currently approved information collection. Information provided by the Compliance Inspection Report states the status of repair requirements on proposed construction cases. This report becomes part of the case file and a copy is provided to the lender. The Mortgagee's Assurance of Completion assures HUD that the items set forth in the inspection report will be completed by the required date stated.

**DATES:** *Comments Due Date:* November 24, 2004.

**ADDRESSES:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0189) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

**FOR FURTHER INFORMATION CONTACT:** Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov*; or Lillian Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins or Ms Deitzer and at HUD's Web site at *http://www5.hud.gov:63001/po/i/icbts/collectionsearch.cfm.*

**SUPPLEMENTARY INFORMATION:** This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses. This notice also lists the following information:

*Title of Proposal:* Compliance Inspection Report/Mortgagee's Assurance of Completion.

*OMB Approval Number:* 2502–0189.

*Form Numbers:* HUD–92501 and HUD–92300.

*Description of the Need for the Information and its Proposed Use:* Information provided by the Compliance Inspection Report states the status of repair requirements on proposed construction cases. This report becomes part of the case file and a copy is provided to the lender. The Mortgagee's Assurance of Completion assures HUD that the items set forth in the inspection report will be completed by the required date stated.

*Frequency of Submission:* On occasion.

| | Number of respondents | Annual responses | × | Hours per response | = | Burden hours |
|---|---|---|---|---|---|---|
| Reporting Burden | 24,200 | 765,600 | | 0.25 | | 191,400 |

*Total Estimated Burden Hours:* 191,400.

*Status:* Extension of a currently approved collection.

*Authority:* Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 14, 2004.

**Wayne Eddins,**

*Departmental Reports Management Officer, Office of the Chief Information Officer.*

[FR Doc. E4–2807 Filed 10–22–04; 8:45 am]

**BILLING CODE 4210–72–P**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

**[Docket No. FR–4922–N–03]**

### Privacy Act of 1974; Notice of Matching Program: Matching Tenant Data in Assisted Housing Programs

**AGENCY:** Office of the Chief Information Officer, HUD.

**ACTION:** Notice of a computer matching program between the Department of Housing and Urban Development (HUD) and the Office of Personnel Management (OPM).

**SUMMARY:** Pursuant to the Computer Matching and Privacy Protection Act of 1988, as amended, and the Office of Management and Budget's (OMB) Guidance on the statute, HUD is updating its notice of a matching program involving comparisons between income data provided by applicants or participants in HUD's assisted housing programs and independent sources of income information. The matching program will be carried out to detect inappropriate (excessive or insufficient) housing assistance under the National Housing Act, the United States Housing Act of 1937, section 101 of the Housing and Community Development Act of 1965, the Native American Housing Assistance and Self-Determination Act of 1996, and the Quality Housing and Work Responsibility Act of 1998. The program provides for the verification of the matching results and the initiation

of appropriate administrative or legal actions.

This notice supplements the overview of computer matching for HUD's assisted housing programs published in the **Federal Register** on March 9, 2004 (69 FR 11033). The March notice describes HUD's program for computer matching of its tenant data to: (a) The Social Security Administration's (SSA's) earned income and the Internal Revenue Service's (IRS's) unearned income data, (b) SSA's wage, social security, supplemental security income and special veterans benefits data, (c) State Wage Information Collection Agencies' (SWICAs') wage and unemployment benefit claim information. This notice describes HUD's program for computer matching of its tenant data to OPM's personnel data.

**DATES:** *Effective Date:* Computer matching is expected to begin November 24, 2004 unless comments are received which will result in a contrary determination, or 40 days from the date a computer matching agreement is signed, whichever is later.

*Comments Due Date:* November 24, 2004.

**ADDRESSES:** Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

**FOR FURTHER INFORMATION CONTACT:** For Privacy Act: Jeanette Smith, Departmental Privacy Act Officer, Room P8001, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410—telephone number (202) 708–2374. A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 1–800–877–8339 (Federal Information Relay Service).

For further information from recipient agency: Bryan Saddler, Counsel to the Inspector General, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 8260, Washington, DC 20410–4500, (202) 708–1613.

**SUPPLEMENTARY INFORMATION:** The Computer Matching and Privacy Protection Act (CMPPA) of 1988, an amendment to the Privacy Act of 1974 (5 U.S.C. 552a), OMB's guidance on this statute entitled ''Final Guidance Interpreting the Provisions of Public Law 100–503, the CMPPA of 1988'' (OMB Guidance), and OMB Circular No. A–130 requires publication of notices of computer matching programs. Appendix I to OMB's Revision of Circular No. A–130, ''Transmittal Memorandum No. 4, Management of Federal Information Resources,'' prescribes federal agency responsibilities for maintaining records about individuals. In compliance with the CMPPA and Appendix I to OMB Circular No. A–130, copies of this notice are being provided to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and OMB's Office of Information and Regulatory Affairs.

## I. Authority

This matching program is being conducted pursuant to sections 3003 and 13403 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103–66, approved August 10, 1993); section 542(b) of the 1998 Appropriations Act (Pub. L. 105–65); section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544); section 165 of the Housing and Community Development Act of 1987 (42 U.S.C. 3543); the National Housing Act (12 U.S.C. 1701–1750g); the United States Housing Act of 1937 (42 U.S.C. 1437–1437z); section 101 of the Housing and Community Development Act of 1965 (12 U.S.C. 1701s); the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and the Quality Housing and Work Responsibility Act of 1998 (42 U.S.C. 1437a(f)); the Inspector General Act of 1978 (5 U.S.C. App. 3); and 65 FR 24732 and 64 FR 54930.

The Omnibus Budget Reconciliation Act of 1993 (Budget Reconciliation Act) authorizes HUD to request from the SSA and the IRS federal tax information as prescribed in section 6103(l)(7) of title 26 of the United States Code (Internal Revenue Code). Section 542(b) of HUD's 1998 Appropriation Act (Pub. L. 105–65; October 27, 1997) eliminated a September 30, 1998, sunset provision to 26 U.S.C. 6103(l)(7)(D)(ix) of the Internal Revenue Code, effectively making permanent the authority for SSA and IRS disclosures of federal tax information to HUD.

Section 3003 of the Budget Reconciliation Act authorizes HUD to require applicants and participants in assisted housing programs sign a consent form authorizing the Secretary of HUD to request that the Commissioner of Social Security and the Secretary of the Treasury release the federal tax information. The final rule regarding participants' consent to the release of information was published by HUD in the **Federal Register** on March 20, 1995 (61 FR 11112).

The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 authorizes HUD and Public Housing Agencies (but not private owners/management agents for subsidized multifamily projects (hereafter collectively referred to as ''POAs'')) to request wage and claim information from SWICAs responsible for administering state unemployment laws in order to undertake computer matching. This Act authorizes HUD to require applicants and participants to sign a consent form authorizing HUD or the POA to request wage and claim information from the SWICAs.

The Housing and Community Development Act of 1987 authorizes HUD to require applicants and participants (as well as members of their household six years of age and older) in HUD-administered programs involving rental assistance to disclose to HUD their social security numbers (SSNs) as a condition of initial or continuing eligibility for participation in the programs.

The Quality Housing and Work Responsibility Act of 1998 (QHWRA), section 508(d), 42 U.S.C. 1437a(f) authorizes the Secretary of HUD to require disclosure by the tenant to the public housing agency of income information received by the tenant from HUD as part of income verification procedures of HUD. The QHWRA was amended by Public Law 106–74, which extended the disclosure requirements to participants in section 8, section 202, and section 811 assistance programs. The participants are required to disclose the HUD-provided income information to owners responsible for determining the participants' eligibility or level of benefits.

The Inspector General Act authorizes the HUD Inspector General to undertake programs to detect and prevent fraud and abuse in all HUD programs.

The OPM's disclosure of income data on current and retired federal employees is authorized by subsection (b)(3) of the Privacy Act of 1974, 5 U.S.C. 552a(b)(3). The disclosures from the OPM/GOVT–1 system will be made pursuant to routine use ''hh'' and the disclosures from the OPM/Central-1 will be made pursuant to routine use ''s'' and ''ff.'' *See* 65 FR 24732 and 64 FR 54930, respectively. The routine uses permit disclosure to agencies to help eliminate fraud and abuse in federal benefits programs.

## II. Objectives To Be Met by the Matching Program

HUD's primary objective in implementing the computer matching program is to increase the availability of rental assistance to individuals who meet the requirements of the rental assistance programs. Other objectives include determining the appropriate level of rental assistance, and deterring and correcting abuse in assisted housing programs. In meeting these objectives HUD also is carrying out a responsibility under 42 U.S.C. 1437f(K) to ensure that income data provided to POAs by household members is complete and accurate.

HUD's various assisted housing programs, available through POAs, require that applicants meet certain income and other criteria to be eligible for rental assistance. In addition, tenants generally are required to report the amounts and sources of their income at least annually. However, under the QHWRA of 1998, public housing agencies may now offer tenants the option to pay a flat rent, or an income-based rent. Those tenants who select a flat rent will be required to recertify income at least every three years. In addition, the Changes to the Admissions and Occupancy Final Rule (March 29, 2000, 65 FR 16692) specified that household composition must be recertified annually for tenants who select a flat rent or income-based rent.

The matching program identifies tenants receiving inappropriate (excessive or insufficient) rental assistance resulting from under or over-reported household income. When excessive rental assistance amounts are identified, some tenants move out of assisted housing units; other tenants agree to repay excessive rental assistance. These actions may increase rental assistance or number of units available to serve other beneficiaries of HUD programs. When tenants continue to be eligible for rental assistance, but at a reduced level, the tenants will be required to increase their contributions toward rent.

## III. Program Description

This computer matching program, to the extent that it involves the use of SSA, IRS or SWICA data is fully described at 69 FR 11033. With respect to OPM data, the objectives of the matching program will be accomplished by comparing income data for individuals participating in HUD's assisted housing programs and subsidized multifamily housing programs with wage, unemployment, benefit, salary, and retirement data maintained by OPM in its systems of records known as the Central Personnel Data File (OPM/GOVT–1, General Personnel Records System), last published on April 27, 2000 (65 FR 24732); and the Annuity Roll Systems (OPM/Central-1, Civil Service Retirement and Insurance Records), last published as 64 FR 54930 (October 8, 1999), as amended on May 3, 2000 (65 FR 25775). Specifically, HUD will compare the OPM income data to tenant-reported income data included in HUD's systems of records known as the Tenant Assistance and Contract Verification Data (HUD/H–11) and the Public and Indian Housing Information Center (HUD/PIH–4). The notices for these systems were published at 65 FR 52777 and 67 FR 20986, respectively. The tenant income comparisons identify, based on criteria established by HUD, tenants whose incomes require further verification to determine if the tenants received appropriate levels of rental assistance.

### *A. Income Verification*

Any match (*i.e.*, a ''hit'') will be further reviewed by HUD, the POA, or the HUD Office of Inspector General (OIG) to determine whether the income reported by tenants to the POA is correct and complies with HUD and POA requirements. Specifically, current or prior wage information and other data will be sought directly from employers.

### *B. Administrative or Legal Actions*

Regarding all the matching described in this notice, HUD anticipates that POAs will take appropriate action in consultation with tenants to: (1) Resolve income disparities between tenant-reported and independent income source data, and (2) use correct income amounts in determining housing rental assistance.

POAs must compute the rent in full compliance with all applicable occupancy regulations. POAs must ensure that they use the correct income and correctly compute the rent.

The POAs may not suspend, terminate, reduce, or make a final denial of any housing assistance to any tenant as the result of information produced by this matching program until: (a) The tenant has received notice from the POA of its findings and informing the tenant of the opportunity to contest such findings and (b) either the notice period provided in applicable regulations of the program, or 30 days, whichever is later, has expired. In most cases, POAs will resolve income discrepancies in consultation with tenants.

Additionally, serious violations, which POAs, HUD Program staff, or HUD OIG verify, should be referred for full investigation and appropriate civil and/or criminal proceedings.

## IV. Records To Be Matched

This computer matching program, to the extent that it involves the use of SSA, IRS or SWICA data is fully described at 69 FR 11033. With respect to OPM data, the match will involve tenant records obtained directly from POAs and subsidized multifamily projects included in HUD/H–11, Tenant Assistance and Contract Verification Data and HUD/PIH–4, Public and Indian Housing Information Center Files (HUD/PIH–4). These records contain information about individuals who are participants in the federal low income and Section 8 housing assistance programs. The OPM will provide HUD with extract files from the OPM/GOVT–1 and OPM/Central-1 systems. The notice for these systems was published at 65 FR 24732 and 64 FR 54930, respectively. The disclosure from OPM/GOVT–1 will be made in accordance with routine use ''hh'' and the disclosure from OMP/Central-1 will be made in accordance with routine uses ''s'' and ''ff.'' HUD will match the tenant records to these OPM records on current and retired federal employees to compare tenant reported income.

The tenant records (one record for each family member) includes these data elements: (1) SSNs for each family member; (2) family control number to identify each tenant with a particular family; (3) Head of Household Indicator; (4) Last Name, First Name, Middle Initial, and Address for household; (5) Sex; (6) Birth Date; (7) Reported Income by source, description and amount; (8) Program Code; and (9) Recertification Date. For matched employees SSNs (*i.e.*, ''hits''), HUD will extract the following information from OPM/GOVT–1: SSN, Date of Birth, Name, Sex, Work schedule, Annual Salary, Location Code, Standard Metropolitan Statistical Area, Submitting Office Number (SON), Agency Code, and File Date. HUD will extract the following information from OPM/Central-1: File ID, SSN, Date of Birth, Sex, Last name, Annualized Salary, Annuity Commence Date, Pay Status, OPM Claim Number, Health Benefit Enrollment Code, Date of Death, Zip Code, Contact Address, and ''As of'' Date of File. In addition, HUD will use the SON Master File to obtain the address of the agencies so that employer verification letters can be sent to such agencies. This information includes: SON, Agency Code and sub-element,

SON name and address, zip code, and File Date.

**V. Period of the Match**

The computer matching program will be conducted according to agreements between HUD and the SSA, IRS, OPM, and SWICA. The computer matching agreements for the planned matches will terminate either when the purpose of the computer matching program is accomplished, or 18 months from the date the agreement is signed, whichever comes first.

The agreements may be extended for one 12-month period, with the mutual agreement of all involved parties, if the following conditions are met:

(1) Within 3 months of the expiration date, all Data Integrity Boards review the agreement, find that the program will be conducted without change, and find a continued favorable examination of benefit/cost results; and

(2) All parties certify that the program has been conducted in compliance with the agreement. The agreement may be terminated, prior to accomplishment of the computer matching purpose or 18 months from the date the agreement is signed (whichever comes first), by the mutual agreement of all involved parties within 30 days of written notice.

Dated: October 6, 2004.

**Carolyn Cockrell,**

*Acting Chief Technology Officer.*

[FR Doc. E4–2806 Filed 10–22–04; 8:45 am]

**BILLING CODE 4210–27–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Draft Revised Comprehensive Conservation Plan for Kodiak National Wildlife Refuge, Alaska

**AGENCY:** Fish and Wildlife Service, Department of the Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces that the Revised Draft Comprehensive Conservation Plan (Draft Conservation Plan) and Environmental Impact Statement for the Kodiak National Wildlife Refuge is available for review and comment. The Draft Conservation Plan was prepared pursuant to the Alaska National Interest Lands Conservation Act of 1980 (ANILCA; 16 U.S.C. 140hh–3233, 43 U.S.C. 1602–1784), the National Wildlife Refuge System Administration Act of 1966 (Refuge Administration Act) as amended by the National Wildlife Refuge System Improvement Act of 1997 (Refuge Improvement Act) (16 U.S.C. 668dd–668ee), and the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321–4347). Four alternatives for management of the Kodiak Refuge over the next 15 years, including continuing current management, are considered in the Draft Conservation Plan.

**DATES:** Comments on the Draft Conservation Plan must be received on or before January 24, 2005.

*Public Meetings:* Meetings will be held in Anchorage, the City of Kodiak, and in other local communities near the Refuge, as requested. Dates, times, and locations of these meetings will be announced at a later date and advertised in these communities, as appropriate.

**ADDRESSES:** To provide written comments or to request a paper copy or a compact diskette of the Draft Conservation Plan, contact Mikel Haase, Planning Team Leader, U.S. Fish and Wildlife Service, 1011 East Tudor Road, MS 231, Anchorage, Alaska, 99503–6199; telephone: (907) 786–3402; fax: (907) 786–3965. You may also access or download a copy of the Draft Conservation Plan at the following Web site: *http://alaska.fws.gov/planning.* Comments may be e-mailed to: *fw_kodiak_planning@fws.gov.*

Copies of the Draft Conservation Plan may be viewed at the Kodiak Refuge Office, 1390 Bushkin River Road, Kodiak, Alaska; local libraries, and the U.S. Fish and Wildlife Service Regional Office in Anchorage, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Mikel Haase at the above address or by phone at (907) 786–3402.

**SUPPLEMENTARY INFORMATION:** The Alaska National Interest Lands Conservation Act requires development of a conservation plan for all national wildlife refuges in Alaska. The Draft Conservation Plan for the Kodiak Refuge was developed consistent with Section 304(g) of ANILCA and the National Wildlife Refuge System Administration Act as amended by the National Wildlife Refuge System Improvement Act. Conservation plans provide refuge managers with a 15-year management strategy for achieving refuge purposes and contributing toward the mission of the National Wildlife Refuge System, consistent with sound principles of fish, wildlife, and habitat management and conservation; legal mandates; and Service policies. Plans define long-term goals and objectives toward which refuge management activities are directed and identify which uses may be compatible with the purposes of the refuge. They identify wildlife-dependent recreation opportunities available to the public, including hunting, fishing, wildlife observation and photography, and environmental education and interpretation. Conservation plans are updated in accordance with planning direction in Section 304(g) of ANILCA and with the National Environmental Policy Act.

*Background:* On August 19, 1941, President Franklin D. Roosevelt established the Kodiak National Wildlife Refuge by Executive Order 8857 ''for the purpose of protecting the natural feeding and breeding ranges of the brown bears and other wildlife on Uganik and Kodiak Islands.'' The Alaska Native Claims Settlement Act of 1971 allowed the conveyance of about 310,000 acres of Refuge land to Native village corporations.

On December 2, 1980, ANILCA added about 50,000 acres on Afognak and Ban islands to the Kodiak Refuge and stated that the Kodiak Refuge purposes include: To conserve fish and wildlife populations and habitats in their natural diversity; to fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats; to provide the opportunity to continued subsistence use by local residents; and to ensure water quality and necessary water quantity within the Refuge.

Since 1994, the Service has purchase fee title to nearly 174,000 acres, and conservation or nondevelopment easements have been acquired on more than 100,000 acres within the Refuge boundaries. Today, Refuge boundaries encompass nearly 1.8 million acres, of which nearly 1.64 million acres (92 percent) are under Service jurisdiction.

The original Kodiak conservation plan was completed in 1987. The plan was prepared following direction in Section 304(g) of ANILCA. The 1997 Refuge Improvement Act includes additional direction for conservation planning throughout the Refuge System. This direction has been incorporated into national planning policy for the Refuge System, including refuges in Alaska. This draft revision of the Kodiak conservation plan meets the requirements of both ANILCA and the Refuge Improvement Act.

Issues raised during scoping and addressed in this draft conservation plan are (1) how to manage public use, given limited access and projected growth in demand, to continue providing opportunities for appropriate and quality use while preventing significant impacts to Refuge resources; and (2) what types of bear-viewing opportunities should be available on the Refuge and how should these

opportunities be managed while protecting bears and their habitats.

This draft conservation plan identifies and evaluates four alternatives for managing the Kodiak Refuge for the next 15 years. These alternatives follow the same general management direction but provide different ways of addressing the issues.

*Alternative A:* Current Management: Management of the Refuge would continue to follow the 1987 conservation plan and record of decision as modified by subsequent step-down plans, including fisheries and public use management plans. Private and commercial uses of the refuge would continue at current levels. Refuge management would continue to reflect existing laws, executive orders, regulations, and policies governing Service administration and operation of the National Wildlife Refuge System. Regulations would be adopted to seasonally limit all public use (commercial users are restricted by stipulations placed on their special use permits) of nine bear-concentration areas; to close two bear-denning areas to snowmachine use; and to restrict camping near public use cabins and administrative facilities. Seven existing public use cabins would be maintained, two additional cabins would be constructed, and cabins on newly acquired lands would be managed for public use, if located on appropriate sites. Impacts at heavily used camping areas would be managed by restricting use through regulations. The seasonal closure to all users at O'Malley River would continue with no formal bear-viewing program. Refuge lands would continue to be managed under Moderate (44,627 acres) and Minimal (1,578,700 acres) management categories, with Special River Management as an option for rivers receiving higher levels of public use.

*Alternative B:* Much of the general management direction in Alternative A would continue, although some specific directions and actions occurring under current management would be altered or not pursued under this alternative. Clearer goals and objectives for increasing our knowledge of wildlife and habitat needs and relationships would be established. Public use monitoring would facilitate wildlife-dependent recreation, subsistence, and other traditional uses. None of the regulations proposed in Alternative A would be promulgated; voluntary guidelines for public use of bear-concentration areas would be developed. These guidelines would replace use restrictions on special use permits issued to commercial users. The number of public use cabins would be allowed to expand as demand increases, either by constructing new cabins or by managing cabins on newly acquired lands for public use. Food storage containers, latrines, temporary electric fences, and other minor improvements could be provided if needed at popular camping areas to reduce impacts. The O'Malley River closure would be modified to allow a guide operating under a refuge special use permit to operate a formal bear-viewing program. The permit would be awarded competitively. Refuge lands would continue to be managed in Moderate and Minimal management categories as in Alternative A. The Special River Management category would be eliminated.

*Alternative C:* Much of the general management direction in Alternative A would continue, although some specific directions and actions occurring under current management would be altered or not pursued in this alternative. As with Alternative B, clearer goals and objectives for increasing our knowledge of wildlife and habitat needs and relationships would be established. Public use monitoring would facilitate wildlife-dependent recreation, subsistence, and other traditional uses. Voluntary guidelines for public use of bear-concentration areas would be developed. These guidelines would replace use restrictions on special use permits issued to commercial users. Seasonal closure or day-use-only restrictions could be proposed for some bear-concentration areas, based on, on-going evaluation of the effectiveness of voluntary use guidelines in these areas. Two bear-denning area would be phased out over time. Impacts at heavily used camping areas would be managed by restricting use through regulations. Regulations would be adopted to restrict camping near public use cabins and administrative facilities. The O'Malley River closure would be modified to allow the Service, in cooperation with the Alaska Department of Fish and Game, to operate a formal bear-viewing program. Bear-viewing permits would be awarded to individuals by lottery. The Moderate Management category would be reduced by 11,192 acres; the acreage in Minimal Management would increase by an equivalent amount. The Special River Management category would be eliminated.

*Alternative D:* Preferred Alternative: Much of the general management direction in Alternative A would continue, although some specific directions and actions occurring under current management would be altered or not pursued in this alternative. As in Alternatives B and C, clearer goals and objectives for increasing our knowledge of wildlife and habitat needs and relationships would be established. Public use monitoring would facilitate wildlife-dependent recreation, subsistence, and other traditional uses. Voluntary guidelines for public use of bear-concentration areas would be developed. These guidelines would replace use restrictions on special use permits issued to commercial users. Day-use-only restrictions could be proposed for some bear-concentration areas based on, on-going evaluation of the effectiveness of voluntary use guidelines in these areas. One bear-denning area would be closed to snowmachine use by regulation. Seven public use cabins would be maintained, two additional cabins would be constructed, and cabins on newly acquired land would be managed for public use, if located on appropriate sites. Regulations would be adopted to restrict camping near public use cabins and administrative facilities. Food-storage containers, latrines, temporary electric fences, and other minor improvements could be provided if needed at popular camping areas to reduce impacts. The O'Malley River closure would be modified to allow a formal bear-viewing program combining agency-supervised use (allocated to the public by lottery) with guided use (offered to the public by qualified guides selected through a competitive process and operating under a Refuge special use permit). The Moderate Management category would be reduced by 30,946 acres; the acreage in Minimal Management would increase by an equivalent amount. The Special River Management category would be eliminated.

Dated: October 13, 2004.

**Rowan W. Gould,**

*Regional Director, Fish and Wildlife Service, Anchorage, Alaska.*

[FR Doc. 04–23832 Filed 10–22–04; 8:45 am]

BILLING CODE 4310–55–M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[CO–800–1120–PG–241A]**

### Notice of Public Comment Deadline Extension; Correction

**AGENCY:** Bureau of Land Management, Interior; Forest Service, Agriculture.

**ACTION:** Notice; correction.

**SUMMARY:** The Bureau of Land Management and Forest Service published a notice of public comment

deadline extension in the **Federal Register** of August 20, 2004. The document contained an incorrect date.

**Correction**

In the **Federal Register** of August 20, 2004, FR Vol. 69, No. 161, on page 51709, in the first column, under **SUPPLEMENTARY INFORMATION**, correct the first sentence in the last paragraph to read:

Written public comments will be accepted until November 30, 2004, and can also be mailed to Northern San Juan Basin CBM EIS, USDA FS Content Analysis Team, PO Box 221150, Salt Lake City, UT 84122.

**FOR FURTHER INFORMATION CONTACT:** Ann Bond, San Juan Public Lands Center, 15 Burnett Court, Durango, Colorado 81301. Phone (970) 385–1219.

Dated: October 18, 2004.

**Mark W. Stiles,**

*San Juan Public Lands Center Manager.*

[FR Doc. 04–23809 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–JB–P**

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[NV–930–1430–ET; NVN–75209; 4–08808]**

### Public Land Order No. 7619; Withdrawal of Public Land for the Paradise Peak Mine Site Reclamation; Nevada

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order withdraws 1,894.88 acres of public land from surface entry and mining, for a period of 10 years, for the Bureau of Land Management to protect public health and safety, as well as the reclamation efforts of land contaminated by previous mining operations at the Paradise Peak Mine Site.

**DATES:** Effective October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

**Order**

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (2000), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2 (2000)), but not from leasing under the mineral leasing laws, for the Bureau of Land Management to protect public health and safety, as well as the reclamation efforts of land contaminated by previous mining operations at the Paradise Peak Mine Site:

**Mount Diablo Meridian**

T. 10 N., R. 35 E.,
Sec. 1, lots 1, 8, 9, 16, 17, and E½SE¼.
T. 10 N., R. 36 E., Sec. 6;
Sec. 9, lots 1 to 3, inclusive, SW¼NE¼NE¼, SE¼NE¼, S½NE¼SW¼NE¼, N½SE¼SW¼NE¼, W½NW¼NE¼NW¼, SW¼NE¼NW¼, NW¼NW¼, N½SW¼NW¼, N½SE¼NW¼, SW¼SW¼NW¼, NE¼SE¼SW¼NW¼, NW¼SE¼SW¼NW¼, SW¼SE¼SW¼NW¼, NW¼NE¼NW¼SW¼, SW¼NE¼NW¼SW¼, SE¼NE¼NW¼SW¼, NW¼NW¼SW¼, S½ NW¼SW¼, SW¼SW¼, S½N½SE¼SW¼, and S½SE¼SW¼;
Sec. 10, NW¼SW¼, NE¼SW¼SW¼, N½NW¼SW¼SW¼, S½SW¼SW¼, and SE¼SW¼;
Sec. 15, N½;
Sec. 16, SE¼NE¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, SW¼SE¼NE¼, and E½SE¼NE¼.

The area described contains 1,894.88 acres in Nye County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 10 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (2000), the Secretary determines that the withdrawal shall be extended.

(Authority: 43 U.S.C. 1714(a); 43 CFR 2310.3–3(b)(1))

Dated: October 6, 2004.

**Rebecca W. Watson,**

*Assistant Secretary—Land and Minerals Management.*

[FR Doc. 04–23792 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–HC–P**

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of an extension of a currently approved information collection (OMB Control Number 1010–0061).

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart B—Indian Oil. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR Part 206. The previous title was ''Oil Transportation Allowances.'' The new title is ''30 CFR Part 206, Subpart B—Indian Oil, § 206.55—Determination of Transportation Allowances (Form MMS–4110, Oil Transportation Allowance Report).''

**DATES:** Submit written comments on or before November 24, 2004.

**ADDRESSES:** Submit written comments by either fax (202) 395–6566 or e-mail (*OIRA_Docket@omb.eop.gov*) directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0061). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov*. Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303)

231–3211, fax (303) 231–3781, e-mail *Sharron.Gebhardt@mms.gov.* You may also contact Sharron Gebhardt to obtain copies of the form and the regulations requiring the subject collection of information. There is no charge for these copies.

**SUPPLEMENTARY INFORMATION:** *Title:* 30 CFR Part 206, Subpart B—Indian Oil, § 206.55—Determination of Transportation Allowances (Form MMS–4110, Oil Transportation Allowance Report).

*OMB Control Number:* 1010–0061.

*Bureau Form Number:* Form MMS–4110.

*Abstract:* The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary, under the Mineral Leasing Act (30 U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility. Applicable citations of the laws pertaining to mineral leases on Indian lands include 25 U.S.C. 396d (Chapter 12—Lease, Sale, or Surrender of Allotted or Unallotted Lands); 25 U.S.C. 2103 (Indian Mineral Development Act of 1982); and Public Law 97–451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected. The MMS requires a response from the lessee in order to obtain the benefit of a transportation allowance on an Indian lease.

Transportation Allowances—Under certain circumstances, the regulations authorize lessees to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a sales point not in the immediate lease area. The MMS verifies transportation allowances during the product valuation verification to determine if the lessee reported and paid the proper royalty amount.

The MMS collects transportation allowance data on Form MMS–4110, Oil Transportation Allowance Report. The MMS and tribal personnel use the information collected on Form MMS–4110 to evaluate the reasonableness of allowances reported and claimed by lessees. To take a transportation deduction, lessees must submit Form MMS–4110 before or in the same month that they report the transportation allowance on Form MMS–2014, Report of Sales and Royalty Remittance (OMB Control Number 1010–0140, expiration date October 31, 2006).

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information may impact our ability to ascertain the reasonableness of the costs claimed for transportation allowances.

*Frequency:* Annually and on occasion.

*Estimated Number and Description of Respondents:* 6 Indian lessees.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 60 hours.

We base our calculations of the estimated burden hours on the reasonable expectation of 12 responses from 6 Indian lessees. We include reporting requirements (§ 206.55(c)(1)(iv) and § 206.55(c)(2)(vi)) that were overlooked in the previous renewal; however these reporting requirements are audit related and impose no additional burden hours. Through customer contact, we obtained more accurate estimates of the time required to provide the information requested. We do not include in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

| Citation 30 CFR 206 subpart B | Reporting and recordkeeping requirement | Hour burden | Average number of annual responses | Annual burden hours |
|---|---|---|---|---|
| **Indian Oil Transportation Allowances** | | | | |
| 206.55(a)(1)(i) ..... | *Arm's-length transportation contracts.* * * * Before any deduction may be taken, the lessee must submit a completed page one of Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report * * * | See § 206.55(c)(1)(i) and (iii). | | 0 |
| 206.55(b)(1) ..... | *Non-arm's-length or no contract.* * * * Before any estimated or actual deduction may be taken, the lessee must submit a completed Form MMS–4110 in its entirety * * * | See § 206.55(c)(2)(i) and (iii). | | 0 |
| 206.55(c)(1)(i) ..... | *Reporting requirements. Arm's-length contracts.* With the exception of those transportation allowances specified in paragraphs (c)(1)(v) and (c)(1)(vi) of this section, the lessee shall submit page one of the initial Form MMS–4110 (and Schedule 1), Oil Transportation Allowance Report, prior to, or at the same time as, the transportation allowance determined under an arm's-length contract, is reported on Form MMS–2014, Report of Sales and Royalty Remittance. * * * | 4 | 3 | 12 |

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

| Citation 30 CFR 206 subpart B | Reporting and recordkeeping requirement | Hour burden | Average number of annual responses | Annual burden hours |
|---|---|---|---|---|
| 206.55(c)(1)(iii) ..... | *Arm's-length contracts.* After the initial reporting period and for succeeding reporting periods, lessees must submit page one of Form MMS–4110 (and Schedule 1) within 3 months after the end of the calendar year, or after the applicable contract or rate terminates or is modified or amended, whichever is earlier, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period) | 4 | 3 | 12 |
| 206.55(c)(1)(iv) ..... | *Arm's-length contracts.* MMS may require that a lessee submit arm's-length transportation contracts, production agreements, operating agreements, and related documents. Documents shall be submitted within a reasonable time, as determined by MMS | PRODUCE RECORDS The Office of Regulatory Affairs (ORA) determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions. | | 0 |
| 206.55(c)(2)(i) ..... | *Non-arm's-length or no contract.* With the exception of those transportation allowances specified in paragraphs (c)(2)(v), (c)(2)(vii) and (c)(2)(viii) of this section, the lessee shall submit an initial Form MMS–4110 prior to, or at the same time as, the transportation allowance determined under a non-arm's-length contract or no-contract situation is reported on Form MMS–2014. * * * The initial report may be based upon estimated costs | 6 | 3 | 18 |
| 206.55(c)(2)(iii) ..... | *Non-arm's-length or no contract.* For calendar-year reporting periods succeeding the initial reporting period, the lessee shall submit a completed Form MMS–4110 containing the actual costs for the previous reporting period. If oil transportation is continuing, the lessee shall include on Form MMS–4110 its estimated costs for the next calendar year. * * * MMS must receive the Form MMS–4110 within 3 months after the end of the previous reporting period, unless MMS approves a longer period (during which period the lessee shall continue to use the allowance from the previous reporting period) | 6 | 3 | 18 |
| 206.55(c)(2)(iv) ..... | *Non-arm's-length or no contract.* For new transportation facilities or arrangements, the lessee's initial Form MMS–4110 shall include estimates of the allowable oil transportation costs for the applicable period. * * * | See § 206.55(c)(2)(i). | | 0 |
| 206.55(c)(2)(vi) ..... | *Non-arm's-length or no contract.* Upon request by MMS, the lessee shall submit all data used to prepare its Form MMS–4110. The data shall be provided within a reasonable period of time, as determined by MMS | PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions | | 0 |
| Total Burden .. | | ..... | 12 | 60 |

*Estimated Annual Reporting and Recordkeeping ''Non-hour'' Cost Burden:* We have identified no ''non-hour'' cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501, *et seq.*) provides that 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.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency '' * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on April 26, 2004 (69 FR 22550), announcing we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no written comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or

disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by November 24, 2004.

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state your request 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.

*MMS Information Collection Clearance Officer:* Arlene Bajusz (202) 208–7744.

Dated: September 10, 2004.

**Lucy Querques Denett,**

*Associate Director for Minerals Revenue Management.*

[FR Doc. 04–23785 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–MR–P**

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## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

### Agency Information Collection Activities: Submitted for Office of Management and Budget (OMB) Review; Comment Request

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Notice of a revision of a currently approved information collection (OMB Control Number 1010–0075).

**SUMMARY:** To comply with the Paperwork Reduction Act of 1995 (PRA), we are notifying the public that we have submitted to OMB an information collection request (ICR) to renew approval of the paperwork requirements in the regulations under 30 CFR Part 206, Subpart E—Indian Gas. This notice also provides the public a second opportunity to comment on the paperwork burden of these regulatory requirements. We changed the title of this ICR to clarify the regulatory language we are covering under 30 CFR Part 206. The previous title was ''Gas Processing and Transportation Allowances.'' The new title is ''30 CFR Part 206, Subpart E—Indian Gas, § 206.178—How do I determine a transportation allowance? (Form MMS–4295, Gas Transportation Allowance Report), and § 206.180—How do I determine an actual processing allowance? (Form MMS–4109, Gas Processing Allowance Summary Report).''

**DATES:** Submit written comments on or before November 24, 2004.

**ADDRESSES:** Submit written comments by either fax (202) 395–6566 or e-mail *(OIRA_Docket@omb.eop.gov)* directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (OMB Control Number 1010–0075). Mail or hand-carry a copy of your comments to Sharron L. Gebhardt, Lead Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, P.O. Box 25165, MS 302B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB Control Number in the ''Attention'' line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation that we have received your e-mail, contact Ms. Gebhardt at (303) 231–3211.

**FOR FURTHER INFORMATION CONTACT:** Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3781, e-mail *Sharron.Gebhardt@mms.gov.* You may also contact Sharron Gebhardt to obtain a copy at no cost of the form and regulations that require the subject collection of information.

**SUPPLEMENTARY INFORMATION:** *Title:* 30 CFR Part 206, Subpart E—Indian Gas, § 206.178—How do I determine a transportation allowance? (Form MMS–4295, Gas Transportation Allowance Report), and § 206.180—How do I determine an actual processing allowance? (Form MMS–4109, Gas Processing Allowance Summary Report).

*OMB Control Number:* 1010–0075.

*Bureau Form Number:* Forms MMS–4295 and MMS–4109.

*Abstract:* The Secretary of the U.S. Department of the Interior is responsible for matters relevant to mineral resource development on Federal and Indian lands and the Outer Continental Shelf (OCS). The Secretary, under the Mineral Leasing Act (30 U.S.C. 1923) and the Outer Continental Shelf Lands Act (43 U.S.C. 1353), is responsible for managing the production of minerals from Federal and Indian lands and the OCS, collecting royalties from lessees who produce minerals, and distributing the funds collected in accordance with applicable laws.

The Secretary has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. The MMS performs the royalty management functions and assists the Secretary in carrying out the Department's Indian trust responsibility. Applicable citations of the laws pertaining to mineral leases on Indian lands include 25 U.S.C. 396d (Chapter 12—Lease, Sale, or Surrender of Allotted or Unallotted Lands); 25 U.S.C. 2103 (Indian Mineral Development Act of 1982); and Public Law 97–451—Jan. 12, 1983 (Federal Oil and Gas Royalty Management Act of 1982).

When a company or an individual enters into a lease to explore, develop, produce, and dispose of minerals from Federal or Indian lands, that company or individual agrees to pay the lessor a share (royalty) of the value received from production from the leased lands. The lease creates a business relationship between the lessor and the lessee. The lessee is required to report various kinds of information to the lessor relative to the disposition of the leased minerals. Such information is similar to data reported to private and public mineral interest owners and is generally available within the records of the lessee or others involved in developing, transporting, processing, purchasing, or selling of such minerals. The information collected includes data necessary to ensure that the royalties are paid appropriately.

Proprietary information submitted to MMS under this collection is protected, and no items of a sensitive nature are collected. The MMS requires a response to obtain the benefit of transportation or processing allowance on an Indian lease.

*Transportation Allowances*—Under certain circumstances, lessees are authorized to deduct from royalty payments the reasonable actual costs of transporting the royalty portion of produced minerals from the lease to a processing or sales point not in the

immediate lease area. Transportation allowances are part of the product valuation process MMS uses to determine if the lessee is reporting and paying the proper royalty amount.

*Processing Allowances*—When gas is processed for the recovery of gas plant products, lessees may claim a processing allowance. The MMS normally accepts the cost as stated in the lessee's arm's-length processing contract as being representative of the cost of the processing allowance. In those instances where gas is being processed through a lessee-owned plant, the lessee must base processing costs on the actual plant operating and maintenance expenses, depreciation, and a reasonable return on investment. The allowance is expressed as a cost per unit of individual gas plant products. Lessees may take processing allowances as a deduction from royalty payments.

The MMS collects transportation allowance data on Form MMS–4295, Gas Transportation Allowance Report. The MMS collects processing allowance data on Form MMS–4109, Gas Processing Allowance Summary Report. The MMS and tribal personnel use the information collected on Forms MMS–4295 and MMS–4109 to evaluate the reasonableness of allowances reported and claimed by lessees. To take a transportation deduction, a lessee must submit Form MMS–4295 before or in the same month the lessee reports the transportation allowance on Form MMS–2014, Report of Sales and Royalty Remittance (OMB Control Number 1010–0140, expiration date October 31, 2006). To take a processing deduction, a lessee must submit Form MMS–4109 before or in the same month the lessee reports the processing allowance on Form MMS–2014.

The MMS is requesting OMB's approval to continue to collect this information. Not collecting this information may result in the undervaluation of leased minerals.

*Frequency:* Annually and on occasion.

*Estimated Number and Description of Respondents:* 50 Indian lessees.

*Estimated Annual Reporting and Recordkeeping "Hour" Burden:* 285 hours.

We base our calculations of the estimated burden hours on the reasonable expectation of 92 responses from 50 Indian lessees. We are including reporting requirements for arm's-length contracts, which were overlooked in the previous renewal. Each company may file numerous responses for transportation and/or processing allowances due to arm's-length and/or non-arm's-length contracts. Through customer contact, we have obtained more accurate estimates of the time required to provide the information requested. We have not included in our estimates certain requirements performed in the normal course of business and considered usual and customary. The following chart shows the estimated burden hours by CFR section and paragraph:

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS

| Citation 30 CFR 206 Subpart E | Reporting and recordkeeping requirement | Hour burden | Average number of annual responses | Annual burden hours |
|---|---|---|---|---|
| | **Indian Gas Transportation Allowances** | | | |
| 206.178(a)(1)(i) | How do I determine a transportation allowance? (a) Determining a transportation allowance under an arm's-length contract. (1) * * * (i) * * * You are required to submit to MMS a copy of your arm's-length transportation contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your report which claims the allowance on Form MMS–2014. | 1 | 50 | 50 |
| 206.178(a)(1)(iii) | How do I determine a transportation allowance? (a) Determining a transportation allowance under an arm's-length contract. (1) * * * (iii) If MMS determines that the consideration paid under an arm's-length transportation contract does not reflect the value of the transportation because of misconduct by or between the contracting parties, or * * *. In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your transportation costs. | PRODUCE RECORDS The Office of Regulatory Affairs (ORA) determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions. | | 0 |
| 206.178(b)(1)(ii) | How do I determine a transportation allowance? * * * (b) Determining a transportation allowance under an arm's-length contract or no contract. (1) * * *. (ii) * * *. You must submit the actual cost information to support the allowance to MMS on Form MMS–4295, Gas Transportation Allowance Report, within 3 months after the end of the 12-month period to which the allowance applies. * * *. | 15 | 7 | 105 |
| 206.178(d)(1) | How do I determine a transportation allowance? (d) Reporting your transportation allowance. (1) If MMS requests, you must submit all data used to determine your transportation allowance. * * *. | PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions. | | 0 |
| Subtotal | | | 57 | 155 |

RESPONDENTS' ESTIMATED ANNUAL BURDEN HOURS—Continued

| Citation 30 CFR 206 Subpart E | Reporting and recordkeeping requirement | Hour burden | Average number of annual responses | Annual burden hours |
|---|---|---|---|---|
| | **Indian Gas Processing Allowances** | | | |
| 206.180(a)(1)(i) | How do I determine an actual processing allowance? (a) Determining a processing allowance if you have an arm's-length processing contract. (1) * * *. (i) * * * You have the burden of demonstrating your contract is arm's length. You are required to submit to MMS a copy of your arm's length contract(s) and all subsequent amendments to the contract(s) within 2 months of the date MMS receives your first report that deducts the allowance on the Form MMS–2014. | 1 | 30 | 30 |
| 206.180(a)(1)(iii) | How do I determine an actual processing allowance? (a) Determining a processing allowance if you have an arm's-length processing contract.. (1) * * * (iii) If MMS determines that the consideration paid under an arm's-length processing contract does not reflect the value of the processing because of misconduct by or between the contracting parties, or * * *. In these circumstances, MMS will notify you and give you an opportunity to provide written information justifying your processing costs. | PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions. | | 0 |
| 206.180(b)(1)(ii) | How do I determine an actual processing allowance? * * * (b) Determining a processing allowance if you have a non-arm's-length contract or no contract. (1) * * *. (ii) * * * You must submit the actual cost information to support the allowance to MMS on Form MMS–4109, Gas Processing Allowance Summary Report, within 3 months after the end of the 12-month period for which the allowance applies. * * *. | 20 | 5 | 100 |
| 206.180(c)(1) | How do I determine an actual processing allowance? * * * (c) Reporting your processing allowance. (1) If MMS requests, you must submit all data used to determine your processing allowance. * * *. | PRODUCE RECORDS The ORA determined that the audit process is not covered by the PRA because MMS staff asks non-standard questions to resolve exceptions. | | 0 |
| Subtotal | | | 35 | 130 |
| Total Burden | | | 92 | 285 |

*Estimated Annual Reporting and Recordkeeping "Non-hour" Cost Burden:* We have identified no "non-hour" cost burdens.

*Public Disclosure Statement:* The PRA (44 U.S.C. 3501 *et seq.*) provides that 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.

*Comments:* Section 3506(c)(2)(A) of the PRA requires each agency "* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *." Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

To comply with the public consultation process, we published a notice in the **Federal Register** on April 26, 2004 (69 FR 22548), announcing that we would submit this ICR to OMB for approval. The notice provided the required 60-day comment period. We received no comments in response to the notice.

If you wish to comment in response to this notice, you may send your comments to the offices listed under the **ADDRESSES** section of this notice. OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by November 24, 2004.

*Public Comment Policy:* We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/InfoColl/InfoColCom.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Upon request, we

will withhold an individual respondent's home address from the public record, as allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law.

If you request that we withhold your name and/or address, state your request 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.

*MMS Information Collection Clearance Officer:* Arlene Bajusz (202) 208–7744.

Dated: September 20, 2004.

**Lucy Querques Denett,**

*Associate Director for Minerals Revenue Management.*

[FR Doc. 04–23786 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–MR–P**

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–04–028]**

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** International Trade Commission.

**TIME AND DATE:** October 28, 2004 at 1 p.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meetings: none
2. Minutes
3. Ratification List
4. Inv. No. 731–TA–244 (Second Review) (Natural Bristle Paintbrushes from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before November 9, 2004.)
5. Outstanding action jackets: none

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 20, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04–23935 Filed 10–21–04; 12:02 pm]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Brush Manufacturers Association

Notice is hereby given that, on September 17, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the American Brush Manufacturers Association (''ABMA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: American Brush Manufacturers Association, Aurora, IL. The nature and scope of ABMA's standards development activities are: To maintain voluntary standards for the brush manufacturers industry that assist users and consumers in the standardization of safety requirements regarding power driven brushes and labeling requirements concerning upright brooms and wet mops.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23782 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Blu-Ray Disc Founders

Notice is hereby given that, on September 20, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Blu-ray Disc Founders (''BDF'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Blu-ray Disc Founders, Tokyo, Japan. The nature and scope of BDF's standards development activities are: (1) To establish the Blu-ray Disc Format for each application, as well as revisions, improvements and extensions of such Blu-ray Disc Format; (2) to organize activities to verify the compliance with the Blu-ray Disc Format and enable the broad acceptance of the Blu-ray Disc Format; (3) to promote the Blu-ray Disc Format as the format for recording, playback, storage and distribution of large volume content, including high definition content; and (4) to license the Blu-ray Disc Format and the Blu-ray Disc Logo.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23781 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Insulated Cable Engineers Association, Inc.

Notice is hereby given that, on September 16, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Insulated Cable Engineers Association, Inc. (''ICEA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the name and principal place of business of the standards development organization is: Insulated Cable Engineers Association, Inc., Carrollton, GA. The nature and scope of ICEA's standards development activities are: Since 1925 ICEA has written, published and maintained Papers, Standards and

Test Procedures relating to the design and testing of insulated power and telecommunications cables. These cables are used for power, control, data and voice communications. Electric utilities, telecommunications companies, government agencies and end users use these standards for the specification and purchase of insulated cables used throughout North America. These standards receive American National Standards Institute (ANSI) approval and are the American Standard.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23784 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Association of Association Management Companies, Inc.

Notice is hereby given that, on September 15, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Association of Association Management Companies, Inc. (''IAAMC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: International Association of Association Management Companies, Inc., Westmont, IL. The nature and scope of IAAMC's standards development activities are: Internal quality systems and best practices for association management companies.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23772 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—International Multimedia Telecommunications Consortium

Notice is hereby given that, on September 20, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), International Multimedia Telecommunications Consortium (''IMTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: International Multimedia Telecommunications Consortium, San Ramon, CA. The nature and scope of IMTC's standards development activities are: To advocate the common interests of the industry through education and promotion; to be an unbiased source of information to end users, press, industry analysts, legislators, regulators, and the industry; to identify obstacles to the growth and success of the industry, and to implement or recommend solutions; to develop and advocate requirements to standards-making organizations; and to promote and facilitate interoperability testing of real-time Multimedia Telecommunications products and services.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23773 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—JEDEC Solid State Technology Association

Notice is hereby given that, on September 15, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''Act''), JEDEC Solid State Technology Association (''JEDEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: JEDEC Solid State Technology Association, Arlington, VA. The nature and scope of JEDEC's standards development activities are: To promote, develop, and coordinate open voluntary consensus standardization of terms, definitions, product characterization and operation, test methods, manufacturing support functions, product quality and reliability, mechanical outlines, solid state memories, and wireless interface networking systems. Technical and informational exchanges may take place directly between committees and their correspondents. It is a primary function of each committee to propose JEDEC standards and to formulate policies, procedures, formats, and other documents.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23775 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Ground Water Association

Notice is hereby given that, on September 9, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Ground Water Association (''NGWA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The

notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: National Ground Water Association, Westerville, OH. The nature and scope of NGWA's standards development activities are: Developing consensus manuals and guidelines for conducting practices related to the production, protection, management and remediation of ground water.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23780 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Information Standards Organization

Notice is hereby given that, on September 16, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Information Standards Organization (''NISO'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: National Information Standards Organization, Bethesda, MD. The nature and scope of NISO's standards development activities are: To develop voluntary, consensus technical standards relevant to information systems; products, including hardware and supplies; and services, as they relate to libraries, bibliographic and information services, and publishing.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23774 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### U.S. Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—North American Association of Food Equipment Manufacturers

Notice is hereby given that, on September 16, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), North American Association of Food Equipment Manufacturers (''NAFEM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: North American Association of Food Equipment Manufacturers, Chicago, IL. The nature and scope of NAFEM's standards development activities are: NAFEM Data Protocol—a standard set of rules that governs data exchange between commercial food service equipment and a computer.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23776 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Recreation Park Trailer Industry Association, Inc.

Notice is hereby given that, on September 23, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Recreational Park Trailer Industry Association, Inc. (''RPTIA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: Recreational Park Trailer Industry Association, Inc., Newnan, GA. The nature and scope of RPTIA's standards development activities are: To develop and maintain a technical private industry standard addressing the manufacturing of Park Model Trailers, under the accreditation of the American National Standards Institute.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23783 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–11–M**

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Steel Deck Institute

Notice is hereby given that, on September 16, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Steel Deck Institute (''SDI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: Steel Deck Institute, Fox River Grove, IL. The nature and scope of SDI's standards development activities are: To provide uniform industry standards for the engineering, design, manufacture

and field usage of steel roof decks, composite floor decks and non-composite steel floor decks.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23779 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Antitrust Division

### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Steel Door Institute

Notice if hereby given that, on September 17, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Steel Door Institute (''SDI'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the name and principal place of business of the standards development organization and (2) the nature and scope of its standards development activities. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to section 6(b) of the Act, the name and principal place of business of the standards development organization is: Steel Door Institute, Cleveland, OH. The nature and scope of SDI's standards development activities are: SDI acts as secretariat for the ANSI A250 Committee, which develops standards for dimension, nomenclature, construction, performance, testing, and installation of steel doors and frames used in residential and commercial construction.

**Dorothy B. Fountain,**

*Deputy Director of Operations, Antitrust Division.*

[FR Doc. 04–23778 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–11–M

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances Notice of Application

Pursuant to 21 CFR 1301.33(a), this is notice that on April 20, 2004, Cody Laboratories, Inc., 301 Yellowstone Avenue, Cody, Wyoming 82414, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed:

| Drug | Schedule |
|---|---|
| Amphetamine (1100) | II |
| Methamphetamine (1105) | II |
| Amobarbital (2125) | II |
| Pentobarbital (2270) | II |
| Secobarbital (2315) | II |
| Cocaine (9041) | II |
| Oxycodone (9143) | II |
| Dihydromorphine (9145) | II |
| Hydromorphone (9150) | II |
| Diphenoxylate (9170) | II |
| Meperidine (9230) | II |
| Oxymorphone (9652) | II |
| Sufentanil (9740) | II |
| Fentanyl (9801) | II |

The company plans to manufacture bulk materials for distribution to its customers.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCD) and must be filed no later than December 27, 2004.

Dated: October 18, 2004.

**William J. Walker,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 04–23767 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances; Notice of Application

Pursuant to 21 CFR 1301.33(a), this is notice that on July 13, 2004, National Center for Natural Products Research—NIDA MProject, University of Mississippi, 135 Coy Waller Complex, University, Mississippi 38677, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed:

| Drug | Schedule |
|---|---|
| Marihuana (7360) | I |
| Tetrahydrocannabinols (7370) | I |

The company plans to cultivate marihuana for the National Institute of Drug Abuse for research approved by the Department of Health and Human Services.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 CFR 1301.33(a).

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCD) and must be filed no later than December 27, 2004.

Dated: October 18, 2004.

**William J. Walker,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 04–23766 Filed 10–22–04; 8:45 am]

BILLING CODE 4410–09–P

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### Manufacturer of Controlled Substances Notice of Application

Pursuant to 21 CFR 1301.33(a), this is notice that on July 13, 2004, National Center for Development of Natural Products, The University of Mississippi, 135 Coy Waller Lab Complex, University, Mississippi 38677, made application by renewal to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed:

| Drug | Schedule |
|---|---|
| Marihuana (7360) | I |
| Tetrahydrocannabinols (7370) | I |

The company plans to bulk manufacture for product development.

Any other such applicant and any person who is presently registered with DEA to manufacture such a substance may file comments or objections to the issuance of the proposed registration pursuant to 21 C.F.R. 1301.33(a).

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug

Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA **Federal Register** Representative (CCD) and must be filed no later than December 27, 2004.

Dated: October 18, 2004.

**William J. Walker,**

*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*

[FR Doc. 04–23768 Filed 10–22–04; 8:45 am]

**BILLING CODE 4410–09–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

October 15, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Agency:* Employment and Training Administration.

*Type of Review:* Extension of a currently approved collection.

*Title:* Nonmonetary Determination Activity Report.

*OMB Number:* 1205–0150.

*Frequency:* Quarterly.

*Affected Public:* State, local, or tribal government.

*Number of Respondents:* 53.

*Number of Annual Responses:* 212.

*Total Burden Hours:* 896.

*Estimated Time Per Response:* 4 hours.

*Total Annualized Capital/Startup Costs:* $0.

*Total Annual Costs (Operating/Maintaining Systems or Purchasing Services):* $0.

*Description:* Data are used to monitor the impact of the disqualification provisions, to measure workload, and to appraise adequacy and effectiveness of State and Federal nonmonetary determination procedures.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04–23799 Filed 10–22–04; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review; Comment Request

October 15, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *mills.ira@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL, Office of Management and Budget, Room 10235, Washington, DC 20503 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

*Agency:* Employment and Training Administration.

*Type of Review:* Extension of a currently approved collection.

*Title:* Benefit Appeals Report.

*OMB Number:* 1205–0172.

*Frequency:* Monthly.

*Affected Public:* State, local, or tribal government.

*Number of Respondents:* 53.

*Number of Annual Responses:* 648.

| Version frequency | Affected public | Number of respondents | Frequency | Hour per respondent |
|---|---|---|---|---|
| Regular | States | 53 | 12 | 1 hour. |
| EB | States | 2 | 6 | 1 hour. |

*Total Burden Hours:* 648.

*Estimated Time Per Response:* 1 hour.

*Total Annualized Capital/Startup Costs:* $0

*Total Annual Costs (Operating/Maintaining Systems or Purchasing Services):* $0.

*Description:* Data are used to monitor the benefit appeals process and to develop plans for remedial action. The

report is also needed for budgeting and for workload data.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04–23800 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Office of the Secretary

### Submission for OMB Review: Comment Request

October 18, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on 202–693–4129 (this is not a toll-free number) or e-mail: *king.darrin@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment Standards Administration (ESA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Employment Standards Administration.

*Type of Review:* Extension of currently approved collection.

*Title:* Application for Continuation of Death Benefit for Student.

*OMB Number:* 1215–0073.

*Frequency:* On occasion.

*Type of Response:* Reporting.

*Affected Public:* Individuals or households; business or other for-profit; and not-for-profit institutions.

*Number of Respondents:* 43.

*Annual Responses:* 43.

*Average Response Time:* 30 minutes.

*Annual Burden Hours:* 22.

*Total Annualized capital/startup costs:* $0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* $17.20.

*Description:* The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides for continuation of death benefits for a child or certain other surviving dependents after the age of 18 (to age 23) if the dependent qualifies as a student as defined in Section 2 (18) of the Act. Regulation 20 CFR 702.121 addresses the use of forms for the reporting of required information. The LS–266 is submitted by the parent or guardian of the dependent for whom continuation of benefits is sought. The statements contained on the form must be verified by an official of the educational institution. The information is used by the Department of Labor to determine whether a continuation of the benefits is justified.

**Darrin A. King,**

*Acting Departmental Clearance Officer.*

[FR Doc. 04–23801 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–CH–P

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, an open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, November 9, 2004.

The session will take place in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The purpose of the open meeting, which will run from 4 p.m. to approximately 5:30 p.m., is for Council members to conclude their discussions and make recommendations to the Secretary of Labor regarding the next National Summit on Retirement Savings.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before November 3, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by November 3 at the address indicated in this notice.

Signed at Washington, DC this 19th day of October, 2004.

**Ann L. Combs,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 04–23794 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–29–M

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### 128th Plenary Meeting; Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 128th open meeting of the full Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, November 10, 2004.

The session will take place in Room S–2508, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:30 p.m. to approximately 3:30 p.m., is for the Working Groups to submit their reports for the full Advisory Council's review and acceptance, and for the Council to forward the reports to the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the meeting may do so by submitting 20 copies to Larry

Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before November 3, 2004, will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 10 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by November 3 at the address indicated in this notice.

Signed at Washington, DC., this 19th day of October, 2004.

**Ann L. Combs,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 04–23795 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–29–M

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Working Group on Health and Welfare Form 5500 Requirements, Advisory Council on Employee Welfare and Pension Benefit Plans, Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, November 9, 2004, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study health and welfare Form 5500 requirements. The working group is studying the Form 5500 requirements for health and welfare plans to assess the benefits of this reporting tool for these plans.

The session will take place in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 1:30 p.m. to approximately 4 p.m., is for Working Group members to conclude their report/recommendations for the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before November 2, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by November 2 at the address indicated in this notice.

Signed at Washington, DC this 19th day of October, 2004.

**Ann L. Combs,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 04–23796 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–29–M

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Working Group on Plan Fees and Reporting on Form 5500 Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Wednesday, November 10, 2004, of the Advisory Council on Employee Welfare and Pension Benefit Plans Working Group assigned to study plan fees as reported on the Form 5500. The working group is studying plan fees as reported on the Form 5500 to assess plan sponsors' understanding of the fees they are paying and the reporting requirements.

The session will take place in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately 12 p.m., is for Working Group members to conclude their report/recommendations for the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before November 3, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary at the above address or via telephone at (202) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by November 3 at the address indicated in this notice.

Signed at Washington, DC this 19th day of October, 2004.

**Ann L. Combs,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 04–23797 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–29–M

## DEPARTMENT OF LABOR

### Employee Benefits Security Administration

### Working Group on Fee and Related Disclosure to Participants Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting will be held on Tuesday, November 9, 2004, of the Advisory Council on Employee Welfare and Pension Benefit plans Working Group assigned to study fee and related disclosures to plan participants. The working group is studying fee and related disclosures to participants in defined contribution plans that relate to investment decisions and retirement savings in order to help participants manage their relate to investment decisions and retirement savings in order to help participants manage their retirement savings more effectively.

The session will take place in Room N–3437 A–C, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. The purpose of the open meeting, which will run from 9:30 a.m. to approximately 12 p.m., is for Working Group members to conclude their report/recommendations for the Secretary of Labor.

Organizations or members of the public wishing to submit a written statement pertaining to the topic may do so by submitting 20 copies to Larry Good, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N–5656, 200 Constitution Avenue, NW., Washington, DC 20210. Statements received on or before

November 2, 2004 will be included in the record of the meeting. Individuals or representatives of organizations wishing to address the Working Group should forward their request to the Executive Secretary at the above address or via telephone at (302) 693–8668. Oral presentations will be limited to 20 minutes, but an extended statement may be submitted for the record. Individuals with disabilities who need special accommodations should contact Larry Good by November 2 at the address indicated in this notice.

Dated: Signed at Washington, DC this 19th day of October, 2004.

**Ann L. Combs,**

*Assistant Secretary, Employee Benefits Security Administration.*

[FR Doc. 04–23798 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–29–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–55,144]**

### Boeing Aircraft Company, Integrated Defense Systems, Wichita, KS; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Division of Trade Adjustment Assistance for workers at Boeing Aircraft Company, Integrated Defense Systems, Wichita, Kansas. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–55,144; Boeing Aircraft Company, Integrated Defense Systems, Wichita, Kansas, (October 14, 2004).

Signed at Washington, DC this 15th day of October 2004.

**Timothy Sullivan,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2810 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[A–W–55,082]**

### Chieftain Products, Inc. Access Employment Solutions, Accesspoint LLC, Access Human Resources, Accesspoint Business Solutions Owosso, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 22, 2004, applicable to workers of Chieftain Products, Inc., Owosso, Michigan. The notice was published in the **Federal Register** on August 10, 2004 (69 FR 48530). The certification was amended on September 21, 2004 to extend Alternative Trade Adjustment Assistance coverage to workers of the subject firm. The notice was published in the **Federal Register** on October 8, 2004 (69 FR 60425).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers were engaged in the production (cutting and sewing) of automotive interior trim.

Information from the State shows that workers separated from employment at the subject firm had their wages reported under four separate unemployment insurance (UI) tax accounts for Access Employment Solutions, AccessPoint LLC, Access Human Resources and AccessPoint Business Solutions.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–55,082 is hereby issued as follows:

All workers of Chieftain Products, Inc., Access Employment Solutions, AccessPoint LLC, Access Human Resources and AccessPoint Business Solutions, Owosso, Michigan (TA–W–55,082), who became totally or partially separated from employment on or after June 14, 2003, through July 22, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974 and are also eligible to apply for Alternative Trade Adjustment Assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of October 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2809 Filed 10–22–04; 8:45 am]

BILLING CODE 4310–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–55,462]**

### International Textile Group, Burlington Industries V, LLC, Burlington Apparal Fabric Including Leased Workers of Staffing Alliance, Raeford, NC; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 13, 2004, applicable to workers of International Textile Group, Burlington Apparel Fabric, including leased workers of Staffing Alliance, Raeford, North Carolina. The notice was published in the **Federal Register** on October 8, 2004 (69 FR 60427).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of yarn and wool.

New information shows that some workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for Burlington Industries V, LLC.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of International Textile Group, Burlington Apparel Fabric, including leased workers of Staffing Alliance, Raeford, North Carolina, who were adversely affected by a shift in production to China and Taiwan.

The amended notice applicable to TA–W–55,462 is hereby issued as follows:

All workers of International Textile Group, Burlington Industries V, LLC, Burlington Apparel Fabric, Raeford, North Carolina and leased workers of Staffing Alliance, Raeford, North Carolina, who became totally or partially separated from employment on or

after August 16, 2003, through September 13, 2006, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of October 2004.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2813 Filed 10–22–04; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–55,560]**

### Lacey Manufacturing Company, FAG Holding Corporation, MCA Product Line, Including Leased Workers of Adecco Staffing Services, Bridgeport, CT; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance and Negative Determination Regarding Eligibility to Apply for Alternative Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Negative Determination Regarding Alternative Trade Adjustment Assistance on September 23, 2004, applicable to workers of Lacey Manufacturing Company, MCA Product Line, including leased workers of Adecco Staffing Services, Bridgeport, Connecticut. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of disposable surgical devices.

New information provided by the company shows that FAG Holding Corporation is the parent firm of Lacey Manufacturing Company. Information also shows that workers separated from employment at the subject firm had their wages reported under a separate unemployment insurance (UI) tax account for FAG Holding Corporation.

Accordingly, the Department is amending the certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of Lacey Manufacturing Company, MCA Product Line, including leased workers of ADECCO who were adversely affected by increased imports.

The amended notice applicable to TA–W–55,560 is hereby issued as follows:

''All workers of Lacey Manufacturing Company, FAG Holding Corporation, MCA Product Line, including leased workers of ADECCO Staffing Services, Bridgeport, Connecticut, who became totally or partially separated from employment on or after September 2, 2003, through September 23, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.''

I further determine that all workers of Lacey Manufacturing Company, FAG Holding Corporation, MCA Product Line, including ADECCO Staffing Services, Bridgeport, Connecticut are denied eligibility to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 13th day of October 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2814 Filed 10–22–04; 8:45 am]

**BILLING CODE 4510–30–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–55,233]**

### Meadwestvaco Corporation Including Leased Workers of D&H Associates, Inc. and Proserv, Inc. Escanaba Mills, Escanaba, MI; Notice of Negative Determination Regarding Application for Reconsideration

By application of September 7, 2004, a petitioner representative requested administrative reconsideration of the Department's negative determination regarding eligibility for workers and former workers of the subject firm to apply for Trade Adjustment Assistance (TAA). The denial notice was signed on August 10, 2004 and published in the **Federal Register** on September 8, 2004 (69 FR 54321).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The TAA petition, which was filed on behalf of workers at Meadwestvaco Corporation, Escanaba Mills, Escanaba, Michigan, engaged in the production of coated paper, was denied based on the findings that during the relevant time periods, the subject company did not separate or threaten to separate a significant number or proportion of workers, as required by Section 222 of the Trade Act of 1974; that subject company's sales and production had increased from 2002 to 2003, and also increased during January through July 2004 compared to 2003; and that the subject company did not shift production abroad.

In the request for reconsideration, the petitioner alleges that the Department ''did not take into account the true number of affected workers and job losses due to lost sales to foreign competition.''

For companies with a workforce of over fifty workers, a significant proportion of worker separations or threatened separations is five percent. In determining whether there were a significant proportion of workers separated or threatened with separations at the subject company during the relevant time periods, the Department requested employment figures for the subject company's Escanaba Mills for 2002, 2003, January–July 2003 and January–July 2004. A careful review of the information provided in the initial investigation revealed that employment at the Escanaba Mills declined about two percent during the relevant time period.

A petitioner was contacted to clarify the statement of ''the true number of affected workers''. The petitioner informed that a significant number of workers had been separated from the subject firm since 1998 and that this number should be taken into consideration by the Department.

When assessing eligibility for TAA, the Department exclusively considers the relevant employment data for the facility where the petitioning worker group was employed. The relevant period represents four quarters back from the date of the petition, thus data from 1998 is irrelevant in this investigation. As employment levels, sales and production at the subject facility did not decline in the relevant period, and the subject firm did not shift production to a foreign country, criteria (a)(2)(A)(I.A), (a)(2)(B)(II.A), (a)(2)(A)(I.B), and (a)(2)(B)(II.B) have not been met.

The request for reconsideration also alleged that the subject company failed to provide key customer contact information.

Since the petition resulted in a denial due to employment, sales and production criteria not being met, the initial investigation did not pursue this line of inquiry and any alleged failure to provide customer contact information did not influence the determination of the case.

**Conclusion**

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 13th day of October 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2811 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA-W–55,261]**

### Sony Electronics, Inc., AOEM Service Center, Farmington Hills, MI; Notice of Affirmative Determination Regarding Application for Reconsideration

By application of August 30, 2004, the company official requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to workers of the subject firm. The negative determination was issued on August 11, 2004. The determination Notice was published in the **Federal Register** on September 8, 2004 (69 FR 54320). A corrected copy of the determination was issued on September 30, 2004 and will soon be published in the **Federal Register**.

The Department has reviewed the request for reconsideration and has determined that the petitioner has provided additional information regarding work performed by the subject worker group.

**Conclusion**

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 7th day of October 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4–2812 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–30–P

## DEPARTMENT OF LABOR

### Employment Standards Administration

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection for the following medical reports: CM–933, Roentgenographic Interpretation; CM–933b, Roentgenographic Quality Rereading; CM–988, Medical History and Examination for Coal Mine Workers' Pneumoconiosis; CM–1159, Report of Arterial Blood Gas Study; and CM–2907, Report of Ventilatory Study. A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before December 27, 2004.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, Email *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or Email).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Black Lung Act Benefits Act of 1977 as amended, 20 U.S.C. 901 *et. seq.* and 20 CFR 718.102 set forth criteria for the administration and interpretation of x-rays. When a miner applies for benefits, the Division of Coal Mine Workers' Compensation (DCMWC) is required to schedule a series of four diagnostic tests to help establish eligibility for black lung benefits. Each of the diagnostic tests has its own form that sets forth the medical results. The forms are: CM–933, Roentgenographic Interpretation; CM–933b, Roentgenographic Quality Rereading; CM–988, Medical History and Examination for Coal Mine Workers' Pneumoconiosis; CM–1159, Report of Arterial Blood Gas Study; and CM–2907, Report of Ventilatory Study. This information collection is currently approved for use through April 30, 2005.

**II. Review Focus**

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

**III. Current Actions**

The Department of Labor seeks the approval of this information in order to carry out its responsibility to determine eligibility for black lung benefits.

*Type of Review:* Revision.

*Agency:* Employment Standards Administration.

*Title:* CM–933, Roentgenographic Interpretation; CM–933b, Roentgenographic Quality Rereading; CM–988, Medical History and Examination for Coal Mine Workers' Pneumoconiosis; CM–1159, Report of Arterial Blood Gas Study; and CM–2907, Report of Ventilatory Study.

*OMB Number:* 1215–0090.

*Agency Number:* CM–933, CM–933b, CM–988, CM–1159 and CM–2907.

*Affected Public:* Business or other for-profit; Not-for-profit institution.

*Total Respondents:* 17,500.

*Total Annual responses:* 17,500.

| Form | Number of respondents | Annual responses | Per response (in minutes) | Total burden hours |
|---|---|---|---|---|
| CM–933 | 3,500 | 3,500 | 5 | 292 |
| CM–933b | 3,500 | 3,500 | 3 | 175 |
| CM–988 | 3,500 | 3,500 | 30 | 1,750 |
| CM–1159 | 3,500 | 3,500 | 15 | 875 |
| CM–2907 | 3,500 | 3,500 | 20 | 1,167 |
| Totals | 17,500 | 17,500 | | 4,259 |

*Estimated Total Burden Hours:* 4,259.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 19, 2004.

**Bruce Bohanon,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. 04–23802 Filed 10–22–04; 8:45 am]

**BILLING CODE 4510–CK–P**

## DEPARTMENT OF LABOR

### Employment Standards Administration

### Proposed Collection; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comments concerning the proposed collection: Certification of Funeral Expenses (LS–265). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before December 27, 2004.

**ADDRESSES:** Ms. Hazel M. Bell, U.S. Department of Labor, 200 Constitution Ave., NW., Room S–3201, Washington, DC 20210, telephone (202) 693–0418, fax (202) 693–1451, e-mail *bell.hazel@dol.gov*. Please use only one method of transmission for comments (mail, fax, or e-mail).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. The Act provides that reasonable funeral expenses not to exceed $3,000 shall be paid in all compensable death cases. The LS–265 has been provided for use in submitting the funeral expenses for payment. This information collection is currently approved for use through April 30, 2005.

### II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

### III. Current Actions

The Department of Labor seeks the approval of the extension of this information collection in order to carry out its responsibility to certify the amount of funeral expenses incurred in the case.

*Type of Review:* Extension.

*Agency:* Employment Standards Administration.

*Title:* Certification of Funeral Expenses.

*OMB Number:* 1215–0027.

*Agency Number:* LS–265.

*Affected Public:* Business or other for-profit.

*Total Respondents:* 195.

*Total Annual Responses:* 195.

*Estimated Total Burden Hours:* 49.

*Time Per Response:* 15 minutes.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $78.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 19, 2004.

**Bruce Bohanon,**

*Chief, Branch of Management Review and Internal Control, Division of Financial Management, Office of Management, Administration and Planning, Employment Standards Administration.*

[FR Doc. 04–23803 Filed 10–22–04; 8:45 am]

**BILLING CODE 4310–CF–P**

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### National Advisory Committee on Ergonomics; Notice of Meeting

**AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.

**ACTION:** Notice.

**SUMMARY:** The National Advisory Committee on Ergonomics (NACE) is part of the Secretary's comprehensive approach for reducing ergonomics-related injuries and illnesses in the workplace. The Committee was convened for the first time on January 22, 2003. This notice schedules the sixth NACE meeting. The public is encouraged to attend.

**DATES:** The Committee workgroups will meet on Tuesday, November 16, 2004, from 1 p.m. until approximately 5 p.m. The full Committee will meet on Wednesday, November 17, 2004, from 8:30 a.m. until approximately 5 p.m.

**ADDRESSES:** The Committee and workgroups will meet at the Holiday Inn on the Hill, 415 New Jersey Avenue, NW., Washington, DC 20001; Telephone: (202) 638–1616. Submit comments, views, or statements in response to this notice to MaryAnn Garrahan, Director, Office of Technical Programs and Coordination Activities, OSHA, U.S. Department of Labor, Room N–3655, 200 Constitution Avenue, NW., Washington, DC 20210. Phone: (202) 693–2144; Fax: (202) 693–1644.

**FOR FURTHER INFORMATION CONTACT:** OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693–1999.

**SUPPLEMENTARY INFORMATION:** NACE was chartered for a two-year term on November 27, 2002, to provide advice and recommendations on ergonomic guidelines, research, and outreach and assistance. The Committee has met in Washington, DC, on January 22, 2003; May 6–7, 2003; January 27–28, 2004; and May 11–12, 2004, and in Arlington, VA, on September 23–24, 2003. This notice announces the sixth meeting of the Committee, which will take place in Washington, DC, on November 16–17, 2004.

#### I. Meeting Agenda

The Committee's working groups on Research, Guidelines, and Outreach and Assistance will meet on the afternoon of November 16. The working groups will report back to the full Committee on November 17th and lead discussions about their respective topics. On November 17th, John L. Henshaw, Assistant Secretary of Occupational Safety and Health, will address the Committee. NACE will review the working group reports and consider whether to issue any further recommendations to the Agency.

#### II. Public Participation

Written data, views, or comments for consideration by NACE on the various agenda items listed above may be submitted, preferably with 15 copies for the NACE members, to MaryAnn Garrahan at the address listed above. Submissions received by November 9, 2004, will be provided to the Committee members for consideration. Requests to make oral presentations to the Committee may be granted if time permits. Anyone wishing to make an oral presentation to the Committee should notify MaryAnn Garrahan at the address noted above. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Persons who request an oral presentation may be allowed to speak, as time permits, at the discretion of the NACE Chair.

Persons with disabilities requiring special accommodations should contact Veneta Chatmon (Phone: (202) 693–1912; Fax (202) 693–1635) by November 5, 2004.

A transcript of the meeting will be available for inspection and copying in the OSHA Technical Data Center, Room N–2625 (see **ADDRESSES** section above) Phone: (202) 693–2350. The minutes of NACE meetings will also be available online on OSHA's Web site at *www.osha.gov/SLTC/ergonomics/nat_advis_comm.html.*

**Authority:** This notice was prepared under the direction of John L. Henshaw, Assistant Secretary for Occupational Safety and Health. It is issued under the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2), GSA's FACA Regulations (41 CFR part 102–3), and DLMS 3 chapter 1600.

Signed at Washington, DC, this 19th day of October, 2004.

**John L. Henshaw,**

*Assistant Secretary.*

[FR Doc. 04–23804 Filed 10–22–04; 8:45 am]

BILLING CODE 4510–26–P

## MERIT SYSTEMS PROTECTION BOARD

### Membership of the Merit Systems Protection Board's Senior Executive Service Performance Review Board

**AGENCY:** Merit Systems Protection Board.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the members of the Performance Review Board.

**DATES:** October 25, 2004.

**FOR FURTHER INFORMATION CONTACT:** Janice Bradley, Human Resource Director, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419.

**SUPPLEMENTARY INFORMATION:** The Merit Systems Protection Board is publishing the names of the new and current members of the Performance Review Board (PRB) as required by 5 U.S.C. 4314(c)(4). Deborah Miron, William Boulden and Martha Schneider will serve as new members. Martha Schneider will serve as Chair of the PRB. Rosemarie Straight will continue to serve as member.

Dated: October 19, 2004.

**Bentley M. Roberts, Jr.,**

*Clerk of the Board.*

[FR Doc. 04–23769 Filed 10–22–04; 8:45 am]

BILLING CODE 7400–01–P

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

### Notice of Information Collection Under OMB Review

**AGENCY:** National Aeronautics and Space Administration (NASA).

*Notice:* [04–115]

**ACTION:** Notice of information collection under OMB review

**SUMMARY:** The National Aeronautics and Space Administration, 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 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

**DATES:** All comments should be submitted within 30 calendar days from the date of this publication.

**ADDRESSES:** All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory

Affairs; Room 10236; New Executive Office Building; Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Ms. Kathleen Shaeffer, Acting NASA Reports Officer, NASA Headquarters, 300 E Street SW., Mail Code V, Washington, DC 20546, (202) 358–1230, *kshaeff1@hq.nasa.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The National Aeronautics and Space Administration (NASA) is requesting Office of Management and Budget approval for a new information collection which will be used to evaluate the need for NASA to establish a central repository of reusable components for earth science data systems. The NASA Earth Science Data Systems Working Group, who will be collecting the information, needs to better understand the community's needs with respect to such a repository before it can be built.

### II. Method of Collection

Collection of information will be entirely through an on line web-based questionnaire in order to minimize respondent burden.

### III. Data

*Title:* Earth Science Software Reuse.

*OMB Number:* 2700–XXXX .

*Type of review:* New collection.

*Affected Public:* Federal Government; business or other for-profit; not-for-profit institutions.

*Estimated Number of Respondents:* 60.

*Estimated Time Per Response:* 20 minutes.

*Estimated Total Annual Burden Hours:* 20.

*Estimated Total Annual Cost:* $0.

### IV. Request for Comments

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of NASA, including whether the information collected has practical utility; (2) the accuracy of NASA's estimate of the burden (including hours and cost) of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including automated collection techniques or the use of other forms of information technology.

**John W. McManus,**

*Deputy Chief Information Officer.*

[FR Doc. 04–23851 Filed 10–22–04; 8:45 am]

BILLING CODE 7510–13–P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Request for Public Comment on Draft Electronic Records Policy Working Group Recommendations

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of document; request for comment.

**SUMMARY:** The Electronic Records Policy Working Group is inviting interested persons to provide their written views on its draft Recommendations for the Effective Management of Government Information on the Internet and Other Electronic Records. These recommendations are being submitted to the Interagency Committee for Government Information. The document is available at *http://www.cio.gov/documents/ICGI/ERPWG_Recommendations.pdf.* For a paper copy of the report, contact the person listed in **FOR FURTHER INFORMATION CONTACT**.

**DATES:** Comments must be received by November 24, 2004.

**ADDRESSES:** Send your comments to *ERPWG@nara.gov* or by fax to 301–837–0319.

**FOR FURTHER INFORMATION CONTACT:** Pamela Mason at 301–837–0975.

**SUPPLEMENTARY INFORMATION:** Section 207(e) of the E-Government Act of 2002 (Pub. L. 107–347) mandates that the Interagency Committee on Government Information recommend policies to ensure effective management of Government information on the Internet and other electronic records to the Director of the Office of Management and Budget (OMB) and the Archivist of the United States, by December 17, 2004. The Electronic Records Working Group was established by the Interagency Committee to address the requirements of subsection 207(e) of the Act, ''Public Access to Electronic Information.'' The Working Group's members are drawn from a number of Federal agencies, with NARA as the chair.

Dated: October 20, 2004.

**Lewis J. Bellardo,**

*Deputy Archivist of the United States.*

[FR Doc. 04–23920 Filed 10–22–04; 8:45 am]

BILLING CODE 7515–01–P

## NATIONAL SCIENCE FOUNDATION

### Notice of Intent To Seek Approval To Extend a Current Information Collection

**AGENCY:** National Science Foundation.

**ACTION:** Notice and request for comments.

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for three years.

**DATES:** Written comments on this notice must be received by December 27, 2004 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**FOR FURTHER INFORMATION CONTACT:** Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone 703–292–7556; or send e-mail to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday. You also may obtain a copy of the data collection instrument and instructions from Ms. Plimpton.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* ''eRecruitment'' System.

*OMB Number:* 3145–0184.

*Expiration Date of Approval:* February 28, 2005.

*Type of Request:* Intent to seek approval to extend a current information collection for three years.

*Abstract:* National Science Foundation (NSF), Division of Human Resource Management (HRM), as part of its Workforce Planning efforts, is continuing to reengineer its business processes. Part of this reengineering effort is devoted to making the application and referral process for both internal and external applicants easier to use, more efficient and timely.

Applicants apply on-line using a Web-based resume, which prompts them to provide pertinent personal data necessary to apply for a position.

*Use of the Information:* The information is used by NSF to provide applicants with the ability to apply electronically for NSF positions and receive notification as to their qualifications, application dispensation and to request to be notified of future vacancies for which they may qualify.

In order to apply for vacancies, applicants are encouraged to submit certain data in order to receive consideration. Users only need access to the Internet for this system to work. This information is used to determine which applicants are best qualified for a position, based on applicant responses to a series of job related ''yes/no'' or ''multiple choice'' questions. The resume portion requires applicants to provide the same information they would provide were they submitting a paper OF–612. The obvious benefit being that the applicant may do so on-line, 24 hours a day/seven days a week and receive electronic notification about the status of their application or information on other vacancies for which they may qualify. Staff members of the Division of Human Resource Management and the selecting official(s) for specific positions for which applicants apply are the only ones privy to the applicant data. The most significant data is not the applicant personal data such as address or phone number but rather their description of their work experience and their corresponding responses to those questions, which determine their overall rating, ranking, and referral to the selecting official.

*Estimate of Burden:* Public reporting burden for this collection of information is estimated average 45 minutes to create the on line resume and potentially less than 45 minutes to apply for jobs on-line.

There is no financial burden on the applicant, in fact this relieves much of the burden the former paper-intensive process puts on applicants.

*Respondents:* Individuals. 7971 applicants applied for NSF vacancies between October 2003 and September 2004.

*Average Number of Applicants:* Approximately 42 responses per job opening for vacancy announcements between October 2003 and September 2004.

*Estimated Total Annual Burden on Respondents:* Approximately 45 minutes per respondent total time is all that is needed to complete the on-line application, for a total of 5,978.25 hours annually.

*Frequency of Responses:* Applicants need only complete the resume one time, and they may use that resume to apply as often as they wish for any NSF job opening.

**Comments**

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: October 20, 2004.

**Suzanne H. Plimpton,**

*Reports Clearance Officer.*

[FR Doc. 04–23816 Filed 10–22–04; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Advisory Committee for Biological Sciences (BIO) (1110).

*Date and Time:* November 18, 2004; 8:30 a.m.–5 p.m., November 19, 2004; 8:30 a.m.–3 p.m.

*Place:* National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

*Type of Meeting:* Open.

*Contact Person:* Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Tel No.: (703) 292–8400.

*Minutes:* May be obtained from the contact person listed above.

*Purpose of Meeting:* The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directors, and goals for the research-related activities of the divisions that make up BIO.

*Agenda:* Planning and Issues Discussion:

- Committee of Visitors Report
- Education and Outreach Activities
- Subcommittee Reports

Dated: October 19, 2004.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 04–23818 Filed 10–25–04; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Business and Operations Advisory Committee; Notice of Meeting

In accordance with Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

*Name:* Business and Operations Advisory Committee (9556).

*Date/Time:* November 18, 2004; 1 p.m. to 5:30 p.m. (EST). November 19, 2004; 8 a.m. to 12:15 p.m. (EST).

*Place:* National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, VA.

*Type of Meeting:* Open.

*Contact Person:* Mary Ann Birchett, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8100.

*Purposes of Meeting:* To provide advice concerning issues related to the oversight, integrity, development and enhancement of NSF's business operations.

*Agenda:*

**November 18, 2004**

P.M.: Welcome and introduction of new members; updates—Office of Budget, Finance, and Award Management, Office of Information and Resource Management, Chief Information Officer activities. Presentation and discussion—Large Facilities: Forming a Subcommittee; update on Business Analysis.

**November 19, 2004**

A.M.: Presentation and discussion—eGovernment at NSF; Federal Initiatives in eGovernment; meeting with NSF Acting Director; committee discussion; planning for next meeting; feedback; other business.

Dated: October 19, 2004.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 04–23819 Filed 10–22–04; 8:45 am]

BILLING CODE 7555–01–M

## NATIONAL SCIENCE FOUNDATION

### Earth Scope Science and Education Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Public Law 92–463, as amended), the National Science Foundation announces the following meeting.

*Name:* EarthScope Science and Education Advisory Committee (#16638).

*Dates/Time:* 8:30 a.m.–5:30 p.m. Tuesday, November 16, 2004 (NSF); 8:30 a.m.–12 p.m. Wednesday, November 17, 2004 (EarthScope Office); 1 p.m.–5 p.m. Wednesday, November 17, 2004 (NSF).

*Place:* National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Stafford I Building, Room 770; EarthScope Office, 1200 New York Avenue NW., Washington, DC.

*Type of Meeting:* Part Open (*see* agenda below).

*Contact Person:* Dr. Kaye Shedlock, Program Director, EarthScope Program, Division of Earth Sciences, Room 785, National Science Foundation, Arlington, VA, (703) 292–4693.

*Minutes:* May be obtained from the contact person listed above.

*Purpose of Meeting:* To carry out EarthScope proposal and management review, including program evaluation, GPRA assessments, and access to privileged materials; and to provide advice, recommendations, and oversight concerning EarthScope construction, operation, science and education support.

*Agenda:* Closed: November 16, 2004, 8:30 a.m.–5:30 p.m.—To review the EarthScope Project Execution Plan (PEP) covering funding decisions for personnel and subcontracts for the construction phase of EarthScope; proposal actions from the 2004 EarthScope Solicitation, including the discussion of proposals still under review.

Open: November 17, 2004, 8:30 a.m.–12 p.m.—To provide advice on the 2004 EarthScope Solicitation, education and outreach management structure, and revision of volcanic area instrumentation.

Closed: November 17, 2004, 1 p.m.–5:30 p.m.—continue discussions of EarthScope Project Execution Plan (PEP) covering funding decisions.

*Reason For Closing:* During the closed sessions, the committee will be reviewing proposal actions that may include privileged intellectual property or information confidential in nature, including personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 19, 2004.

**Susanne Bolton,**

*Committee Management Officer.*

[FR Doc. 04–23817 Filed 10–25–04; 8:45 am]

**BILLING CODE 7555–01–M**

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–498 and 50–499]**

### STP Nuclear Operating Company, et al., South Texas Project, Units 1 and 2; Notice of Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of STP Nuclear Operating Company (the licensee) to partially withdraw its September 22, 2003 (ML032691396), application for proposed amendment to Facility Operating License No. NPF–76 and Facility Operating License No. NPF–80 for the South Texas Project, Units 1 and 2, respectively. The facility is located in Matagorda County, Texas.

The proposed amendment would have modified the facility Technical Specifications (TSs) to change the requirements for the Engineered Safety Features sequencer and the Surveillance Requirements that are applicable in Modes 5 and 6 to provide needed clarification. In addition, the proposed amendment would correct a typographical error from requirement ''c.'' in TS 3.2.4 to requirement ''b.''

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on November 12, 2003 (68 FR 64139). However, by letter dated September 30, 2004 (ML042800236), the licensee withdrew the proposed change except for that part which corrected the typographical error.

For further details with respect to this action, see the application for amendment dated September 22, 2003, and the licensee's letter dated September 30, 2004, which partially withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams/html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 19th day of October 2004.

For the Nuclear Regulatory Commission.

**David H. Jaffe,**

*Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04–23791 Filed 10–22–04; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–29–OLA; ASLBP No. 04–831–01–OLA]**

### Yankee Atomic Electric Company; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and the Commission's regulations, *see* 10 CFR 2.104, 2.300, 2.303, 2.309, 2.311, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

Yankee Atomic Electric Company, Yankee Nuclear Power Station, Franklin County, Massachusetts (Operating License Amendment)

This proceeding concerns a request for hearing submitted on August 20, 2004, by the Citizens Awareness Network, Inc., in response to a June 14, 2004 notice of opportunity for hearing (69 FR 34,696, 34,707 (June 22, 2004)), regarding a November 24, 2003 request to amend the operating license of Yankee Atomic Electric Company's Yankee Nuclear Power Station in Rowe, Massachusetts. The new license condition would document the date of NRC approval of the license termination plan (LTP) for the facility and provide criteria to determine the need for NRC approval of changes to the approved LTP.

The Board is comprised of the following administrative judges:

Alan S. Rosenthal, Chair, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Charles N. Kelber, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed with the administrative judges in accordance with 10 CFR 2.302.

Issued at Rockville, Maryland, this 19th day of October 2004.

**G. Paul Bollwerk, III,**

*Chief Administrative Judge, Atomic Safety and Licensing Board Panel.*

[FR Doc. 04–23789 Filed 10–24–04; 8:45 am]

**BILLING CODE 7590–01–P**

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–263]**

## Nuclear Management Company, LLC; Monticello Nuclear Generating Plant, Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption from the requirements of title 10 of the Code of Federal Regulations (10 CFR), part 50, Appendix R, Section III.G.2.b for Facility Operating License No. DPR–22, issued to Nuclear Management Company, LLC (NMC), for operation of the Monticello Nuclear Generating Plant (MNGP), located in Wright County, Minnesota. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

### Environmental Assessment

*Identification of the Proposed Action*

The proposed action would authorize a permanent exemption from the requirements of 10 CFR part 50, Appendix R, Section III.G.2.b, as it applies to Fire Area IX/Fire Zone 23A, the intake structure pump room at MNGP. The proposed action is in accordance with NMC's exemption request of November 17, 2003, as supplemented July 16, 2004.

*The Need for the Proposed Action*

NMC requested this exemption from the requirement to separate cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. NMC indicated that although redundant safe shutdown components and cables within this fire zone are separated by more than 20 feet, permanent intervening combustibles or fire hazards exist within the separating space.

*Environmental Impacts of the Proposed Action*

The NRC staff reviewed NMC's exemption request and will issue a safety evaluation documenting its review. The NRC staff analyzed the following items in the intake structure pump room at MNGP to satisfy the requirements of 10 CFR 50.12 for granting the exemption from the automatic suppression system requirements of Appendix R, Section III.G.2.b:

- Safe shutdown equipment.
- Fixed and transient combustibles.
- Chemical hazards.
- Existing fire protection features.
- Intervening combustibles.
- Impact of Regulatory Issue Summary 2004–03, ''Risk-Informed Approach for Post-Fire Safe-Shutdown Associated Circuit Inspections,'' dated March 2, 2004.

The following attributes of the intake structure pump room at MNGP supported the NRC staff's basis for approval of the requested exemption:

- Greater than 20 feet of separation exists between redundant safe shutdown components and cables.
- Early-warning ionization detection, installed above the residual heat removal service water (SW) and SW pumps, provides an alarm to the control room.
- Activation of the pre-action valve via the thermal detectors results in a ''system actuated'' signal to the control room.
- Transient combustibles and hot work in the area are administratively controlled.
- The fire load in the zone satisfies the criteria for a low fire load designation.

The NRC staff concluded that the requested exemption for Fire Area IX/Fire Zone 23A provided reasonable assurance that one train of redundant safe shutdown equipment would remain free of fire damage. This is the equivalent of meeting the requirements of 10 CFR part 50, Appendix R, Section III.G.2.b, since the underlying purpose of Section III.G.2.b is to assure that one train of redundant safe shutdown equipment will be maintained free of fire damage.

The details of the NRC staff's safety evaluation will be provided in the exemption that will be issued as part of the letter to NMC approving the exemption to the regulation.

The proposed action will not significantly increase the probability or consequences of accidents. No changes are being made in the types of effluents that may be released off site. There is no significant increase in the amount of effluent being released offsite. There is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statement for Monticello dated November 1972.

*Agencies and Persons Consulted*

On October 15, 2004, the staff consulted with the Minnesota State official, Nancy Campbell of the Department of Commerce, regarding the environmental impact of the proposed action. The State official had no comments.

### Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see NMC's exemption request of November 17, 2003, as supplemented July 16, 2004. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 13th day of October 2004.

For the Nuclear Regulatory Commission.

**L. Raghavan,**

*Chief, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 04–23790 Filed 10–22–04; 8:45 am]

**BILLING CODE 7590–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–50552; File No. SR–Amex–2004–25]**

## Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and No. 2 Thereto by the American Stock Exchange LLC Relating to Revisions to Amex Rule 111

October 15, 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 April 28, 2004, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared by the Exchange. On May 10, 2004, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On June 8, 2004, the Exchange submitted Amendment No. 2 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

The Exchange proposes to amend Amex Rule 111. The text of the proposed rule change appears below. Proposed new language is in *italics.*

* * * * *

**Restrictions on Registered Traders**

Rule 111. (a) Registered Traders who wish to initiate purchases or sales while on the Floor for accounts in which they have an interest shall not:

(1) Congregate in a particular stock; or

(2) Individually or as a group, intentionally or unintentionally, dominate the market in a particular stock; or

(3) Effect such purchases or sales except in a reasonable and orderly manner; or

(4) Be conspicuous in the general market or in the market in a particular stock.

(b) No Registered Trader shall effect, on the Floor of the Exchange, for an account in which he has an interest, ''long'' purchases of stock above the previous day's closing price on ''plus'' or ''zero plus'' ticks, except for ''zero plus'' tick purchases on the bid.

(c) No Registered Trader shall effect, on the Floor of the Exchange, a transaction for an account in which he has an interest and execute as broker an off-Floor order in the same stock during the same trading session.

(d) No Registered Trader shall, in establishing or increasing a position for an account in which he has an interest, while on the Floor of the Exchange, retain priority over an off-Floor order.

(e) Registered Traders shall meet the following stabilization tests, to be computed on a monthly basis:

(1) 75 percent measured by the tick test on the acquisition side.

(2) 75 percent measured by the tick test on the liquidation side except where the liquidating transaction is at a loss of not less than the minimum price variation calculated on a ''first in, first out'' (FIFO) basis. Transactions, which are non-stabilizing, effected at such a loss, will not be counted in computing the stabilizing percentage.

(3) Under the tick test, purchases on ''minus'' and ''zero minus'' ticks and sales on ''plus'' and ''zero plus'' ticks are stabilizing.

(f) The provisions of the foregoing paragraphs of this Rule and of Rule 110 shall not apply to:

(1) Any transaction by a registered specialist in a security in which he is so registered; or

(2) Any transaction for the account of an odd-lot dealer in a security in which he is so registered; or

(3) Any stabilizing transaction effected in compliance with Rule 10b-7 under the Securities Exchange Act of 1934 to facilitate a distribution of a security in which a member is participating; or

(4) Any bona fide arbitrage transaction; or

(5) Any transaction, other than a transaction for an account in which a Registered Trader has an interest, made with the prior approval of a Floor Official to permit a member to contribute to the maintenance of a fair and orderly market in a security, or any purchase or sale to reverse any such transaction; or

(6) Any transaction to offset a transaction made in error.

(g) Members may initiate transactions in bonds while on the Floor, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions.

(h) Specialists registered in rights may, while on the Floor, initiate transactions in a security which is the subject of the rights for the purpose of acquiring or liquidating a bona fide hedge position against the rights, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions.

*(i) Subject to Rule 175, equity specialists may, while on the Floor, initiate transactions in any security overlying a security in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rules 110 and 111(a) through (e) (as made applicable to options by Rule 950(a) and (c)) and Rule 958 shall not apply to such transactions. Option specialists may, while on the Floor, initiate transactions in any security underlying a security in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions. Registered Options Traders may, while on the Floor, initiate transactions in any security underlying a security in which they are acting as a market maker pursuant to Rule 958 for the purpose of acquiring or liquidating a bona fide hedge position, and the provisions of Rule 110 and of paragraphs (a) through (e) of this Rule shall not apply to such transactions. The term ''bona fide hedge'' shall have the meaning ascribed to it in Securities Exchange Act Rule 11a1–3(T) and pages 33–35 of Securities Exchange Act Release No. 15533 (January 29, 1979). Pages 33–35 of Securities Exchange Act Release No. 15533 are reprinted in Commentary .13 to this Rule.*

* * * Commentary

.01–.12—no change.

*.13 The following is a reprint of pages 33 through 35 of Securities Exchange Act Release No. 15533 (January 29, 1979):*

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Bill Floyd-Jones, Counsel, Exchange, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated May 7, 2004 (''Amendment No. 1''). In Amendment No. 1, the Exchange clarified the proposed rule language, and provided additional explanation in the purpose section of the proposed rule change.

[4] *See* Letter from Bill Floyd-Jones, Counsel, Exchange, to Nancy Sanow, Assistant Director, Division, Commission, dated June 7, 2004 (''Amendment No. 2''). In Amendment No. 2, the Exchange added a definition of ''bona fide hedge'' to the text of the proposed rule change. In Amendment No. 2, the Exchange also reprinted pages 33–35 of Securities Exchange Act Release No. 15533 (January 29, 1979) as proposed Commentary .13 to the text of the proposed rule change.

*3. Hedge Transactions.*

*Section 11(a)(1)(D) also provides an exemption for ''any bona fide hedge transaction involving a long or short position in an equity security and a long or short position in a security entitling the holder to acquire or sell such equity security * * *.'' The Act does not otherwise specify what type of transaction will result in a ''bona fide hedge.'' While the application of that term is largely a matter of custom and practice, the Commission believes that it implies that an appreciable offset of risk, for all or part of the position being hedged, must be involved.*[58]

*A bona fide hedge may be established either by contemporaneous transactions in two securities where each position acquired reduces the risk of the other,*[59] *or by a single transaction in which a position acquired in one security reduces the risk of a previously established position in another security.*[60] *To the extent, however, that a position does more than offset the risk of the position or positions on the other side, the excess position is not part of a ''bona fide hedge'' for purposes of Section 11(a)(1)(D. [sic] Where a bona fide hedge has been established, the exemption under Section 11(a)(1)(D) also aplies [sic] to the transaction or transactions that liquidate the hedge.*[61]

* * * * *

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

### *A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Congress gave the Commission authority to regulate ''floor trading''[5] in 1934.[6] The Commission did not exercise this authority until 1964, when it adopted SEC Rule 11a–1—''Regulation of Floor Trading.''[7] Shortly after the adoption of SEC Rule 11a–1, the Commission published the Exchange's proposed floor trading plan (''Plan'') for public comment.[8] The Plan proposed the adoption of Amex Rules 110, 111, and 112 which (1) created a registered equity trader program, and (2) exempted trading pursuant to the first six exceptions in SEC Rule 11a–1 from both the prohibitions in SEC Rule 11a–1 and the Exchange's proposed Plan. On July 23, 1964, the Commission approved the Exchange's Plan[9] together with revisions to the Plan that exempted from the prohibitions contained in SEC Rule 11a–1 and the Plan: (1) Transactions in bonds, (2) hedging transactions by rights specialists in the underlying security, and (3) certain block transactions.[10] In approving the proposed exemption for hedging transactions by rights specialists, the Commission stated:

The second proposed exemption is of a technical nature and involves transactions by specialists in rights. The scope of the

[58] *For example, while the risk of a short stock position might theoretically be reduced by a ''deep-out-of-the-money'' long call position, there generally would not be any realistic expectation that the call would offset any appreciable amount of the risk assumed in the short stock position. In such a case the two positions would not involve a bona fide hedge for purposes of Section 11(a)(1)(D). At the same time, a transaction establishing an ''in-the-money'' or ''near-the-money'' long call position covering 100 underlying shares of stock could be a hedge transaction for purposes of Section 11(a)(1)(D) for part of a preexisting short stock position of much greater size.*

*The question whether particular combinations of stock positions and options positions result in risk reduction in each of the positions involves subjective judgments as to the volatility and risk characteristics of those positions. For example, ''ratio'' hedges are frequently used when the risk involved in a stock position is offset by the writing of options. In such ratio hedges, the number of underlying shares deliverable upon exercise of the options exceeds the number of shares in the stock position that is being hedged. The hedge ratio reflects a calculation of the relative degree of risk involved in each position. In establishing a suitable ratio, some industry participants use the ''delta factor'' derived from the Black-Scholes pricing formula; the delta factor predicts price movements in an option as a function of movements in the underlying stock. Other industry participants have developed their own models. The Commission recognizes that the calculation of volatility and risk can only be approximate, and believes that, for purposes of Section 11(a)(1)(D), the determination of what constitutes an offset may be made by the use of any responsible method of calculating the risk of stock and options positions.*

[59] *For example, a bona fide hedge may involve essentially contemporaneous transactions in a stock and in one or more options to buy or sell that stock where the stock and option positions so acquired reduce the risks of each other. Where a bona fide hedge position is established by contemporaneous transactions, each such transaction qualifies for the hedge exemption.*

*In addition, the Commission recognizes that the ''legging in'' technique discussed above is used also in establishing hedges and that a similar ''legging out'' technique is used in liquidating some hedges. The Commission believes that, where either technique is used, the hedging exemption should apply on the same basis as is discussed above in connection with bona fide arbitrage. See text accompanying nn. 51–53, supra.*

[60] *A transaction to hedge a previously established position does not retroactively confer a hedge exemption on the transaction that established the original position. For example, a short stock position that had been established on February 1 could be hedged by a long call transaction on March 1. In that example, only the March 1 long call transaction could qualify as a bona fide hedge transaction. The February 1 short stock transaction would not, even though it later became involved in a hedge; if the transaction establishing the February 1 position had violated Section 11(a), the violation would not be cured by the March 1 transaction.*

[61] *When a hedge is liquidated, the hedge exemption applies to the transaction or transactions that eliminate the hedge, regardless of whether the transaction that originally established the position being liquidated was an exempt bona fide hedge transaction. If a hedge is eliminated by liquidating all the positions at the same time, or by legging them out, each liquidating transaction qualifies for the hedge exemption. For example, where a short stock position established on February 1 was hedged contemporaneously by a long call position, or was hedged at a later time (e.g., on March 1) by such a position, both positions could be liquidated, or ''legged out,'' under the hedge exemptions. If, on the other hand, a hedge is eliminated by liquidating only one of the positions that constitute the hedge, only that liquidating transaction qualifies for the hedge exemption; transactions liquidating the remaining positions that had formerly been, but were no longer, part of an existing hedge would not qualify for the hedge exemption (unless a hedge had been reestablished involving those positions). For example, where the hedge referred to above was eliminated by the liquidation of only the February 1 short stock position, that transaction would qualify for the hedge exemption, but the later liquidation of the March 1 long call position would not qualify under the hedge exemption (unless a hedge had been reestablished by acquiring a third position—e.g., another short stock position).*

[5] The Commission has defined ''floor trading'' as trading by members of national securities exchanges for their own account while personally present on the trading floor of an exchange. *See* Securities Exchange Act Release No. 7290 (April 9, 1964), 29 FR 5168 (April 15, 1964).

[6] As originally adopted, Section 11(a) of the Act provided:

''The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, (1) to regulate or prevent floor trading by members of national securities exchanges, directly or indirectly for their own account or for discretionary accounts, and (2) to prevent such excessive trading on the exchange but off the floor by members, directly or indirectly for their own account, as the Commission may deem detrimental to the maintenance of a fair and orderly market. It shall be unlawful for a member to effect any transaction in a security in contravention of such rules and regulations, but such rules and regulations may make such exemptions for arbitrage transactions, for transactions in exempted securities, and within the limitations of subsection (b) of this section, for transactions by odd-lot dealers and specialist, as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.''

[7] *See* Securities Exchange Act Release No. 7330 (June 2, 1964), 29 FR 7380 (June 6, 1964).

[8] Securities Exchange Act Release No. 7359 (June 30, 1964), 29 FR 9344 (July 8, 1964).

[9] Securities Exchange Act Release No. 7374 (July 23, 1964), 29 FR 10632 (July 30, 1964).

[10] Securities Exchange Act Release No. 7375 (July 23, 1964), 29 FR 10632 (July 30, 1964).

exemption is limited to a transaction in which a rights specialist having sold rights desires to effect a bona fide hedge of his position by purchasing the underlying security. This practice is analogous to arbitrage for which there is an existing exemption from Rule 11a–1. The transactions excepted by this amendment do not involve the problems of floor trading discussed in Release No. 7290.[11]

In 1975, Congress substantially amended Section 11(a) of the Act.[12] Congress extended the general prohibition on member floor trading embodied in SEC Rule 11a–1[13] to off-floor member trading.[14] Congress also established various statutory exemptions to the general prohibition on member trading, including exemptions for bona fide arbitrage and bona fide hedge transactions on the grounds that these types of trading were beneficial to the market and thus, should not be prohibited. The Exchange is now proposing to amend Amex Rule 111 to conform it to the 1975 amendments to Section 11(a) of the Act by allowing members registered as options specialists and options traders to initiate while on the Floor bona fide hedging transactions for their accounts in Amex listed securities and to allow members registered as equity specialists to initiate while on the Floor bona fide hedging transactions for their accounts in options traded on Amex.

The Exchange believes that bona fide hedging transactions do not create the member trading issues that Section 11(a)(1) of the Act was intended to prevent. Congress and the Commission have both recognized that bona fide hedging transactions are beneficial to the market and are not of a kind that should be prohibited by Section 11(a)(1) of the Act. Congress specifically exempted bona fide hedging transactions from the prohibition of Section 11(a)(1) of the Act.[15] The Commission also has issued extensive interpretive guidance as to the transactions that would qualify for the bona fide hedge exemption under Section 11(a)(1)(D) of the Act[16] and has defined bona fide hedge to include, among other things, options to options hedging.[17]

Under the Exchange's proposed rule change, options specialists and registered options traders could give an order for their account directly to an Amex broker on the Floor for a security underlying an option in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position through a trade on the Exchange.[18] Similarly, Amex proposes to permit equity specialists (subject to Amex Rule 175 which regulates option transactions by equity specialists) to give an order for their account directly to an Amex broker on the Floor for a security overlying an equity in which they are registered for the purpose of acquiring or liquidating a bona fide hedge position through a trade on the Exchange.[19] The proposed rule would exempt bona fide hedge transactions by option specialists and registered options traders from the requirements of Amex Rule 110, and paragraphs (a) through (e) of Amex Rule 111 because options specialists and registered option traders would not be acting as registered traders in the underlying security when they trade the security to acquire or liquidate a hedge position.[20] Likewise, equity specialists would be exempted from the requirements of Amex Rule 958 (which regulates the transactions of registered options traders) when they acquire or liquidate hedge positions in the related options since they would not be acting as a registered option trader in effecting these trades.[21] The Exchange also proposes under Amex Rule 111(i) to add a definition of ''bona fide hedge'' which shall have the meaning found in SEC Rule 11a1–3(T) and in pages 33–35 of the Securities Exchange Act Release No. 15533 (January 29, 1979). The Exchange further proposes to provide a reprint of pages 33–35 of the Securities Exchange Act Release No. 15533 in proposed Commentary .13 of Amex Rule 111.[22]

Brokers who receive orders from options specialists, equity specialists or registered options traders would be required to prepare a record of any hedging order given to them,[23] and specialists and registered options traders who give out hedging orders would have to prepare and submit to the Exchange a record of all hedging orders and transactions effected for an account in which they have an interest.[24]

The Exchange believes that the proposed rule change may make the execution of hedging transactions in stocks underlying Amex listed options more efficient, particularly in the context of stock/option combination orders (*e.g.*, a buy-write transaction), by eliminating the need for off-floor transmission of the stock order followed by the re-transmission of the stock order to the Floor. Under the Exchange's proposed rule change, the stock component of the combination order could be sent directly to the location on the Floor where the stock trades without first transmitting it off the Floor. This will eliminate an intermediate step and may speed order execution to the benefit of investors. The Exchange, likewise, believes that the proposed rule change will facilitate the execution of hedging transactions by equity specialists in the overlying option by eliminating the need for off-floor transmission of the option order.[25]

2. Statutory Basis

As described above, the Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[26] in general, and furthers the objectives of Section 6(b)(5) in particular,[27] in that it is designed to prevent fraudulent and manipulative acts and practices, 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

[11] *Id.*

[12] *See* 15 U.S.C. 78k(a).

[13] 17 CFR 240.11a–1.

[14] ''The advanced communication systems of today enable exchange members to trade from off the floor with many of the same advantages over individual public investors that were enjoyed by floor traders in times passed. In its 1967 Report on Trading on the New York Stock Exchange by Off-Floor Members, the SEC found that the off-floor trader has may informational and market proximity advantages similar to those of the floor trader. He is apparently more quickly aware of developing market trends since he has a direct wire to the floor to keep him posted. Once having made an investment decision, the off-floor trader is able to execute the decision faster than a public investor.'' Report on H.R. 5050, at 49–50. A similar analysis is presented in the Report of S. 470, at 16.

[15] 15 U.S.C. 78k(a)(1)(D).

[16] *See* Securities Exchange Act Release No. 15533 (January 29, 1979). In its interpretive guidance, the Commission defined ''bona fide hedge'' as follows:

''While the application of that term [bona fide hedge] is largely a matter of custom and practice, the Commission believes that it implies that an appreciable offset of risk, for all or part of the position being hedged, must be involved.''

''A bona fide hedge may be established either by contemporaneous transactions in two securities where each position acquired reduces the risk of the other, or by a single transaction in which a position acquired in one security reduces the risk of a previously established position in another security. To the extent, however, that a position does more than offset the risk of the position or positions on the other side, the excess position is not part of a 'bona fide hedge' for purposes of Section 11(a)(1)(D). Where a bona fide hedge has been established, the exemption under Section 11(a)(1)(D) also applies to the transaction or transactions that liquidate the hedge.'' (Footnotes omitted.) (Pages 33–34.)

[17] *See* 17 CFR 240.11a1–3(T).

[18] *See* Amendment No. 1, *supra* note 2.

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *See* Amendment No. 2, *supra* note 3.

[23] *See* Amex Rule 153.

[24] *See* Amex Rules 957 and 175, Guidelines for Specialists' Specialty Option Transactions Pursuant to Rule 175, paragraph (j).

[25] *See* Amendment No. 1, *supra* note 2.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange 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 Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to 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 such proposed rule change, as amended, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form *http://www.sec.gov/rules/sro.shtml*; or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Amex–2004–25 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–Amex–2004–25. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2004–25 and should be submitted on or before November 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

**Jill M. Peterson,**

*Assistant Secretary.*

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[28] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–50557; File No. SR–MSRB–2004–04]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change and Amendment No. 1 Thereto Relating to Proposed Amendments To Eliminate Exemptions From the Continuing Education Regulatory Element Requirements

October 18, 2004.

On August 5, 2004, the Municipal Securities Rulemaking Board (''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to eliminate all currently effective exemptions from the requirement to complete the Regulatory Element of the Continuing Education (''CE'') Program. On August 27, 2004, the MSRB filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change, as amended, was published for comment in the **Federal Register** on September 14, 2004.[4] The Commission received no comments on the proposal. This order approves the proposed rule change, as amended.

MSRB Rule G–3(h) currently provides, in part, that no member shall permit any registered person to continue to, and no registered person shall continue to, perform duties as a registered person, unless such person has complied with the Regulatory Element of the CE requirement set forth in this Rule.[5] The Regulatory Element component of MSRB Rule G–3(h)(i)(1) requires each registered person to complete a standardized, computer-based, interactive CE program within 120 days of their second registration anniversary date and every three years thereafter, or as otherwise prescribed by the Board. Registered persons who fail to complete the Regulatory Element are deemed inactive and may not perform in any capacity or be compensated in any way requiring registration.

Currently, two classes of persons are exempt from Regulatory Element requirements under MSRB G–3(h). The first class of persons come within the ''grandfathered'' exemption which applies to persons who were continuously registered, without serious disciplinary action,[6] for more than ten years as of the Rule's effective date (*i.e.*, July 1, 1995). The second class of persons come within the ''graduated'' exemption, which, although discontinued as of July 1998, continues to apply to registered persons who were ''graduated'' prior to the discontinuation of the exemption.[7]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Ronald W. Smith, Senior Legal Associate, MSRB, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated August 26, 2004. Amendment No. 1 replaced the original rule filing in its entirety.

[4] *See* Securities Exchange Act Release No. 50328 (September 7, 2004), 69 FR 55482 (September 14, 2004).

[5] *See* MSRB Rule G–3(h).

[6] For purposes of MSRB Rule G–3(h), a significant disciplinary action generally means a statutory disqualification as defined in Section 3(a)(39) of the Act; a suspension or imposition of a fine of $5,000 or more; or being subject to an order from a securities regulator to re-enter the Regulatory Element. *See* MSRB Rule G–3(h)(i)(C).

[7] When MSRB Rule G–3(h) was first adopted in 1995, the Regulatory Element schedule required registered persons to satisfy the Regulatory Element on the second, fifth, and tenth anniversary of their initial securities registration. After satisfying the tenth anniversary requirement, a person was ''graduated'' from the Regulatory Element. A graduated principal re-entered the Regulatory Element if he or she incurred a significant

Continued

However, in response to recommendations made by the Securities Industry/Regulatory Council on Continuing Education (the ''Council''), MSRB submitted a proposed rule change to eliminate all currently effective exemptions from required participation in Regulatory Element programs.[8] The Council believes that there is great value in exposing all registered industry participants to the full benefit of Regulatory Element programs.

The effective date of the MSRB proposed rule change is dependent upon the effective date of a similar proposed rule change filed by NASD[9] because NASD administers the Regulatory Element computer-based education program. NASD has stated that it will announce the effective date of its proposed rule change in a Notice to Members to be published no later than 60 days following Commission approval. NASD stated that the effective date will be (1) not more than 30 days following publication of the Notice to Members announcing Commission approval, (2) not more than 30 days following the implementation of necessary changes to Web Central Registration Depository (Web CRD), or (3) April 4, 2005, whichever date is the latest to occur. The effective date of the MSRB proposed rule change will be the same as the effective date of the NASD's proposed rule change.

The Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act,[11] which requires, among other things, that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change should help to ensure that all registered persons are kept up-to-date on regulatory, compliance, and sales practice-related industry issues. Further, the Commission believes that the proposed rule change will reinforce the importance of compliance with just and equitable principles of trade by exposing all registered industry participants to the full benefits of the Regulatory Element programs, which include a new Regulatory Element module that focuses specifically on ethics.

*It Is Therefore Ordered*, pursuant to section 19(b)(2) of the Act,[12] that the proposed rule change (SR–MSRB–2004–04), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

**Jill M. Peterson,**

*Assistant Secretary.*

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**BILLING CODE 8010–01–P**

disciplinary action. A graduated person who was not a principal re-entered if he or she acquired a principal registration or incurred a significant disciplinary action.

[8] The Council recommended at its December 2003 meeting that SRO Rules (*e.g.*, MSRB Rule G–3(h)), be amended to eliminate existing exemptions from the Regulatory Element and to require all ''grandfathered'' and ''graduated'' persons to fully participate in future standardized CE programs, according to the Rule's prescribed schedule.

[9] *See* Securities Exchange Act Release No. 50204 (August 16, 2004), 69 FR 51873 (August 23, 2004) (SR–NASD–2004–098).

[10] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78o–4(b)(2)(C).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–50558; File No. SR–NASD–2004–148]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to Amendments to TRACE Rule 6250

October 18, 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 October 1, 2004, the National Association of Securities Dealers, Inc. (''NASD''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. The NASD has filed the proposal as a ''non-controversial'' rule change pursuant to Section 19(b)(3)(A)(iii) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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).

[4] 17 CFR 240.19b–4(f)(6).

[5] The NASD asked the Commission to waive the 30-day operative delay. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii).

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend Rule 6250 to continue to disseminate transaction information for certain TRACE-eligible securities during Stage One of the implementation of SR–NASD–2004–094,[6] notwithstanding that the securities do not meet the frequency standards for such dissemination set forth in Rule 6250(b)(1)(C)(ii). Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

**6250. Dissemination of Transaction Information**

(a) through (c) No change.

*(d) Dissemination of Transaction Information for Certain Non-Investment Grade TRACE-Eligible Securities*

*Until such time as the effective date of (1) Rule 6250(a), (2) the portion of proposed Rule 6250(b)(1)(C)(i) not effective as of October 1, 2004, and (3) Rule 6250(b)(2) (being the effective date of ''Stage Two''), information for transactions in Non-Investment Grade TRACE-eligible securities that were subject to dissemination under the Rule 6200 Series prior to October 1, 2004, but that do not meet the frequency standards set forth in Rule 6250(b)(1)(C)(ii), will continue to be disseminated immediately upon receipt of the transaction report. Following the effective date of Stage Two, dissemination of such securities will be subject to all provisions of the Rule 6200 Series then in effect, at which time this paragraph (d) of Rule 6250 shall automatically expire by its own terms.*

* * * * *

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD 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. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[6] *See* Securities Exchange Act Release No. 50317 (September 3, 2004), 69 FR 55202.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

3. Purpose

The proposed rule change would continue the dissemination of transactions in a very small number (*i.e.*, fewer that 15) of Non-Investment Grade TRACE-eligible securities that are currently subject to dissemination, but that would not be disseminated during the first stage of implementation (although eligible for delayed dissemination) of the recently approved amendments to the Rule 6200 Series that became effective on October 1, 2004 (SR–NASD–2004–094).[7] The proposed rule change would, during the first stage of the two-stage implementation of the dissemination changes taking effect on October 1, 2004, allow NASD to continue to provide transaction information on such TRACE-eligible securities, rather than reduce transparency during such implementation. NASD asserts that this action is in furtherance of the general principles of transparency and the increase in transparency of all TRACE-eligible securities, as discussed by the Bond Transaction Reporting Committee, an advisory committee to the Board of Governors of NASD.

As discussed below, NASD is filing the proposed rule change for immediate effectiveness, and the implementation date will be October 1, 2004.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[8] which requires, among other things, that NASD rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the proposed rule change will promote transparency in the debt securities markets for the benefit of customers and other market participants in furtherance of the public interest and for the protection of investors.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

NASD 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.

[7] *Id.*

[8] 15 U.S.C. 78o–3(b)(6).

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments were neither solicited nor received.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Because the proposed rule change: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest) from the date on which it was filed, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. NASD has asked the Commission to waive the 30-day operative delay. The Commission hereby grants this request. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver will enable NASD to continue to provide transaction information on certain TRACE-eligible securities that have previously been subject to dissemination, but that would not be disseminated during the first stage of implementation of recently approved amendments to the Rule 6200 Series that became effective on October 1, 2004 (SR–NASD–2004–094).[11] NASD has also requested that the Commission waive the pre-filing notice requirement of at least five business days (or such shorter time as designated by the Commission).[12] The Commission hereby grants NASD's request to waive the pre-filing requirement.[13]

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.[14]

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] *See supra*, note 6.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NASD–2004–148 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File Number SR–NASD–2004–148. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NASD. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASD–2004–148 and

[14] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[15] 17 CFR 200.30–3(a)(12).

should be submitted on or before November 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E4–2820 Filed 10–22–04; 8:45 am]

**BILLING CODE 8010–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–50559; File No. SR–NYSE–2004–48]**

## Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Create New NYSE Rule 416A (''Member and Member Organization Profile Information Updates and Quarterly Certifications Via the Electronic Filing Platform'') and To Amend NYSE Rule 476A (''Imposition of Fines for Minor Violations of Rules''), Adding New NYSE Rule 416A to the ''List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A''

October 19, 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 August 19, 2004, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On October 12, 2004, NYSE amended the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Proposed new NYSE Rule 416A (''Member and Member Organization Profile Information Updates and Quarterly Certifications Via the Electronic Filing Platform'') would require members and member organizations to promptly update their organizational information via the Electronic Filing Platform (''EFP''), and to make quarterly certifications that their organizational information is complete and accurate. The proposed corresponding amendment to NYSE Rule 476A (''Imposition of Fines for Minor Violations of Rules'') would allow the Exchange to sanction members' and member organizations' less serious violations of new NYSE Rule 416A pursuant to the minor fine provisions of NYSE Rule 476A. The text of the proposed rule change is available at NYSE and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NYSE 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. NYSE 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

NYSE Rule 416 requires each Exchange member and member organization to submit to the Exchange information it deems essential for the protection of investors and the public interest. In 2001, the Exchange developed a new systems application for the EFP[4] to facilitate the electronic entry and processing of such information.

NYSE Information Memo No. 01–11, dated June 19, 2001, introduced the membership profile application of the EFP to members and member organizations, and provided a list of the data they were expected to promptly update. Exchange members and member organizations were informed that, in addition to ongoing updates, they would also be required to use the EFP semiannually (every December and June) to verify the accuracy of their membership profile information.

During the following year, the EFP was modified to enable the submission of additional required contact information (*e.g.* an anti-money laundering contact, and the heads of block/institutional trading, derivatives desks, and retail and program trading). NYSE Information Memo No. 02–41, dated August 30, 2002, increased from semiannual to quarterly the required frequency of members' and member organizations' review and verification of EFP profile information. It also expanded the list of required membership profile information to include EFP contact persons, member and member organization affiliates, and correspondent broker-dealers and clearing firms.

**Need for Proposed Rule 416A**

Given the importance of maintaining an up-to-date repository of regulatory information, and of communicating critical information quickly, particularly during emergencies, it has become increasingly necessary for members' and member organizations' profile information to be current and accurate. Despite Information Memos Nos. 01–11 and 02–41, some Exchange members and member organizations have failed to consistently update their profile information, or to conduct the required quarterly reviews and verifications.

Proposed Rule 416A requires each member and member organization to furnish the Exchange with all of the profile information required by the EFP, to promptly (within 30 days) update its required membership profile information after any change in such information, to designate to the Exchange an appropriate senior officer (or his or her designee) as its membership profile contact person, and to make quarterly electronic certifications that it has reviewed its required membership profile information, and that such information is complete and accurate.

Maintaining a current database of membership information allows the Exchange to better conduct its oversight of members and member organizations. Proposed Rule 416A is necessary to ensure that all members and member organizations promptly update their membership profile information via the EFP, and are vigilant in performing the required quarterly reviews and verifications of the completeness and accuracy of that information.

The Exchange believes that the benefits of proposed Rule 416A outweigh its costs. In a recent order granting approval of a similar National Association of Securities Dealers (''NASD'') rule, the Commission addressed a comment regarding the cost of NASD's proposed rule, and found that the rule was reasonable based upon

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* October 8, 2004 letter from Mary Yeager, Assistant Secretary, Exchange, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaced and superseded the original proposed rule change.

[4] The EFP is an extranet built by the NYSE to support authenticated, encrypted, two-way communications between the NYSE and its membership. It is currently being used for applications such as branch office approvals, short interest reporting, and fingerprints.

the NASD's need for accurate information.[5]

**Need for Amendment to NYSE Rule 476A**

NYSE Rule 476A provides that the Exchange may impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person, or registered or non-registered employee of a member or member organization for a minor violation of certain specified Exchange rules.

The purpose of the Rule 476A procedure is to provide a meaningful sanction for a rule violation when the initiation of a disciplinary proceeding under Rule 476 would be more costly and time-consuming than would be warranted given the minor nature of the violation, or when the violation calls for a stronger regulatory response than an admonition letter would convey. Rule 476A preserves due process rights, identifies those rule violations that may be the subject of summary fines, and includes a schedule of fines.

In SR–NYSE–84–27,[6] which initially set forth the provisions and procedures of Rule 476A, the Exchange indicated it would amend the list of rules from time to time, as it considered appropriate, in order to phase-in the implementation of Rule 476A as experience with it was gained.

Because of the possible range of severity of members' and member organizations' failure to satisfy the update, review, and certification requirements of the EFP system, an amendment to Rule 476A is necessary to allow the Exchange to sanction members' and member organizations' less serious violations of proposed new Rule 416A pursuant to the minor fine provisions of Rule 476A. The addition of proposed Rule 416A to Rule 476A's list of rule violations will not compromise the Exchange's ability to bring appropriate formal disciplinary actions for more serious violations of Rule 416A.

2. Statutory Basis

NYSE believes that the proposed rule change is consistent with the requirements of Section 6(b)(5)[7] of the Act, which requires that the rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest in that it helps the Exchange to maintain a current database of membership information, and to better conduct its oversight of members and member organizations. NYSE also believes the proposed rule change is consistent with Section 6(b)(6) of the Act,[8] which requires the rules of the Exchange to provide for its members and persons associated with its members to be appropriately disciplined for violations of those rules through fitting sanctions, including the imposition of fines.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that the proposal does not 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*

Written comments were neither solicited nor received.

**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 such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–NYSE–2004–48 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609.

All submissions should refer to File Number SR–NYSE–2004–48. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of NYSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSE–2004–48 and should be submitted on or before November 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

**Jill M. Peterson,**

*Assistant Secretary.*

[FR Doc. E4–2817 Filed 10–22–04; 8:45 am]

BILLING CODE 8010–01–P

[5] *See* Securities Exchange Act Release No. 49497 (March 29, 2004), 69 FR 17723 (April 5, 2004) (SR–NASD–2003–184).

[6] Securities Exchange Act Release No. 21688 (January 25, 1985), 50 FR 5025 (February 5, 1985).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78f(b)(6).

[9] 17 CFR 200.30–3(a)(12).

## SOCIAL SECURITY ADMINISTRATION

### The Ticket To Work and Work Incentives Advisory Panel Meeting

**AGENCY:** Social Security Administration (SSA).

**ACTION:** Notice of meeting.

**DATES:** November 16, 2004, 10:30 a.m.–4 p.m.* November 17, 2004, 9 a.m.–5 p.m. November 18, 2004, 9 a.m.–1 p.m.

*The full deliberative panel meeting ends at 4 p.m. The standing committees

of the Panel will meet from 4 p.m. until 5:30 p.m.

**ADDRESSES:** Double Tree Hotel Rockville, 1750 Rockville Pike, Rockville, MD 20852, Phone: (301) 468–1100.

**SUPPLEMENTARY INFORMATION:**

*Type of meeting:* This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket To Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

*Purpose:* In accordance with section 10(a)(2) of the Federal Advisory Committee Act, SSA announces a meeting of the Ticket To Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Pub. L. 106–170 establishes the Panel to advise the President, the Congress, and the Commissioner of SSA on issues related to work incentives programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket To Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear presentations, conduct full Panel deliberations on the implementation of TWWIIA, and receive public testimony.

The Panel will meet in person commencing on Tuesday, November 16, 2004 from 10:30 a.m. to 4 p.m. (standing committee meetings from 4 p.m. to 5:30 p.m.); Wednesday, November 17, 2004 from 9 a.m. to 5 p.m.; and Thursday, November 18, 2004 from 9 a.m. to 1 p.m.

*Agenda:* The Panel will hold a quarterly meeting. Briefings, presentations, full Panel deliberations and other Panel business will be held Tuesday, Wednesday and Thursday, November 16, 17, and 18, 2004. Public testimony will be heard in person Tuesday, November 16, 2004 from 3:30 p.m. to 4 p.m. and on Thursday, November 18, 2004 from 9 a.m. to 9:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business.

Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Shirletta Banks, at *Shirletta.Banks@ssa.gov* or calling (202) 358–6430.

The full agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel* at least one week before the meeting or can be received in advance electronically or by fax upon request.

Contact Information: Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket To Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC, 20024.
- Telephone contact with Kristen Breland at (202) 358–6423.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov*.

Dated: October 15, 2004.

**Carol Brenner,**

*Designated Federal Officer.*

[FR Doc. 04–23765 Filed 10–22–04; 8:45 am]

BILLING CODE 4191–02–P

## DEPARTMENT OF STATE

**[Public Notice 4822]**

### Overseas Security Advisory Council (OSAC) Meeting Notice;

### Closed Meeting

The Department of State announces a meeting of the U.S. State Department—Overseas Security Advisory Council on November 16, in Washington, DC. Pursuant to Section 10(d) of the Federal Advisory Committee Act and 5 U.S.C. 552b[c][1] and [4], it has been determined the meeting will be closed to the public. Matters relative to classified national security information as well as privileged commercial information will be discussed. The agenda will include updated committee reports, a world threat overview and a round table discussion that calls for the discussion of classified and corporate proprietary/security information as well as private sector physical and procedural security policies and protective programs at sensitive U.S. Government and private sector locations overseas.

For more information contact Marsha Thurman, Overseas Security Advisory Council, Department of State, Washington, DC 20522–2008, phone: 571–345–2214.

Dated: October 6, 2004.

**Joe D. Morton,**

*Director of the Diplomatic, Security Service, Department of State.*

[FR Doc. 04–23846 Filed 10–22–04; 8:45 am]

BILLING CODE 4710–43–P

## DEPARTMENT OF STATE

**[Public Notice 4865]**

### Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee will conduct an open meeting at 9:30 a.m. on Tuesday, November 16, 2004, in Room 2415, at U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Washington, DC 20593–0001. The purpose of this meeting will be to finalize preparations for the 79th Session of the Maritime Safety Committee, and associated bodies of the International Maritime Organization (IMO), which is scheduled for December 1–10, 2004, at IMO Headquarters in London. At this meeting, papers received and the draft U.S. positions for the Maritime Safety Committee will be discussed. Among other things, the items of particular interest are:

—Adoption of amendments to SOLAS for voyage data recorders, bulk carrier safety, the International Code for Carrying Dangerous Chemicals in Bulk, company and owner identification numbers and fire safety.
—Large passenger ship safety.
—Measures to enhance maritime security.
—Goal-based new ship construction standards.
—Implementation of the revised STCW Convention.
—Reports of five subcommittees: Ship design and equipment, Flag State implementation, Safety of navigation, Stability, load lines and fishing vessel safety, Dangerous goods, solid cargoes and containers.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing to Mr. Joseph J. Angelo, Commandant (G–MS), U.S. Coast Guard Headquarters, 2100 2nd Street, SW., Room 1218, Washington, DC 20593–0001 or by calling (202) 267–2970.

Dated: October 19, 2004.

**Clay Diamond,**

*Executive Secretary, Shipping Coordinating Committee, Department of State.*

[FR Doc. 04–23847 Filed 10–22–04; 8:45 am]

**BILLING CODE 4710–07–P**

## DEPARTMENT OF STATE

**[Public Notice 4866]**

### Shipping Coordinating Committee; Notice of Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9 a.m. on Wednesday, December 1, 2004, in Room 6103 of the United States Coast Guard Headquarters Building, 2100 2nd Street, SW., Washington, DC 20593–0001. The primary purpose of the meeting is to begin preparations for the 48th Session of the International Maritime Organization (IMO) Sub-Committee on Stability and Load Lines and on Fishing Vessels Safety to be held at IMO Headquarters in London, England from September 12th to 16th.

The primary matters to be considered include:

—Development of explanatory notes for harmonized SOLAS Chapter II–1;
—Large passenger ship safety;
—Review of the Intact Stability Code;
—Review of the Offshore Supply Vessel Guidelines;
—Harmonization of damage stability provisions in other IMO instruments;
—Review of the 2000 HSC Code and amendments to the DSC Code and the 1994 HSC Code;
—Tonnage measurement of open-top containerships.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing to Mr. Paul Cojeen, Commandant (G–MSE), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Room 1308, Washington, DC 20593–0001 or by calling (202) 267–2988.

Dated: October 19, 2004.

**Clay L. Diamond,**

*Executive Secretary, Shipping Coordinating Committee, Department of State.*

[FR Doc. 04–23848 Filed 10–22–04; 8:45 am]

**BILLING CODE 4710–07–P**

## TENNESSEE VALLEY AUTHORITY

### Sunshine Act; Meeting No. 1555

**TIME AND DATE:** 9 a.m. (CDT), October 27, 2004. Hopkinsville-Christian County Conference and Convention Center, 303 Conference Center Drive, Hopkinsville, Kentucky.

**STATUS:** Open.

**Agenda**

Approval of minutes of meeting held on September 22, 2004.

*New Business*

C—Energy

C1. Supplement to Contract No. 988 with Ingersoll-Rand Company for air compressors and replacement parts for any TVA location.

C2. Contract with Global Nuclear Fuel-Americas, LLC, for nuclear fuel and related engineering services for Browns Ferry Nuclear Plant Unit 1 and supplement to the contract with United States Enrichment Corporation for natural uranium for BFN1.

C3. Contract with ABB, Inc., for the supply of excitation systems to various hydro plants.

E—Real Property Transactions

E1. Grant of a permanent easement to the City of Dayton, Tennessee, without charge except for TVA's administrative costs, for an access road and culvert, affecting approximately .47 acre of land on Chickamauga Reservoir in Rhea County, Tennessee, Tract No. XTCR–203AR.

E2. Sale of a permanent easement to the Shoals Economic Development Authority for the construction of a railroad spur, affecting approximately .11 acre of land at the Colbert-Tupelo No. 2 transmission line in Colbert County, Alabama, Tract No. XCOT–1RR.

E3. Grant of a permanent easement to the Kentucky Transportation Cabinet for highway and bridge purposes, affecting approximately 41.1 acres of land on Kentucky Reservoir in Marshall and Livingston Counties, Kentucky, Tract No. XTGIR–154H; transfer of approximately 26 acres of land, Tract No. XTGIR–155, and grant of a permanent easement affecting approximately 7.1 acres of land, Tract No. XTFIR–156RR, to the Paducah & Louisville Railroad, Inc., for a railroad relocation project on the Kentucky Reservoir in Marshall and Livingston Counties, Kentucky; and grant of a permanent easement to Vulcan Industries affecting approximately .9 acre of land on Kentucky Reservoir in Livingston County, Kentucky, Tract No. XGIR–942RR.

*Information Items*

1. Approval of a delegation of authority to the Chief Financial Officer and Executive Vice President, Financial Services, and the Senior Vice President, Treasurer/Investor Relations, to amend swap arrangements with Merrill Lynch Derivative Products AG.

2. Approval of amendments to the 1996 delegation to enter into agreements for the sale, purchase, and loan of sulfur dioxide (''$SO_2$'') allowances (the ''1996 Delegation'') to (1) add nitrogen oxide (''$NO_X$'') allowances to the 1996 Delegation, (2) increase the maximum authorized value of each transaction from $20 million to $50 million, and (3) clarify that the 1996 Delegation does and, as amended, will include the authority to engage in (a) the purchase and sale of options and (b) swaps of allowances.

3. Approval of a supplement to Contract No. 2290 with Nuclear Electric Insurance Limited for accidental outage insurance at Browns Ferry, Sequoyah, and Watts Bar Nuclear plants and delegation of authority to the Vice President, Corporate Finance and Risk Management, to purchase, renew and take other ancillary actions as necessary.

4. Approval of an authorization to the Chief Nuclear Officer and Executive Vice President, TVA Nuclear, to certify to the Nuclear Regulatory Commission that TVA has the requisite authority to, and will, make nuclear material decommissioning funds available as necessary.

5. Approval to allow a TVA employee to purchase original artwork.

6. Approval of revised Dispersed Power Production Guidelines for TVA and distributors of TVA power.

**FOR FURTHER INFORMATION CONTACT:** Please call TVA Media Relations at (865) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 898–2999. People who plan to attend the meeting and have special needs should call (865) 632–6000. Anyone who wishes to comment on any of the agenda in writing may send their comments to: TVA Board of Directors, Board Agenda Comments, 400 West Summit Hill Drive, Knoxville, Tennessee 37902.

Dated: October 20, 2004.

**Maureen H. Dunn,**

*General Counsel and Secretary.*

[FR Doc. 04–23922 Filed 10–21–04; 11:15 am]

**BILLING CODE 8120–08–P**

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Update on Potential Withdrawal of Tariff Concessions and Increase in Applied Duties in Response to European Union (EU) Enlargement and EU Changes to Its Rice Import Regime

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Update for the public.

**BACKGROUND:** In **Federal Register** Notices 04–20543, dated September 10, 2004, and 04–21762, dated September 28, 2004, the Office of the U.S. Trade Representative sought comments concerning a list of goods for which tariff concessions may be withdrawn and duties may be increased in the event the United States cannot reach agreement with the European Union (EU) for adequate compensation owed under World Trade Organization (WTO) rules as a result of EU enlargement and EU changes to its rice import regime. The Trade Policy Staff Committee continues to review the public comments that it has received in response to these **Federal Register** notices. As announced at a public hearing on September 24, 2004, the United States had been subject to a deadline of October 1, 2004 to notify the WTO of its rights to withdraw substantially equivalent concessions under GATT 1994 Article XXVIII:3 in relation to the issue of EU enlargement. The European Communities has subsequently extended the United States' and other interested WTO Members' rights to withdraw substantially equivalent concessions for an additional six months, until April 30, 2005. In the case of the rice import regime change, the United States and other interested WTO Members have a right to withdraw substantially equivalent concessions until March 1, 2005. The United States Government is seeking an immediate negotiated resolution of both the enlargement and the rice Margin of Preference issues, which would alleviate the need for increases in U.S. tariffs. However, we retain the right to put into force the aforementioned tariff increases if negotiations do not result in successful provision of adequate compensation. The United States must notify the World Trade Organization at least 30 days before such increases could go into effect. The United States would also provide notification to the public of the list of goods affected at least thirty days before such increases could go into effect. The public is encouraged to call Laurie Molnar, Director for European and Mediterranean Trade Issues, Office of Europe and the Mediterranean, at (202) 395–3320, or Sharon Sydow, Director for Agriculture, Office of Agriculture, Office of the U.S. Trade Representative at (202) 395–6127 for periodic updates on the status of these issues.

**Carmen Suro-Bredie,**

*Chairman, Trade Policy Staff Committee.*

[FR Doc. 04–23821 Filed 10–22–04; 8:45 am]

BILLING CODE 3190–W5–P

## DEPARTMENT OF TRANSPORTATION

### Bureau of Transportation Statistics

**[Docket No. BTS–2004–19380]**

### Request for Public Comments on 14 CFR Part 241 Reporting Requirements

**AGENCY:** Bureau of Transportation Statistics (BTS), DOT.

**ACTION:** Request for Public Comments.

**SUMMARY:** Pursuant to the Department's regulations, certain air carriers are required to file BTS Form 41 Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Form 41 Schedule B–43 (Inventory of Airframes and Aircraft Engines). Under the Department's regulations, the Department can withhold confidential business information if release of the confidential information is likely to cause substantial competitive harm to the entity that submitted the information. Based on the sensitive nature of this cost data, carriers have filed motions for confidential treatment and BTS has routinely granted confidential treatment for a ten-year period. After receiving notification that, upon the expiration of the ten-year confidentiality period, the BTS intended to release the cost data, the United Parcel Service Co. (UPS) and United Air Lines, Inc. (United) filed objections to the pending release. Both UPS and United claimed that the cost data, although ten years old, are still so sensitive that their release would result in competitive harm.

BTS is seeking public comments on the merits of the UPS and United positions and views on whether the BTS should increase the confidentiality period for certain airframe and aircraft engine cost data.

**DATES:** Comments must be received by December 27, 2004.

**ADDRESSES:** You may submit comments (identified by DMS Docket Number BTS–2004–19380) through 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 Rulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. You should know that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

*Docket:* For access to the docket to read background documents or comments, 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:** Clay Moritz, Office of Airline Information, Bureau of Transportation Statistics, Department of Transportation, Room 4125, 400 Seventh Street, SW., Washington, DC, 20590–0001, (202) 366–4385; *clay.moritz@bts.gov.*

**SUPPLEMENTARY INFORMATION:** Pursuant to 14 CFR part 241, certain air carriers are required to file BTS Form 41 Schedule B–7 (Airframe and Aircraft Engine Acquisitions and Retirements) and Form Schedule B–43 (Inventory of Airframes and Aircraft Engines). These schedules contain cost data concerning airframes and aircraft engines. Specifically, the motions for confidential treatment cover the release of data pertaining to airframe and aircraft engine acquisitions and retirements that are reported in Schedule B–7 columns 9 (Cost), 10

(Depreciated Cost or Amortized Value), 11 (Realization) and the data pertaining to an annual inventory of airframes and aircraft engines that are reporting in Schedule B–43 columns 10 (Acquired Cost or Capitalized Value), 11 (Allowance for Depreciation or Amortization), 12 (Depreciated Cost or Amortized Value), and 13 (Estimated Residual Value). In previous confidentiality requests, UPS and United requested and the BTS effectively granted a ten-year period of confidentiality for the cost data reported on the Form 41, Schedules B–7 and B–43.

Subsequent to the expiration of the confidentiality period, BTS informed twelve air carriers that the agency intended to release the information. In a September 14, 2004 letter, UPS filed objections to the release and, in a September 23, 2004 letter, United also filed objections to the release (see BTS Docket No. 2004–19380). Both UPS and United claim that the information, although ten years old, is so sensitive that each company would suffer ''competitive harm'' if the BTS releases the information.

In its letter, UPS maintains that the information is still ''commercially sensitive'' based on three main points: (1) Disclosure of the data diminishes competition among the major aircraft manufacturers; engine manufacturers, and new and used aircraft owners and lessors who can use the commercially sensitive data to closely track UPS'' acquisition and retirement costs; (2) disclosure of the data impairs competition among competing domestic and foreign airlines in the international arena because United States airlines are required to reveal major elements of their cost structures when their foreign competitors are not; and (3) the Securities and Exchange Commission (SEC) has determined that these data should be withheld from public disclosure.

In addition, UPS requested that the BTS withhold the information under Exemptions 3 and 4 of the Freedom of Information Act (FOIA) (See 5 U.S.C. 552(b)(3) and (4)). Exemption 3 allows the withholding of information if the disclosure is prohibited by another statute and the statute either: ''(A) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;'' (see 5 U.S.C. 552(b)(3)). UPS stated that a provision in the United States Code (see 49 U.S.C. 40115) qualifies as an Exemption 3 statute in that the statute allows the Department to order certain information withheld from public disclosure if the disclosure would ''have an adverse effect on the competitive position of an air carrier in foreign air transportation.'' (See 49 U.S.C. 40115(a)(2)(B)).

In light of its objections, UPS requested that ''the Department continue to afford confidential treatment to Form 41 Schedules B–7 and B–43 and that such confidential treatment be continued indefinitely or, at a minimum, for [another] ten (10) years.''

United requested an extension based on the fact that prices have changed little since the 1992 to 1996 period. According to United, its ''747s delivered in 1994 * * * have aircraft/engine prices which are the same as the prices of the later delivered 747s, except for some minor changes due to price escalation provisions and any minor configuration changes.'' United also claimed that Exemptions 3 and 4 of FOIA protected this information from disclosure. United also cited the fact that the SEC had provided a period of confidentiality for this information. Thus, United requested that the BTS extend its period of confidentiality until December 31, 2006, the expiration date for the SEC confidentiality period.

## Request for Public Comments

We are inviting public comments on the UPS and United requests and views on whether BTS' confidentially period should be retained or amended. Based on the public comments and a review of the requests to extend the confidentiality period, BTS will consider retaining or amending its confidentiality period.

We are posing a series of questions in the hope that the public comments will address several issues in particular:

(1) Do you use the airframe and aircraft engine cost data required under Part 241 and, if so, how do you use the data elements?

(2) Should BTS amend or retain its confidentiality period for airframe and aircraft engine cost data?

(3) Should BTS change the manner in which it collects these data elements?

(4) Would it be in the public interest for BTS to grant the confidentiality extension requests?

Issued in Washington, DC on October 15th, 2004.

**Don Bright,**

*Assistant Director, Office of Airline Information.*

[FR Doc. 04–23753 Filed 10–22–04; 8:45 am]

BILLING CODE 4910–62–P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

**[REG–118620–97]**

### Proposed Collection; Comment Request for Regulation Project

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

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–118620–97 (TD 8855), Communications Excise Tax; Prepared Telephone Cards.

**DATES:** Written comments should be received on or before December 27, 2004, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

**SUPPLEMENTARY INFORMATION:**

*Title:* Communications Excise Tax; Prepaid Telephone Cards.

*OMB Number:* 1545–1628.

*Regulation Project Number:* REG–118620–97.

*Abstract:* Carriers must keep certain information documenting their sales of prepaid telephone cards to other carriers to avoid responsibility for collecting tax. The regulations provide rules for the application of the communications excise tax to prepaid telephone cards.

*Current Actions:* There are no changes being made to this existing regulation.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 104.

*Estimated Time Per Respondent:* 20 min.

*Estimated Total Annual Burden Hours:* 34.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 19, 2004.

**Joseph Durbala,**

*IRS Reports Clearance Officer.*

[FR Doc. 04–23845 Filed 10–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

### Advisory Council to the Internal Revenue Service; Meeting

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

**ACTION:** Notice.

**SUMMARY:** The Internal Revenue Service Advisory Council (IRSAC) will hold a public meeting on Wednesday, November 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jacqueline Tilghman, National Public Liaison, CL:NPL:P, Room 7567 IR, 1111 Constitution Avenue, NW., Washington, DC 20224. Telephone: 202–622–6440 (not a toll-free number). E-mail address: **public_liaison@irs.gov.*

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988), a public meeting of the IRSAC will be held on Wednesday, November 10, 2004, from 9 a.m. to 4 p.m. in Room 3313, main Internal Revenue Service building, 1111 Constitution Avenue, NW., Washington, DC 20224. Issues to be discussed include: LMSB Compliance Reengineering, Tax Shelter Strategy, Focus on Mid-Market Taxpayer Compliance, Earned Income Tax Credit, E-Services, Notice Redesign, Offer-in-Compromise Program, Tax Gap and Abusive Tax Schemes. Reports from the three IRSAC sub-groups, Large and Mid-size Business, Small Business/Self-Employed, and Wage & Investment, will also be presented and discussed. Last minute agenda changes may preclude advance notice. The meeting room accommodates approximately 50 people, IRSAC members and Internal Revenue Service officials inclusive. Due to limited seating and security requirements, please call Jacqueline Tilghman to confirm your attendance. Ms. Tilghman can be reached at 202–622–6440. Attendees are encouraged to arrive at least 30 minutes before the meeting begins to allow sufficient time for purposes of security clearance. Please use the main entrance at 1111 Constitution Avenue to enter the building. Should you wish the IRSAC to consider a written statement, please call 202–622–6440, or write to: Internal Revenue Service, Office of National Public Liaison, CL:NPL:P, 1111 Constitution Avenue, NW., Room 7567 IR, Washington, DC 20224 or e-mail: **public_liaison@irs.gov.*

Dated: October 19, 2004.

**J. Chris Neighbor,**

*Designated Federal Official, Branch Chief, Liaison/Tax Forum Branch.*

[FR Doc. 04–23844 Filed 10–22–04; 8:45 am]

**BILLING CODE 4830–01–P**

# Corrections

Federal Register

Vol. 69, No. 205

Monday, October 25, 2004

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

### Coastal Engineering Research Board (CERB)

*Correction*

In notice document 04–23229 beginning on page 61357 in the issue of Monday, October 18, 2004, make the following correction:

On page 61357, in the third column, under the **SUMMARY** heading, in the third line from the bottom "(November 3, 2004); 8 a.m. to 5 p.m.'' should read "(November 2, 2004); 8 a.m. to 5 p.m.''.

[FR Doc. C4–23229 Filed 10–22–04; 8:45 am]

BILLING CODE 1505–01–D

## OFFICE OF PERSONNEL MANAGEMENT

### 2003 Nonforeign Area Cost-of-Living Allowance Survey Report: Alaska and Washington, DC, Areas

*Correction*

In notice document 04–5428 beginning on page 12002 in the issue of Friday, March 12, 2004, make the following correction:

On page 12008, in the second column, in Table 9, in the Index column, the second entry "1152.00'' should read, "115.26''.

[FR Doc. C4–5428 Filed 10–22–04; 8:45 am]

BILLING CODE 1505–01–D

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

### Notice on the Role of Air Charter Brokers in Arranging Air Transportation

*Correction*

In notice document 04–23268 beginning on page 61429 in the issue of Monday, October 18, 2004, make the following correction:

On page 61431, in the first column, after the second full paragraph, in the fifth line, "bid bonds'' should read "bid boards.''

[FR Doc. C4–23268 Filed 10–22–04; 8:45 am]

BILLING CODE 4910–62–P

Federal Register

Monday,
October 25, 2004

# Part II

# Department of Health and Human Services

## Substance Abuse and Mental Health Services Administration

## Notice of Publication of SAMHSA's Revised Standard Grant Announcements; Notice

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Notice of Publication of SAMHSA's Revised Standard Grant Announcements

**Authority:** Sections 509, 516, and 520A of the Public Health Service Act.

**AGENCY:** Substance Abuse and Mental Health Services Administration, HHS.

**ACTION:** Notice of publication of samhsa's revised standard grant announcements.

**SUMMARY:** This is a publication of the Substance Abuse and Mental Health Services Administration's revised standard grant announcements for Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service to Science Grants. These announcements were previously published on March 8, 2004. The purpose of these revisions is to make minor technical changes to enhance the readability and use of the standard grant announcements, and to make the following more significant changes: (1) The address and telephone numbers of SAMHSA's offices have changed, since the agency recently moved into a new building in Rockville, Maryland. Grant applications and correspondence from the State Single Points of Contact (SPOCs) and Single State Agencies (SSAs) should be sent to this new address, which can be found in Section IV, Intergovernmental Review (E.O. 12372) Requirements, and Other Submission Requirements. Updated agency contact information for grants management issues can be found in Section VII; (2) Section IV, Submission Dates and Times, has been revised to identify specific carriers for shipment of applications and to change the requirements for proof of timely submission of applications; (3) in the Services Grants Announcement, Appendix 1 is required, indicating that applicants must meet certain experience, licensing, accreditation, and certification requirements, but applications that fail to provide this information will no longer be screened out. This change can be found in Section III, Evidence of Experience and Credentials; (4) a change in Section IV, Content and Form of Application Submission, indicates that applications will not be screened out if Appendices exceed the page limitation, and that reviewers will not consider Appendices that are not required; (5) an additional requirement can be found in Section IV, Funding Limitations/Restrictions, indicating that SAMHSA will not accept a "research'' indirect cost rate and that grantees must use the "other sponsored program rate'' or the lowest rate available.

**DATES:** Use of these revised standard grant announcements will be effective October 25, 2004. The standard grant announcements must be used in conjunction with *separate* Notices of Funding Availability (NOFAs) that will provide application due dates and other key dates for specific SAMHSA grant funding opportunities.

**ADDRESSES:** Questions about SAMHSA's standard grant announcements may be directed to Cathy Friedman, M.A., SAMHSA, Office of Policy, Planning and Budget, 1 Choke Cherry Road, Room 8–1097, Rockville, Maryland, 20857. Fax: (240–276–2220). E-mail: *cathy.friedman@samhsa.hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:** Cathy Friedman, M.A., SAMHSA, Office of Policy, Planning and Budget, 1 Choke Cherry Road, Room 8–1097, Rockville, Maryland, 20857. Fax: (240–276–2220). E-mail: *cathy.friedman@samhsa.hhs.gov.* Phone: (240) 276–2316.

**SUPPLEMENTARY INFORMATION:** Starting in FY 2004, SAMHSA changed its approach to announcing and soliciting applications for its discretionary grants. SAMHSA publishes four standard grant announcements that describe the general program design and provide application instructions for four types of grants—Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants. These standard grant announcements are posted on SAMHSA's web page and are available from SAMHSA's clearinghouses on an ongoing basis. The standard announcements are used in conjunction with brief Notices of Funding Availability (NOFAs) that announce the availability of funds for specific grant funding opportunities within each of the standard grant programs (*e.g.*, Homeless Treatment grants, Targeted Capacity Expansion grants, Youth Violence Prevention grants, *etc.*).

The Notices of Funding Availability (NOFAs) announcing the availability of funds for specific grant funding opportunities are published separately in the **Federal Register**, and are posted on the Federal grants Web site (*http://www.grants.gov*) and on the SAMHSA Web site (*http://www.samhsa.gov*). The NOFAs:

- Identify any specific target population or issue for the specific grant funding opportunity,
- Identify which of the four standard announcements applicants must use to prepare their applications,
- Specify total funding available for the first year of the grants and the expected size and number of awards,
- Specify the application deadline,
- Note any specific program requirements for each funding opportunity, and
- Include any limitations or exceptions to the general provisions in the standard announcement.

Applicants need to have both the NOFA and the appropriate standard announcement to prepare their applications. Both documents will be provided, along with application materials, in the application kits available from SAMHSA's clearinghouses as well as on SAMHSA's web site. SAMHSA's clearinghouse for the Center for Mental Health Services (CMHS) is the National Mental Health Information Center, which can be reached at 1–800–789–2647. The clearinghouse for the Center for Substance Abuse Treatment (CSAT) and Center for Substance Abuse Prevention (CSAP) is the National Clearinghouse for Alcohol and Drug Information (NCADI), which can be reached at 1–800–729–6686.

The four standard grant announcements are used for many of SAMHSA's grant funding opportunities. However, there are some funding opportunities that do not fit the standard announcements. In those instances, separate stand-alone grant announcements will be published and provided to applicants in the **Federal Register**, on the SAMHSA Web site, on the Federal grants Web site, and through SAMHSA's clearinghouses.

### Services Grants—SVC 05 PA (Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

KEY DATES

| | |
|---|---|
| Application Deadline | This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov.* |
| Intergovernmental Review (E.O. 12372) | Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline. |
| Public Health System Impact Statement (PHSIS)/Single State Agency Coordination. | Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline. |

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## I. Funding Opportunity Description

### *1. Introduction*

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Services Grants. This program announcement must be considered in conjunction with a full Notice of Funding Availability (NOFA), which specifies the grant program's purpose, target population, and other requirements of the program. These grants will expand and strengthen effective, culturally appropriate substance abuse and mental health services at the State and local levels. The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding effectiveness and acceptability. In general, the services implemented through SAMHSA's Services Grants will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some services for which the evidence base, while limited, is sound. SAMHSA expects that the services funded through these grants will be sustained by the grantee beyond the term of the grant.

SAMHSA also funds grants under three other standard grant announcements:

■ *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.

■ *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.

■ *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Services Grants. The availability of funds for specific Services Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement web page.

SAMHSA's Services Grants are authorized under Section 509, 516 and/or 520A of the Public Health Service Act, unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov.*

Typically, funding for Services Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

■ Specify total funding available for the first year of the grants and the expected size and number of awards;

■ Provide the application deadline;

■ Note any specific program requirements for each funding opportunity; and

■ Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

### *2. Expectations*

The Services Grant program is designed to address gaps in substance abuse and mental health services and/or to increase the ability of States, units of local government, Indian tribes, tribal organizations and governments, and community- and faith-based organizations to help specific populations or geographic areas with serious, emerging mental health and substance abuse problems. SAMHSA intends that its Services Grants result in the delivery of services as soon as possible and no later than 4 months after award. SAMHSA's Services Grants may include substance abuse prevention, substance abuse treatment and/or mental health services. Throughout this announcement, SAMHSA will use the term "services'' to refer to all three types of services. The NOFA will provide guidance on the particular type of service to be provided through each funding opportunity. Applicants *must* refer to the NOFA for required activities and exceptions to allowable activities.

#### 2.1 Documenting the Evidence-Base for Services to be Implemented

The services implemented through SAMHSA's Services Grants must incorporate the best objective information available regarding the effectiveness and acceptability of the services to be implemented. In general, the services implemented through

SAMHSA's Services Grants will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some services for which the evidence of effectiveness is based on formal consensus among recognized experts in the field and/or evaluation studies that have not been published in the peer reviewed literature.

Applicants must document in their applications that the services/practices they propose to implement are evidence-based services/practices. In addition, applicants must justify use of the proposed services/practices for the target population along with any adaptations or modifications necessary to meet the unique needs of the target population or otherwise increase the likelihood of achieving positive outcomes. Further guidance on each of these requirements is provided below.

Documenting the Evidence-Based Practice/Service

SAMHSA has already determined that certain services/practices are solidly evidence-based services/practices and encourages applicants to select services/practices from the following sources (though this is not required):

■ SAMHSA's National Registry of Effective Programs and Practices (NREPP) (*see* Appendix C).

■ Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (*see* Appendix D).

■ List of Effective Substance Abuse Treatment Practices (*see* Appendix E).

■ Additional practices identified in the NOFA for a specific funding opportunity, if applicable.

Applicants proposing services/practices that are not included in the above-referenced sources must provide a narrative justification that summarizes the evidence for effectiveness and acceptability of the proposed service/practice. The preferred evidence of effectiveness and acceptability will include the findings from clinical trials, efficacy and/or effectiveness studies published in the peer-reviewed literature.

In areas where little or no research has been published in the peer-reviewed scientific literature, the applicant may present evidence involving studies that have not been published in the peer-reviewed research literature and/or documents describing formal consensus among recognized experts. If consensus documents are presented, they must describe consensus among multiple experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert'' for this purpose.

In presenting evidence in support of the proposed service/practice, applicants must show that the evidence presented is the best objective information available.

Justifying Selection of the Service/Practice for the Target Population

Regardless of the strength of the evidence-base for the service/practice, all applicants must show that the proposed service/practice is appropriate for the proposed target population. Ideally, this evidence will include research findings on effectiveness and acceptability specific to the proposed target population. However, if such evidence is not available, the applicant should provide a justification for using the proposed service/practice with the target population. This justification might involve, for example, a description of adaptations to the proposed service/practice based on other research involving the target population.

Justifying Adaptations/Modifications of the Proposed Service/Practice

SAMHSA has found that a high degree of faithfulness or "fidelity'' (see Glossary) to the original model for an evidence-based service/practice increases the likelihood that positive outcomes will be achieved when the model is used by others. Therefore, SAMHSA encourages fidelity to the original evidence-based service/practice to be implemented. However, SAMHSA recognizes that adaptations or modifications to the original model may be necessary for a variety of reasons:

• To allow implementers to use resources efficiently,

• To adjust for specific needs of the client population,

• To address unique characteristics of the local community where the service/practice will be implemented.

All applicants must describe and justify any adaptations or modifications to the proposed service/practice that will be made.

2.2 Services Delivery

SAMHSA's Services Grant funds must be used primarily to support direct services, including the following types of activities:

■ Conducting outreach and pre-service strategies to expand access to treatment or prevention services to underserved populations. If you propose to provide only outreach and pre-service strategies, you must show that your organization is an effective and integral part of a network of service providers.

■ Purchasing or providing direct treatment (including screening, assessment, and care management) or prevention services for populations at risk. Treatment must be provided in outpatient, day treatment or intensive outpatient, or residential programs.

■ Purchasing or providing "wrap-around'' services (see Glossary) (*e.g.*, child care, vocational, educational and transportation services) designed to improve access and retention.

■ Collecting data using specified tools and standards to measure and monitor treatment or prevention services and costs. (No more than 20% of the total grant award may be used for data collection and evaluation.)

2.3 Infrastructure Development (Maximum 15% of Total Grant Award)

Although SAMHSA expects that its Services Grant funds will be used primarily for direct services, SAMHSA recognizes that infrastructure changes may be needed to support service delivery expansion in some instances. You may use up to 15% of the total Services Grant award for the following types of infrastructure development, if necessary to support the direct service expansion of the grant project.

■ Building partnerships to ensure the success of the project and entering into service delivery and other agreements.

■ Developing or changing the infrastructure to expand treatment or prevention services.

■ Training to assist treatment or prevention providers and community support systems to identify and address mental health or substance abuse issues.

2.4 Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L.103–62, or "GPRA'') requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits

distributed by SAMHSA's clearinghouses and posted on SAMHSA's website along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

2.5 Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area and attendance is mandatory.

2.6 Evaluation

Grantees must evaluate their projects, and you are required to describe your evaluation plans in your application. The evaluation should be designed to provide regular feedback to the project to improve services. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

■ How closely did implementation match the plan?

■ What types of deviation from the plan occurred?

■ What led to the deviations?

■ What effect did the deviations have on the planned intervention and evaluation?

■ Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

■ What was the effect of treatment on participants?

■ What program/contextual factors were associated with outcomes?

■ What individual factors were associated with outcomes?

■ How durable were the effects?

No more than 20% of the total grant award may be used for evaluation and data collection, including GPRA and incentives for completing the evaluation.

## II. Award Information

*1. Award Amount*

The expected award amount for each funding opportunity will be specified in the NOFA. Typically, SAMHSA's Services Grant awards are expected to be about $500,000 per year in total costs (direct and indirect) for up to 5 years. Awards may range as high as $3.0 million per year in total costs (direct and indirect) for up to 5 years. Regardless of the award amount specified in the NOFA, the actual award amount will depend on the availability of funds.

Proposed budgets cannot exceed the allowable amount specified in the NOFA in any year of the proposed project. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

*2. Funding Mechanism*

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (*see* the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

## III. Eligibility Information

*1. Eligible Applicants*

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program prohibits grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

*2. Cost Sharing*

Cost sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost sharing. However, you may include cash or in-kind contributions (*see* Glossary) in your proposal as evidence of commitment to the proposed project.

3. Other

3.1 Additional Eligibility Requirements

*Applications must comply with the following requirements, or they will be screened out and will not be reviewed:* use of the PHS 5161–1 application; application submission requirements in Section IV–3 of this document; and formatting requirements provided in Section IV–2.3 of this document. Applicants should be aware that the NOFA may include additional requirements that, if not met, will result in applications being screened out and returned without review. These requirements will be specified in Section III–3 of the NOFA.

You also must comply with any additional program requirements specified in the NOFA, such as signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

3.2 Evidence of Experience and Credentials

SAMHSA believes that only existing, experienced, and appropriately credentialed organizations with demonstrated infrastructure and expertise will be able to provide required services quickly and effectively. Therefore, in addition to the basic eligibility requirements specified in this announcement, applicants must meet three additional requirements related to the provision of treatment or prevention services.

The three requirements are:

• A provider organization for direct client services (*e.g.*, substance abuse treatment, substance abuse prevention, mental health services) appropriate to the grant must be involved in each application. The provider may be the applicant or another organization committed to the project. More than one provider organization may be involved;

• Each direct service provider organization must have at least 2 years

experience providing services in the geographic area(s) covered by the application, as of the due date of the application; and

• Each direct service provider organization must comply with all applicable local (city, county) and State/tribal licensing, accreditation, and certification requirements, as of the due date of the application.

[**Note:** The above requirements apply to all service provider organizations. A license from an individual clinician will not be accepted in lieu of a provider organization's license.]

In Appendix 1 of the application, you must: (1) Identify at least one experienced, licensed service provider organization; (2) include a list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency if the applicant is a treatment or prevention service provider organization; and (3) include the Statement of Assurance (provided in Appendix F of this announcement), signed by the authorized representative of the applicant organization identified on the face-page of the application, that all participating service provider organizations:

• Meet the 2-year experience requirement

• Meet applicable licensing, accreditation, and certification requirements, and,

• If the application is within the funding range, will provide the Government Project Officer (GPO) with the required documentation within the time specified.

In addition, if, following application review, an application's score is within the fundable range for a grant award, the GPO will call the applicant and request that the following documentation be sent by overnight mail:

• A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization that has agreed to participate in the project;

• Official documentation that all participating organizations have been providing relevant services for a minimum of 2 years before the date of the application in the area(s) in which the services are to be provided; and

• Official documentation that all participating service provider organizations comply with all applicable local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist.

If the GPO does not receive this documentation within the time specified, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

## IV. Application and Submission Information

To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.

### *1. Address to Request Application Package*

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

■ For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

■ For mental health grants, call the National Mental Health Information Center at 1–800–789-CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov*. Click on "Grant Opportunities.''

Additional materials available on this Web site include:

■ A technical assistance manual for potential applicants;

■ Standard terms and conditions for SAMHSA grants;

■ Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and

■ Enhanced instructions for completing the PHS 5161–1 applicatiod.

### *2. Content and Form of Application Submission*

2.1 Application Kit

SAMHSA application kits include the following documents:

■ PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Use the PHS 5161–1, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

■ Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

■ Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register**, as well as on the Federal grants Web site (*http://www.grants.gov*). It is very important that you read the entire NOFA before beginning to write your application.

You must use all of the above documents in completing your application.

### *2.2 Required Application Components*

To ensure equitable treatment of all applications, applications must be complete. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist).

☐ Face Page—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

☐ Abstract—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

☐ Table of Contents—Include page numbers for each of the major sections of your application and for each appendix.

☐ Budget Form—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A. A sample budget and justification is included in Appendix H of this Program Announcement.

☐ Project Narrative and Supporting Documentation—The Project Narrative describes your project. It consists of Sections A through E. Sections A–E together may not be longer than 30 pages. For example, remember that if your Project Narrative starts on page 5 and ends on page 35, it is 31 pages long,

not 30 pages.) More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through I. There are no page limits for these sections, except for Section H, the Biographical Sketches/Job Descriptions.

• Section F—Literature Citations. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

■ Section G—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 15% of the total grant award will be used for infrastructure development and that no more than 20% of the total grant award will be used for data collection and evaluation, including GPRA.

■ Section H—Biographical Sketches and Job Descriptions.

Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a position description and/or a letter of commitment with a current biographical sketch from the individual.

Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

■ Section I—Confidentiality and SAMHSA Participant Protection/Human Subjects. Section IV–2.4 of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

□ Appendices 1 through 5—Use only the appendices listed below. If your application includes any appendices not required in the grant announcement or NOFA, they will be disregarded. Do not use more than a total of 30 pages for Appendices 1, 3 and 4 combined. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

■ Appendix 1: (1) Identification of at least one experienced, licensed service provider organization; (2) a list of all direct service provider organizations that have agreed to participate in the proposed project, including the applicant agency, if it is a treatment or prevention service provider organization; (3) the Statement of Assurance (provided in Appendix F of this announcement) signed by the authorized representative of the applicant organization identified on the face page of the application, that assures SAMHSA that all listed providers meet the 2-year experience requirement, are appropriately licensed, accredited, and certified, and that if the application is within the funding range for an award, the applicant will send the GPO the required documentation within the specified time; (4) letters of commitment/support.

■ Appendix 2: Data Collection Instruments/Interview Protocols

■ Appendix 3: Sample Consent Forms

■ Appendix 4: Letter to the SSA (if applicable; *see* Section IV–4 of this document)

■ Appendix 5: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority.

□ Assurances—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's web site with the NOFA and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

□ Certifications—Use the "Certifications'' forms found in PHS 5161–1.

□ Disclosure of Lobbying Activities—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes "grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

□ Checklist—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

### 2.3 Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

□ Information provided must be sufficient for review.

□ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

□ Paper must be white paper and 8.5 inches by 11.0 inches in size.

□ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the 30-page limit for the Project Narrative.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by 30. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

□ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limit of a total of 30 pages for Appendices 1, 3 and 4 combined should not be exceeded.

☐ Send the original application and two copies to the mailing address in Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

2.4 SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

Applicants must describe procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section I of the application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of the application may result in the delay of funding.

*Confidentiality and Participant Protection*

All applicants *must* describe how they will address requirements for each of the following elements relating to confidentiality and participant protection.

1. *Protect Clients and Staff from Potential Risks:*

■ Identify and describe any foreseeable physical, medical, psychological, social and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

■ Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

■ Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

■ Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. *Fair Selection of Participants:*

■ Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other targeted groups.

■ Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

■ Explain the reasons for including or excluding participants.

■ Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion:

■ Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

■ If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, *etc.*).

■ State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. *Data Collection:*

■ Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

■ Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

■ Provide in Appendix 2, "Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. *Privacy and Confidentiality:*

■ Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

■ Describe:

○ How you will use data collection instruments.

○ Where data will be stored.

○ Who will or will not have access to information.

○ How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

**Note:** If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part 2.

6. *Adequate Consent Procedures:*

■ List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

■ State:

○ Whether or not their participation is voluntary.

○ Their right to leave the project at any time without problems.

○ Possible risks from participation in the project.

○ Plans to protect clients from these risks.

■ Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

**Note:** If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

■ Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

■ Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3, "Sample Consent Forms'', of your application. If needed, give English translations.

**Note:** Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or

releases your project or its agents from liability for negligence.

■ Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

■ Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. *Risk/Benefit Discussion:*

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

*Protection of Human Subjects Regulations*

SAMHSA expects that most grantees funded under Services Grant programs will not be required to comply with the Protection of Human Subjects Regulations (45 CFR part 46). However, in some instances, special evaluation and data collection requirements for a particular funding opportunity may necessitate that all grantees comply with these regulations. In such instances, the NOFA will explicitly state that grantees must comply with the regulations.

If the NOFA does not explicitly state that grantees must comply with the Protection of Human Subjects Regulations (45 CFR 46), grantees will be required to comply with the regulations only if the project-specific evaluation design proposed by the grantee requires compliance with the regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received prior to enrolling any clients in the proposed project.

General information about Protection of Human Subjects Regulations can be obtained on the web at *http://www.hhs.gov/ohrp.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301/496–7005). SAMHSA-specific questions related to Protection of Human Subjects Regulations should be directed to the program contact listed in Section VII of the NOFA.

*3. Submission Dates and Times*

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (*http://www.grants.gov*).

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

Your application must be received by the application deadline, or you must have proof of its timely submission as specified below.

• For packages submitted via DHL, Falcon Carrier, Federal Express (FedEx), or United Parcel Service (UPS), timely submission shall be evidenced by a delivery service receipt indicating the application was delivered to a carrier service at least 24 hours prior to the application deadline.

• For packages submitted via the United States Postal Service (USPS), proof of timely submission shall be a postmark not later than 1 week prior to the application deadline, and the following upon request by SAMHSA:

○ proof of mailing using USPS Form 3817 (Certificate of Mailing), or

○ a receipt from the Post Office containing the post office name, location, and date and time of mailing.

You will be notified by postal mail that your application has been received.

Applications not meeting the timely submission requirements above will not be considered for review. Please remember that mail sent to Federal facilities undergoes a security screening prior to delivery. Allow sufficient time for your package to be delivered.

If an application is mailed to a location or office (including room number) that is not designated for receipt of the application, and that results in the designated office not receiving your application in accordance with the requirements for timely submission, it will cause the application to be considered late and ineligible for review.

SAMHSA will not accept or consider any applications sent by facsimile.

SAMHSA is collaborating with *http://www.grants.gov* to accept electronic submission of applications only for select funding opportunities. Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

*4. Intergovernmental Review (E.O. 12372) Requirements*

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html*.

■ Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

■ If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

■ For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

■ The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition, community-based, non-governmental service providers who are not transmitting their applications through the State must submit a Public Health System Impact Statement (PHSIS) (approved by OMB under control no. 0920–0428; see burden statement below) to the head(s) of appropriate State or local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. The PHSIS is intended to keep State and local health officials informed of proposed health services grant applications submitted by

community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to these requirements.

*The PHSIS consists of the following information:*

■ A copy of the face page of the application (SF 424); and

■ A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857,ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

■ Applicants may request that the SSA send them a copy of any State comments.

■ The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

*5. Funding Limitations/Restrictions*

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

■ Institutions of Higher Education: OMB Circular A–21.

■ State and Local Governments: OMB Circular A–87.

■ Nonprofit Organizations: OMB Circular A–122.

■ Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Services Grant recipients must comply with the following funding restrictions:

■ No more than 15% of the total grant award may be used for developing the infrastructure necessary for expansion of services.

■ No more than 20% of the total grant award may be used for evaluation and data collection, including GPRA and incentives for completing the evaluation.

Service Grant funds must be used for purposes supported by the program and may not be used to:

■ Pay for any lease beyond the project period.

■ Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

■ Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to $75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)

■ Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

■ Pay for housing other than residential mental health and/or substance abuse treatment.

■ Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

■ Pay for incentives to induce individuals to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

■ Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

■ Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STD)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

■ SAMHSA will not accept a "research'' indirect cost rate. The grantee must use the "other sponsored program rate'' or the lowest rate available.

*6. Other Submission Requirements*

6.1 Where To Send Applications

Send applications to the following address:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857.

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850.

Do not send applications to other agency contacts, as this could delay receipt. Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (240) 276–1199.

6.2 How To Send Applications

Mail or deliver an original application and 2 copies (including appendices) to the mailing address provided above, according to the instructions in Section IV–3. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

SAMHSA will not accept or consider any applications sent by facsimile.

Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

## V. Application Review Information

*1. Evaluation Criteria*

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A–E). These sections describe what you intend to do with your project.

■ In developing the Project Narrative section of your application, use these instructions along with any additional instructions found in the NOFA. These are to be used instead of the "Program Narrative'' instructions found in the PHS 5161–1.

■ The Project Narrative (Sections A–E) together may be no longer than 30 pages.

■ You must use the five sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

■ Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at *http://www.samhsa.gov.* Click on "Grant Opportunities.''

■ The Supporting Documentation you provide in Sections F–I and Appendices 1–5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

■ The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

Section A: Statement of Need (10 Points)

■ Describe the target population (see Glossary) as well as the geographic area to be served, and justify the selection of both. Be sure to check the NOFA for any specific requirements regarding the target population and/or catchment area. Include the numbers to be served and demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Describe the nature of the problem and extent of the need for the target population based on data. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

■ Non-tribal applicants must show that identified needs are consistent with priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

■ Check the NOFA for any additional requirements.

Section B: Proposed Evidence-Based Service/Practice (30 Points)

■ Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of the goals will address the overall program purpose specified in the NOFA and produce meaningful and relevant results (*e.g.*, increase access, availability, prevention, outreach, pre-services, treatment, and/or intervention).

■ Identify the evidenced based service/practice that you propose to implement. Describe the evidence-base for the proposed service/practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate:

1. *If you are proposing to implement a service/practice included in NREPP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable)*, simply identify the practice and state the source from which it was selected. You do not need to provide further evidence of effectiveness.

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe the extent to which:*

—The service/practice has been evaluated and the quality of the evaluation studies (*e.g.*, whether they are descriptive, quasi-experimental studies, or experimental studies).

—The services/practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated.

—The service/practice has been documented (*e.g.*, through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated.

—Fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed).

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

—The experts involved in developing consensus on the proposed service/practice (*e.g.*, members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert'' for this purpose.

—The nature of the consensus that has been reached and the process used to reach consensus

—The extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)

—Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed service/practice

—The rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed service/practice

■ Justify the use of the proposed service/practice for the target population. Describe and justify any adaptations necessary to meet the needs of the target population as well as evidence that such adaptations will be effective for the target population.

■ Identify and justify any additional adaptations or modifications to the proposed service/practice.

■ Describe how the proposed project will address issues of age, race, ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population, while retaining fidelity to the chosen practice.

■ Demonstrate how the proposed service/practice will meet your goals and objectives. Provide a logic model (see Glossary) that links need, the services or practice to be implemented, and outcomes.

■ Check the NOFA for any additional requirements.

Section C: Proposed Implementation Approach (25 Points)

■ Describe how the proposed service or practice will be implemented. Address any and all expectations/required activities specified in the NOFA.

■ Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

■ Clearly state the unduplicated number of individuals you propose to serve (annually and over the entire project period) with grant funds, including the types and numbers of services to be provided and anticipated outcomes. Describe how the target population will be identified, recruited, and retained.

■ Describe how members of the target population helped prepare the application, and how they will help plan, implement, and evaluate the project.

■ Describe how the project components will be embedded within the existing service delivery system, including other SAMHSA-funded projects, if applicable. Identify any other organizations that will participate in the proposed project. Describe their roles and responsibilities and demonstrate their commitment to the project. Include letters of commitment from community organizations supporting the project in Appendix 1. Identify any cash or in-kind contributions that will be made to the project by the applicant or other partnering organizations.

■ Show that the necessary groundwork (*e.g.*, planning, consensus development, development of memoranda of agreement, identification of potential facilities) has been completed or is near completion so that the project can be implemented and service delivery can begin as soon as possible and no later than 4 months after grant award.

■ Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

■ Provide a plan to secure resources to sustain the proposed project when Federal funding ends.

■ Check the NOFA for any additional requirements.

Section D: Staff and Organizational Experience (20 Points)

■ Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

■ Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as the evaluator and treatment/prevention personnel.

■ Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

■ Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

■ Check the NOFA for any additional requirements.

Section E: Evaluation and Data (15 Points)

■ Document your ability to collect and report on the required performance measures as specified in the NOFA. Specify and justify any additional measures you plan to use for your grant project.

■ Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.

■ Discuss the reliability and validity of evaluation methods and instrument(s) in terms of the gender/age/culture of the target population.

■ Describe the process and outcome evaluation, including assessments of implementation and individual outcomes. Show how the evaluation will be integrated with requirements for collection and reporting of performance data, including data required by SAMHSA to meet GPRA requirements.

■ Describe how the evaluation will be used to ensure the fidelity to the practice.

■ Provide a per-person or unit cost of the project to be implemented, based on the applicant's actual costs and projected costs over the life of the project.

■ Check the NOFA for any additional requirements.

**Note:** Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

*2. Review and Selection Process*

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

Decisions to fund a grant are based on:

■ The strengths and weaknesses of the application as identified by peer reviewers and, when applicable, approved by the appropriate National Advisory Council;

■ Availability of funds;

■ Equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size; and

■ After applying the aforementioned criteria, the following method for breaking ties: When funds are not available to fund all applications with identical scores, SAMHSA will make award decisions based on the application(s) that received the greatest number of points by peer reviewers on the evaluation criterion in Section V–1 with the highest number of possible points (Proposed Evidence-Based Service/Practice—30 points). Should a tie still exist, the evaluation criterion with the next highest possible point value will be used, continuing sequentially to the evaluation criterion with the lowest possible point value, should that be necessary to break all ties. If an evaluation criterion to be used for this purpose has the same number of possible points as another evaluation criterion, the criterion listed first in Section V–1 will be used first.

## VI. Award Administration Information

*1. Award Notices*

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

*2. Administrative and National Policy Requirements*

■ You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site at *http://www.samhsa.gov/grants/generalinfo/useful_info.aspx.*

■ Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

○ Actions required to be in compliance with human subjects requirements;

○ Requirements relating to additional data collection and reporting;

○ Requirements relating to participation in a cross-site evaluation; or

○ Requirements to address problems identified in review of the application.

■ You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

■ In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

*3. Reporting Requirements*

3.1 Progress and Financial Reports

■ Grantees must provide annual and final progress reports. The final report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

■ Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention services can be sustained, your financial reports should explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 01. In each subsequent year, you should describe the status of your project, as well as the successes achieved and obstacles encountered in that year.

■ SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

3.2 Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3.3 Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (240–276–2130) of any materials based on the SAMHSA-funded grant project that are accepted for publication.

In addition, SAMHSA requests that grantees:

■ Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

■ Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

■ Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

## VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Kimberly Pendleton, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 7–1097, Rockville, Maryland 20857, (240) 276–1421, *kimberly.pendleton@samhsa.hhs.gov.*

## Appendix A—Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific NOFA and in Section III of the standard grant announcement. Please check the entire NOFA and Section III of the standard grant announcement before preparing your application.

☐ Use the PHS 5161–1 application.

☐ Applications must be received by the application deadline or have proof of timely submission, as detailed in Section IV–3 of the grant announcement.

☐ Information provided must be sufficient for review.

☐ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

■ Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

☐ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

☐ The 10 application components required for SAMHSA applications should be included. These are:

• Face Page (Standard Form 424, which is in PHS 5161–1).

• Abstract.

• Table of Contents.

• Budget Form (Standard Form 424A, which is in PHS 5161–1).

• Project Narrative and Supporting Documentation.

• Appendices.

• Assurances (Standard Form 424B, which is in PHS 5161–1).

• Certifications (a form within PHS 5161–1).

• Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1).

• Checklist (a form in PHS 5161–1).

☐ Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the FY 2005 standard funding announcements.

• Budgetary limitations as specified in Section I, II, and IV–5 of the FY 2005 standard funding announcements.

• Documentation of nonprofit status as required in the PHS 5161–1.

☐ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limits for Appendices stated in the specific funding announcement should not be exceeded.

☐ Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

## Appendix B—Glossary

*Best Practice:* Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

*Catchment Area:* A catchment area is the geographic area from which the target population to be served by a program will be drawn.

*Cooperative Agreement:* A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*Cost Sharing or Matching:* Cost sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost sharing or matching is not required, and applications will not be screened out on the basis of cost sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

*Fidelity:* Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at *http://tecathsri.org* or by calling (617) 876–0426.

*Grant:* A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*In-Kind Contribution:* In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

*Logic Model:* A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix G.

*Practice:* A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

*Practice Support System:* This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

*Stakeholder:* A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

*Sustainability:* Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

*Target Population:* The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

*Wraparound Service:* Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

## Appendix C—National Registry of Effective Programs and Practices

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs and Practices (NREPP) to review and identify effective programs. NREPP seeks candidates from the practice community and the scientific

literature. While the initial focus of NREPP was substance abuse prevention programming, NREPP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREPP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for making that choice, together with definitions of the three major criteria, are as follows.

*Promising Programs* have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

*Effective Programs* are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet to help SAMHSA/CSAP disseminate their programs, but may do so themselves.

*Model Programs* are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREPP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREPP standards for each category can be identified by accessing the NREPP Model Programs Web site at *http://www.modelprograms.samhsa.gov.*

## Appendix D—Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) Help more consumers and families access services that are effective, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and endorsed by numerous national, State, local, private and public organizations, including the Johnson & Johnson Charitable Trust, the MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site *(http://www.mentalhealthpractices.org)* was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the web site. The six practices are:

1. Illness Management and Recovery.
2. Family Psychoeducation.
3. Medication Management Approaches in Psychiatry.
4. Assertive Community Treatment.
5. Supported Employment.
6. Integrated Dual Disorders Treatment.

Each of the resource kits contains information and materials written by and for the following groups:

—Consumers.
—Families and Other Supporters.
—Practitioners and Clinical Supervisors.
—Mental Health Program Leaders.
—Public Mental Health Authorities.

Material on the web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at *http://www.health.org* or 1–800–789–CMHS (2647).

## Appendix E—Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1–800–729–6686 or *http://www.health.org* and *http://www.samhsa.gov/centers/csat2002/publications.html.*

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- Integrating Substance Abuse Treatment and Vocational Services. TIP 38 (2000) NCADI # BKD381.
- Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues. TIP 36 (2000) NCADI # BKD343.
- Substance Abuse Treatment for Persons with HIV/AIDS. TIP 37 (2000) NCADI # BKD359.
- Brief Interventions and Brief Therapies for Substance Abuse. TIP 34 (1999) NCADI # BKD341.
- Enhancing Motivation for Change in Substance Abuse Treatment. TIP 35 (1999) NCADI # BKD342.
- Screening and Assessing Adolescents for Substance Use Disorders. TIP 31 (1999) NCADI # BKD306.
- Treatment for Stimulant Use Disorders. TIP 33 (1999) NCADI # BKD289.
- Treatment of Adolescents with Substance Use Disorders. TIP 32 (1999) NCADI # BKD307.
- Comprehensive Case Management for Substance Abuse Treatment. TIP 27 (1998) NCADI # BKD251.
- Continuity of Offender Treatment for Substance Use Disorders From Institution to Community. TIP 30 (1998) NCADI # BKD304.
- Naltrexone and Alcoholism Treatment. TIP 28 (1998) NCADI # BKD268.
- Substance Abuse Among Older Adults. TIP 26 (1998) NCADI # BKD250.
- Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities. TIP 29 (1998) NCADI # BKD288.
- A Guide to Substance Abuse Services for Primary Care Clinicians. TIP 24 (1997) NCADI # BKD234.
- Substance Abuse Treatment and Domestic Violence. TIP 25 (1997) NCADI # BKD239.
- Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing. TIP 23 (1996) NCADI # BKD205.
- Alcohol and Other Drug Screening of Hospitalized Trauma Patients. TIP 16 (1995) NCADI # BKD164.
- Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System. TIP 21 (1995) NCADI # BKD169.
- Detoxification From Alcohol and Other Drugs. TIP 19 (1995) NCADI # BKD172.
- LAAM in the Treatment of Opiate Addiction. TIP 22 (1995) NCADI # BKD170.
- Matching Treatment to Patient Needs in Opioid Substitution Therapy. TIP 20 (1995) NCADI # BKD168.
- Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System. TIP 17 (1995) NCADI # BKD165.
- Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients. TIP 10 (1994) NCADI # BKD157.
- Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse. TIP 9 (1994) NCADI # BKD134.
- Intensive Outpatient Treatment for Alcohol and Other Drug Abuse. TIP 8 (1994) NCADI # BKD139.

*Other Effective Practice Publications:*

CSAT Publications—

- Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual (2002) NCADI # BKD444.
- Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook (2002) NCADI # BKD445.
- Multidimensional Family Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388.
- Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare. TAP 27 (2002) NCADI # BKD436.
- The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385.
- Family Support Network for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386.

• Identifying Substance Abuse Among TANF-Eligible Families. TAP 26 (2001) NCADI # BKD410.

• Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384.

• The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387.

• Substance Abuse Treatment for Women Offenders: Guide to Promising Practices. TAP 23 (1999) NCADI # BKD310.

• Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice. TAP 21 (1998) NCADI # BKD246.

• Bringing Excellence to Substance Abuse Services in Rural and Frontier America. TAP 20 (1997) NCADI # BKD220.

• Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders. TAP 19 (1996) NCADI # BKD723.

• Draft Buprenorphine Curriculum for Physicians (Note: the Curriculum is in DRAFT form and is currently being updated) *http://www.buprenorphine.samhsa.gov.*

• CSAT Guidelines for the Accreditation of Opioid Treatment Programs *http://www.samhsa.gov/centers/csat/content/dpt/accreditation.htm.*

• Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office *http://www.samhsa.gov/centers/csat/content/dpt/model_policy.htm.*

NIDA Manuals—Available through NCADI—

• Brief Strategic Family Therapy. Manual 5 (2003) NCADI # BKD481.

• Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 4 (2002) NCADI # BKD465.

• The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users. (2000) NCADI # BKD366.

• An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 3 (1999) NCADI # BKD337.

• Cognitive-Behavioral Approach: Treating Cocaine Addiction. Manual 1 (1998) NCADI # BKD254.

• Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction. Manual 2 (1998) NCADI # BKD255.

NIAAA Publications—* These publications are available in PDF format or can be ordered on-line at *http://www.niaaa.nih.gov/publications/guides.htm.* An order form for the Project MATCH series is available on-line at *http://www.niaaa.nih.gov/publications/match.htm.* All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849–0686.

• * Alcohol Problems in Intimate Relationships: Identification and Intervention. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03–5284.

• * Helping Patients with Alcohol Problems: A Health Practitioner's Guide. (2003) NIH Pub. No. 03–3769.

• Cognitive-Behavioral Coping Skills Therapy Manual. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94–3724.

• Motivational Enhancement Therapy Manual. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94–3723.

## Appendix F—Statement Of Assurance.

As the authorized representative of the applicant organization, I assure SAMHSA that if {insert name of organization} application is within the funding range for a grant award, the organization will provide the SAMHSA Government Project Officer (GPO) with the following documents. I understand that if this documentation is not received by the GPO within the specified timeframe, the application will be removed from consideration for an award and the funds will be provided to another applicant meeting these requirements.

• A letter of commitment that specifies the nature of the participation and what service(s) will be provided from every service provider organization, listed in Appendix 1 of the application, that has agreed to participate in the project;

• Official documentation that all service provider organizations participating in the project have been providing relevant services for a minimum of 2 years prior to the date of the application in the area(s) in which services are to be provided. Official documents must definitively establish that the organization has provided relevant services for the last 2 years; and

• Official documentation that all participating service provider organizations are in compliance with all local (city, county) and State/tribal requirements for licensing, accreditation, and certification or official documentation from the appropriate agency of the applicable State/tribal, county, or other governmental unit that licensing, accreditation, and certification requirements do not exist. (Official documentation is a copy of each service provider organization's license, accreditation, and certification. Documentation of accreditation will not be accepted in lieu of an organization's license. A statement by, or letter from, the applicant organization or from a provider organization attesting to compliance with licensing, accreditation and certification or that no licensing, accreditation, certification requirements exist *does not* constitute adequate documentation.)

Signature of Authorized Representative

Date

## Appendix G " Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. International Quarterly of Community Health Education, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. Alcoholism Treatment Quarterly, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). Crafting Logic Models for Systems of Care: Ideas into Action. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. *http://cfs.fmhi.usf.edu* or phone (813) 974–4651

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), Developing Outcome Strategies in Children's Mental Health, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. Evaluation and Planning, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. Evaluation and Program Planning, 18(4), 333–341.

Patton, M.Q. (1997). Utilization-Focused Evaluation (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). Handbook of Practical Program Evaluation. San Francisco, CA: Jossey-Bass Inc.

## Appendix H—Sample Budget and Justification

**Illustration of a Sample Detailed Budget and Narrative Justification to Accompany SF 424A: Section B for 01 Budget Period**

*Object Class Categories*

Personnel

| Job title | Name | Annual salary | Level of effort | Salary being requested |
|---|---|---|---|---|
| Project Director | J. Doe | $30,000 | 1.0 | $30,000 |
| Secretary | Unnamed | 18,000 | 0.5 | 9,000 |
| Counselor | R. Down | 25,000 | 1.0 | 25,000 |

**Enter Personnel subtotal on 424A, Section B, 6.a. $64,000**

*Fringe Benefits* (24%) $15,360

**Enter Fringe Benefits subtotal on 424A, Section B, 6.b. $15,360**

Travel

| | |
|---|---|
| 2 trips for SAMHSA Meetings for 2 Attendees (Airfare @ $600 x 4 = $2,400) + (per diem @ $120 × 4 × 6 days = $2,880) | $5,280 |
| Local Travel (500 miles × .24 per mile) | 120 |

**Enter Travel subtotal on 424A, Section B, 6.c. $ 5,400**

Equipment (List Individually)

"Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit or nongovernmental applicant for financial statement purposes, or (b) $5000.

**Enter Equipment subtotal on 424A, Section B, 6.d.**

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Computer Software—1 WordPerfect | 500 |

**Enter Supplies subtotal on 424A, Section B, 6.e. $1,000**

*Contractual Costs*

Evaluation

| Job title | Name | Annual salary | Salary being requested | Level of effort |
|---|---|---|---|---|
| Evaluator | J. Wilson | $48,000 | $24,000 | 0.5 |
| Other staff | | 18,000 | 18,000 | 1.0 |

Fringe Benefits (25%) $10,500

Travel

| | |
|---|---|
| 2 trips × 1 Evaluator ($600 × 2) | $1,200 |
| per diem @ $120 × 6 | 720 |
| Supplies (General Office) | 500 |

| | |
|---|---|
| Evaluation Direct | $54,920 |
| Evaluation Indirect Costs (19%) | 10,435 |
| Evaluation Subtotal | 65,355 |

Training

| Job title | Name | Level of effort | Salary being requested |
|---|---|---|---|
| Coordinator | M. Smith | 0.5 | $12,000 |
| Admin. Asst. | N. Jones | 0.5 | 9,000 |

Fringe Benefits (25%) $5,250

Travel

| | |
|---|---|
| 2 Trips for Training Airfare @ $600 × 2 | $1,200 |
| Per Diem $120 × 2 × 2 days | 480 |
| Local (500 miles × .24/mile) | 120 |

Supplies

| | |
|---|---|
| Office Supplies | $500 |

| | |
|---|---|
| Software (WordPerfect) | 500 |

Other

| | |
|---|---|
| Rent (500 Sq. Ft. × $9.95) | $4,975 |
| Telephone | 500 |
| Maintenance (e.g., van) | 2,500 |
| Audit | 3,000 |

| | |
|---|---|
| Training Direct | $40,025 |
| Training Indirect | 0 |

**Enter Contractual subtotal on 424A, Section B, 6.f. $105,380**

Other

| | |
|---|---|
| Consultants = Expert @ $250/day × 6 day (If expert is known, should list by name) | $1,500 |

**Enter Other subtotal on 424A, Section B, 6.h. $1,500**

Total Direct Charges (sum of 6.a–6.h)

**Enter Total Direct on 424A, Section B, 6.i. $192,640**

Indirect Costs

15% of Salary and Wages (copy of negotiated indirect cost rate agreement attached)

**Enter Indirect subtotal of 424A, Section B, 6.j. $9,600**

Totals

**Enter Total on 424A, Section B, 6.k. $202,240**

Justification

Personnel—Describe the role and responsibilities of each position.

Fringe Benefits—List all components of the fringe benefit rate.

Equipment—List equipment and describe the need and the purpose of the equipment in relation to the proposed project.

Supplies—Generally self-explanatory; however, if not, describe need. Include explanation of how the cost has been estimated.

Travel—Explain need for all travel other than that required by SAMHSA.

Contractual Costs—Explain the need for each contractual arrangement and how these components relate to the overall project.

Other—Generally self-explanatory. If consultants are included in this category, explain the need and how the consultant's rate has been determined.

Indirect Cost Rate—If your organization has no indirect cost rate, please indicate whether your organization plans to a) waive indirect costs if an award is issued, or b) negotiate and establish an indirect cost rate with DHHS within 90 days of award issuance.

CALCULATION OF FUTURE BUDGET PERIODS (BASED ON FIRST 12-MONTH BUDGET PERIOD)

[Review and verify the accuracy of future year budget estimates. Increases or decreases in the future years must be explained and justified and no cost of living increases will be honored. (**Note:** new salary cap of $175,700 is effective for all FY 2005 awards.) *]

| | First 12-month period | Second 12-month period | Third 12-month period |
|---|---|---|---|
| Personnel: | | | |
| Project Director | 30,000 | 30,000 | 30,000 |
| Secretary** | 9,000 | 18,000 | 18,000 |
| Counselor | 25,000 | 25,000 | 25,000 |
| Total Personnel | 64,000 | 73,000 | 73,000 |
| Fringe Benefits (24%) | 15,360 | 17,520 | 17,520 |
| Travel | 5,400 | 5,400 | 5,400 |
| Equipment | -0- | -0- | -0- |
| Supplies*** | 1,000 | 520 | 520 |
| Contractual: | | | |
| Evaluation**** | 65,355 | 67,969 | 70,688 |
| Training | 40,025 | 40,025 | 40,025 |
| Other | 1,500 | 1,500 | 1,500 |
| Total Direct Costs | 192,640 | 205,934 | 208,653 |
| Indirect Costs (15% S&W) | 9,600 | 9,600 | 9,600 |
| Total Costs | 202,240 | 216,884 | 219,603 |

*Consistent with the requirement in the Consolidated Appropriations Act, Public Law 108–199.
**Increased from 50% to 100% effort in 02 through 03 budget periods.
***Increased amount in 01 year represents costs for software.
****Increased amounts in 02 and 03 years are reflected of the increase in client data collection.

The Federal dollars requested for all object class categories for the first 12-month budget period are entered on Form 424A, Section B, Column (1), lines 6a–6i. The *total* Federal dollars requested for the second through the fifth 12-month budget periods are entered on Form 424A, Section E, Columns (b)–(e), line 20. The RFA will specify the maximum number of years of support that may be requested.

**Infrastructure Grants—INF 05 PA (Initial Announcement)**

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

## KEY DATES

| | |
|---|---|
| Application Deadline | This Program Announcement provides general instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the **Federal Register** and on *http://www.grants.gov*. |
| Intergovernmental Review (E.O. 12372) | Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline. |
| Public Health System Impact Statement (PHSIS)/SSA Coordination. | Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due no later than 60 days after application deadline. |

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## I. Funding Opportunity Description

### *1. Introduction*

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Infrastructure Grants. This program announcement must be considered in conjunction with a full Notice of Funding Availability (NOFA), which specifies the grant program's purpose, target population, and other requirements of the program. These grants will increase the capacity of mental health and/or substance abuse service systems to support effective programs and services. Applicants who seek Federal support to develop or enhance their service system infrastructure in order to support effective substance abuse and/or mental health services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

■ *Services Grants* provide funding to implement substance abuse and mental health services.

■ *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.

■ *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA Infrastructure Grants. The availability of funds for specific Infrastructure Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement Web page.

SAMHSA's Infrastructure Grants are authorized under Section 509, 516 and/or 520A of the Public Health Service Act, unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*.

Typically, funding for Infrastructure Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

■ Specify total funding available for the first year of the grants and the expected size and number of awards;

■ Provide the application deadline;

■ Note any specific program requirements for each funding opportunity; and

■ Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

### *2. Expectations*

SAMHSA's Infrastructure Grants support an array of activities to help the grantee build a solid foundation for delivering and sustaining effective substance abuse prevention and/or treatment and/or mental health services.

SAMHSA recognizes that each applicant will start from a unique point in developing infrastructure and will serve populations/communities with specific needs. Awardees may pursue diverse strategies and methods to achieve their infrastructure development and capacity expansion goals. Successful applicants will provide a coherent and detailed conceptual "roadmap'' of the process by which they have assessed or intend to assess service system needs and plan/implement infrastructure development strategies that meet those needs. The plan put forward in the grant application must show the linkages among needs, the proposed infrastructure development strategy, and increased system capacity that will enhance and sustain effective programs and services.

#### 2.1 Allowable Activities

SAMHSA's Infrastructure Grants will support the following types of activities. Applicants *must* refer to the NOFA for required activities and exceptions to allowable activities.

Infrastructure Development

Infrastructure Grant funds must be used primarily to support infrastructure development, including the following types of activities:

■ Needs assessment
■ Strategic planning
■ Financing/coordination of funding streams
■ Organizational/structural change (e.g., to create locus of responsibility for a specific issue/population, or to increase access to or efficiency of services)
■ Development of interagency coordination mechanisms
■ Provider/network development
■ Policy development to support needed service system improvements (e.g., rate-setting activities, establishment of standards of care, development/revision of credentialing, licensure, or accreditation requirements)
■ Quality improvement efforts
■ Performance measurement development
■ Workforce development (e.g., training, support for licensure, credentialing, or accreditation)
■ Data infrastructure/MIS development

Implementation Pilots (maximum 15 percent of total grant award)

Depending on the scope of the project (see description of award categories below), up to 15 percent of the total grant award may be used for "implementation pilots'' to test the effectiveness of the infrastructure changes on services delivery. Funds may not be used to provide direct services except in the context of an implementation pilot.

2.2 Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L.103–62, or "GPRA'') requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (i.e., "GPRA data'') from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's website along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (i.e., Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

2.3 Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area and attendance is mandatory.

2.4 Evaluation

Grantees must evaluate their projects, and applicants are required to describe their evaluation plans in their applications. The evaluation should be designed to provide regular feedback to the project to improve services. The evaluation must include both process and outcome components. Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

■ How closely did implementation match the plan?
■ What types of deviation from the plan occurred?
■ What led to the deviations?
■ What impact did the deviations have on the intervention and evaluation?
■ Who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

■ What was the effect of infrastructure development on service capacity and other system outcomes?
■ What program/contextual factors were associated with outcomes?
■ What individual factors were associated with outcomes?
■ How durable were the effects?

If the project includes an implementation pilot involving services delivery, the evaluation should include client and system outcomes.

No more than 20% of the total grant award may be used for evaluation and data collection. The evaluation and data collection may be considered "Infrastructure'' and/or "Implementation Pilots'' expenditures, depending on their purpose.

## II. Award Information

*1. Award Amount*

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, the actual award amount will depend on the availability of funds.

Two types of Infrastructure Grants will be made:

Category 1—Small Infrastructure Grants. Category 1 grants will be limited in scope as specified in the NOFA. For example, allowable activities might be limited to workforce development, data infrastructure, or strategic planning. Implementation pilots are not allowed in Category 1 awards. Category 1 awards are expected to be for a period of 1–3 years in amounts ranging from $250,000–$500,000 per year.

Category 2—Comprehensive Infrastructure Grants. The scope of the Category 2 grants will be much larger. While applicants are not required to include all of the allowable activities in their proposed projects, the proposed projects must encompass multiple domains (e.g., needs assessment, strategic and financial planning, organizational/structural change, and network development). Category 2 awards may use a maximum of 15 percent of the total grant award for implementation pilots. Category 2 awards are expected to be for a period of 3–5 years in amounts ranging from $750,000–$3 million per year.

Proposed budgets cannot exceed the allowable amount as specified in the NOFA in any year of the proposed project. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

*2. Funding Mechanism*

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

**III. Eligibility Information**

*1. Eligible Applicants*

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

*2. Cost Sharing*

Cost sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost sharing. However, you may include cash or in-kind (see Glossary) contributions in your proposal as evidence of commitment to the proposed project.

*3. Other*

Applications must comply with the following requirements, or they will be screened out and will not be reviewed: use of the PHS 5161–1 application; application submission requirements in Section IV–3 of this document; and formatting requirements provided in Section IV–2.3 of this document. Applicants should be aware that the NOFA may include additional requirements that, if not met, will result in applications being screened out and returned without review. These requirements will be specified in Section III–3 of the NOFA.

You also must comply with any additional requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

**IV. Application and Submission Information**

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

*1. Address to Request Application Package*

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

■ For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

■ For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov.* Click on "Grant Opportunities.''

Additional materials available on this Web site include:

■ A technical assistance manual for potential applicants;

■ Standard terms and conditions for SAMHSA grants;

■ Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and

■ Enhanced instructions for completing the PHS 5161–1 application.

*2. Content and Form of Application Submission*

2.1 Application Kit

SAMHSA application kits include the following documents:

■ PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161–1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

■ Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

■ Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register**, as well as on the Federal grants Web site (*http://www.grants.gov*). It is very important that you read the entire NOFA before beginning to write your application.

You must use all of the above documents in completing your application.

2.2 Required Application Components

To ensure equitable treatment of all applications, applications must be complete. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist).

☐ Face Page—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

☐ Abstract—Your total abstract should not be longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

☐ Table of Contents—Include page numbers for each of the major sections of your application and for each appendix.

☐ Budget Form—Use SF 424A, which is part of the 5161–1. Fill out Sections B, C, and E of the SF 424A. A sample budget and justification is included in Appendix D of this Program Announcement.

☐ Project Narrative and Supporting Documentation—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may not be longer than 25 pages. (For example, remember that if your Project Narrative starts on page 5 and ends on page 30, it is 26 pages long, not 25 pages.) More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through H.

There are no page limits for these sections, except for Section G, Biographical Sketches/Job Descriptions.

■ Section E—Literature Citations. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

■ Section F—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. Be sure to show that no more than 20% of the total grant award will be used for data collection and evaluation. If you are proposing a services implementation pilot (allowed only for Category 2 applicants), show that no more than 15% of the total grant award will be used for the pilot.

■ Section G—Biographical Sketches and Job Descriptions.

○ Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a position description and/or letter of commitment with a current biographical sketch from the individual.

○ Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

○ Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

■ Section H—Confidentiality and SAMHSA Participant Protection/Human Subjects. Section IV–2.4 of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

□ Appendices 1 through 5—Use only the appendices listed below. If your application includes any appendices not required in the grant announcement or NOFA, they will be disregarded. Do not use more than a total of 30 pages for Appendices 1, 3 and 4 combined. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

■ Appendix 1: Letters of Support

■ Appendix 2: Data Collection Instruments/Interview Protocols

■ Appendix 3: Sample Consent Forms

■ Appendix 4: Letter to the SSA (if applicable; see Section IV–4 of this document)

■ Appendix 5: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority.

□ Assurances—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's Web site with the NOFA and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

□ Certifications—Use the "Certifications'' forms found in PHS 5161–1.

□ Disclosure of Lobbying Activities—Use Standard Form LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes "grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

□ Checklist—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

### 2.3 Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

□ Information provided must be sufficient for review.

□ Text must be legible.

□ Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

□ Text in the Project Narrative cannot exceed 6 lines per vertical inch.

□ Paper must be white paper and 8.5 inches by 11.0 inches in size.

□ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

□ Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the 25-page limit for the Project Narrative.

□ Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by 25. This number represents the full page less margins, multiplied by the total number of allowed pages.

□ Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

□ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

□ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

□ The page limit of a total of 30 pages for Appendices 1, 3 and 4 combined should not be exceeded.

□ Send the original application and two copies to the mailing address in Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

### 2.4 SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

Applicants must describe procedures relating to Confidentiality, Participant

Protection and the Protection of Human Subjects Regulations in Section H of the application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of the application may result in the delay of funding.

Confidentiality and Participant Protection

All applicants *must* describe how they will address the requirements for each of the following elements relating to confidentiality and participant protection.

1. Protect Clients and Staff From Potential Risks

■ Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

■ Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

■ Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

■ Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

■ Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other targeted groups.

■ Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

■ Explain the reasons for *including or excluding* participants.

■ Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

■ Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

■ If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, etc.).

■ State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. Data Collection

■ Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

■ Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

■ Provide in Appendix 2, "Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

■ Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

■ Describe:

○ How you will use data collection instruments.

○ Where data will be stored.

○ Who will or will not have access to information.

○ How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

**Note:** If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part 2.

6. Adequate Consent Procedures

■ List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

■ State:

○ Whether or not their participation is voluntary.

○ Their right to leave the project at any time without problems.

○ Possible risks from participation in the project.

○ Plans to protect clients from these risks.

■ Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

**Note:** If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

■ Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

■ Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3, "Sample Consent Forms'', of your application. If needed, give English translations.

**Note:** Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

■ Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

■ Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

SAMHSA expects that most grantees funded under Infrastructure Grant

programs will not be required to comply with the Protection of Human Subjects Regulations (45 CFR part 46). However, in some instances, special evaluation and data collection requirements for a particular funding opportunity may necessitate that all grantees comply with these regulations. In such instances, the NOFA will explicitly state that grantees must comply with the regulations.

If the NOFA does not explicitly state that grantees must comply with the Protection of Human Subjects Regulations (45 CFR part 46), grantees will be required to comply with the regulations only if the project-specific evaluation design proposed by the grantee requires compliance with the regulations.

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any clients in the proposed project.

General information about Protection of Human Subjects Regulations can be obtained on the web at *http://hhs.gov/ohrp*. You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005). SAMHSA-specific questions related to Protection of Human Subjects Regulations should be directed to the program contact listed in Section VII of the NOFA.

*3. Submission Dates and Times*

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site (*www.grants.gov*).

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

Your application must be received by the application deadline, or you must have proof of its timely submission as specified below.

- For packages submitted via DHL, Falcon Carrier, Federal Express (FedEx), or United Parcel Service (UPS), timely submission shall be evidenced by a delivery service receipt indicating the application was delivered to a carrier service at least 24 hours prior to the application deadline.
- For packages submitted via the United States Postal Service (USPS), proof of timely submission shall be a postmark not later than 1 week prior to the application deadline, and the following upon request by SAMHSA:
  - ○ Proof of mailing using USPS Form 3817 (Certificate of Mailing), or
  - ○ A receipt from the Post Office containing the post office name, location, and date and time of mailing.

You will be notified by postal mail that your application has been received.

Applications not meeting the timely submission requirements above will not be considered for review. Please remember that mail sent to Federal facilities undergoes a security screening prior to delivery. Allow sufficient time for your package to be delivered.

If an application is mailed to a location or office (including room number) that is not designated for receipt of the application, and that results in the designated office not receiving your application in accordance with the requirements for timely submission, it will cause the application to be considered late and ineligible for review.

SAMHSA will not accept or consider any applications sent by facsimile.

SAMHSA is collaborating with *http://www.grants.gov* to accept electronic submission of applications only for select funding opportunities. Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

*4. Intergovernmental Review (E.O. 12372) Requirements*

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html*.

■ Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

■ If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

■ For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

■ The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition, community-based, non-governmental service providers who are not transmitting their applications through the State must submit a Public Health System Impact Statement (PHSIS) (approved by OMB under control no. 0920–0428; see burden statement below) to the head(s) of appropriate State or local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. The PHSIS is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to these requirements.

The PHSIS consists of the following information:

■ A copy of the face page of the application (SF 424); and

■ A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov*. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA *must* include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

■ Applicants may request that the SSA send them a copy of any State comments.

■ The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

*5. Funding Limitations/Restrictions*

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

■ Institutions of Higher Education: OMB Circular A–21

■ State and Local Governments: OMB Circular A–87

■ Nonprofit Organizations: OMB Circular A–122

■ Appendix E Hospitals: 45 CFR Part 74

In addition, SAMHSA Infrastructure Grant recipients must comply with the following funding restrictions:

■ Infrastructure grant funds must be used for purposes supported by the program.

■ If requested project funds exceed $750,000, a maximum of 15% of grant award funds may be used for implementation pilots. Direct services may be funded only in the context of an implementation pilot.

■ No more than 20% of the grant award may be used for evaluation and data collection expenses. These expenses may be considered infrastructure or implementation pilot expenses, depending on the nature of the evaluation and data collection.

■ Infrastructure funds may not be used to pay for the purchase or construction of any building or structure to house any part of the grant project. Applications may request up to $75,000 for renovations and alterations of existing facilities.

■ SAMHSA will not accept a "research'' indirect cost rate. The grantee must use the "other sponsored program rate'' or the lowest rate available.

*6. Other Submission Requirements*

6.1 Where to Send Applications

Send applications to the following address:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850.

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850.

Do not send applications to other agency contacts, as this could delay receipt. Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (240) 276–1199.

*6.2 How To Send Applications*

Mail or deliver an original application and 2 copies (including appendices) to the mailing address provided above, according to the instructions in Section IV–3. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

SAMHSA will not accept or consider any applications sent by facsimile.

Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

**V. Application Review Information**

*1. Evaluation Criteria*

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A–D). These sections describe what you intend to do with your project.

■ In developing the Project Narrative section of your application, use these instructions along with any additional instructions found in the NOFA. These are to be used instead of the "Program Narrative'' instructions found in the PHS 5161–1.

■ You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section.

■ Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at *http://www.samhsa.gov*. Click on "Grant Opportunities.''

■ The Supporting Documentation you provide in Sections E–H and Appendices 1–5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

■ The number of points after each heading below is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Statement of Need (10 Points)

■ Describe the target population (see Glossary) and the proposed catchment area (see Glossary), and justify the selection of both. Be sure to check the NOFA for any specific requirements regarding the target population and/or catchment area. Include the numbers to be served and demographic information.

Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Document the need for an enhanced infrastructure to increase the capacity to implement, sustain, and improve effective substance abuse prevention and/or treatment and/or mental health services for the proposed target population in the proposed catchment area. Documentation of need may come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

■ Describe the service gaps, barriers, and other problems related to the need for infrastructure development. Describe the stakeholders (see Glossary) and resources in the target area that can help implement the needed infrastructure development.

■ Non-tribal applicants must show that identified needs are consistent with priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

■ Check the NOFA for any additional requirements.

Section B: Proposed Approach (35 Points)

■ Clearly state the purpose of the proposed project, with goals and objectives. Describe how achievement of goals will address the overall program purpose specified in the NOFA and increase system capacity to support effective substance abuse and/or mental health services.

■ Describe the proposed project. Address any and all expectations/required activities specified in the NOFA. Provide evidence that the proposed activities meet the infrastructure needs and show how your proposed infrastructure development strategy will meet the goals and objectives.

■ Provide a logic model (see Glossary) that demonstrates the linkage between the identified need, the proposed approach, and outcomes.

■ If you plan to include an advisory body in your project, describe its membership, roles and functions, and frequency of meetings.

■ Describe any other organizations that will participate and their roles and responsibilities. Demonstrate their commitment to the project. Include letters of commitment/coordination/support from these community organizations in Appendix 1 of the application. Identify any cash or in-kind contributions that will be made to the project.

■ Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

■ Describe how members of the target population were involved in the preparation of the application, and how they will be involved in the planning, implementation, and evaluation of the project.

■ Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

■ Describe how your activities will improve substance abuse prevention and/or treatment and/or mental health services.

■ Provide a plan to secure resources to sustain the proposed infrastructure enhancements when Federal funding ends.

■ Check the NOFA for any additional requirements.

Section C: Staff, Management, and Relevant Experience (25 Points)

■ Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

■ Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

■ Provide a list of staff who will participate in the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as the evaluator and treatment/prevention personnel.

■ Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

■ Describe the resources available for the proposed project (*e.g.*, facilities, equipment). If an implementation pilot is proposed that includes direct services, provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

■ Check the NOFA for any additional requirements.

Section D: Evaluation and Data (30 Points)

■ Describe the process and outcome evaluation. Include specific performance measures and target outcomes related to the goals and objectives identified for the project in Section B of your Project Narrative.

■ Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPRA requirements. Specify and justify any additional measures you plan to use for your grant project.

■ Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of data, along with any necessary modifications. Be sure to include data collection instruments/interview protocols in Appendix 2.

■ Discuss the reliability and validity of evaluation methods and instruments(s) in terms of the gender/age/culture of the target population.

■ Describe how collection, analysis and reporting of performance data will be integrated into the evaluation activities.

■ Check the NOFA for any additional requirements.

**Note:** Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

*2. Review and Selection Process*

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

Decisions to fund a grant are based on:

■ The strengths and weaknesses of the application as identified by peer reviewers and, when appropriate, approved by the appropriate National Advisory Council;

■ Availability of funds;

■ Equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size; and

■ After applying the aforementioned criteria, the following method for breaking ties: When funds are not available to fund all applications with identical scores, SAMHSA will make award decisions based on the application(s) that received the greatest number of points by peer reviewers on the evaluation criterion in Section V–1 with the highest number of possible points (Proposed Approach—35 points). Should a tie still exist, the evaluation criterion with the next highest possible point value will be used, continuing sequentially to the evaluation criterion with the lowest possible point value, should that be necessary to break all ties. If an evaluation criterion to be used for this purpose has the same number of possible points as another evaluation criterion, the criterion listed first in Section V–1 will be used first.

## VI. Award Administration Information

### *1. Award Notices*

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

### *2. Administrative and National Policy Requirements*

#### 2.1 General Requirements

■ You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site at *http://www.samhsa.gov/grants/generalinfo/useful_info.aspx*.

■ Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

○ Actions required to be in compliance with human subjects requirements;

○ Requirements relating to additional data collection and reporting;

○ Requirements relating to participation in a cross-site evaluation; or

○ Requirements to address problems identified in review of the application.

■ You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

■ In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

### *3. Reporting Requirements*

#### 3.1 Progress and Financial Reports

■ Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

■ Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that infrastructure development and enhancement efforts can be sustained, your financial reports must explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

■ SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

#### 3.2 Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. These requirements will be specified in the NOFA for each funding opportunity.

#### 3.3 Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (240–276–2130) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

■ Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

■ Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

■ Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

## VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Kimberly Pendleton, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 7–1097, Rockville, Maryland 20857, (240) 276–1421, *kimberly.pendleton@samhsa.hhs.gov*.

## Appendix A—Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding.

However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific NOFA and in Section III of the standard grant announcement. Please check the entire NOFA and Section III of the standard grant announcement before preparing your application.

☐ Use the PHS 5161–1 application.

☐ Applications must be received by the application deadline or have proof of timely submission, as detailed in Section IV–3 of the grant announcement.

☐ Information provided must be sufficient for review.

☐ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

☐ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

☐ The 10 application components required for SAMHSA applications should be included. These are:

• Face Page (Standard Form 424, which is in PHS 5161–1)

• Abstract

• Table of Contents

• Budget Form (Standard Form 424A, which is in PHS 5161–1)

• Project Narrative and Supporting Documentation

• Appendices

• Assurances (Standard Form 424B, which is in PHS 5161–1)

• Certifications (a form within PHS 5161–1)

• Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)

• Checklist (a form in PHS 5161–1)

☐ Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the FY2005 standard funding announcements.

• Budgetary limitations as specified in Section I, II, and IV–5 of the FY2005 standard funding announcements.

• Documentation of nonprofit status as required in the PHS 5161–1.

☐ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limits for Appendices stated in the specific funding announcement should not be exceeded.

☐ Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

## Appendix B—Glossary

*Best Practice:* Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

*Catchment Area:* A catchment area is the geographic area from which the target population to be served by a program will be drawn.

*Cooperative Agreement:* A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*Cost Sharing or Matching:* Cost sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost sharing or matching is not required, and applications will not be screened out on the basis of cost sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

*Fidelity:* Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at *http://tecathsri.org* or by calling (617) 876–0426.

*Grant:* A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*In-Kind Contribution:* In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

*Logic Model:* A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix C.

*Practice:* A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

*Practice Support System:* This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-

delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

*Stakeholder:* A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

*Sustainability:* Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

*Target Population:* The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

*Wraparound Service:* Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

## Appendix C—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. International Quarterly of Community Health Education, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. Alcoholism Treatment Quarterly, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). Crafting Logic Models for Systems of Care: Ideas into Action. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. *http://cfs.fmhi.usf.edu* or phone (813) 974–4651

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), Developing Outcome Strategies in Children's Mental Health, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (1997). Utilization of the logic model as a system level planning and evaluation device. Evaluation and Planning, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. Evaluation and Program Planning, 18(4), 333–341.

Patton, M.Q. (1997). Utilization-Focused Evaluation (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). Handbook of Practical Program Evaluation. San Francisco, CA: Jossey-Bass Inc.

## Appendix D—Sample Budget and Justification

**Illustration of a Sample Detailed Budget and Narrative Justification to Accompany SF 424A: Section B for 01 Budget Period**

*Object Class Categories*

Personnel

| Job title | Name | Annual salary | Level of effort | Salary being requested |
|---|---|---|---|---|
| Project Director | J. Doe | $30,000 | 1.0 | $30,000 |
| Secretary | Unnamed | 18,000 | 0.5 | 9,000 |
| Counselor | R. Down | 25,000 | 1.0 | 25,000 |

Enter Personnel subtotal on 424A, Section B, 6.a. $64,000

Fringe Benefits (24%) $15,360

**Enter Personnel subtotal on 424A, Section B, 6.a.—$64,000**

**Enter Fringe Benefits subtotal on 424A, Section B, 6.b. $15,360**

Travel

| | |
|---|---|
| 2 trips for SAMHSA Meetings for 2 Attendees (Airfare @ $600 × 4 = $2,400) + (per diem @ $120 × 4 × 6 days = $2,880) | $5,280 |
| Local Travel (500 miles × .24 per mile) | 120 |

**Enter Travel subtotal on 424A, Section B, 6.c. $5,400**

Equipment (List Individually)

"Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit or nongovernmental applicant for financial statement purposes, or (b) $5000.

**Enter Equipment subtotal on 424A, Section B, 6.d.**

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Computer Software–1 WordPerfect | 500 |

**Enter Supplies subtotal on 424A, Section B, 6.e. $1,000**

Contractual Costs

Evaluation

| Job title | Name | Annual salary | Salary being requested | Level of effort |
|---|---|---|---|---|
| Evaluator | J. Wilson | $48,000 | $24,000 | 0.5 |
| Other Staff | — | $18,000 | 18,000 | 1.0 |

Fringe Benefits (25%) $10,500

Travel

| | |
|---|---|
| 2 trips × 1 Evaluator ($600 × 2) | $1,200 |
| Per diem @ $120 × 6 | 720 |
| Supplies (General Office) | 500 |

| | |
|---|---|
| Evaluation Direct | $54,920 |
| Evaluation Indirect Costs (19%) | 10,435 |
| Evaluation Subtotal | $65,355 |

Training

| Job title | Name | Level of effort | Salary being requested |
|---|---|---|---|
| Coordinator | M. Smith | 0.5 | $12,000 |
| Admin. Asst. | N. Jones | 0.5 | 9,000 |

Fringe Benefits (25%) $5,250

Travel

| | |
|---|---|
| 2 Trips for Training Airfare @ $600 × 2 | $1,200 |
| Per Diem $120 × 2 × 2 days | 480 |
| Local (500 miles × .24/mile) | 120 |

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Software (WordPerfect) | 500 |

Other

| | |
|---|---|
| Rent (500 Sq. Ft. × $9.95) | $4,975 |
| Telephone | 500 |
| Maintenance (e.g., van) | 2,500 |
| Audit | 3,000 |

| | |
|---|---|
| Training Direct | $40,025 |
| Training Indirect | 0 |

**Enter Contractual subtotal on 424A, Section B, 6.f. $105,380**

Other

| | |
|---|---|
| Consultants = Expert @ $250/day × 6 day (If expert is known, should list by name) | $1,500 |

**Enter Other subtotal on 424A, Section B, 6.h. $1,500**

Total Direct Charges (sum of 6.a–6.h)

**Enter Total Direct on 424A, Section B, 6.i. $192,640**

Indirect Costs

15% of Salary and Wages (copy of negotiated indirect cost rate agreement attached)

**Enter Indirect subtotal of 424A, Section B, 6.j. $9,600**

Totals

**Enter TOTAL on 424A, Section B, 6.k. $202,240**

Justification

Personnel—Describe the role and responsibilities of each position.

Fringe Benefits—List all components of the fringe benefit rate.

Equipment—List equipment and describe the need and the purpose of the equipment in relation to the proposed project.

Supplies—Generally self-explanatory; however, if not, describe need. Include explanation of how the cost has been estimated.

Travel—Explain need for all travel other than that required by SAMHSA.

Contractual Costs—Explain the need for each contractual arrangement and how these components relate to the overall project.

Other—Generally self-explanatory. If consultants are included in this category, explain the need and how the consultant's rate has been determined.

Indirect Cost Rate—If your organization has no indirect cost rate, please indicate whether your organization plans to a) waive indirect costs if an award is issued, or b) negotiate and establish an indirect cost rate with DHHS within 90 days of award issuance.

CALCULATION OF FUTURE BUDGET PERIODS (BASED ON FIRST 12-MONTH BUDGET PERIOD)

[Review and verify the accuracy of future year budget estimates. Increases or decreases in the future years must be explained and justified and no cost of living increases will be honored. (NOTE: new salary cap of $175,700 is effective for all FY 2005 awards.) *]

| | First 12-month period | Second 12-month period | Third 12-month period |
|---|---|---|---|
| Personnel: | | | |
| Project Director | 30,000 | 30,000 | 30,000 |
| Secretary** | 9,000 | 18,000 | 18,000 |
| Counselor | 25,000 | 25,000 | 25,000 |
| Total Personnel | 64,000 | 73,000 | 73,000 |
| Fringe Benefits (24%) | 15,360 | 17,520 | 17,520 |
| Travel | 5,400 | 5,400 | 5,400 |
| Equipment | -0- | -0- | -0- |
| Supplies *** | 1,000 | 520 | 520 |
| Contractual: | | | |
| Evaluation **** | 65,355 | 67,969 | 70,688 |
| Training | 40,025 | 40,025 | 40,025 |
| Other | 1,500 | 1,500 | 1,500 |
| Total Direct Costs | 192,640 | 205,934 | 208,653 |
| Indirect Costs (15% S&W) | 9,600 | 9,600 | 9,600 |
| Total Costs | 202,240 | 216,884 | 219,603 |

* Consistent with the requirement in the Consolidated Appropriations Act, Public Law 108–199.
** Increased from 50% to 100% effort in 02 through 03 budget periods.
*** Increased amount in 01 year represents costs for software.
**** Increased amounts in 02 and 03 years are reflected of the increase in client data collection.

The Federal dollars requested for all object class categories for the first 12-month budget period are entered on Form 424A, Section B, Column (1), lines 6a-6i. The total Federal dollars requested for the second through the fifth 12-month budget periods are entered on Form 424A, Section E, Columns (b) " (e), line 20. The RFA will specify the maximum number of years of support that may be requested.

**Best Practices Planning and Implementation Grants BPPI 05 PA (Initial Announcement)**

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

| | |
|---|---|
| Application Deadline | This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the FEDERAL REGISTER and on *http://www.grants.gov.* |
| Intergovernmental Review (E.O. 12372) | Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline. |
| Public Health System Impact Statement (PHSIS)/Single State Agency Coordination. | Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline. |

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## I. Funding Opportunity Description

### *1. Introduction*

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Best Practices Planning and Implementation (BPPI) grants for substance abuse prevention, substance abuse treatment, and mental health services. This program announcement *must* be considered in conjunction with a full Notice of Funding Availability (NOFA), which specifies the grant program's purpose, target population, and other requirements of the program. These grants will help communities and providers identify substance abuse prevention, substance abuse treatment,

and/or mental health practices, develop strategic plans for implementing/adapting those practices, and pilot-test the practices. The practices proposed by applicants for SAMHSA's BPPI grants must incorporate the best objective information available regarding effectiveness and acceptability. Often, these practices will have strong evidence of effectiveness. However, because the evidence base is limited in some areas, SAMHSA may fund some practices for which the evidence base, while limited, is sound.

SAMHSA also funds grants under three other standard grant announcements:

■ *Services Grants* provide funding to implement substance abuse and mental health services.

■ *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.

■ *Service to Science Grants* document and evaluate innovative practices that address critical substance abuse and mental health service gaps but that have not yet been formally evaluated.

This announcement describes the general program design and provides application instructions for all SAMHSA BPPI Grants. The availability of funds for specific BPPI Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement web page.

SAMHSA's BPPI Grants are authorized under Section 509, 516 and/or 520A of the Public Health Service Act, unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov.*

Typically, funding for BPPI Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

■ Specify total funding available for the first year of the grants and the expected size and number of awards;

■ Provide the application deadline;

■ Note any specific program requirements for each funding opportunity; and

■ Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

*2. Expectations*

SAMHSA's BPPI program promotes the use of practices that incorporate the best objective information available regarding effectiveness and acceptability. SAMHSA refers to these as "best practices.'' BPPI grants may address needs in the areas of substance abuse prevention, substance abuse treatment and/or mental health services. SAMHSA understands that the "best practices'' proposed for BPPI grants may need to be adapted to certain populations. Therefore, SAMHSA's BPPI grants support adaptation and evaluation of best practices in addition to planning and implementation.

2.1 Documenting the Evidence-Base for Selected Practices

Applicants must document in their applications that the practices they propose to implement are evidence-based practices. In addition, applicants must justify use of the proposed practices for the target population along with any adaptations or modifications necessary to meet the unique needs of the target population or otherwise increase the likelihood of achieving positive outcomes. Further guidance on each of these requirements is provided below.

Documenting the Evidence-Based Practice/Service

SAMHSA has already determined that certain practices are solidly evidence-based practices and encourages applicants to select practices from the following sources (though this is not required):

■ SAMHSA's National Registry of Effective Programs and Practices (NREPP) (*see* Appendix C).

■ Center for Mental Health Services (CMHS) Evidence Based Practice Tool Kits (*see* Appendix D).

■ List of Evidence-Based Substance Abuse Treatment Practices (*see* Appendix E).

■ Additional practices identified in the NOFA for a specific funding opportunity, if applicable.

Applicants proposing practices that are not included in the above-referenced sources must provide a narrative justification that summarizes the evidence for effectiveness and acceptability of the proposed practice. The preferred evidence of effectiveness and acceptability will include the findings from clinical trials, efficacy and/or effectiveness studies published in the peer-reviewed literature.

In areas where little or no research has been published in the peer-reviewed scientific literature, the applicant may present evidence involving studies that have not been published in the peer-reviewed research literature and/or documents describing formal consensus among recognized experts. If consensus documents are presented, they must describe consensus among multiple experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert'' for this purpose.

In presenting evidence in support of the proposed practice, applicants must show that the evidence presented is the best objective information available.

Justifying Selection of the Practice/Service for the Target Population

Regardless of the strength of the evidence-base for the practice, all applicants must show that the proposed practice is appropriate for the proposed target population. Ideally, this evidence will include research findings on effectiveness and acceptability specific to the proposed target population. However, if such evidence is not available, the applicant should provide a justification for using the proposed practice with the target population. This justification might involve, for example, a description of adaptations to the proposed practice based on other research involving the target population.

Justifying Adaptations/Modifications of the Proposed Practice

SAMHSA has found that a high degree of faithfulness or "fidelity'' (*see* Glossary) to the original model for an evidence-based practice increases the likelihood that positive outcomes will be achieved when the model is used by others. Therefore, SAMHSA encourages fidelity to the original evidence-based practice to be implemented. However, SAMHSA recognizes that adaptations or modifications to the original model may be necessary for a variety of reasons:

• To allow implementers to use resources efficiently.

• To adjust for specific needs of the client population.

• To address unique characteristics of the local community where the practice will be implemented.

All applicants must describe and justify any adaptations or modifications to the proposed practice that will be made.

2.2 Program Design

SAMHSA will fund BPPI grants in two phases. Phase I is a planning and consensus-building phase that supports grantees for up to 18 months. Phase II is a pilot, adaptation, implementation,

and evaluation phase that supports grantees for up to 3 years. The program design requirements for Phase I and Phase II are described below. Applicants *must*, however, consult the NOFA for any program design requirements (*e.g.*, required activities) specific to the funding opportunity.

Phase I: Planning and Consensus Building

The goals of Phase I are to achieve consensus among community stakeholders to adopt a best practice and to engage in strategic planning for its implementation. Phase I grants may include, but are not limited to, the following types of activities:

■ Build and maintain a coalition of stakeholders to fund, oversee, use, and provide a sustainable best practice.

■ Train and educate key stakeholders about the best practice.

■ Consult experts about the practice.

■ Consult leaders from other communities about their experiences in implementing the practice.

■ Reimburse stakeholders for their transportation or child care costs.

■ Engage professionals to help build consensus and plan strategy.

■ Adapt the best practice to community needs without sacrificing its effectiveness.

■ Identify and obtain the commitment of permanent sources to fund the best practice.

■ Design the evaluation of the best practice.

■ Evaluate the process of consensus building among stakeholders (required).

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation

The goals of Phase II grants are to pilot test and evaluate the best practices before full implementation, modify strategic/financial plans, and prepare for full-scale implementation. Implementation does not include service delivery. The following are examples of activities that can be funded during Phase II:

■ Pilot test the practice on a sample of service recipients and evaluate the pilot test.

■ Modify the best practice based on consultation with stakeholders and practice experts, other community experiences, and pilot test results.

■ Revise the manual or documentation that describes in detail how the best practice was modified.

■ Maintain the coalition of stakeholders to oversee Phase II activities.

■ Secure consultants to make changes required to implement and finance the best practice.

■ Make organizational changes (*e.g.*, hiring staff) necessary to implement the best practice.

■ Provide necessary education, training, and technical assistance for staff.

Up to 25% of the Phase II grant award may be used to evaluate the pilot test of the best practice. During the course of a Phase II award, SAMHSA will provide funding for direct services as part of the pilot test.

2.3 Performance Requirements

All grantees will be required to meet the following evaluation and performance requirements. Applicants are not required to receive a Phase I award before applying for a Phase II award. However, all Phase II applicants must meet the Phase I performance requirements (*i.e.*, documentation that consensus has been achieved and that a strategic plan is in place) before applying for a Phase II award. Phase II applicants need not have been Phase I grantees.

Phase I: Planning and Consensus Building

By the end of Phase I, grantees will be required to provide documentation that consensus has been achieved for adopting a best practice. That documentation must include:

■ A report that summarizes the evaluation of the consensus building process.

■ A description of how key stakeholders were included in the consensus building.

■ Letters of support or other demonstration of stakeholders' commitment to adopt the practice.

■ A strategic plan for implementing the best practice that includes a financing plan, signed by the funding source(s) that will provide the resources necessary to address barriers and implement a sustainable best practice. [**Note:** If it is not possible for a grantee to complete a strategic plan, grantees will be required to provide an analysis of progress made and barriers to completing the strategic plan instead.]

Phase II: Pilot Test, Adaptation, Implementation, and Evaluation

By the end of Phase II, grantees must provide the following information:

■ Pilot test results.

■ Results from process/outcome evaluation of full Phase II project.

■ In cases where the implementation was judged a success, a manual describing the practice in detail for replication of the practice. The manual should explain how the project team determined the degree of success, referring to qualitative and quantitative data.

■ In cases where the implementation was judged not to be successful, a report detailing the lessons learned, with recommendations for other programs interested in implementing the best practice. The report should explain how the project team determined the degree of success, referring to qualitative and quantitative data.

■ Documentation that staff are trained in the practice and of a mechanism for training new staff.

■ Process evaluation results that describe how the practice was operationalized, including changes in the organizational infrastructure, permanent funding sources, and staff consultation and training activities.

■ Outcome evaluation results that describe:

○ Demographic characteristics of the clients served.

○ Service utilization.

○ Practice outcomes.

○ Client satisfaction.

○ Fidelity of the modified practice to the best practice.

○ Plans for fully implementing the best practice after the end of the Phase II award.

2.4 Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L. 103–62, or "GPRA'') requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's Website along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to

adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

2.5 Evaluation

Grantees must evaluate their projects, and applicants are required to describe their evaluation plans in their applications. The evaluation should be designed to provide regular feedback to the project to improve implementation of the best practice and, ultimately, the outcomes that will result from implementation of the best practice.

Phase I grantees must conduct a process evaluation. Phase II grantees must conduct a process and outcome evaluation of the pilot test, as well as a process and outcome evaluation of the full Phase II project.

Process and outcome evaluations must measure change relating to project goals and objectives over time compared to baseline information. Both Phase I and Phase II grantees must include the required performance measures described in the NOFA in their evaluations. Control or comparison groups are not required. You must consider your evaluation plan when preparing the project budget.

Process components should address issues such as:

■ How closely did implementation match the plan?

■ What types of deviation from the plan occurred?

■ What led to the deviations?

■ What effect did the deviations have on the intervention and evaluation?

■ For pilot test evaluations, who provided (program, staff) what services (modality, type, intensity, duration), to whom (individual characteristics), in what context (system, community), and at what cost (facilities, personnel, dollars)?

Outcome components should address issues such as:

■ What was the effect of the project on the service delivery system and/or on participants in the project?

■ What program/contextual factors were associated with outcomes?

■ What individual factors were associated with outcomes?

■ How durable were the effects?

No more than 20% of the total Phase I grant award and 25% of the total Phase II grant award may be used for evaluation and data collection.

2.6 Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area and attendance is mandatory.

## II. Award Information

*1. Award Amount*

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified, the actual award amount will depend on the availability of funds.

Awards for SAMHSA's BPPI grants will be made in two phases:

Phase I—Phase I awards are expected to range from $150,000–$200,000 in total costs (direct and indirect) for a project period of up to 18 months.

Phase II—Phase II awards will range from $300,000–$500,000 per year in total costs (direct and indirect) for a project period of up to 3 years.

Proposed budgets cannot exceed the allowable amount as specified in the NOFA in any year of the proposed project. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

*2. Funding Mechanism*

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

## III. Eligibility Information

*1. Eligible Applicants*

Eligible applicants are domestic public and private nonprofit entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

*2. Cost Sharing*

Cost sharing (*see* Glossary) is not required in this program, and applications will not be screened out on the basis of cost sharing. However, you may include cash or in-kind (*see* Glossary) contributions in your proposal as evidence of commitment to the proposed project.

*3. Other*

Applications must comply with the following requirements, or they will be screened out and will not be reviewed: Use of the PHS 5161–1 application; application submission requirements in Section IV–3 of this document; and formatting requirements provided in Section IV–2.3 of this document. Applicants should be aware that the NOFA may include additional requirements that, if not met, will result in applications being screened out and returned without review. These requirements will be specified in Section III–3 of the NOFA.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

## IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

*1. Address to Request Application Package*

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

■ For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

■ For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov*. Click on "Grant Opportunities.''

Additional materials available on this Web site include:

■ A technical assistance manual for potential applicants;

■ Standard terms and conditions for SAMHSA grants;

■ Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation); and

■ Enhanced instructions for completing the PHS 5161–1 application.

*2. Content and Form of Application Submission*

2.1 Application Kit

SAMHSA application kits include the following documents:

■ PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. Applicants must use the PHS 5161–1 for their application, unless otherwise specified in the NOFA. Applications that are not submitted on the required application form (*i.e.*, the PHS 5161–1 in most situations) will be screened out and will not be reviewed.

■ Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

■ Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (*http://www.grants.gov*). It is very important that you read the entire NOFA before beginning to write your application.

You must use all of the above documents in completing your application.

2.2 Required Application Components

To ensure equitable treatment of all applications, applications must be complete. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist).

□ Face Page—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [**NOTE:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

□ Abstract—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

□ Table of Contents—Include page numbers for each of the major sections of your application and for each appendix.

□ Budget Form—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A. A sample budget and justification is included in Appendix G of this Program Announcement.

□ Project Narrative and Supporting Documentation—The Project Narrative describes your project. It consists of Sections A through E for Phase I and Sections A through D for Phase II. Sections A–E (Phase I) together may not be longer than 30 pages and Sections A though D (Phase II) together may not be longer than 30 pages. (For example, remember that if your Project Narrative starts on page 5 and ends on page 35, it is 31 pages long, not 30 pages.) More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections F through I. (**Note:** Phase II applications will not have a Section E.) There are no page limits for these sections, except for Section H, the Biographical Sketches/Job Descriptions.

■ Section F—Literature Citations. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

■ Section G—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project. If you are applying for a Phase II award, show that no more than 25% of the total grant award will be used for evaluation of the pilot test of the best practice.

■ Section H—Biographical Sketches and Job Descriptions.

○ Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a position description and/or a letter of commitment with a current biographical sketch from the individual.

○ Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

○ Sample sketches and job descriptions are listed on page 22, Item 6 in the Program Narrative section of the PHS 5161–1.

■ Section I—Confidentiality and SAMHSA Participant Protection/Human Subjects. Section IV–2.4 of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

□ Appendices 1 through 6—Use only the appendices listed below. If your application includes any appendices not required in the grant announcement or NOFA, they will be disregarded. Do not use more than a total of 30 pages for Appendices 1, 3, 4 and 6 combined. There are no page limitations for Appendices 2 and 5. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

■ Appendix 1: Letters of Support.

■ Appendix 2: Data Collection Instruments/Interview Protocols.

■ Appendix 3: Sample Consent Forms.

■ Appendix 4: Letter to the SSA (if applicable; see Section IV–4 of this document).

■ Appendix 5: A copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State- or county-identified priority.

■ Appendix 6: Evidence of Intent to Adopt (Phase II only).

□ Assurances—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's Web site with the NOFA and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

□ Certifications—Use the "Certifications'' forms found in PHS 5161–1.

☐ Disclosure of Lobbying Activities—Use Standard Form LLL found in PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of information designed to support or defeat legislation pending before the Congress or State legislatures. This includes "grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

☐ Checklist—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

2.3 Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

☐ Information provided must be sufficient for review.

☐ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

☐ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the 30-page limit for the Project Narrative.

■ Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by 30. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

☐ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limit of a total of 30 pages for Appendices 1, 3, 4 and 6 combined should not be exceeded.

☐ Send the original application and two copies to the mailing address in Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

2.4 SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

Applicants must describe procedures relating to Confidentiality, Participant Protection and the Protection of Human Subjects Regulations in Section I of the application, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during peer review of the application may result in the delay of funding.

Confidentiality and Participant Protection

All applicants *must* describe how they will address requirements for each of the following elements relating to confidentiality and participant protection.

1. *Protect Clients and Staff from Potential Risks:*

■ Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

■ Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

■ Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

■ Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. *Fair Selection of Participants:*

■ Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other target groups.

■ Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

■ Explain the reasons for *including or excluding* participants.

■ Explain how you will recruit and select participants. Identify who will select participants.

3. *Absence of Coercion:*

■ Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

■ If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, *etc.*).

■ State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. *Data Collection:*

■ Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

■ Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be

made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

■ Provide in Appendix 2, "Data Collection Instruments/Interview Protocols,'' copies of all available data collection instruments and interview protocols that you plan to use.

5. *Privacy and Confidentiality:*

■ Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

■ Describe:

○ How you will use data collection instruments.

○ Where data will be stored.

○ Who will or will not have access to information.

○ How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

**Note:** If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part 2.

6. *Adequate Consent Procedures:*

■ List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.

■ State:

○ Whether or not their participation is voluntary.

○ Their right to leave the project at any time without problems.

○ Possible risks from participation in the project.

○ Plans to protect clients from these risks.

■ Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

**Note:** If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

■ Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

■ Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 3, "Sample Consent Forms,'' of your application. If needed, give English translations.

**Note:** Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

■ Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

■ Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. *Risk/Benefit Discussion:*

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

All applicants proposing a pilot test of the best practice as part of a Phase II project must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Even if you are not proposing a Phase II pilot test of the best practice, the Protection of Human Subjects Regulations could apply depending on the evaluation you propose.

If you are a Phase II applicant proposing a pilot test or your project otherwise falls under the Protection of Human Subjects Regulations, you must describe the process for obtaining Institutional Review Board (IRB) approval in your application. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and the IRB approval has been received before enrolling clients in the proposed project.

General information about Protection of Human Subjects Regulations can be obtained on the web at *http://hhs.gov/ohrp*. You may also contact OHRP by e-mail *(ohrp@osophs.dhhs.gov)* or by phone (301–496–7005). SAMHSA-specific questions related to Protection of Human Subjects Regulations should be directed to the program contact listed in Section VII of the NOFA.

*3. Submission Dates and Times*

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants Web site *(www.grants.gov).*

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

Your application must be received by the application deadline, or you must have proof of its timely submission as specified below.

• For packages submitted via DHL, Falcon Carrier, Federal Express (FedEx), or United Parcel Service (UPS), timely submission shall be evidenced by a delivery service receipt indicating the application was delivered to a carrier service at least 24 hours prior to the application deadline.

• For packages submitted via the United States Postal Service (USPS), proof of timely submission shall be a postmark not later than 1 week prior to the application deadline, and the following upon request by SAMHSA:

○ Proof of mailing using USPS Form 3817 (Certificate of Mailing), or

○ A receipt from the Post Office containing the post office name, location, and date and time of mailing.

You will be notified by postal mail that your application has been received.

Applications not meeting the timely submission requirements above will not be considered for review. Please remember that mail sent to Federal facilities undergoes a security screening prior to delivery. Allow sufficient time for your package to be delivered.

If an application is mailed to a location or office (including room number) that is not designated for receipt of the application, and that results in the designated office not receiving your application in accordance with the requirements for timely submission, it will cause the application to be considered late and ineligible for review.

SAMHSA will not accept or consider any applications sent by facsimile.

SAMHSA is collaborating with *http://www.grants.gov* to accept electronic submission of applications only for select funding opportunities. Unless specifically indicated in the NOFA,

electronic submission of applications will not be accepted.

*4. Intergovernmental Review (E.O. 12372) Requirements*

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

■ Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

■ If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

■ For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

■ The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from the NOFA].

In addition, community-based, non-governmental service providers who are not transmitting their applications through the State must submit a Public Health System Impact Statement (PHSIS) (approved by OMB under control no. 0920–0428; see burden statement below) to the head(s) of appropriate State or local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. The PHSIS is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to these requirements.

The PHSIS consists of the following information:

■ A copy of the face page of the application (SF 424); and

■ A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov.* If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

■ Applicants may request that the SSA send them a copy of any State comments.

■ The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

*5. Funding Limitations/Restrictions*

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

■ Institutions of Higher Education: OMB Circular A–21.

■ State and Local Governments: OMB Circular A–87.

■ Nonprofit Organizations: OMB Circular A–122.

■ Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA BPPI Grant recipients must comply with the following funding restrictions:

■ No more than 25% of Phase II funding may be used to evaluate the pilot test.

BPPI grant funds may not be used to:

■ Pay for any lease beyond the project period.

■ Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

■ Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request no more than $75,000 for renovations and alterations of existing facilities, if appropriate and necessary to the project.)

■ Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

■ Pay for housing other than residential mental health and/or substance abuse treatment.

■ Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

■ Pay for incentives to induce clients to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

■ Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

■ Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illness (STI), TB, and hepatitis B and C, or for psychotropic drugs.

■ SAMHSA will not accept a "research'' indirect cost rate. The grantee must use the "other sponsored program rate'' or the lowest rate available.

*6. Other Submission Requirements*

6.1 Where to Send Applications

Send applications to the following address:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857.

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850.

Do not send applications to other agency contacts, as this could delay receipt. Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (240) 276–1199.

6.2 How to Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

SAMHSA will not accept or consider any applications sent by facsimile.

Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

**V. Application Review Information**

*1. Evaluation Criteria*

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A–E for Phase I applications and A–D for Phase II applications). These sections describe what you intend to do with your project.

■ In developing the Project Narrative section of your application, use these instructions along with any additional instructions found in the NOFA. These are to be used instead of the "Program Narrative'' instructions found in the PHS 5161–1.

■ The Project Narrative may be no longer than 30 pages.

■ You must use the sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section of the Project Narrative.

■ Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA Web site at *http://www.samhsa.gov.* Click on "Grant Opportunities.''

■ The Supporting Documentation you provide in Sections F–I and Appendices 1–5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

■ The number of points after each heading is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within the criterion.

1.1 Phase I Criteria

Section A: Statement of Need (10 Points)

■ Describe the environment (organization, community, city, or State) where the project will be implemented.

■ Describe the target population (see Glossary) as well as the geographic area to be served, and justify the selection of both. Be sure to check the NOFA for any specific requirements regarding the target population and/or catchment area. Include numbers to be served and demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Describe the problem the project will address. Documentation of the problem may come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

■ Non-tribal applicants must show that identified needs are consistent with the priorities of the State or county that has primary responsibility for the service delivery system. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

■ Describe the best practice selected and how it will impact the problem.

■ Check the NOFA for any additional requirements.

Section B: Proposed Evidence-Based Practice (30 Points)

■ Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of the goals will address both the overall program purpose as specified in the NOFA and the needs you have identified in Section A. Provide a logic model (see Glossary) that links need, key components of the proposed project, and goals/objectives/outcomes of the proposed project.

■ Identify the evidenced based practice that you propose to implement. Describe the evidence-base for the proposed practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate. Depending on the evidence you provide, you may follow more than one set of instructions:

1. *If you are proposing to implement a practice included in NREPP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable),* simply identify the practice and state the source from which it was selected. You do not need to provide further evidence of effectiveness.

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other*

*studies that have not been published, describe the extent to which:*

—The practice has been evaluated and the quality of the evaluation studies (*e.g.*, whether they are descriptive, quasi-experimental studies, or experimental studies)

—The practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated

—The practice has been documented (*e.g.*, through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated

—Fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed)

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

—The experts involved in developing consensus on the proposed service/practice (*e.g.*, members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an individual as a respected or influential person at the community level is not considered a "recognized expert'' for this purpose.

—The nature of the consensus that has been reached and the process used to reach consensus

—The extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)

—Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed services/practice

—The rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed services/practice

■ Justify the use of the proposed practice for the target population. Describe the types of modifications/adaptations that may be necessary to meet the needs of the target population, and describe how you will make a final determination about the adaptations/modifications to be made to meet the needs of the population.

■ Identify any additional adaptations or modifications that may be necessary to successfully implement the proposed practice in the target community. Describe how you will make a final determination about the adaptations/modifications to be made.

■ Describe how the proposed project will address issues of age, race, ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population, while retaining fidelity to the chosen practice.

■ Check the NOFA for any additional requirements.

Section C: Proposed Implementation Approach (25 Points)

■ Describe how the proposed grant project will be implemented. Address any and all expectations/required activities specified in the NOFA.

■ Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The timeline should be part of the Project Narrative. It should not be placed in an appendix.]

■ Describe the strategies or models that will be used to build consensus, including a description of how key stakeholders (see Glossary) will be educated about the best practice. Describe potential barriers to achieving consensus among stakeholders. What resources and plans will you use to overcome these barriers?

■ Describe the process that will be used to develop a strategic plan to implement the best practice. Address such issues as needs assessment, identification of specific milestones that must be achieved in order to implement the best practice, and plans for assigning responsibility for achieving milestones among participating organizations/stakeholders. Identify potential funding source(s) that will help implement the best practice. Describe how the funder(s) will join in the consensus building and strategic planning.

■ Describe the key stakeholders (including representatives of the target population), how they were selected for participation in the project, and how they represent the community.

■ Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Clearly demonstrate each stakeholder's commitment to the consensus building and strategic planning processes. Attach letters of support and other documents showing stakeholder commitment in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project by the applicant or other partnering organizations.

■ Describe how the project components will be embedded within the existing service delivery system, including other SAMHSA-funded projects, if applicable.

■ Check the NOFA for any additional requirements.

Section D: Management Plan and Staffing (20 Points)

■ Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

■ Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, including evaluators and database management personnel.

■ Provide evidence that the service staff proposed to conduct the evidence-based practice have the level of abilities and experience necessary to implement the practice with fidelity to the model, once they have received any necessary training.

■ Identify the project staff or contractor(s) who will develop the implementation manual, and demonstrate that they have the requisite skills and experience.

■ Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual or bicultural individuals.

■ If you plan to have an advisory body, describe its composition, roles, and frequency of meetings.

■ Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, compliant with the Americans with Disabilities Act (ADA), and amenable to the target population.

■ Check the NOFA for any additional requirements.

Section E:Evaluation Design and Analysis (15 Points)

■ Describe the design for evaluating the consensus building and strategic planning processes. Include a detailed discussion of how all variables (*e.g.*, community representation and stakeholder support) will be defined and measured. Explain how the evaluation plan will ensure that the decision to adopt is an accurate reflection of the stakeholders' intent.

■ Document your ability to collect and report on the required performance measures as specified in the NOFA,

including data required by SAMHSA to meet GPRA requirements. Specify and justify any additional measures you plan to use for your grant project.

■ Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.

■ Describe plans for data collection, management, analysis, interpretation and reporting. Describe the existing approach to the collection of relevant data, along with any necessary modifications.

■ Discuss the reliability and validity of evaluation methods and instruments(s) in terms of the gender/ age/ culture of the target population.

■ Check the NOFA for any additional requirements.

1.2 Phase II Criteria

Section A: Need, Justification of Best Practice, and Readiness (30 Points)

If you previously received a Phase I BBPI award and are applying for a Phase II award to continue the project, include the following information:

■ Describe briefly the target population (see Glossary), setting, need and best practice approved for the Phase I award.

■ Describe and justify any changes to the target population and setting. Discuss the factors that led to a decision change in the target population and setting.

■ Describe any changes in the need for the best practice in the target community. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/ Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

■ Provide an updated projection of the number of individuals to be served as well as demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Describe and justify any additional modifications or adaptations to the best practice as compared to the practice approved for your Phase I project.

■ Provide evidence that the community of stakeholders (see Glossary) achieved a "decision to adopt'' the practice. Attach a copy of the Phase I process evaluation or other evidence including contracts, memoranda of agreement, administrative memos, or other documents signed by key stakeholders that show their firm commitment to support the practice. Attach these supporting documents in Appendix 6: Evidence of Intent to Adopt.

■ Provide and describe the financing plan. Include anticipated costs and sources of revenue that will maintain the practice. Attach the financing plan, signed by the funding source(s), stating their intent to fund in Appendix 6: Evidence of Intent to Adopt.

■ Check the NOFA for any additional requirements.

If you are applying for a Phase II award but did not previously receive a Phase I award, include the following information:

■ Clearly state the purpose, goals and objectives of your proposed project. Describe how achievement of the goals will address the overall program purpose as specified in the NOFA and produce meaningful and relevant results. Provide a logic model (see Glossary) that links need, the services or practice to be implemented, and outcomes.

■ Describe the target population as well as the geographic area to be served, and justify the selection of both. Include the numbers to be served and demographic information. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Describe the nature of the problem and extent of the need for the target population based on data. The statement of need should include a clearly established baseline for the project. Documentation of need may come from a variety of qualitative and quantitative sources. The quantitative data could come from local data or trend analyses, State data (*e.g.*, from State Needs Assessments), and/or national data (*e.g.*, from SAMHSA's National Household Survey on Drug Abuse and Health or from National Center for Health Statistics/Centers for Disease Control reports). For data sources that are not well known, provide sufficient information on how the data were collected so reviewers can assess the reliability and validity of the data.

■ Non-tribal applicants must show that identified needs are consistent with priorities of the State or county. Include, in Appendix 5, a copy of the State or County Strategic Plan, a State or county needs assessment, or a letter from the State or county indicating that the proposed project addresses a State-or county-identified priority. Tribal applicants must provide similar documentation relating to tribal priorities.

■ Identify the evidenced based service/practice that you propose to implement. Describe the evidence-base for the proposed service/practice and show that it incorporates the best objective information available regarding effectiveness and acceptability. Follow the instructions provided in #1, #2 or #3 below, as appropriate:

1. *If you are proposing to implement a service/practice included in NREPP (see Appendix C), one of the CMHS tool-kits on evidence-based practices (see Appendix D), the list of Effective Substance Abuse Treatment Practices (see Appendix E), or the NOFA (if applicable),* simply identify the practice and state the source from which it was selected. You do not need to provide further evidence of effectiveness.

2. *If you are providing evidence that includes scientific studies published in the peer-reviewed literature or other studies that have not been published, describe the extent to which:*

—The service/practice has been evaluated and the quality of the evaluation studies (*e.g.*, whether they are descriptive, quasi-experimental studies, or experimental studies)

—The service/practice has demonstrated positive outcomes and for what populations the positive outcomes have been demonstrated

—The service/practice has been documented (*e.g.*, through development of guidelines, tool kits, treatment protocols, and/or manuals) and replicated

—Fidelity measures have been developed (*e.g.*, no measures developed, key components identified, or fidelity measures developed)

3. *If you are providing evidence based on a formal consensus process involving recognized experts in the field, describe:*

—The experts involved in developing consensus on the proposed service/ practice (*e.g.*, members of an expert panel formally convened by SAMHSA, NIH, the Institute of Medicine or other nationally recognized organization). The consensus must have been developed by a group of experts whose work is recognized and respected by others in the field. Local recognition of an

individual as a respected or influential person at the community level is not considered a "recognized expert'' for this purpose.
—The nature of the consensus that has been reached and the process used to reach consensus
—The extent to which the consensus has been documented (*e.g.*, in a consensus panel report, meeting minutes, or an accepted standard practice in the field)
—Any empirical evidence (whether formally published or not) supporting the effectiveness of the proposed services/practice
—The rationale for concluding that further empirical evidence does not exist to support the effectiveness of the proposed services/practice

■ Justify the use of the proposed service/practice for the target population. Describe and justify any adaptations necessary to meet the needs of the target population, as well as evidence that such adaptations will be effective for the target population.

■ Identify and justify any additional adaptations or modifications to the proposed service/practice.

■ Describe the community of stakeholders in the project, and provide evidence that they have achieved a "decision to adopt'' the practice. Such evidence may include contracts, memoranda of agreement, administrative memos, or other documents signed by key stakeholders that show their firm commitment to support the practice. Attach these supporting documents in Appendix 6: Evidence of Intent to Adopt.

■ Provide and describe the financing plan. Include anticipated costs and sources of revenue that will maintain the practice. Attach the financing plan, signed by the funding source(s), stating their intent to fund in Appendix 6: Evidence of Intent to Adopt.

■ Check the NOFA for any additional requirements.

Section B: Proposed Approach (25 Points)

■ Provide a strategic plan, including key action steps, that addresses each of the following elements, as appropriate: pilot testing the best practice, evaluating the pilot test, modifying the best practice based on the pilot test, developing training materials, hiring/training staff, and securing funding to sustain services beyond the project period. Address any and all expectations/required activities specified in the NOFA.

■ Describe the involvement of key stakeholders in the proposed project, including roles and responsibilities of each stakeholder. Demonstrate each stakeholder's commitment to the proposed project. Attach letters of support and similar documents showing stakeholder commitment in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project.

■ Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

■ Describe potential barriers to the successful conduct of the proposed project and how you will overcome them.

■ Describe oversight or feedback mechanisms to ensure that the implemented practice is consistent with the best practice model.

■ Check the NOFA for any additional requirements.

Section C: Management Plan and Staffing (25 Points)

■ Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

■ Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

■ Provide a list of staff members who will conduct the project, showing the role of each and their level of effort and qualifications. Include the Project Director and other key personnel, including evaluators and database managers.

■ Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

■ Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that services will be provided in a location that is adequate, accessible, Americans with Disabilities Act (ADA) compliant, and is amenable to the target population.

■ Check the NOFA for any additional requirements.

Section D: Evaluation Design and Analysis (20 Points)

■ Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPRA requirements. Specify and justify any additional measures you plan to use for your grant project.

■ Provide a logic model (see Glossary) for the evaluation of the pilot test of the best practice as well as other implementation activities (*e.g.*, training, securing financing).

■ Provide a plan for evaluating the pilot test of the best practice and other implementation activities that includes both process and client outcome measures. Describe the recruitment plan and sample size for your project. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used. Also discuss the appropriateness of the evaluation methods and instrument(s) in terms of the gender/age/culture of the target population. Attach instrumentation in Appendix 2: Data Collection Instruments.

■ Describe how the adaptations of the best practice will be documented. Demonstrate its fidelity to the best practice model. If no fidelity scale exists for the practice, describe how you will develop one.

■ Describe the process for providing regular feedback from evaluation activities to the Project Director and participants.

■ Describe the database management system that will be developed.

■ Check the NOFA for any additional requirements.

**Note:** Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

*2. Review and Selection Process*

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

Decisions to fund a grant are based on:

■ The strengths and weaknesses of the application as identified by peer reviewers and, when appropriate, approved by the appropriate National Advisory Council;

■ Availability of funds;

■ Equitable distribution of awards in terms of geography (including urban, rural and remote settings) and balance among target populations and program size; and

■ After applying the aforementioned criteria, the following method for breaking ties: When funds are not

available to fund all applications with identical scores, SAMHSA will make award decisions based on the application(s) that received the greatest number of points by peer reviewers on the evaluation criterion in Section V–1 with the highest number of possible points (for Phase I, Proposed Evidence-Based Practice'30 points; for Phase II, Need, Justification of Best Practice, and Readiness'30 points). Should a tie still exist, the evaluation criterion with the next highest possible point value will be used, continuing sequentially to the evaluation criterion with the lowest possible point value, should that be necessary to break all ties. If an evaluation criterion to be used for this purpose has the same number of possible points as another evaluation criterion, the criterion listed first in Section V–1 will be used first.

## VI. Award Administration Information

*1. Award Notices*

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

*2. Administrative and National Policy Requirements*

■ You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site at *http://www.samhsa.gov/grants/generalinfo/useful_info.aspx.*

■ Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

○ Actions required to be in compliance with human subjects requirements;

○ Requirements relating to additional data collection and reporting;

○ Requirements relating to participation in a cross-site evaluation; or

○ Requirements to address problems identified in review of the application.

■ You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

■ In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

*3. Reporting Requirements*

3.1 Progress and Financial Reports

■ Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

■ Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that its best practices efforts can be sustained, your financial reports must explain plans to ensure the sustainability (see Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

■ SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

3.2 Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3.3 Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (240–276–2130) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

■ Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

■ Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

■ Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

## VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Kimberly Pendleton, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 7–1097, Rockville, Maryland 20850, (240) 276–1421, *kimberly.pendleton@samhsa.hhs.gov.*

## Appendix A—Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned

to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific NOFA and in Section III of the standard grant announcement. Please check the entire NOFA and Section III of the standard grant announcement before preparing your application.

❑ Use the PHS 5161–1 application.

❑ Applications must be received by the application deadline or have proof of timely submission, as detailed in Section IV–3 of the grant announcement.

❑ Information provided must be sufficient for review.

❑ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

❑ Paper must be white paper and 8.5 inches by 11.0 inches in size.

❑ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

❑ The 10 application components required for SAMHSA applications should be included. These are:

- Face Page (Standard Form 424, which is in PHS 5161–1)
- Abstract
- Table of Contents
- Budget Form (Standard Form 424A, which is in PHS 5161–1)
- Project Narrative and Supporting Documentation
- Appendices
- Assurances (Standard Form 424B, which is in PHS 5161–1)
- Certifications (a form within PHS 5161–1)
- Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1)
- Checklist (a form in PHS 5161–1)

❑ Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the FY2005 standard funding announcements.

• Budgetary limitations as specified in Section I, II, and IV–5 of the FY 2005 standard funding announcements.

• Documentation of nonprofit status as required in the PHS 5161–1.

❑ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

❑ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

❑ The page limits for Appendices stated in the specific funding announcement should not be exceeded.

❑ Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD-ROMs.

## Appendix B—Glossary

*Best Practice:* Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

*Catchment Area:* A catchment area is the geographic area from which the target population to be served by a program will be drawn.

*Cooperative Agreement:* A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*Cost sharing or Matching:* Cost sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost sharing or matching is not required, and applications will not be screened out on the basis of cost sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

*Fidelity:* Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at *http://tecathsri.org* or by calling (617) 876–0426.

*Grant:* A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*In-Kind Contribution:* In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

*Logic Model:* A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix F.

*Practice:* A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

*Practice Support System:* This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

*Stakeholder:* A stakeholder is an individual, organization, constituent group,

or other entity that has an interest in and will be affected by a proposed grant project.

*Sustainability:* Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

*Target Population:* The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

*Wraparound Service:* Wraparound services are non-clinical supportive services'such as child care, vocational, educational, and transportation services'that are designed to improve the individual's access to and retention in the proposed project.

## Appendix C—National Registry of Effective Programs and Practices

To help SAMHSA's constituents learn more about science-based programs, SAMHSA's Center for Substance Abuse Prevention (CSAP) created a National Registry of Effective Programs and Practices (NREPP) to review and identify effective programs. NREPP seeks candidates from the practice community and the scientific literature. While the initial focus of NREPP was substance abuse prevention programming, NREPP has expanded its scope and now includes prevention and treatment of substance abuse and of co-occurring substance abuse and mental disorders, and psychopharmacological programs and workplace programs.

NREPP includes three categories of programs: Effective Programs, Promising Programs, and Model Programs. Programs defined as Effective have the option of becoming Model Programs if their developers choose to take part in SAMHSA dissemination efforts. The conditions for making that choice, together with definitions of the three major criteria, are as follows.

*Promising Programs* have been implemented and evaluated sufficiently and are scientifically defensible. They have positive outcomes in preventing substance abuse and related behaviors. However, they have not yet been shown to have sufficient rigor and/or consistently positive outcomes required for Effective Program status. Nonetheless, Promising Programs are eligible to be elevated to Effective/Model status after review of additional documentation regarding program effectiveness. Originated from a range of settings and spanning target populations, Promising Programs can guide prevention, treatment, and rehabilitation.

*Effective Programs* are well-implemented, well-evaluated programs that produce consistently positive pattern of results (across domains and/or replications). Developers of Effective Programs have yet to help SAMHSA/CSAP disseminate their programs, but may do so themselves.

*Model Programs* are also well-implemented, well-evaluated programs, meaning they have been reviewed by NREPP according to rigorous standards of research. Their developers have agreed with SAMHSA to provide materials, training, and technical assistance for nationwide implementation. That helps ensure the program is carefully implemented and likely to succeed.

Programs that have met the NREPP standards for each category can be identified by accessing the NREPP Model Programs Web site at *http://www.modelprograms.samhsa.gov.*

## Appendix D—Center for Mental Health Services Evidence-Based Practice Toolkits

SAMHSA's Center for Mental Health Services and the Robert Wood Johnson Foundation initiated the Evidence-Based Practices Project to: (1) Help more consumers and families find effective services, (2) help providers of mental health services develop effective services, and (3) help administrators support and maintain these services. The project is now also funded and endorsed by numerous national, State, local, private and public organizations, including the Johnson & Johnson Charitable Trust, MacArthur Foundation, and the West Family Foundation.

The project has been developed through the cooperation of many Federal and State mental health organizations, advocacy groups, mental health providers, researchers, consumers and family members. A Web site (*http://www.mentalhealthpractices.org*) was created as part of Phase I of the project, which included the identification of the first cluster of evidence-based practices and the design of implementation resource kits to help people understand and use these practices successfully.

Basic information about the first six evidence-based practices is available on the Web site. The six practices are:

1. Illness Management and Recovery
2. Family Psychoeducation
3. Medication Management Approaches in Psychiatry
4. Assertive Community Treatment
5. Supported Employment
6. Integrated Dual Disorders Treatment

Each of the resource kit contains information and materials written by and for the following groups:

—Consumers
—Families and Other Supporters
—Practitioners and Clinical Supervisors
—Mental Health Program Leaders
—Public Mental Health Authorities

Material on the web site can be printed or downloaded with Acrobat Reader, and references are provided where additional information can be obtained.

Once published, the full kits will be available from National Mental Health Information Center at *http://www.health.org* or 1–800–789–CMHS (2647).

## Appendix E—Effective Substance Abuse Treatment Practices

To assist potential applicants, SAMHSA's Center for Substance Abuse Treatment (CSAT) has identified the following listing of current publications on effective treatment practices for use by treatment professionals in treating individuals with substance abuse disorders. These publications are available from the National Clearinghouse for Alcohol and Drug Information (NCADI); Tele: 1–800–729–6686 or *http://www.health.org* and *http://www.samhsa.gov/centers/csat2002/publications.html.*

CSAT Treatment Improvement Protocols (TIPs) are consensus-based guidelines developed by clinical, research, and administrative experts in the field.

- Integrating Substance Abuse Treatment and Vocational Services. TIP 38 (2000) NCADI # BKD381
- Substance Abuse Treatment for Persons with Child Abuse and Neglect Issues. TIP 36 (2000) NCADI # BKD343
- Substance Abuse Treatment for Persons with HIV/AIDS. TIP 37 (2000) NCADI # BKD359
- Brief Interventions and Brief Therapies for Substance Abuse. TIP 34 (1999) NCADI # BKD341
- Enhancing Motivation for Change in Substance Abuse Treatment. TIP 35 (1999) NCADI # BKD342
- Screening and Assessing Adolescents for Substance Use Disorders. TIP 31 (1999) NCADI # BKD306
- Treatment for Stimulant Use Disorders. TIP 33 (1999) NCADI # BKD289
- Treatment of Adolescents with Substance Use Disorders. TIP 32 (1999) NCADI # BKD307
- Comprehensive Case Management for Substance Abuse Treatment. TIP 27 (1998) NCADI # BKD251
- Continuity of Offender Treatment for Substance Use Disorders From Institution to Community. TIP 30 (1998) NCADI # BKD304
- Naltrexone and Alcoholism Treatment. TIP 28 (1998) NCADI # BKD268
- Substance Abuse Among Older Adults. TIP 26 (1998) NCADI # BKD250
- Substance Use Disorder Treatment for People With Physical and Cognitive Disabilities. TIP 29 (1998) NCADI # BKD288
- A Guide to Substance Abuse Services for Primary Care Clinicians. TIP 24 (1997) NCADI # BKD234
- Substance Abuse Treatment and Domestic Violence. TIP 25 (1997) NCADI # BKD239
- Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing. TIP 23 (1996) NCADI # BKD205
- Alcohol and Other Drug Screening of Hospitalized Trauma Patients. TIP 16 (1995) NCADI # BKD164
- Combining Alcohol and Other Drug Abuse Treatment With Diversion for Juveniles in the Justice System. TIP 21 (1995) NCADI # BKD169
- Detoxification From Alcohol and Other Drugs. TIP 19 (1995) NCADI # BKD172
- LAAM in the Treatment of Opiate Addiction. TIP 22 (1995) NCADI # BKD170
- Matching Treatment to Patient Needs in Opioid Substitution Therapy. TIP 20 (1995) NCADI # BKD168
- Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System. TIP 17 (1995) NCADI # BKD165
- Assessment and Treatment of Cocaine-Abusing Methadone-Maintained Patients. TIP 10 (1994) NCADI # BKD157
- Assessment and Treatment of Patients With Coexisting Mental Illness and Alcohol and Other Drug Abuse. TIP 9 (1994) NCADI # BKD134

- Intensive Outpatient Treatment for Alcohol and Other Drug Abuse. TIP 8 (1994) NCADI # BKD139

Other Effective Practice Publications

CSAT Publications—

Anger Management for Substance Abuse and Mental Health Clients: A Cognitive Behavioral Therapy Manual (2002) NCADI # BKD444

- Anger Management for Substance Abuse and Mental Health Clients: Participant Workbook (2002) NCADI # BKD445
- Multidimensional Family Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 5 (2002) NCADI # BKD388
- Navigating the Pathways: Lessons and Promising Practices in Linking Alcohol and Drug Services with Child Welfare. TAP 27 (2002) NCADI # BKD436
- The Motivational Enhancement Therapy and Cognitive Behavioral Therapy Supplement: 7 Sessions of Cognitive Behavioral Therapy for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 2 (2002) NCADI # BKD385
- Family Support Network for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 3 (2001) NCADI # BKD386
- Identifying Substance Abuse Among TANF-Eligible Families. TAP 26 (2001) NCADI # BKD410
- Motivational Enhancement Therapy and Cognitive Behavioral Therapy for Adolescent Cannabis Users: 5 Sessions. CYT Cannabis Youth Treatment Series Vol. 1 (2001) NCADI # BKD384
- The Adolescent Community Reinforcement Approach for Adolescent Cannabis Users. CYT Cannabis Youth Treatment Series Vol. 4 (2001) NCADI # BKD387
- Substance Abuse Treatment for Women Offenders: Guide to Promising Practices. TAP 23 (1999) NCADI # BKD310
- Addiction Counseling Competencies: The Knowledge, Skills, and Attitudes of Professional Practice. TAP 21 (1998) NCADI # BKD246
- Bringing Excellence to Substance Abuse Services in Rural and Frontier America. TAP 20 (1997) NCADI # BKD220
- Counselor's Manual for Relapse Prevention with Chemically Dependent Criminal Offenders. TAP 19 (1996) NCADI # BKD723
- Draft Buprenorphine Curriculum for Physicians (**Note:** the Curriculum is in DRAFT form and is currently being updated) *http://www.buprenorphine.samhsa.gov*
- CSAT Guidelines for the Accreditation of Opioid Treatment Programs *http://www.samhsa.gov/centers/csat/content/dpt/accreditation.htm*
- Model Policy Guidelines for Opioid Addiction Treatment in the Medical Office *http://www.samhsa.gov/centers/csat/content/dpt/model_policy.htm*

NIDA Manuals—Available through NCADI

- Brief Strategic Family Therapy. Manual 5 (2003) NCADI # BKD481
- Drug Counseling for Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 4 (2002) NCADI # BKD465
- The NIDA Community-Based Outreach Model: A Manual to Reduce Risk HIV and Other Blood-Borne Infections in Drug Users. (2000) NCADI # BKD366
- An Individual Counseling Approach to Treat Cocaine Addiction: The Collaborative Cocaine Treatment Study Model. Manual 3 (1999) NCADI # BKD337
- Cognitive-Behavioral Approach: Treating Cocaine Addiction. Manual 1 (1998) NCADI # BKD254
- Community Reinforcement Plus Vouchers Approach: Treating Cocaine Addiction. Manual 2 (1998) NCADI # BKD255

NIAAA Publications—* These publications are available in PDF format or can be ordered on-line at *http://www.niaaa.nih.gov/publications/guides.htm.* An order form for the Project MATCH series is available on-line at *http://www.niaaa.nih.gov/publications/match.htm.* All publications listed can be ordered through the NIAAA Publications Distribution Center, P.O. Box 10686, Rockville, MD 20849–0686.

- * Alcohol Problems in Intimate Relationships: Identification and Intervention. A Guide for Marriage and Family Therapists (2003) NIH Pub. No. 03–5284
- * Helping Patients with Alcohol Problems: A Health Practitioner's Guide. (2003) NIH Pub. No. 03–3769
- Cognitive-Behavioral Coping Skills Therapy Manual. Project MATCH Series, Vol. 3 (1995) NIH Pub. No. 94–3724
- Motivational Enhancement Therapy Manual. Project MATCH Series, Vol. 2 (1994) NIH Pub. No. 94–3723

## Appendix F—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. International Quarterly of Community Health Education, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. Alcoholism Treatment Quarterly, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). Crafting Logic Models for Systems of Care: Ideas into Action. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. *http://cfs.fmhi.usf.edu* or phone (813) 974–4651.

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), Developing Outcome Strategies in Children's Mental Health, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (l997). Utilization of the logic model as a system level planning and evaluation device. Evaluation and Planning, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. Evaluation and Program Planning, 18(4), 333–341.

Patton, M.Q. (1997). Utilization-Focused Evaluation (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). Handbook of Practical Program Evaluation. San Francisco, CA: Jossey-Bass Inc.

## Appendix G—Sample Budget and Justification

**Illustration of a Sample Detailed Budget and Narrative Justification To Accompany SF 424A: Section B for 01 Budget Period**

*Object Class Categories*

Personnel

| Job title | Name | Annual salary | Level of effort | Salary being requested |
|---|---|---|---|---|
| Project Director | J. Doe | $30,000 | 1.0 | $30,000 |
| Secretary | Unnamed | 18,000 | 0.5 | 9,000 |
| Counselor | R. Down | 25,000 | 1.0 | 25,000 |

**Enter Personnel subtotal on 424A, Section B, 6.a. $64,000**

Fringe Benefits (24%) $15,360

**Enter Fringe Benefits subtotal on 424A, Section B, 6.b. $15,360**

Travel

| | |
|---|---|
| 2 trips for SAMHSA Meetings for 2 Attendees (Airfare @ $600 × 4 = $2,400) × (per diem @ $120 × 4 × 6 days = $2,880) | $5,280 |
| Local Travel (500 miles x .24 per mile) | 120 |

**Enter Travel subtotal on 424A, Section B, 6.c. $5,400**

Equipment (List Individually)

"Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit or nongovernmental applicant for financial statement purposes, or (b) $5000.

**Enter Equipment subtotal on 424A, Section B, 6.d.**

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Computer Software—1 WordPerfect | 500 |

**Enter Supplies subtotal on 424A, Section B, 6.e. $1,000**

*Contractual Costs*

Evaluation

| Job title | Name | Annual salary | Salary being requested | Level of effort |
|---|---|---|---|---|
| Evaluator | J. Wilson | $48,000 | $24,000 | 0.5 |
| Other Staff | | $18,000 | $18,000 | 1.0 |

Fringe Benefits (25%) $10,500

Travel

| | |
|---|---|
| 2 trips × 1 Evaluator ($600 × 2) | $ 1,200 |
| per diem @ $120 × 6 | 720 |
| Supplies (General Office) | 500 |

| | |
|---|---|
| Evaluation Direct | $54,920 |
| Evaluation Indirect Costs (19%) | 10,435 |
| Evaluation Subtotal | 65,355 |

Training

| Job title | Name | Level of effort | Salary being requested |
|---|---|---|---|
| Coordinator | M. Smith | 0.5 | $12,000 |
| Admin. Asst. | N. Jones | 0.5 | 9,000 |

Fringe Benefits (25%) $5,250

Travel

| | |
|---|---|
| 2 Trips for Training Airfare @ $600 × 2 | $1,200 |
| Per Diem $120 × 2 × 2 days | 480 |
| Local (500 miles x .24/mile) | 120 |

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Software (WordPerfect) | 500 |

Other

| | |
|---|---|
| Rent (500 Sq. Ft. × $9.95) | $4,975 |
| Telephone | 500 |
| Maintenance (e.g., van) | 2,500 |
| Audit | 3,000 |

| | |
|---|---|
| Training Direct | $40,025 |
| Training Indirect | 0 |

**Enter Contractual subtotal on 424A, Section B, 6.f. $105,380**

Other

| | |
|---|---|
| Consultants = Expert @ $250/day × 6 day (If expert is known, should list by name) | $1,500 |

**Enter Other subtotal on 424A, Section B, 6.h. $1,500**

Total Direct Charges (sum of 6.a–6.h)

**Enter Total Direct on 424A, Section B, 6.i. $192,640**

Indirect Costs

15% of Salary and Wages (copy of negotiated indirect cost rate agreement attached)

**Enter Indirect subtotal of 424A, Section B, 6.j. $9,600**

Totals

**Enter Total on 424A, Section B, 6.k. $202,240**

Justification

Personnel—Describe the role and responsibilities of each position.

Fringe Benefits—List all components of the fringe benefit rate.

Equipment—List equipment and describe the need and the purpose of the equipment in relation to the proposed project.

Supplies—Generally self-explanatory; however, if not, describe need. Include explanation of how the cost has been estimated.

Travel—Explain need for all travel other than that required by SAMHSA.

Contractual Costs—Explain the need for each contractual arrangement and how these components relate to the overall project.

Other—Generally self-explanatory. If consultants are included in this category, explain the need and how the consultant's rate has been determined.

Indirect Cost Rate—If your organization has no indirect cost rate, please indicate whether your organization plans to (a) waive indirect costs if an award is issued, or (b) negotiate and establish an indirect cost rate with DHHS within 90 days of award issuance.

CALCULATION OF FUTURE BUDGET PERIODS (BASED ON FIRST 12-MONTH BUDGET PERIOD)

[Review and verify the accuracy of future year budget estimates. Increases or decreases in the future years must be explained and justified and no cost of living increases will be honored. (NOTE: new salary cap of $175,700 is effective for all FY 2005 awards.)*]

| | First 12-month period | Second 12-month period | Third 12-month period |
|---|---|---|---|
| Personnel: | | | |
| Project Director | 30,000 | 30,000 | 30,000 |
| Secretary** | 9,000 | 18,000 | 18,000 |
| Counselor | 25,000 | 25,000 | 25,000 |
| Total Personnel | 64,000 | 73,000 | 73,000 |
| Fringe Benefits (24%) | 15,360 | 17,520 | 17,520 |
| Travel | 5,400 | 5,400 | 5,400 |
| Equipment | -0- | -0- | -0- |
| Supplies*** | 1,000 | 520 | 520 |
| Contractual: | | | |
| Evaluation**** | 65,355 | 67,969 | 70,688 |
| Training | 40,025 | 40,025 | 40,025 |
| Other | 1,500 | 1,500 | 1,500 |
| Total Direct Costs | 192,640 | 205,934 | 208,653 |
| Indirect Costs (15% S&W) | 9,600 | 9,600 | 9,600 |
| Total Costs | 202,240 | 216,884 | 219,603 |

*Consistent with the requirement in the Consolidated Appropriations Act, Public Law 108–199.
**Increased from 50% to 100% effort in 02 through 03 budget periods.
***Increased amount in 01 year represents costs for software.
****Increased amounts in 02 and 03 years are reflected of the increase in client data collection.

The Federal dollars requested for all object class categories for the first 12-month budget period are entered on Form 424A, Section B, Column (1), lines 6a–6i. The *total* Federal dollars requested for the second up to the fifth 12-month budget periods are entered on Form 424A, Section E, Columns (b)–(e), line 20. The RFA will specify the maximum number of years of support that may be requested.

**Service-to-Science Grants—STS 05 PA (Initial Announcement)**

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243 (unless otherwise

specified in a NOFA in the **Federal Register** and on *http://www.grants.gov*)

KEY DATES

| | |
|---|---|
| Application Deadline | This Program Announcement provides instructions and guidelines for multiple funding opportunities. Application deadlines for specific funding opportunities will be published in Notices of Funding Availability (NOFAs) in the FEDERAL REGISTER and on *www.grants.gov.* |
| Intergovernmental Review (E.O. 12372) | Letters from State Single Point of Contact (SPOC) are due 60 days after application deadline. |
| Public Health System Impact Statement (PHSIS)/ Single State Agency Coordination. | Applicants must send the PHSIS to appropriate State and local health agencies by application deadline. Comments from Single State Agency are due 60 days after application deadline. |

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## I. Funding Opportunity Description

### *1. Introduction*

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces its intent to solicit applications for Service-to-Science grants. This program announcement *must* be considered in conjunction with a full Notice of Funding Availability (NOFA), which specifies the grant program's purpose, target population, and other requirements of the program. These grants will document and evaluate innovative practices that address critical substance abuse and mental health service gaps but have not yet been formally evaluated. Applicants who seek to stabilize, document, and evaluate promising practices for mental health and/or substance abuse treatment, prevention, and support services should apply for awards under this announcement.

SAMHSA also funds grants under three other standard grant announcements:

- *Services Grants* provide funding to implement substance abuse and mental health services.
- *Infrastructure Grants* support identification and implementation of systems changes but are not designed to fund services.
- *Best Practices Planning and Implementation Grants* help communities and providers identify practices to effectively meet local needs, develop strategic plans for implementing/adapting those practices and pilot-test practices prior to full-scale implementation.

This announcement describes the general program design and provides application instructions for all SAMHSA Service-to-Science Grants. The availability of funds for specific Service-to-Science Grants will be announced in supplementary Notices of Funding Availability (NOFAs) in the **Federal Register** and at *http://www.grants.gov*—the Federal grant announcement web page.

SAMHSA's Service-to-Science Grants are authorized under Section 509, 516 and/or 520A of the Public Health Service Act, unless otherwise specified in a NOFA in the **Federal Register** and on *http://www.grants.gov.*

Typically, funding for Service-to-Science Grants will be targeted to specific populations and/or issue areas, which will be specified in the NOFAs. The NOFAs will also:

■ Specify total funding available for the first year of the grants and the expected size and number of awards;

■ Provide the application deadline;

■ Note any specific program requirements for each funding opportunity; and

■ Include any limitations or exceptions to the general provisions in this announcement (*e.g.*, eligibility, award size, allowable activities).

It is, therefore, critical that you consult the NOFA as well as this announcement in developing your grant application.

### *2. Expectations*

While there is a well-established evidence base for many behavioral health practices, critical service gaps exist for which there is no formal evidence base. Stakeholders have developed many innovative practices to fill these gaps, but they may lack the expertise and/or resources to formally document and evaluate their practices. Consequently, it is not clear whether these innovative practices are effective, and they are not disseminated widely. SAMHSA seeks to encourage continued development of evidence-based practices to fill service gaps by documenting and evaluating promising stakeholder-initiated practices. This program will help organizations that have identified promising new practices to evaluate and package those innovations for review and inclusion in the National Registry of Effective Programs and Practices (NREPP) as well as for further research.

#### 2.1 Program Design

SAMHSA will fund Service-to-Science grants in two phases. You may apply for Phase I and II combined or for Phase II alone. Applications for Phase I alone will not be accepted. The program design requirements for Phase I and Phase II are described below. Applicants must, however, consult the NOFA for any program design requirements (*e.g.*, required activities) specific to the funding opportunity.

Phase I provides support for up to 2 years to stabilize and document an existing practice that fills an identified gap. During Phase I, you may:

■ Further develop or refine the promising practice;

■ Develop training and practice manuals;

■ Train persons who are implementing the practice;

■ More systematically implement the practice;

■ Develop measurement instruments; and

■ Ensure that the intended target population (*see* Glossary) is being reached by the practice.

The desired endpoint of Phase I is readiness to conduct a high-quality, systematic evaluation.

Phase II provides support for 1–3 years to evaluate the success of the practice. The purpose of Phase II is to conduct a high-quality, systematic evaluation to document short-term outcomes and demonstrate that the practice is worthy of an experimental study. On the basis of the evaluation, you may need to further refine the practice and further refine the practice manual. The evaluation may use a pre-post approach, an open trial model, other quasi or non-experimental model, or an experimental model.

The desired endpoint for Phase II is readiness to submit the practice for inclusion in SAMHSA's NREPP and/or to submit applications to various research institutions for additional research.

SAMHSA's Service-to-Science grants will provide support to stabilize practices so that they may be documented and evaluated. However, these grants are not intended to support development of entirely new practices. The practices must be in place and operational for at least one year prior to application, and you must have at least anecdotal evidence that the practice is effective.

You may apply for a combination of Phases I and II in a single grant application if you have identified a priority gap for which a fully developed and documented practice currently does not exist.

■ During Phase I, you will further develop and document the practice.

■ During Phase II, you will evaluate the practice.

At the conclusion of Phase I, SAMHSA staff will review your progress to determine whether Phase II is warranted. This decision will be based on review of the documentation required by the end of Phase I, as described under the Performance Expectations section below. You must provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

For practices that are already fully developed, implemented, stabilized, and documented but that have not yet been formally evaluated, you may apply for Phase II only. Applications for Phase I alone will not be accepted.

Depending on your readiness, you may receive a combination of Phases I and II for a period of up to, but not more than, 5 years. You may apply for a shorter grant period than the maximum, and SAMHSA may award a grant for a shorter time period than you request.

2.2 Establishing Need

Service-to-Science grants are intended to develop solutions to widespread needs. This grant program is not intended to address a local community's need for funds to solve a local problem. Therefore, you must demonstrate that the broader substance abuse and/or mental health field—not just your local community—has a need for the practice. You must also show that no well-documented solution to the problem exists, and that your local community can support an evaluation that will increase the knowledge base of the field.

2.3 Allowable Activities

Phase I: Practice Development and Documentation

In Phase I, you will further develop and document the practice. The types of activities that may be needed and that are allowable include, but are not limited to, the following:

■ Strategic planning.
■ Convening stakeholder meetings.
■ Training of practitioners.
■ Efforts to overcome policy and funding barriers to practice stability.
■ Development of an action plan for systematizing and stabilizing the practice.
■ Development of a practice support system.
■ Developing needed partnerships for ongoing implementation.
■ Logic model development.
■ Documentation of core elements of the practice.
■ Practice manual development.
■ Measurement instrument development/selection.
■ Participant recruitment.
■ Development of quality assurance and accountability mechanisms.
■ Implementation and refinement of the practice.
■ Implementation process evaluation.
■ Management information system development.
■ Collection of pilot outcome data.

Phase II: Practice Evaluation.

During Phase II, SAMHSA will (if necessary) continue to fund implementation of the practice being evaluated. Other types of allowable activities include, but are not limited to, the following:

■ Convening relevant stakeholder meetings.
■ Alignment of management information systems with data collection needs.
■ Training evaluators.
■ Measurement instrument development/selection.
■ Data collection.
■ Database management.
■ Data and cost analysis.
■ Dissemination of results.
■ Refinement of logic model and practice manual based on evaluation results.

2.4 Performance Expectations

All grantees will be expected to meet the following performance requirements by the end of their grant projects.

Phase I

By the end of Phase I, documentation for the practice must include:

■ A logic model depicting the principles and concepts underlying the practice.
■ A manual describing the practice in detail that would allow others to replicate the practice.
■ Documentation of how critical stakeholders were included in the development of the practice.
■ A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.
■ Documentation that the number of people being served by the practice has been stabilized.
■ Documentation of the number and percentage of staff trained in the practice, and a mechanism for ongoing training for any new staff.
■ A process evaluation demonstrating that the practice is in full operation and that a routine service delivery process is in place.
■ Pilot outcome results. (**Note:** Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)

Phase II

By the end of Phase II, the evaluation of the practice must have demonstrated that:

■ Key outcome measures have been clearly identified and defined.
■ Participant data collection systems are in place that include:
○ Demographic characteristics.
○ Practice outcomes.
○ Service utilization.
○ Service delivery costs.
○ Satisfaction with services.
■ Demographic characteristics of participants, as well as the types of services that participants have received, are consistent with expectations based on the logic model for the practice.

■ Service delivery patterns are stable.

■ A fidelity scale has been developed for assessing the integrity of the practice, and the practice has been implemented with fidelity according to the scale.

■ Systematically collected short-term outcome measures indicate meaningful results.

■ Consumers, family members, and other critical stakeholders are satisfied with the practice.

In addition, at the end of Phase II, grantees must:

■ Demonstrate how consumers, family members, and other critical stakeholders participated in the evaluation of the practice.

■ Demonstrate how the practice will be sustained over the 5 years following the end of the grant period.

■ As appropriate, submit the practice to the SAMHSA National Registry of Effective Programs and Practices (NREPP).

■ Demonstrate the willingness of those who initiated the practice to participate in rigorous research over the next 5 years (*e.g.*, through submission of grant applications to the National Institutes of Health, private foundations, or other research funding sources; through formal agreements between practice initiators and researchers; etc.)

2.5 Data and Performance Measurement

The Government Performance and Results Act of 1993 (Pub. L.103–62, or "GPRA") requires all Federal agencies to set program performance targets and report annually on the degree to which the previous year's targets were met.

Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures and justify requests for funding.

To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data") from grantees. Grantees are required to report these GPRA data to SAMHSA on a timely basis.

Specifically, grantees will be required to provide data on a set of required measures, as specified in the NOFA. The data collection tools to be used for reporting the required data will be provided in the application kits distributed by SAMHSA's clearinghouses and posted on SAMHSA's website along with each NOFA. In your application, you must demonstrate your ability to collect and report on these measures, and you may be required to provide some baseline data.

The terms and conditions of the grant award also will specify the data to be submitted and the schedule for submission. Grantees will be required to adhere to these terms and conditions of award.

Applicants should be aware that SAMHSA is working to develop a set of required core performance measures for each of SAMHSA's standard grants (*i.e.*, Services Grants, Infrastructure Grants, Best Practices Planning and Implementation Grants, and Service-to-Science Grants). As this effort proceeds, some of the data collection and reporting requirements included in SAMHSA's NOFAs may change. All grantees will be expected to comply with any changes in data collection requirements that occur during the grantee's project period.

2.6 Grantee Meetings

You must plan to send a minimum of two people (including the Project Director) to at least one joint grantee meeting in each year of the grant, and you must include funding for this travel in your budget. At these meetings, grantees will present the results of their projects and Federal staff will provide technical assistance. Each meeting will be 3 days. These meetings will usually be held in the Washington, DC, area and attendance is mandatory.

## II. Award Information

*1. Award Amount*

The NOFA will specify the expected award amount for each funding opportunity. Regardless of the amount specified in the NOFA, the actual award amount will depend on the availability of funds.

You may apply for either a combined Phase I & II grant or for a Phase II only grant.

■ Awards for Phase I of the combined grants are for up to $150,000 (direct and indirect costs) per year for up to 2 years.

■ Awards for Phase II are $300,000–$500,000 (direct and indirect costs) per year for 1–3 years.

■ Awards for combined Phase I and II grants may not exceed 5 years.

Phase II funding will be approved only if you provide compelling evidence that the practice has been sufficiently developed and documented to be evaluated and has produced positive results.

Proposed budgets cannot exceed the allowable amount as specified in the NOFA in any year of the proposed project. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

Summary Table:

| Phase and activity focus | Years of support | Application requirement | Funding level (direct and indirect costs) |
|---|---|---|---|
| I—Practice Development and Documentation. | 0–2 | Optional | Up to $150,000 per year. |
| II Practice Evaluation | 1–3 | Required | $300,000–$500,000 per year. |
| Total | 1–5 | | |

*2. Funding Mechanism*

The NOFA will indicate whether awards for each funding opportunity will be made as grants or cooperative agreements (see the Glossary in Appendix B for further explanation of these funding mechanisms). For cooperative agreements, the NOFA will describe the nature of Federal involvement in project performance and specify roles and responsibilities of grantees and Federal staff.

## III. Eligibility Information

*1. Eligible Applicants*

Eligible applicants are domestic public and private *nonprofit* entities. For example, State, local or tribal governments; public or private universities and colleges; community- and faith-based organizations; and tribal organizations may apply. The statutory authority for this program precludes grants to for-profit organizations. The NOFA will indicate any limitations on eligibility.

Though not required, SAMHSA encourages community-based providers and independent researchers to partner when applying for Service-to-Science grants. Such partnerships will use the

expertise of each partner to ensure sound service delivery, high-quality evaluation, independent results, and relevance of the evaluation design to service delivery outcomes.

*2. Cost Sharing*

Cost sharing (see Glossary) is not required in this program, and applications will not be screened out on the basis of cost sharing. However, you may include cash or in-kind (see Glossary) contributions in your proposal as evidence of commitment to the proposed project.

*3. Other*

Applications must comply with the following requirements, or they will be screened out and will not be reviewed: Use of the PHS 5161–1 application; application submission requirements in Section IV–3 of this document; and formatting requirements provided in Section IV–2.3 of this document. Applicants should be aware that the NOFA may include additional requirements that, if not met, will result in applications being screened out and returned without review. These requirements will be specified in Section III–3 of the NOFA.

You also must comply with any additional program requirements specified in the NOFA, such as the required signature of certain officials on the face page of the application and/or required memoranda of understanding with certain signatories.

**IV. Application and Submission Information**

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix A of this document.)

*1. Address to Request Application Package*

You may request a complete application kit by calling one of SAMHSA's national clearinghouses:

■ For substance abuse prevention or treatment grants, call the National Clearinghouse for Alcohol and Drug Information (NCADI) at 1–800–729–6686.

■ For mental health grants, call the National Mental Health Information Center at 1–800–789–CMHS (2647).

You also may download the required documents from the SAMHSA Web site at *http://www.samhsa.gov.* Click on "Grant Opportunities.''

Additional materials available on this web site include:

■ A technical assistance manual for potential applicants;

■ Standard terms and conditions for SAMHSA grants;

■ Guidelines and policies that relate to SAMHSA grants (*e.g.*, Guidelines on cultural competence, consumer and family participation, and evaluation); and

■ Enhanced instructions for completing the PHS 5161–1 application.

*2. Content and Form of Application Submission*

2.1 Application Kit

SAMHSA application kits include the following documents:

■ PHS 5161–1 (revised July 2000)—Includes the face page, budget forms, assurances, certification, and checklist. You must use the PHS 5161–1 unless otherwise specified in the NOFA. Applications that are not submitted on the required application form will be screened out and will not be reviewed.

■ Program Announcement (PA)—Includes instructions for the grant application. This document is the PA.

■ Notice of Funding Availability (NOFA)—Provides specific information about availability of funds, as well as any exceptions or limitations to provisions in the PA. The NOFAs will be published in the **Federal Register** as well as on the Federal grants Web site (*http://www.grants.gov*). It is very important that you read the entire NOFA before beginning to write your application.

You must use all of the above documents in completing your application.

2.2 Required Application Components

To ensure equitable treatment of all applications, applications must be complete. In order for your application to be complete, it must include the required ten application components (Face Page, Abstract, Table of Contents, Budget Form, Project Narrative and Supporting Documentation, Appendices, Assurances, Certifications, Disclosure of Lobbying Activities, and Checklist).

□ Face Page—Use Standard Form (SF) 424, which is part of the PHS 5161–1. [Note: Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant or cooperative agreement from the Federal Government. SAMHSA applicants will be required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]

□ Abstract—Your total abstract should be no longer than 35 lines. In the first five lines or less of your abstract, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.

□ Table of Contents—Include page numbers for each of the major sections of your application and for each appendix.

□ Budget Form—Use SF 424A, which is part of the PHS 5161–1. Fill out Sections B, C, and E of the SF 424A. A sample budget and justification is included in Appendix D of this Program Announcement.

□ Project Narrative and Supporting Documentation—The Project Narrative describes your project. It consists of Sections A through D. These sections in total may be no longer than 25 pages. (For example, remember that if your Project Narrative starts on page 5 and ends on page 30, it is 26 pages long, not 25 pages.) More detailed instructions for completing each section of the Project Narrative are provided in "Section V—Application Review Information'' of this document.

The Supporting Documentation provides additional information necessary for the review of your application. This supporting documentation should be provided immediately following your Project Narrative in Sections E through H. There are no page limits for these sections, except for Section G, the Biographical Sketches/Job Descriptions.

■ Section E—Literature Citations. This section must contain complete citations, including titles and all authors, for any literature you cite in your application.

■ Section F—Budget Justification, Existing Resources, Other Support. You must provide a narrative justification of the items included in your proposed budget, as well as a description of existing resources and other support you expect to receive for the proposed project.

■ Section G—Biographical Sketches and Job Descriptions.

○ Include a biographical sketch for the Project Director and other key positions. Each sketch should be 2 pages or less. If the person has not been hired, include a position description/and or a letter of commitment with a current biographical sketch from the individual.

○ Include job descriptions for key personnel. Job descriptions should be no longer than 1 page each.

○ Sample sketches and job descriptions are listed on page 22, Item

6 in the Program Narrative section of the PHS 5161–1.

■ Section H—Confidentiality and SAMHSA Participant Protection/Human Subjects. Section IV–2.4 of this document describes requirements for the protection of the confidentiality, rights and safety of participants in SAMHSA-funded activities. This section also includes guidelines for completing this part of your application.

☐ Appendices 1 through 5—Use only the appendices listed below. If your application includes any appendices not required in the grant announcement or NOFA, they will be disregarded. Do not use more than a total of 30 pages for Appendices 1, 4, and 5 combined. There are no page limitations for Appendices 2 and 3. Do not use appendices to extend or replace any of the sections of the Project Narrative unless specifically required in the NOFA. Reviewers will not consider them if you do.

■ Appendix 1: Letters of Support.

■ Appendix 2: Documentation of the Practice (Phase II only applicants)

■ Appendix 3: Data Collection Instruments/Interview Protocols

■ Appendix 4: Sample Consent Forms

■ Appendix 5: Letter to the SSA (if applicable; *see* Section IV–4 of this ocument)

☐ Assurances—Non-Construction Programs. Use Standard Form 424B found in PHS 5161–1. Some applicants will be required to complete the Assurance of Compliance with SAMHSA Charitable Choice Statutes and Regulations Form SMA 170. If this assurance applies to a specific funding opportunity, it will be posted on SAMHSA's web site with the NOFA and provided in the application kits available at SAMHSA's clearinghouse (NCADI).

☐ Certifications—Use the "Certifications'' forms found in PHS 5161–1.

☐ Disclosure of Lobbying Activities—Use form SF LLL found in the PHS 5161–1. Federal law prohibits the use of appropriated funds for publicity or propaganda purposes, or for the preparation, distribution, or use of the information designed to support or defeat legislation pending before the Congress or State legislatures. This includes "grass roots'' lobbying, which consists of appeals to members of the public suggesting that they contact their elected representatives to indicate their support for or opposition to pending legislation or to urge those representatives to vote in a particular way.

☐ Checklist—Use the Checklist found in PHS 5161–1. The Checklist ensures that you have obtained the proper signatures, assurances and certifications and is the last page of your application.

2.3 Application Formatting Requirements

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed.

☐ Information provided must be sufficient for review.

☐ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

❑ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the 25-page limit for the Project Narrative.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by 25. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

❑ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

❑ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

❑ The page limit of a total of 30 pages for Appendices 1, 4 and 5 combined should not be exceeded.

❑ Send the original application and two copies to the mailing address in Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

2.4 Confidentiality and Human Subjects Protection

Applicants must describe procedures relating to Confidentiality and the Protection of Human Subjects Regulations in Section H of the application, using the guidelines provided below. Problems with confidentiality and protection of human subjects identified during peer review of the application may result in the delay of funding.

Confidentiality and Participant Protection

All applicants must describe how they will address the requirements for each of the following elements relating to confidentiality and participant protection.

1. *Protect Clients and Staff from Potential Risks:*

■ Identify and describe any foreseeable physical, medical, psychological, social, and legal risks or potential adverse effects as a result of the project itself or any data collection activity.

■ Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.

■ Identify plans to provide guidance and assistance in the event there are adverse effects to participants.

■ Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. *Fair Selection of Participants:*

■ Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children,

children of substance abusers, pregnant women, or other targeted groups.

■ Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, and individuals who are likely to be particularly vulnerable to HIV/AIDS.

■ Explain the reasons for including or excluding participants.

■ Explain how you will recruit and select participants. Identify who will select participants.

3. *Absence of Coercion:*

■ Explain if participation in the project is voluntary or required. Identify possible reasons why participation is required, for example, court orders requiring people to participate in a program.

■ If you plan to compensate participants, state how participants will be awarded incentives (*e.g.*, money, gifts, *etc.*).

■ State how volunteer participants will be told that they may receive services intervention even if they do not participate in or complete the data collection component of the project.

4. *Data Collection:*

■ Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.

■ Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.

■ Provide in Appendix 3: Data Collection Instruments/Interview Protocols, copies of all available data collection instruments and interview protocols that you plan to use.

5. *Privacy and Confidentiality:*

■ Explain how you will ensure privacy and confidentiality. Include who will collect data and how it will be collected.

■ Describe:

○ How you will use data collection instruments.

○ Where data will be stored.

○ Who will or will not have access to information.

○ How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

**Note:** If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part 2.

6. *Adequate Consent Procedures:*

■ List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used, and how you will keep the data private.

■ State:

○ Whether or not their participation is voluntary.

○ Their right to leave the project at any time without problems.

○ Possible risks from participation in the project.

○ Plans to protect clients from these risks.

■ Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

**Note:** If the project poses potential physical, medical, psychological, legal, social or other risks, you must obtain written informed consent.

■ Indicate if you will obtain informed consent from participants or assent from minors along with consent from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?

■ Include, as appropriate, sample consent forms that provide for: (1) Informed consent for participation in service intervention; (2) informed consent for participation in the data collection component of the project; and (3) informed consent for the exchange (releasing or requesting) of confidential information. The sample forms must be included in Appendix 4, "Sample Consent Forms'', of your application. If needed, give English translations.

**Note:** Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

■ Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data?

■ Additionally, if other consents (*e.g.*, consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. *Risk/Benefit Discussion:*

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

All applicants for Service-to-Science grants must comply with the Protection of Human Subjects Regulations (45 CFR part 46).

Applicants must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, you will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any participants in the proposed project.

General information about Protection of Human Subjects Regulations can be obtained on the web at *http://www.hhs.gov/ohrp.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005). SAMHSA-specific questions related to Protection of Human Subjects Regulations should be directed to the program contact listed in Section VII of the NOFA.

*3. Submission Dates and Times*

Deadlines for submission of applications for specific funding opportunities will be published in the NOFAs in the **Federal Register** and posted on the Federal grants web site (*www.grants.gov*).

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

Your application must be received by the application deadline, or you must have proof of its timely submission as specified below.

• For packages submitted via DHL, Falcon Carrier, Federal Express (FedEx), or United Parcel Service (UPS), timely submission shall be evidenced by a delivery service receipt indicating the application was delivered to a carrier

service at least 24 hours prior to the application deadline.

• For packages submitted via the United States Postal Service (USPS), proof of timely submission shall be a postmark not later than 1 week prior to the application deadline, and the following upon request by SAMHSA:

○ Proof of mailing using USPS Form 3817 (Certificate of Mailing), or

○ A receipt from the Post Office containing the post office name, location, and date and time of mailing.

You will be notified by postal mail that your application has been received.

Applications not meeting the timely submission requirements above will not be considered for review. Please remember that mail sent to Federal facilities undergoes a security screening prior to delivery. Allow sufficient time for your package to be delivered.

If an application is mailed to a location or office (including room number) that is not designated for receipt of the application, and that results in the designated office not receiving your application in accordance with the requirements for timely submission, it will cause the application to be considered late and ineligible for review.

SAMHSA will not accept or consider any applications sent by facsimile.

SAMHSA is collaborating with *http://www.grants.gov* to accept electronic submission of applications only for select funding opportunities. Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

*4. Intergovernmental Review (E.O. 12372) Requirements*

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR Part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

■ Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.

■ If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.

■ For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.

■ The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SPOC " Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SPOC—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition, community-based, non-governmental service providers who are not transmitting their applications through the State must submit a Public Health System Impact Statement (PHSIS) (approved by OMB under control no. 0920–0428; see burden statement below) to the head(s) of appropriate State or local health agencies in the area(s) to be affected no later than the pertinent receipt date for applications. The PHSIS is intended to keep State and local health officials informed of proposed health services grant applications submitted by community-based, non-governmental organizations within their jurisdictions. State and local governments and Indian tribal government applicants are not subject to these requirements.

The PHSIS consists of the following information:

■ A copy of the face page of the application (SF 424); and

■ A summary of the project, no longer than one page in length, that provides: (1) A description of the population to be served, (2) a summary of the services to be provided, and (3) a description of the coordination planned with appropriate State or local health agencies.

For SAMHSA grants, the appropriate State agencies are the Single State Agencies (SSAs) for substance abuse and mental health. A listing of the SSAs can be found on SAMHSA's Web site at *http://www.samhsa.gov*. If the proposed project falls within the jurisdiction of more than one State, you should notify all representative SSAs.

Applicants who are not the SSA must include a copy of a letter transmitting the PHSIS to the SSA in Appendix 4, "Letter to the SSA.'' The letter must notify the State that, if it wishes to comment on the proposal, its comments should be sent not later than 60 days after the application deadline to:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850, ATTN: SSA—Funding Announcement No. [fill in pertinent funding opportunity number from NOFA].

In addition:

■ Applicants may request that the SSA send them a copy of any State comments.

■ The applicant must notify the SSA within 30 days of receipt of an award.

[Public reporting burden for the Public Health System Reporting Requirement is estimated to average 10 minutes per response, including the time for copying the face page of SF 424 and the abstract and preparing the letter for mailing. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this project is 0920–0428. Send comments regarding this burden to CDC Clearance Officer, 1600 Clifton Road, MS D–24, Atlanta, GA 30333, ATTN: PRA (0920–0428).]

*5. Funding Limitations/Restrictions*

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

■ Institutions of Higher Education: OMB Circular A–21.

■ State and Local Governments: OMB Circular A–87.

■ Nonprofit Organizations: OMB Circular A–122.

■ Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Service-to-Science grant funds may not be used to:

■ Pay for any lease beyond the project period.

■ Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).

■ Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to $75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)

■ Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)

■ Pay for housing other than residential mental health and/or substance abuse treatment.

■ Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.

■ Pay for incentives to induce clients to enter treatment. However, a grantee or treatment provider may provide up to $20 or equivalent (coupons, bus tokens, gifts, childcare, and vouchers) to clients as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

■ Implement syringe exchange programs, such as the purchase and distribution of syringes and/or needles.

■ Pay for pharmacologies for HIV antiretroviral therapy, sexually transmitted diseases (STDs)/sexually transmitted illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

■ SAMHSA will not accept a "research'' indirect cost rate. The grantee must use the "other sponsored program rate'' or the lowest rate available.

*6. Other Submission Requirements*

6.1 Where To Send Applications

Send applications to the following address:

For United States Postal Service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20857.

For other delivery service: Crystal Saunders, Director of Grant Review, Office of Program Services, Substance Abuse and Mental Health Services Administration, Room 3–1044, 1 Choke Cherry Road, Rockville, MD 20850.

Do not send applications to other agency contacts, as this could delay receipt. Be sure to include the funding announcement number from the NOFA in item number 10 on the face page of the application. If you require a phone number for delivery, you may use (240) 276–1199.

6.2 How To Send Applications

Mail or deliver an original application and 2 copies (including appendices) to the mailing address provided above, according to the instructions in Section IV–3. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

Hand carried applications will not be accepted. Applications may be shipped using only DHL, Falcon Carrier, Federal Express (FedEx), United Parcel Service (UPS), or the United States Postal Service (USPS).

SAMHSA will not accept or consider any applications sent by facsimile.

Unless specifically indicated in the NOFA, electronic submission of applications will not be accepted.

**V. Application Review Information**

*1. Evaluation Criteria*

Your application will be reviewed and scored according to the quality of your response to the requirements listed below for developing the Project Narrative (Sections A–D). These sections describe what you intend to do with your project.

■ In developing the Project Narrative section of your application, use these instructions along with any additional instructions found in the NOFA. These are to be used instead of the "Program Narrative'' instructions found in the PHS 5161–1.

■ You must use the four sections/headings listed below in developing your Project Narrative. Be sure to place the required information in the correct section, or it will not be considered. Your application will be scored according to how well you address the requirements for each section.

■ Reviewers will be looking for evidence of cultural competence in each section of the Project Narrative. Points will be assigned based on how well you address the cultural competence aspects of the evaluation criteria. SAMHSA's guidelines for cultural competence can be found on the SAMHSA web site at *www.samhsa.gov*. Click on "Grant Opportunities.''

■ The Supporting Documentation you provide in Sections E–H and Appendices 1 through 5 will be considered by reviewers in assessing your response, along with the material in the Project Narrative.

■ The number of points after each heading below is the maximum number of points a review committee may assign to that section of your Project Narrative. Bullet statements in each section do not have points assigned to them. They are provided to invite the attention of applicants and reviewers to important areas within each section.

Section A: Statement of Need (15 Points)

■ Describe the problem the project will address. Describe the national significance of the problem. Documentation of need may come from a variety of qualitative and quantitative sources in the professional literature. The quantitative data could also come from national data available regarding mental health and substance use needs, gaps, and priorities. For example:

○ Applications focusing on substance abuse might draw from SAMHSA's National Household Survey on Drug Use and Health (NHSDUH); Drug Abuse Warning Network (DAWN); and Drug and Alcohol Services Information System (DASIS), which includes the Treatment Episode Data Set (TEDS).

○ Applications focusing on mental health might draw on data available from the National Association of State Mental Health Program Directors (NASMHPD), SAMHSA (*http://www.samhsa.gov/cmhs/MentalHealthStatistics*), or other sources.

Qualitative sources may also include conclusions of conferences and events of national significance.

■ Describe the target population for the practice, including demographic information. Be sure to check the NOFA for any specific requirements regarding the target population and catchment area. Discuss the target population's language, beliefs, norms and values, as well as socioeconomic factors that must be considered in delivering programs to this population.

■ Review the literature that demonstrates a need to develop or adapt an effective practice for the target population. Demonstrate through the literature review that current evidence-based approaches to the problem do not exist or have not been evaluated for the specific target populations, or that approaches of greater clinical or cost effectiveness are needed.

■ Demonstrate that the need in the community in which the project will be carried out is of sufficient magnitude that an adequate evaluation of the practice can be conducted. To the extent possible, use locally generated data or

State data such as that available through State needs assessments.

■ Check the NOFA for any additional requirements.

Section B: Proposed Approach (30 Points)

■ Describe the practice proposed for evaluation. Document that the practice has been in place and operational for at least one year prior to the application due date.

■ Describe how the proposed practice will respond to the needs described in Section A of your Project Narrative and is consistent with the program purpose described in the NOFA. Address any and all program requirements specified in the NOFA.

■ Discuss the potential effectiveness of the practice proposed for evaluation. Why has this practice been selected? Present the theoretical underpinnings, core principles, and major assumptions of the proposed practice. Outline the key operational elements of the practice and summarize any relevant literature.

■ Identify any necessary collaborators on the project, including their roles and responsibilities. Demonstrate their commitment to the project. Include letters of support in Appendix 1: Letters of Support. Identify any cash or in-kind contributions that will be made to the project by the applicant or other partnering organizations.

■ Describe your experience with similar collaborative projects, and explain why you believe you will be able to sustain this collaboration throughout the project period.

■ If applying for combined Phase I and II, describe the extent to which the practice has been previously developed, implemented, stabilized, and documented. Include a description of the extent to which the support system needed for full implementation of the proposed practice is in place—*e.g.*, community collaboration and consensus building; alignment of management information systems, policies, and funding mechanisms; documentation of core elements of the practice; reliable recruitment and intake procedures; quality assurance and accountability mechanisms; training and overall readiness of those implementing the practice; and involvement of families and consumers in the project.

■ If applying for Phase II only, show that the practice is ready for systematic evaluation by providing documentation, in Appendix 2, that includes all of the following:

○ A logic model depicting the principles and concepts underlying the practice.

○ A copy of the Title Page and Table of Contents for a manual describing the practice in detail that would allow others to replicate the practice, and details on how the manual can be acquired.

○ Documentation of how critical stakeholders were included in the development of the practice.

○ A detailed description of the population that the practice is designed to serve, and demographic characteristics of the people served by the practice over the past year.

○ Demonstration of stability in the number of people being served by the practice.

○ Documentation that staff are trained in the practice (via the number and percentage of staff trained), and a mechanism for ongoing training for any new staff.

○ Evidence demonstrating that the practice is in full operation and that a routine service delivery process is in place.

○ Pilot outcome results. (**Note:** Collection of these data need not include an extensive set of outcomes systematically collected on all participants, but quantitative project data should provide some indication that key outcomes are being achieved.)

■ Present the goals and measurable objectives of the project. Describe why the practice can better be evaluated for effectiveness following completion of the grant activities. For applications that include Phase I, include in your description how achievement of your goals will fulfill the Performance Expectations cited in Section I–2 of this document.

■ Describe the action steps to accomplish the goals and objectives. Demonstrate that the action steps will lead to successful accomplishment of the goals and objectives.

■ Describe the potential barriers to successful conduct of the proposed project and how you will overcome them.

■ Describe how the proposed project will address issues of age, race/ethnicity, culture, language, sexual orientation, disability, literacy, and gender in the target population.

■ Check the NOFA for any additional requirements.

Section C: Evaluation Design and Analysis (40 Points)

■ Describe in detail your evaluation design for determining the effectiveness of the practice. For applications that include Phase I, describe your process evaluation to determine that the practice is in full operation, as well as how you will track the number and percentage of staff fully trained in the practice.

■ Describe the process and outcome evaluation protocols you intend to use. Include in Appendix 3 evaluation instruments to be used. Describe any literature or pilot testing done to verify the validity and reliability of the instruments to be used or how you plan to develop the instruments during the grant period.

■ Discuss the reliability and validity of evaluation methods and instrument(s) in terms of the gender/age/culture of the target population.

■ Describe how you will develop and manage a database management system to record participant demographic characteristics, practice outcomes, service utilization, practice costs, and satisfaction of stakeholders with the practice.

■ Describe how the integrity of the practice will be assessed using a fidelity (see Glossary) scale. If no fidelity scale currently exists for the practice, describe the process by which you will develop one during the grant period. Describe how you will document and assess changes to the model that occur throughout the project.

■ Document your ability to collect and report on the required performance measures as specified in the NOFA, including data required by SAMHSA to meet GPRA requirements. Specify and justify any additional measures you plan to use for your grant project.

■ Describe how you will analyze the data collected. Include any analyses that will be done to determine the effectiveness of the practice for diverse subgroups, as well as the satisfaction of various stakeholder groups with the practice.

■ Describe how your process evaluation will document the role of critical stakeholders in the development and/or evaluation of the practice.

■ Check the NOFA for any additional requirements.

Section D: Management Plan and Staffing (15 Points)

■ Provide a realistic time line for the project (chart or graph) showing key activities, milestones, and responsible staff. [**Note:** The time line should be part of the Project Narrative. It should not be placed in an appendix.]

■ Discuss the capability and experience of the applicant organization and other participating organizations with similar projects and populations, including experience in providing culturally appropriate/competent services.

■ Provide a list of staff members who will conduct the project, showing the

role of each and their level of effort and qualifications. Include the Project Director and other key personnel, such as evaluators and database management personnel.

■ Describe the racial/ethnic characteristics of key staff and indicate if any are members of the target population/community. If the target population is multi-linguistic, indicate if the staffing pattern includes bilingual and bicultural individuals.

■ If you plan to include an advisory body in your project, describe its membership, roles and functions, and frequency of meetings.

■ Describe the resources available for the proposed project (*e.g.*, facilities, equipment), and provide evidence that resources are adequate for conducting a high-quality evaluation of the identified practice.

■ Check the NOFA for any additional requirements.

**Note:** Although the budget for the proposed project is not a review criterion, the review group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

*2. Review and Selection Process*

SAMHSA applications are peer-reviewed according to the review criteria listed above. For those programs where the individual award is over $100,000, applications must also be reviewed by the appropriate National Advisory Council.

Decisions to fund a grant are based on:

■ The strengths and weaknesses of the application as identified by the peer review committee and approved by the appropriate National Advisory Council;

■ Availability of funds; and

■ After applying the aforementioned criteria, the following method for breaking ties: When funds are not available to fund all applications with identical scores, SAMHSA will make award decisions based on the application(s) that received the greatest number of points by peer reviewers on the evaluation criterion in Section V–1 with the highest number of possible points (Evaluation Design and Analysis—40 points). Should a tie still exist, the evaluation criterion with the next highest possible point value will be used, continuing sequentially to the evaluation criterion with the lowest possible point value, should that be necessary to break all ties. If an evaluation criterion to be used for this purpose has the same number of possible points as another evaluation criterion, the criterion listed first in Section V–1 will be used first.

**VI. Award Administration Information**

*1. Award Notices*

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that describes the general results of the review, including the score that your application received.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you can re-apply if there is another receipt date for the program.

2. Administrative and National Policy Requirements

■ You must comply with terms and conditions of the grant award. Standard SAMHSA terms and conditions are available on SAMHSA's Web site at *http://www.samhsa.gov/grants/generalinfo/useful_info.aspx.*

■ Depending on the nature of the specific funding opportunity and/or the proposed project as identified during review, additional terms and conditions may be identified in the NOFA or negotiated with the grantee prior to grant award. These may include, for example:

○ Actions required to be in compliance with human subjects requirements;

○ Requirements relating to additional data collection and reporting;

○ Requirements relating to participation in a cross-site evaluation; or

○ Requirements to address problems identified in review of the application.

■ You will be held accountable for the information provided in the application relating to performance targets. SAMHSA program officials will consider your progress in meeting goals and objectives, as well as your failures and strategies for overcoming them, when making an annual recommendation to continue the grant and the amount of any continuation award. Failure to meet stated goals and objectives may result in suspension or termination of the grant award, or in reduction or withholding of continuation awards.

■ In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services "Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

*3. Reporting Requirements*

3.1 Progress and Financial Reports

■ Grantees must provide annual and final progress reports. The final progress report must summarize information from the annual reports, describe the accomplishments of the project, and describe next steps for implementing plans developed during the grant period.

■ Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents. Because SAMHSA is extremely interested in ensuring that treatment or prevention service efforts are sustained, your financial reports should explain plans to ensure the sustainability (*see* Glossary) of efforts initiated under this grant. Initial plans for sustainability should be described in year 1 of the grant. In each subsequent year, you should describe the status of the project, successes achieved and obstacles encountered in that year.

■ SAMHSA will provide guidelines and requirements for these reports to grantees at the time of award and at the initial grantee orientation meeting after award. SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

3.2 Government Performance and Results Act (GPRA)

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. To meet the GPRA requirements, SAMHSA must collect performance data (*i.e.*, "GPRA data'') from grantees. These requirements will be specified in the NOFA for each funding opportunity.

3.3 Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and SAMHSA's Publications Clearance Officer (240–276–2130) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

■ Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.

■ Include acknowledgment of the SAMHSA grant program as the source of funding for the project.

■ Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

## VII. Agency Contacts

The NOFAs provide contact information for questions about program issues.

For questions on grants management issues, contact: Kimberly Pendleton, Office of Program Services, Division of Grants Management, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Room 7–1097, Rockville, Maryland 20857, (240) 276–1421, *kimberly.pendleton@samhsa.hhs.gov.*

## Appendix A—Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific NOFA and in Section III of the standard grant announcement. Please check the entire NOFA and Section III of the standard grant announcement before preparing your application.

☐ Use the PHS 5161–1 application.

☐ Applications must be received by the application deadline or have proof of timely submission, as detailed in Section IV–3 of the grant announcement.

☐ Information provided must be sufficient for review.

☐ Text must be legible.

• Type size in the Project Narrative cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)

• Text in the Project Narrative cannot exceed 6 lines per vertical inch.

☐ Paper must be white paper and 8.5 inches by 11.0 inches in size.

☐ To ensure equity among applications, the amount of space allowed for the Project Narrative cannot be exceeded.

• Applications would meet this requirement by using all margins (left, right, top, bottom) of at least one inch each, and adhering to the page limit for the Project Narrative stated in the specific funding announcement.

• Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Project Narrative (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 58.5 square inches multiplied by the page limit. This number represents the full page less margins, multiplied by the total number of allowed pages.

• Space will be measured on the physical page. Space left blank within the Project Narrative (excluding margins) is considered part of the Project Narrative, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

☐ The 10 application components required for SAMHSA applications should be included. These are:

• Face Page (Standard Form 424, which is in PHS 5161–1).

• Abstract.

• Table of Contents.

• Budget Form (Standard Form 424A, which is in PHS 5161–1).

• Project Narrative and Supporting Documentation.

• Appendices.

• Assurances (Standard Form 424B, which is in PHS 5161–1).

• Certifications (a form within PHS 5161–1).

• Disclosure of Lobbying Activities (Standard Form LLL, which is in PHS 5161–1).

• Checklist (a form in PHS 5161–1).

☐ Applications should comply with the following requirements:

• Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the FY 2005 standard funding announcements.

• Budgetary limitations as specified in Section I, II, and IV–5 of the FY 2005 standard funding announcements.

• Documentation of nonprofit status as required in the PHS 5161–1.

☐ Pages should be typed single-spaced in black ink, with one column per page. Pages should not have printing on both sides.

☐ Please number pages consecutively from beginning to end so that information can be located easily during review of the application. The cover page should be page 1, the abstract page should be page 2, and the table of contents page should be page 3. Appendices should be labeled and separated from the Project Narrative and budget section, and the pages should be numbered to continue the sequence.

☐ The page limits for Appendices stated in the specific funding announcement should not be exceeded.

☐ Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

## Appendix B—Glossary

*Best Practice:* Best practices are practices that incorporate the best objective information currently available regarding effectiveness and acceptability.

*Catchment Area:* A catchment area is the geographic area from which the target population to be served by a program will be drawn.

*Cooperative Agreement:* A cooperative agreement is a form of Federal grant. Cooperative agreements are distinguished from other grants in that, under a cooperative agreement, substantial involvement is anticipated between the awarding office and the recipient during performance of the funded activity. This involvement may include collaboration, participation, or intervention in the activity. HHS awarding offices use grants or cooperative agreements (rather than contracts) when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*Cost Sharing or Matching:* Cost sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost sharing or matching is not required, and applications will not be screened out on the basis of cost sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and this information may be considered by reviewers in evaluating the quality of the application.

*Fidelity:* Fidelity is the degree to which a specific implementation of a program or practice resembles, adheres to, or is faithful to the evidence-based model on which it is based. Fidelity is formally assessed using rating scales of the major elements of the evidence-based model. A toolkit on how to develop and use fidelity instruments is available from the SAMHSA-funded Evaluation Technical Assistance Center at *http://tecathsri.org* or by calling (617) 876–0426.

*Grant:* A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public

purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

*In-Kind Contribution:* In-kind contributions toward a grant project are non-cash contributions (*e.g.*, facilities, space, services) that are derived from non-Federal sources, such as State or sub-State non-Federal revenues, foundation grants, or contributions from other non-Federal public or private entities.

*Logic Model:* A logic model is a diagrammatic representation of a theoretical framework. A logic model describes the logical linkages among program resources, conditions, strategies, short-term outcomes, and long-term impact. More information on how to develop logics models and examples can be found through the resources listed in Appendix C.

*Practice:* A practice is any activity, or collective set of activities, intended to improve outcomes for people with or at risk for substance abuse and/or mental illness. Such activities may include direct service provision, or they may be supportive activities, such as efforts to improve access to and retention in services, organizational efficiency or effectiveness, community readiness, collaboration among stakeholder groups, education, awareness, training, or any other activity that is designed to improve outcomes for people with or at risk for substance abuse or mental illness.

*Practice Support System:* This term refers to contextual factors that affect practice delivery and effectiveness in the pre-adoption phase, delivery phase, and post-delivery phase, such as (a) community collaboration and consensus building, (b) training and overall readiness of those implementing the practice, and (c) sufficient ongoing supervision for those implementing the practice.

*Stakeholder:* A stakeholder is an individual, organization, constituent group, or other entity that has an interest in and will be affected by a proposed grant project.

*Sustainability:* Sustainability is the ability to continue a program or practice after SAMHSA grant funding has ended.

*Target Population:* The target population is the specific population of people whom a particular program or practice is designed to serve or reach.

*Wraparound Service:* Wraparound services are non-clinical supportive services—such as child care, vocational, educational, and transportation services—that are designed to improve the individual's access to and retention in the proposed project.

## Appendix C—Logic Model Resources

Chen, W.W., Cato, B.M., & Rainford, N. (1998–9). Using a logic model to plan and evaluate a community intervention program: A case study. International Quarterly of Community Health Education, 18(4), 449–458.

Edwards, E.D., Seaman, J.R., Drews, J., & Edwards, M.E. (1995). A community approach for Native American drug and alcohol prevention programs: A logic model framework. Alcoholism Treatment Quarterly, 13(2), 43–62.

Hernandez, M. & Hodges, S. (2003). Crafting Logic Models for Systems of Care: Ideas into Action. [Making children's mental health services successful series, volume 1]. Tampa, FL: University of South Florida, The Louis de la Parte Florida Mental Health Institute, Department of Child & Family Studies. *http://cfs.fmhi.usf.edu* or phone (813) 974–4651.

Hernandez, M. & Hodges, S. (2001). Theory-based accountability. In M. Hernandez & S. Hodges (Eds.), Developing Outcome Strategies in Children's Mental Health, pp. 21–40. Baltimore: Brookes.

Julian, D.A. (l997). Utilization of the logic model as a system level planning and evaluation device. Evaluation and Planning, 20(3), 251–257.

Julian, D.A., Jones, A., & Deyo, D. (1995). Open systems evaluation and the logic model: Program planning and evaluation tools. Evaluation and Program Planning, 18(4), 333–341.

Patton, M.Q. (1997). Utilization-Focused Evaluation (3rd Ed.), pp. 19, 22, 241. Thousand Oaks, CA: Sage.

Wholey, J.S., Hatry, H.P., Newcome, K.E. (Eds.) (1994). Handbook of Practical Program Evaluation. San Francisco, CA: Jossey-Bass Inc.

## Appendix D—Sample Budget and Justification

### Illustration of a Sample Detailed Budget and Narrative Justification to Accompany SF 424A: Section B for 01 Budget Period

*Object Class Categories*

Personnel

| Job title | Name | Annual salary | Level of effort | Salary being requested |
|---|---|---|---|---|
| Project Director | J. Doe | $30,000 | 1.0 | $30,000 |
| Secretary | Unnamed | 18,000 | 0.5 | 9,000 |
| Counselor | R. Down | 25,000 | 1.0 | 25,000 |

**Enter Personnel subtotal on 424A, Section B, 6.a. $64,000**

Fringe Benefits (24%) $15,360

**Enter Fringe Benefits subtotal on 424A, Section B, 6.b. $15,360**

Travel

| | |
|---|---|
| 2 trips for SAMHSA Meetings for 2 Attendees (Airfare @ $600 x 4 = $2,400) + (per diem @ $120 x 4 x 6 days = $2,880) | $5,280 |
| Local Travel (500 miles x .24 per mile) | 120 |

**Enter Travel subtotal on 424A, Section B, 6.c. $5,400**

Equipment (List Individually)

"Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals the lesser of (a) the capitalization level established by the governmental unit or nongovernmental applicant for financial statement purposes, or (b) $5000.

**Enter Equipment subtotal on 424A, Section B, 6.d.**

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Computer Software–1 WordPerfect | 500 |

**Enter Supplies subtotal on 424A, Section B, 6.e. $1,000**

*Contractual Costs*

Evaluation

| Job title | Name | Annual salary | Salary being requested | Level of effort |
|---|---|---|---|---|
| Evaluator | J. Wilson | $48,000 | $24,000 | 0.5 |
| Other Staff | | 18,000 | 18,000 | 1.0 |

Fringe Benefits (25%) $10,500

Travel

| | |
|---|---|
| 2 trips x 1 Evaluator ($600 x 2) | $1,200 |
| per diem @ $120 x 6 | 720 |
| Supplies (General Office) | 500 |

| | |
|---|---|
| Evaluation Direct | $54,920 |
| Evaluation Indirect Costs (19%) | 10,435 |
| Evaluation Subtotal | 65,355 |

Training

| Job title | Name | Level of effort | Salary being requested |
|---|---|---|---|
| Coordinator | M. Smith | 0.5 | $12,000 |
| 2Admin. Asst. | N. Jones | 0.5 | 9,000 |

Fringe Benefits (25%) $5,250

Travel

| | |
|---|---|
| 2 Trips for Training Airfare @ $600 x 2 | $1,200 |
| Per Diem $120 x 2 x 2 days | 480 |
| Local (500 miles x .24/mile) | 120 |

Supplies

| | |
|---|---|
| Office Supplies | $500 |
| Software (WordPerfect) | 500 |

Other

| | |
|---|---|
| Rent (500 Sq. Ft. x $9.95) | $4,975 |
| Telephone | 500 |
| Maintenance (e.g., van) | 2,500 |
| Audit | 3,000 |

| | |
|---|---|
| Training Direct | $40,025 |
| Training Indirect | -0- |

**Enter Contractual subtotal on 424A, Section B, 6.f. $105,380**

Other

| | |
|---|---|
| Consultants = Expert @ $250/day X 6 day (If expert is known, should list by name) | $1,500 |

**Enter Other subtotal on 424A, Section B, 6.h. $1,500**

Total Direct Charges (sum of 6.a–6.h)

**Enter Total Direct on 424A, Section B, 6.i. $192,640**

Indirect Costs

15% of Salary and Wages (copy of negotiated indirect cost rate agreement attached)

**Enter Indirect subtotal of 424A, Section B, 6.j. $9,600**

Totals

**Enter TOTAL on 424A, Section B, 6.k. $202,240**

Justification

Personnel—Describe the role and responsibilities of each position.

Fringe Benefits—List all components of the fringe benefit rate.

Equipment—List equipment and describe the need and the purpose of the equipment in relation to the proposed project.

Supplies—Generally self-explanatory; however, if not, describe need. Include explanation of how the cost has been estimated.

Travel—Explain need for all travel other than that required by SAMHSA.

Contractual Costs—Explain the need for each contractual arrangement and how these components relate to the overall project.

Other—Generally self-explanatory. If consultants are included in this category, explain the need and how the consultant's rate has been determined.

Indirect Cost Rate—If your organization has no indirect cost rate, please indicate whether your organization plans to (a) waive indirect costs if an award is issued, or (b) negotiate and establish an indirect cost rate with DHHS within 90 days of award issuance.

CALCULATION OF FUTURE BUDGET PERIODS (BASED ON FIRST 12-MONTH BUDGET PERIOD)

[Review and verify the accuracy of future year budget estimates. Increases or decreases in the future years must be explained and justified and no cost of living increases will be honored. (**Note:** new salary cap of $175,700 is effective for all FY 2005 awards.) *]

| | First 12-month Period | Second 12-month Period | Third 12-month Period |
|---|---|---|---|
| Personnel: | | | |
| Project Director | 30,000 | 30,000 | 30,000 |
| Secretary ** | 9,000 | 18,000 | 18,000 |
| Counselor | 25,000 | 25,000 | 25,000 |
| Total Personnel | 64,000 | 73,000 | 73,000 |
| Fringe Benefits (24%) | 15,360 | 17,520 | 17,520 |
| Travel | 5,400 | 5,400 | 5,400 |
| Equipment | -0- | -0- | -0- |
| Supplies *** | 1,000 | 520 | 520 |
| Contractual: | | | |
| Evaluation **** | 65,355 | 67,969 | 70,688 |
| Training | 40,025 | 40,025 | 40,025 |
| Other | 1,500 | 1,500 | 1,500 |
| Total Direct Costs | 192,640 | 205,934 | 208,653 |
| Indirect Costs (15% S&W) | 9,600 | 9,600 | 9,600 |
| Total Costs | 202,240 | 216,884 | 219,603 |

* Consistent with the requirement in the Consolidated Appropriations Act, Public Law 108–199.
** Increased from 50% to 100% effort in 02 through 03 budget periods.
*** Increased amount in 01 year represents costs for software.
**** Increased amounts in 02 and 03 years are reflected of the increase in client data collection.

The Federal dollars requested for all object class categories for the first 12-month budget period are entered on Form 424A, Section B, Column (1), lines 6a-6i. The *total* Federal dollars requested for the second through the fifth 12-month budget periods are entered on Form 424A, Section E, Columns (b)–(e), line 20. The RFA will specify the maximum number of years of support that may be requested.

Dated: October 12, 2004.

**Daryl Kade,**

*Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 04–23297 Filed 10–22–04; 8:45 am]

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Federal Register

Monday,
October 25, 2004

# Part III

# The President

**Proclamation 7835—National Disability Employment Awareness Month, 2004**

**Proclamation 7836—National Forest Products Week, 2004**

**Executive Order 13359—Amendment to Executive Order 13173, Interagency Task Force on the Economic Development of the Central San Joaquin Valley**

Federal Register
Vol. 69, No. 205
Monday, October 25, 2004

# Presidential Documents

**Title 3—**

## The President

**Proclamation 7835 of October 20, 2004**

## National Disability Employment Awareness Month, 2004

**By the President of the United States of America**

**A Proclamation**

Americans with disabilities are active and contributing members of our society, and they must have the opportunity to develop the skills they need to compete and obtain jobs in the 21st century workforce. By reducing physical barriers and false perceptions, our country meets our commitment to millions of Americans with disabilities, and benefits from their talents, creativity, and hard work.

The Americans with Disabilities Act of 1990 (ADA) has brought about important progress in our Nation. Under my Administration's New Freedom Initiative, we continue to work to ensure that people with disabilities can participate fully in the workplace and all aspects of community life. Through funding for new technologies and innovative resources, we are changing old ways of thinking and fulfilling the Federal Government's commitment to opportunity for every citizen.

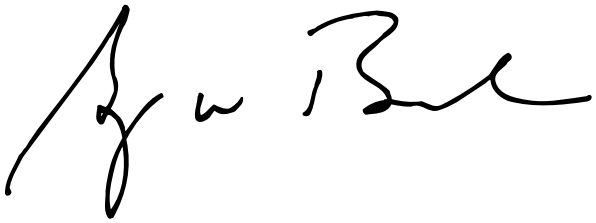
The New Freedom Initiative has helped enable individuals with disabilities to access assistive technologies. My Administration has invested in research and development for new technology. We have expanded the Department of Defense's Computer/Electronic Accommodations Program, which provides Federal employees with disabilities greater access to electronic and information technology. The Department of Labor launched *DisabilityInfo.gov* in 2002, an online resource that streamlines access to information about Federally sponsored employment, job accommodations, transportation, State and regional assistance programs, technology, and other programs relevant to the daily lives of individuals with disabilities.

We must foster a better understanding of ADA requirements and increase dialogue and cooperation between the business and disability communities. Through the New Freedom Small Business Initiative, the Department of Labor and the Small Business Administration are educating small business owners about the benefits of hiring people with disabilities and helping adult workers with disabilities acquire the skills and resources needed to become small business owners. The Equal Employment Opportunity Commission is releasing user-friendly information on how the ADA applies to particular disabilities in the workplace and providing free ADA workshops offering employment-related services and information sessions for small businesses. My Administration is implementing the ''Ticket to Work'' program, which allows Social Security and Supplemental Security Income disability beneficiaries who want to work to choose their own employment-related services. The Department of Labor and other agencies are also improving the capacity of community One-Stop Career Centers to provide training and employment services to people with disabilities.

To recognize the contributions of Americans with disabilities and to encourage all citizens to ensure equal opportunity in the workforce, the Congress, by joint resolution approved August 11, 1945, as amended (36 U.S.C. 121), has designated October of each year as ''National Disability Employment Awareness Month.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 2004 as National Disability Employment Awareness Month. I call upon Government officials, labor leaders, employers, and the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 04–23991
Filed 10–22–04; 9:08 am]
Billing code 3195–01–P

# Presidential Documents

**Proclamation 7836 of October 20, 2004**

## National Forest Products Week, 2004

**By the President of the United States of America**

**A Proclamation**

America's forests are places of beauty and incredible natural wealth. They are homes to wildlife and offer many economic opportunities for our Nation. During National Forest Products Week, we recognize the many benefits of our forests and continue our dedication to protecting them.

Across our country, many communities rely on healthy forests for economic stability. Our forests provide paper products, building materials, chemicals, and many other items needed by families and small businesses across America. Responsible forest management helps provide jobs and maintain these important resources to help meet the daily needs of Americans and people around the world.

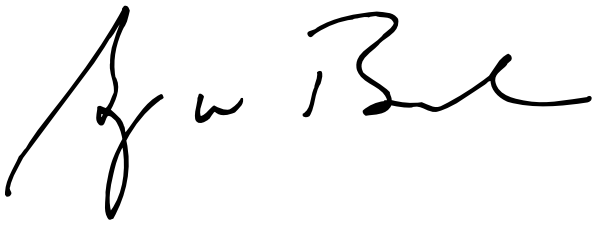
My Administration has made forest health a high priority, and we will continue to promote active management and forest conservation. Under the Healthy Forests Initiative, we acted to remove the causes of severe wildfires by thinning forest undergrowth before disaster strikes. And the Healthy Forests Restoration Act of 2003, which I signed into law last December, expands our work, helping protect valuable lands that serve as habitat for wildlife and ensuring the safety and economic vitality of communities affected by wildfires. The Act enforces high standards of conservation to help return our forests to more natural conditions and maintain the full range of forest types.

To ensure that our forests remain a source of pride for all Americans, we must continue our tradition of protecting the land for future generations. By combining the ethic of good stewardship with the spirit of innovation, we can advance a healthy environment and continue economic growth and job creation.

In recognizing the importance of our forests, the Congress, by Public Law 86–753 (36 U.S.C. 123), as amended, has designated the week beginning on the third Sunday in October of each year as ''National Forest Products Week'' and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim October 17 through October 23, 2004, as National Forest Products Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of October, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.



[FR Doc. 04–23992
Filed 10–22–04; 9:08 am]
Billing code 3195–01–P

# Presidential Documents

**Executive Order 13359 of October 20, 2004**

## Amendment to Executive Order 13173, Interagency Task Force on the Economic Development of the Central San Joaquin Valley

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve the operation of the Interagency Task Force on the Economic Development of the Central San Joaquin Valley, it is hereby ordered that Executive Order 13173 of October 25, 2000, is amended as follows:

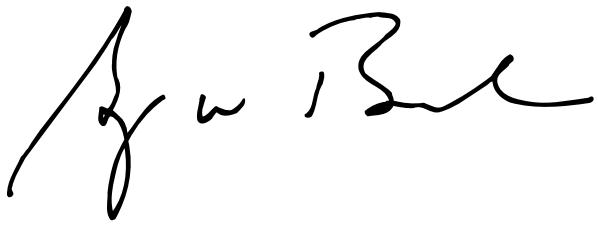
**Section 1.** Section 1(b) is amended to read as follows:

''The Task Force shall consist exclusively of the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Attorney General, the Secretary of the Interior, the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of Labor, the Secretary of Transportation, the Secretary of the Treasury, the Director of the Office of Management and Budget, the Director of National Drug Control Policy, the Administrator of General Services, the Administrator of the Small Business Administration, the Administrator of the Environmental Protection Agency, or their designees, and such other senior executive branch officials as may be determined by the Task Force. The Chair of the Task Force shall be the Secretary of Housing and Urban Development. Each of the Federal departments and agencies, as appropriate, shall designate one staff person, for the years 2004 through 2006, to work on issues of the Task Force and to ensure the participation of the staff person's department or agency in the operations of the Task Force.''

**Sec. 2.** Section 1(c)(1) is amended by inserting ''regulations,'' after ''analyze''.

**Sec. 3.** Section 5 is amended to read as follows:

''*Judicial Review.* This order is intended only to improve the internal management of the Federal Government and is not intended to, and does not, create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or in equity by a party against the United States, its agencies, entities, its officers or employees, or any other person.''



THE WHITE HOUSE,
*October 20, 2004.*

[FR Doc. 04–23994
Filed 10–22–04; 9:08 am]
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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

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**H.R. 5122/P.L. 108–349**

To amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms. (Oct. 21, 2004; 118 Stat. 1389)

**S. 33/P.L. 108–350**

To authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites. (Oct. 21, 2004; 118 Stat. 1390)

**S. 1791/P.L. 108–351**

To amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes. (Oct. 21, 2004; 118 Stat. 1394)

**S. 2178/P.L. 108–352**

National Park System Laws Technical Amendments Act of 2004 (Oct. 21, 2004; 118 Stat. 1395)

**S. 2415/P.L. 108–353**

To designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the "Robert J. Opinsky Post Office Building". (Oct. 21, 2004; 118 Stat. 1399)

**S. 2511/P.L. 108–354**

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**S. 2634/P.L. 108–355**

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**S. 2742/P.L. 108–356**

To extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court. (Oct. 21, 2004; 118 Stat. 1416)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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| 53–59 | (869–052–00141–4) | 31.00 | July 1, 2004 |
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[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, 2003, through January 1, 2004. 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, 2004. 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, 2004. 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, 2004. 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, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.

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