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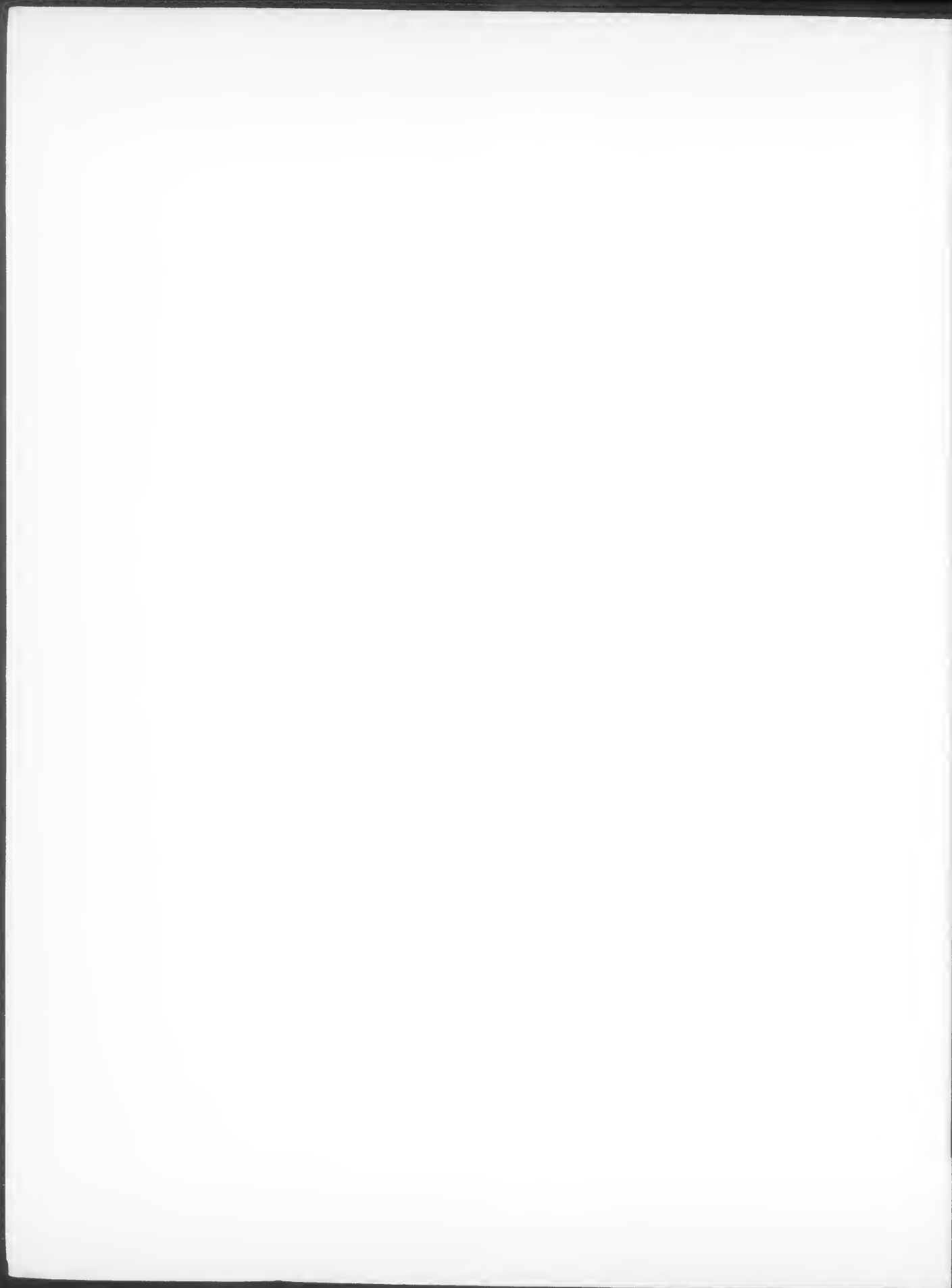
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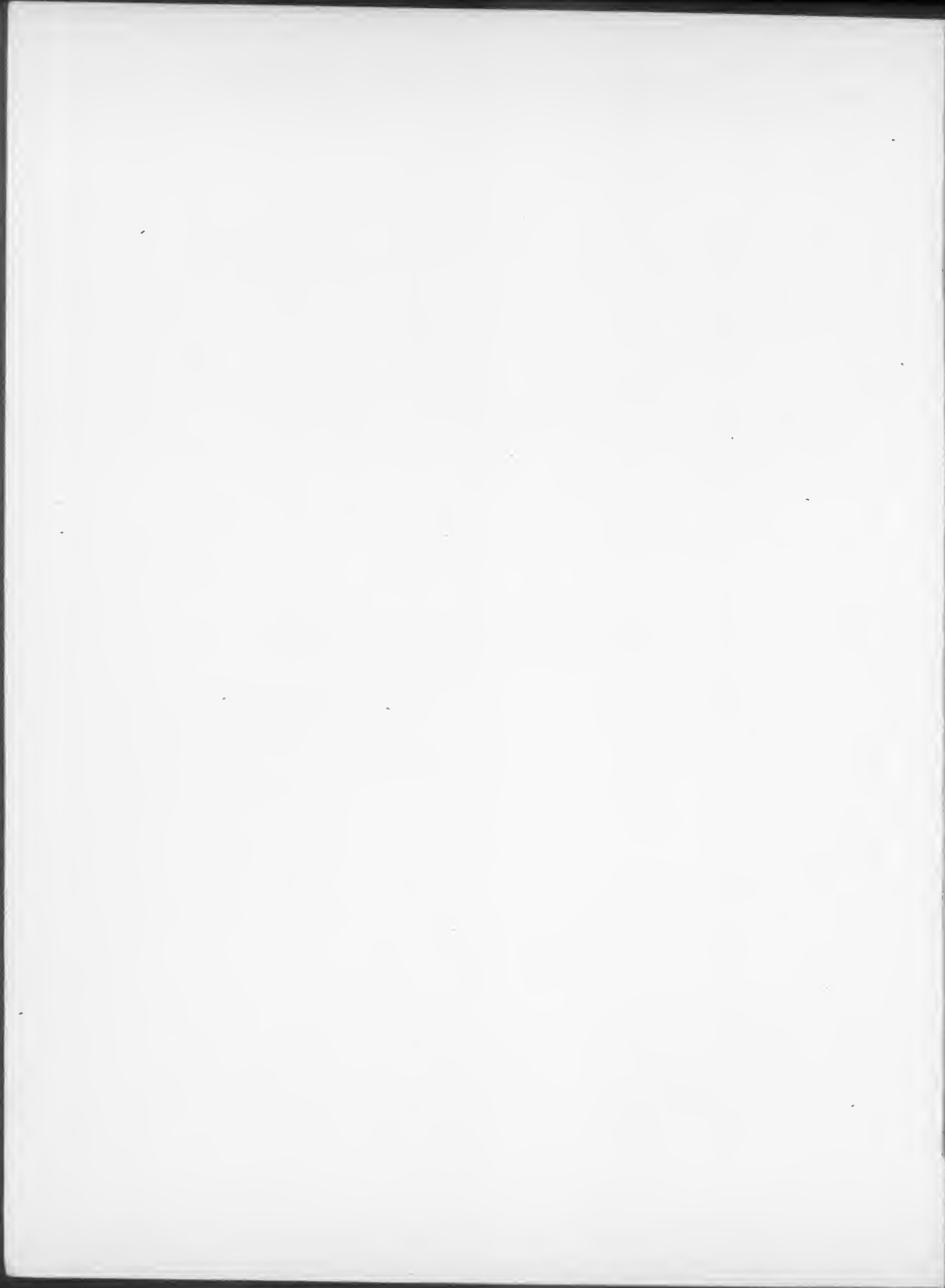
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## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Part 77

[Docket No. 02-112-3]

#### Tuberculosis in Cattle and Bison; State and Zone Designations; Michigan

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

**ACTION:** Final rule.

**SUMMARY:** We are amending the bovine tuberculosis regulations by establishing two separate zones with different tuberculosis risk classifications in the State of Michigan and raising the designation of one of those zones from modified accredited to modified accredited advanced.

We are taking this action based on our determination that Michigan meets the requirements for zone recognition and that one of the zones meets the criteria for designation as modified accredited advanced.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Dr. Terry Beals, Senior Staff Veterinarian, Eradication and Surveillance Team, National Center for Animal Health Programs, VS, APHIS, 4700 River Road Unit 43, Riverdale, MD 20737-1231; (301) 734-5467.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations contained in 9 CFR part 77, "Tuberculosis" (referred to below as the regulations), and the "Uniform Methods and Rules-Bovine Tuberculosis Eradication" (UMR), which is incorporated by reference into the regulations, restrict the interstate movement of cattle, bison, and captive cervids to prevent the spread of tuberculosis.

On April 7, 2003, we published in the *Federal Register* (68 FR 16733-16735; Docket No. 02-112-1) a proposal to amend the bovine tuberculosis regulations by establishing two separate zones with different risk classifications in the State of Michigan and raising the designation of one of those zones from modified accredited to modified accredited advanced.

We solicited comments concerning our proposal for 60 days ending June 6, 2003. We reopened the comment period and extended the deadline for comments until July 25, 2003, in a document published in the *Federal Register* on June 25, 2003 (68 FR 37774, Docket No. 02-112-2). We received 77 comments by the close of the extended comment period. They were from State and local government officials, livestock producers, industry associations, veterinarians, and a consumer organization. We have carefully considered all of the comments we received. They are discussed below by topic.

**Note:** Shortly after the proposed rule was published, a tuberculosis-infected beef cow was discovered in Antrim County, which was one of the counties included in the proposed modified accredited advanced zone. The affected herd has been depopulated, and a complete epidemiological investigation into the potential sources of the disease was conducted. However, because of that finding, we have removed Antrim County from the modified accredited advanced zone in this final rule, and that county will retain its current modified accredited status. Also, due to its inseparability from the modified accredited area (i.e., it is surrounded on three sides by modified accredited counties), we have removed Charlevoix County from the modified accredited advanced zone in this final rule; that county will also retain its current modified accredited status. We anticipate that, given the nature of Michigan's bovine tuberculosis eradication program, Antrim and Charlevoix Counties, as well as Emmet County, will be the first counties in the modified accredited zone that will become eligible for increased bovine tuberculosis status under the standards set forth in § 77.11(f) and the UMR, given that the current infection levels in those counties are much lower than the infection levels throughout the rest of the modified accredited zone.

##### Boundary Designation

One commenter suggested that the AuSable River, being a more impenetrable natural boundary than the Huron National Forest, is a better choice

for defining the southernmost edge of the modified accredited zone.

Under § 77.4(a), separate zones of bovine tuberculosis classification within a State must be delineated by the animal health authorities in the State making the request for zone recognition, subject to approval by the Animal and Plant Health Inspection Service (APHIS). The division as outlined in our proposed rule was that developed by Michigan in accordance with the regulations in §§ 77.3 and 77.4. Another of Michigan's proposed alternatives would have utilized the AuSable River as a boundary as suggested by the commenter. Our review team, consisting of representatives of State and Federal agricultural agencies as well as private contractors, considered each option and ultimately recommended against the use of the AuSable River as a boundary since it may be forded easily during certain periods of the year. We believe that the Huron National Forest is a better choice, since it is a fairly vast expanse of uninhabited land where deer are not drawn together unnaturally through feeding and baiting.

Another commenter said that the best way to achieve split State status is to utilize the Great Lakes as a boundary, designating the Upper Peninsula as modified accredited advanced and the Lower Peninsula as modified accredited.

Geographically, we agree that a division utilizing the Great Lakes as a boundary would be desirable and effective. The 15 counties in Michigan's Upper Peninsula are included in the modified accredited advanced zone, however, there are 55 counties in the Lower Peninsula that meet our requirements for modified accredited advanced status. Exclusion from the modified accredited advanced zone of cattle producers, processors, and associated entities in those 55 counties solely on the basis of geographical factors would not be appropriate in our view.

One commenter stated that since bovine tuberculosis has been detected in free-ranging deer in Mecosta, Osceola, and Antrim Counties, these counties should be included in the zone designated as modified accredited. The commenter additionally said that the dividing line between the modified accredited and modified accredited advanced zones should lie at the

northern boundaries of Oceana, Newaygo, Mecosta, Isabella, Midland, and Bay Counties.

The incidence of free ranging deer testing positive for bovine tuberculosis in Mecosta and Oseola Counties is a total of one per county during the nine years that sampling has occurred. Such a rate does not justify alteration of the proposed boundaries to include 14 additional counties and their associated producers, livestock, and related industries. As previously stated, in this final rule, we are expanding the modified accredited zone beyond what was proposed to also include Antrim and Charlevoix Counties.

Another commenter said that the zone division should occur solely along county lines since it will prove difficult for those receiving cattle in other States to determine from which part of the divided counties those cattle originated.

Much of the boundary is defined by county lines, with the exception of the southern boundary line in Iosco and Ogemaw Counties, which utilizes the Huron National Forest and the Au Sable State Forest. We have determined that the use of State and Federal forest land is the best boundary option in this case, since it serves as a far more impenetrable boundary than an imaginary county line.

#### Wild Deer Controls

Several commenters stated that, before split State status is granted, there needs to be more done on a statewide basis to eliminate tuberculosis in the wild deer population and decrease the wild deer population as a whole. The commenters further said that splitting the State into two zones of classification would exacerbate the problem since the relatively small size of the modified accredited area will provide no incentive for such disease elimination or depopulation initiatives.

Much is being accomplished to control bovine tuberculosis in wildlife reservoirs. The boundaries as described in this final rule include a vast area of forest land, which will facilitate existing wildlife control programs. In our view, rather than resulting in reduction of attention and financial resources, the relatively small size of the modified accredited area will allow available resources to be concentrated and applied to a localized area, thus increasing the efficacy of the programs.

One commenter said that split State status should not be considered since the tuberculosis infection rates in sampled deer have not declined, but remained static, and infection rates have increased for yearling deer.

While we recognize that both of the commenter's points are correct with regard to infection levels in deer for 2002, we do not consider the figures, especially the increase in tuberculosis among yearling deer, to be significant. Recently released statistics for 2003 show that the prevalence of bovine tuberculosis in all classes of deer, including yearling deer, declined in 2003. In addition, the relatively small increase in previous infection levels makes it difficult to determine what factors may have led to the situation as described by the commenter. Included in our requirements for maintenance of zones within States found at § 77.4(a)(3), a State is required to maintain or improve the tuberculosis classification of lower status areas. However, the maintenance or improvement is required to be shown in the domestic livestock population only, not in wildlife. Among the factors we consider as improvement are lowering the level of tuberculosis infection in whitetail deer and reducing the number of transmissions from wildlife to cattle. These requirements serve to ensure that tuberculosis eradication programs within States are preserved. In the long run, this approach may help States by allowing funds to be focused on smaller problem areas.

#### Eradication Programs

Several commenters were concerned with the discovery of the bovine tuberculosis infected herd in Antrim County. They asked that a full investigation be conducted prior to our decision regarding split State status, since the find raised questions regarding testing and movement standards and controls.

We agree with the commenters' initial point. As stated above, Antrim County has been removed from the proposed modified accredited advanced zone in this final rule and added to the modified accredited zone. Subsequent to the finding of bovine tuberculosis in Antrim County, a full investigation was conducted with no regulatory violations found. In our view, the animal in question was incubating the disease prior to its entry into Antrim County, testing negative at the time of movement. It is to the credit of the Michigan bovine tuberculosis eradication program that the animal was detected and depopulated with no subsequent spread of the disease.

Several commenters stated that Michigan should first be required to show progress in its bovine tuberculosis eradication program, particularly in the areas of surveillance and control, before split State status is granted.

We believe Michigan has shown marked progress in all areas of their program. Discovery of the infected herd in Antrim County is a result of Michigan's active surveillance and testing program. We agree that movement control is critical to the success of split State status and have communicated this necessity to the Michigan Department of Agriculture. We have recently completed a review of the UMR and have identified a number of pertinent changes regarding wildlife reservoirs that we intend to consider in order to completely update the UMR. In addition, APHIS is working in cooperation with the State of Michigan to identify strategies that will allow us to isolate potentially infected wildlife from domestic cattle herds. These developments will allow us to realize more effective methods of bovine tuberculosis control.

One commenter said that the UMR needs to be reevaluated in order to establish new standards related to bovine tuberculosis risk criteria.

As stated previously, we are in the process of revising the UMR. New and more stringent standards are proposed for incorporation in several areas, including those related to bovine tuberculosis surveillance and the requirements necessary to achieve and maintain each level of classification for freedom from bovine tuberculosis. We expect to publish a proposed rule detailing these changes in the coming months.

#### Zone Classification Requirements

Several commenters said that, if split State status is granted to Michigan, APHIS should conduct an annual review of that State's management of its areas of bovine tuberculosis classification.

The regulations at § 77.4(b) state that retention of split State status is subject to annual review by the Administrator. This review is currently conducted in the form of the Annual State Report, which incorporates followup, onsite State reviews when necessary. The Annual State Report is a significant component of our determination of a State's bovine tuberculosis status. Additionally, in order to retain zone recognition, a State must continue to demonstrate its compliance with § 77.4(a)(1) through (a)(3) as well as the requirements for maintaining or improving the tuberculosis risk classification of each zone in the State, and retaining for at least 2 years all certificates required for the movement of cattle, bison, and captive cervids.

Several commenters stated that bovine tuberculosis testing and

surveillance should be conducted to ensure that 100 percent of herds within the modified accredited advanced area are tested within the 6-year testing span.

The State of Michigan planned, and has nearly completed, a statewide area test of all herds. Michigan has also upgraded its slaughter surveillance. Further, Michigan is pursuing an active surveillance strategy focused on quickly identifying infected herds while they are still at a low level of infection via regular annual testing of all herds in the modified accredited area. Based on our research and experience, subsequent random sampling and surveillance within the modified accredited advanced zone need only occur in 2-year cycles. A continual policy of 100 percent testing within the modified accredited advanced zone would prove both costly and inefficient.

Further, in the next 3 years, the State of Michigan has agreed to implement a surveillance system with biased sampling, which would weight areas based on the frequency of intrastate movements of cattle from the modified accredited zone as well as their proximity to the modified accredited zone. We have found that such targeted surveillance programs prove most effective in quickly and accurately assessing a State's bovine tuberculosis infection levels.

One commenter said that strict monitoring of intrastate cattle movements should be a necessary component of operations for any State with split status.

Under §§ 77.3 and 77.4 of the regulations, in order to qualify for zone classification, States must, among other things, adopt and enforce regulations that impose restrictions on the intrastate movement of cattle, bison, and captive cervids that are substantially the same as those in place in part 77 for the interstate movement of those animals. Michigan has implemented stringent identification and intrastate movement permit requirements and is working in cooperation with the Michigan Department of Transportation in order to monitor these movements.

Two commenters suggested that untested cattle from the modified accredited zone should be required to be moved only in sealed vehicles accompanied by a VS-127 permit.

We typically require VS-127 permits only for transport of known diseased animals or exposed animals. Control at this level would involve a great amount of time, personnel, and expense for all affected parties. As such, this approach is not cost effective. We believe that the procedures currently in place, properly administered and executed, will be

adequate to reduce the risk of disease transmission to acceptable levels.

One commenter said that all intrastate movement procedures should be required to conform to a nationally applicable standard.

While APHIS does establish interstate movement requirements and, as stated previously, require State intrastate movement regulations to be substantially the same, the particulars of intrastate movement are governed by State authorities. Establishment of the suggested national standard would require a wide-ranging regulatory change, and is therefore outside the scope of this rulemaking.

One commenter stated that the proposed change to split State status will cause sizable economic harm to breeders as a result of increased recordkeeping and registration requirements.

We are in the process of gathering data related to testing and identification costs in order to reevaluate our current information on those subjects. Our proposed rule contained a detailed analysis of the potential costs to entities associated with the cattle industry in Michigan, including breeders, wherein we determined that the proposed action would not have a significant economic impact on a substantial number of small entities. We consider "significant impact" to mean that the cost of a given action is equal to or greater than the small business's profit margin (5 to 10 percent of annual sales). By these standards, given the size and profitability of the cattle industry in Michigan, this action does not represent a significant impact on a substantial number of small entities. Given that, currently, the entire State of Michigan is classified as modified accredited for bovine tuberculosis, those producers within the designated modified accredited zone should experience no change in those costs associated with interstate movement. A more detailed analysis of this issue can be found later in this document under the heading "Executive Order 12866 and Regulatory Flexibility Act."

#### **Movement to Slaughter**

Two commenters discussed the need for recordkeeping, audits, and information sharing to ensure that cattle and bison from the modified accredited zone that are moving in slaughter channels are not diverted for other purposes. One of those commenters stated that slaughter facilities should be required to record identification information for all such cattle and bison, and the other commenter asked what record auditing was done at

slaughter facilities that are not equipped with electronic identification readers.

We agree that it is important to have checks in place to ensure that cattle and bison moving in slaughter channels are not diverted for other purposes. Traditionally, compliance activity in this regard has been accomplished by investigating potential or reported diversions and taking action in specific cases. Beyond that, there are simply not enough Federal or State personnel available to track every animal in slaughter channels to ensure that they are not diverted. As noted previously, Michigan has implemented stringent identification and intrastate movement permit requirements; those permit requirements apply to animals moving to slaughter, so there is an opportunity to confirm that all the animals listed on a permit arrive at the slaughtering facility as intended. In federally inspected slaughtering facilities, the U.S. Department of Agriculture's Food Safety and Inspection Service collects all manmade identification and correlates it with any blood or tissue specimens submitted for surveillance testing purposes. We recognize that the level of record auditing at various slaughtering facilities will not always be sufficient to prevent or detect the diversion of animals from slaughter, and intend to continue our work with State authorities in Michigan to make improvements in this area.

A commenter said that, under split State status, it is necessary to ensure that cattle from the modified accredited zone are moved directly to slaughter facilities, without stopping.

The regulations currently require movement of cattle to be direct to slaughter without offloading. These provisions are found at § 77.10(a) with regard to shipments from modified accredited advanced States or zones and at § 77.12(a) with regard to shipments from modified accredited States or zones.

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

#### **Effective Date**

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**.

This rule establishes two separate zones with different tuberculosis risk classifications in the State of Michigan and raises the designation of one of those zones from modified accredited to modified accredited advanced. This will

eliminate certain testing requirements for those cattle from the higher status zone, thus reducing the burden on producers and veterinarians. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the Federal Register.

#### Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

Bovine tuberculosis is a communicable disease of cattle, bison, cervids and other species, including humans, and results in losses of meat and milk production among infected animals. As part of the Cooperative State/Federal Tuberculosis Eradication Program, which has virtually eliminated bovine tuberculosis from the Nation's livestock populations, the regulations classify each State according to its tuberculosis risk and place certain restrictions on the movement of cattle and bison from States with high-risk classifications.

Previously, the State of Michigan was classified as modified accredited for cattle and bison. We are amending the regulations to establish two classification zones within Michigan. A zone consisting of Alcona, Alpena, Antrim, Charlevoix, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest is classified as modified accredited. The designation of the remaining counties in the State is raised from modified accredited to modified accredited advanced. We discuss below the projected economic effects of this action.

On January 1, 2002, there were approximately 15,000 cattle operations in Michigan, totaling 990,000 head of cattle. According to the National Agricultural Statistics Service, in Michigan each head of cattle is worth approximately \$930, with a reported total cash value of \$920.7 million. Of the 15,000 operations, over 98 percent are considered small entities under criteria established by the Small Business Association. Consequently, this analysis of the economic effects of the proposed rule change for the entire State is also sufficient for analyzing the small entity impact.

The boost in status for all Michigan counties except those 13 counties listed previously, from modified accredited to modified accredited advanced will result in fewer intrastate movement restrictions and one less tuberculin test for interstate movement. Decreased testing will result in decreased production costs for those producers in those areas whose status is raised to modified accredited advanced, thus providing a monetary benefit. As such, this analysis will focus on the cost savings of testing cattle and bison for movement captured by those elevated to modified accredited advanced status.

For those 13 counties that will retain modified accredited status, there will be no change in production costs. These 13 counties contribute approximately 69,600 head of cattle to the statewide total, representing only 7 percent of total cattle production in Michigan. Consequently, the benefits of this regulation will be realized by the majority of producers in the State.

An official tuberculin test for an average herd is about \$380, which equates to approximately \$6.33 per animal based on an average herd size in Michigan of 60 animals. The cost savings of the tuberculin test are not economically significant to cattle and bison producers. Considering that, on January 1, 2002, the average value per head of cattle was \$930, the cost savings of reduced testing represent less than 1 percent of the per head value. In general practice we assume a regulation that has compliance costs which equal a small business' profit margin, or 5 to 10 percent of annual sales, pose an impact which can be considered "significant."<sup>1</sup> For the purposes of illustration and analysis of the small entity impact, if we assume a cattle producer owns only 1 average herd of about 60 animals, with annual sales of approximately \$56,000, compliance costs totaling between \$2,800 and \$5,600 would qualify as posing a "significant" economic impact on this entity. In the case of cattle producers in Michigan, the average compliance costs of TB testing for an entire herd would total about \$380. Thus, for producers located in counties whose status will be raised to modified accredited advanced, the cost savings from reduced testing, while beneficial, will not represent a significant monetary savings. Of course, the more a particular herd owner is involved in interstate movement, the greater the cost savings will be. Unfortunately, the exact number of herd owners involved in interstate

movement is unknown. However, it is clear that this change in status will not represent an economically significant benefit for those producers operating in counties whose status is raised to modified accredited advanced. This final rule will constitute no change in operational procedures for those counties that will remain under modified accredited status.

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

#### Executive Order 12372

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

#### Executive Order 12988

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

#### Paperwork Reduction Act

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

#### List of Subjects in 9 CFR Part 77

Animal diseases, Bison, Cattle, Reporting and recordkeeping requirements, Transportation, Tuberculosis.

■ Accordingly, we are amending 9 CFR part 77 as follows:

#### PART 77—TUBERCULOSIS

■ 1. The authority citation for part 77 is revised to read as follows:

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

■ 2. Section 77.9 is amended by revising paragraph (b) to read as follows:

#### § 77.9 Modified accredited advanced States or zones.

\* \* \* \* \*

(b) The following are modified accredited advanced zones: All of the State of Michigan except for the zone that comprises those counties or

<sup>1</sup> Verkuil, Paul R. "A Critical Guide to the Regulatory Flexibility Act," *Duke Law Journal*, Apr. 1982: 928.



portions of counties in Michigan described in § 77.11(b).

\* \* \* \* \*

■ 3. Section 77.11 is amended by revising paragraphs (a) and (b) to read as follows:

**§ 77.11 Modified accredited States or zones.**

(a) The following are modified accredited States: None.

(b) The following are modified accredited zones: A zone in Michigan that comprises Alcona, Alpena, Antrim, Charlevoix, Cheboygan, Crawford, Emmet, Montmorency, Oscoda, Otsego, and Presque Isle Counties and those portions of Iosco and Ogemaw Counties that are north of the southernmost boundary of the Huron National Forest and the Au Sable State Forest.

\* \* \* \* \*

Done in Washington, DC, this 13th day of April, 2004.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 04-8751 Filed 4-16-04; 8:45 am]

BILLING CODE 3410-34-P

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. 2000-NM-101-AD; Amendment 39-13577; AD 2004-08-08]

RIN 2120-AA64

**Airworthiness Directives; Gulfstream Model G-IV Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Gulfstream Model G-IV series airplanes. For certain airplanes, this AD requires installation of an additional indicator located on the pilot's instrument panel in primary view of the flightcrew. The indicator will inform the flightcrew that the airplane main batteries are powering the direct current (DC) essential bus, which supplies power to vital communication and navigation equipment. For certain other airplanes, this AD will require the EICAS (Engine Instruments/ Caution Advisory System) to be used for this indication. This action is necessary to ensure that the flightcrew is aware that an electrical system failure has occurred and that the airplane main batteries are

powering the essential DC bus. If the flightcrew is unaware of this situation, action to stop depletion of the airplane batteries will not be taken, and critical communications and navigation equipment could fail. This action is intended to address the identified unsafe condition.

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

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D-10, Savannah, Georgia 31402-9980. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Neil Berryman, Aerospace Engineer, ACE-116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703-6098; fax (770) 703-6097.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Gulfstream Model G-IV series airplanes was published in the *Federal Register* on October 12, 2000 (65 FR 60591). For certain airplanes, that action proposed to require installation of an additional indicator located on the pilot's instrument panel in primary view of the flightcrew. The indicator would inform the flightcrew that the airplane main batteries are powering the direct current (DC) essential bus, which supplies power to vital communication and navigation equipment. For certain other airplanes, that AD proposed to require the EICAS (Engine Instruments/ Caution Advisory System) to be used for this indication.

**Comments**

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

**Changes to Service Information in This Final Rule**

The proposed AD references Gulfstream GIV Customer Bulletin 102A, dated February 1, 2000; and Gulfstream IV Aircraft Service Change 327B AM1, dated August 28, 2000; as two of the appropriate sources of service information for the accomplishment of the actions required by this AD. Since the issuance of the proposed AD, the FAA has reviewed and approved Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Gulfstream GIV Aircraft Service Change 327B Am2, dated January 26, 2004. We have determined that Gulfstream GIV Customer Bulletin 102B and Gulfstream GIV Aircraft Service Change 327B Am2 add no new requirements, but provide clarification of some instructions, which will assist operators in accomplishing the requirements of this final rule. We have revised paragraphs (a) and (b) of this final rule to reference these new documents as appropriate sources of service information, and to revise the corresponding references to the Modification Instructions of the new service information.

**Changes to Cost Impact Table in This Final Rule**

The cost information for the proposed AD did not include figures for an airplane that does not have Gulfstream IV Aircraft Service Change 327 or its production equivalent installed, and does not have Gulfstream IV Aircraft Service Change 327A installed. The cost impact table of this final rule has been changed to include these figures. Also, since the table in the proposed AD referenced but did not provide figures for an airplane that does have Gulfstream IV Aircraft Service Change 327A installed, the reference to this condition has been deleted from the table in this final rule.

**Clarification of Requirements of This Final Rule**

Paragraphs (a)(2), (a)(3), (b)(1), (b)(2), and (b)(3) of this final rule have been changed to clarify that the required actions are dependent upon which service changes have been installed on an airplane, rather than which service changes an operator has performed.

**Conclusion**

We have determined that air safety and the public interest require the adoption of the rule with the changes previously described. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

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

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

**Change to Labor Rate Estimate**

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

**Cost Impact**

There are approximately 359 airplanes of the affected design in the

worldwide fleet. We estimate that 292 airplanes of U.S. registry will be affected by this AD, and that the average labor rate is \$65 per work hour. There will be no charge for required parts for the modification. The cost impact of this AD on U.S. operators depends upon whether the airplane has the SPZ 8400, whether the airplane has the production equivalent of Gulfstream GIV Aircraft Service Change 327, and whether the operator has performed earlier Gulfstream IV Aircraft Service Change 327 or 327A, as shown in the following table:

**COST IMPACT OF PERFORMING GULFSTREAM IV AIRCRAFT SERVICE CHANGE 327B OR 327B AM2**

If—	And if SPZ 8400 is—	Then the work hour estimate is—	And the cost per airplane is—
Change 327 and 327A have not been done .....	on the airplane .....	0	\$0
	not on the airplane .....	68	4,420
Production equivalent of Change 327 has been done	on .....	36	2,340
	not on .....	28	1,820
Change 327 has been done .....	on .....	24	1,560
	not on .....	28	1,820

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

**Regulatory Impact**

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the

criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption ADDRESSES.

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

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

2004-08-08 **Gulfstream Aerospace Corporation:** Amendment 39-13577. Docket 2000-NM-101-AD.

**Applicability:** Model G-IV series airplanes, serial numbers 1000 through 1359 inclusive, certificated in any category.

**Note 1:** This AD applies to each airplane identified in the preceding applicability

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

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

To ensure that the flightcrew is aware that an electrical system failure may have occurred and that the main airplane batteries are powering the direct current (DC) essential bus, accomplish the following:

**Modifications**

(a) Within 12 months after the effective date of this AD, for airplanes equipped with the SPZ 8400: Perform paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) If the airplane has the production equivalent of Gulfstream IV

Aircraft Service Change 327, install the new indicator light and the audible tone, in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Modification Instructions A, J through L, and P through S of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

(2) If the airplane has Gulfstream IV Aircraft Service Change 327 installed, but not Gulfstream IV Aircraft Service Change 327A, install the new indicator light and the audible tone, in accordance with Gulfstream GIV Customer Bulletin 102B, dated January

26, 2004; Modification Instructions A through H of Gulfstream GIV Aircraft Service Change 327B Am2, dated January 26, 2004; and Modification Instruction P of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

**Note 2:** Modification Instruction E in Gulfstream GIV Aircraft Service Change 327B Am2 is the same as Modification Instruction P in Gulfstream IV Aircraft Service Change 327B.

(3) If the airplane has Gulfstream IV Aircraft Service Change 327A installed, ensure that all ground wires from connectors 95A1P2B and 95A2P2B are removed or rerouted in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Figure 6 of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

(b) Within 12 months after the effective date of this AD, for airplanes not equipped with the SPZ 8400: Perform paragraph (b)(1), (b)(2), or (b)(3) of this AD, as applicable.

(1) If the airplane does not have Gulfstream IV Aircraft Service Change 327 installed, install the new indicator light and the audible tone, in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Modification Instructions A, B through I, and P through S of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

(2) If the airplane has Gulfstream IV Aircraft Service Change 327 installed, install the new indicator light and the audible tone, in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Modification Instructions A, M through O, and P through S of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

(3) If the airplane has Gulfstream IV Aircraft Service Change 327A installed, ensure that wire P9052C22 is rerouted and reconnected in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; and Figure 7 of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000.

**Note 3:** Page 1 of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000, incorrectly refers to Figure 5; Figure 7 is the correct figure.

#### Alternative Methods of Compliance

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

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

#### Special Flight Permits

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

#### Incorporation by Reference

(e) The actions shall be done in accordance with Gulfstream GIV Customer Bulletin 102B, dated January 26, 2004; Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000; and Gulfstream GIV Aircraft Service Change 327B Am2 dated January 26, 2004; as applicable. (Only the title page of Gulfstream IV Aircraft Service Change 327B, dated January 26, 2000, contains the date of the document.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Gulfstream Aerospace Corporation, P.O. Box 2206, M/S D-10, Savannah, Georgia 31402-9980. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(f) This amendment becomes effective on May 24, 2004.

Issued in Renton, Washington, on April 6, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 04-8542 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-216-AD; Amendment 39-13578; AD 2004-08-09]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Model A300 B2 and B4 Series Airplanes; Model A300 B4-600, B4-600R, and F4-600R (Collectively Called A300-600) Series Airplanes; and Model A310 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes. This AD requires various modifications and repetitive inspections of the throttle control system, and follow-on actions if necessary. This action is necessary to prevent hard points in the throttle control system that

could lead to jamming of the throttle control cable. Such jamming could result in an asymmetric thrust condition and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

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

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300 B2 and B4 series airplanes; Model A300 B4-600, B4-600R, and F4-600R (collectively called A300-600) series airplanes; and Model A310 series airplanes; was published in the *Federal Register* on October 30, 2003 (68 FR 61768). That action proposed to require various modifications and repetitive inspections of the throttle control system, and follow-on actions if necessary.

#### Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. The FAA has given due consideration to the comments received.

One commenter states that it will not be affected by the proposed AD.

#### Request To Revise Repetitive Inspection Interval

One commenter requests that we revise the interval for the repetitive inspections in the proposed AD from 500 flight hours to 500 flight cycles. The commenter's rationale is that it anticipates significant economic or operational impact due to incorporation of the requirements of the proposed AD.

We do not concur because we find that we do not need to revise this final rule to meet the intent of the commenter's request. While the initial inspection is required within 500 flight hours after the effective date of this AD, the repetitive inspections are required at intervals not to exceed 2,000 flight hours. No change to the final rule is necessary.

#### Request To Consider Parts Availability

The same commenter requests that we consider the availability of the parts

necessary to accomplish the terminating action—replacement of the existing throttle control cable assembly with a new, improved assembly. The commenter states that, in the past, necessary parts have been unavailable from the manufacturer.

We do not concur. The terminating action stated in paragraph (e) of this AD is optional. Therefore, there is no compliance time constraint in which parts availability should be a factor. No change to the final rule is necessary.

#### Conclusion

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

#### Cost Impact

The table below contains the FAA's estimates of the cost impact of the actions that are required by this AD on U.S. operators, at an average labor rate of \$65 per work hour.

#### COST IMPACT: U.S.-REGISTERED AIRPLANES

Actions in Airbus service bulletin—	Work hours	Parts cost	Estimated number of airplanes of U.S. registry	Estimated cost per airplane	Estimated fleet cost
A300-76-0007, Revision 06 .....	30	\$0	36	\$1,950	\$70,200
A300-76-0015, Revision 02 .....	11	1,726	36	2,441	87,876
A300-76-0016, Revision 03 .....	1	193	24	258	6,192
A300-76-6002, Revision 02 .....	1	80	83	145	12,035
A300-76-6007, Revision 01 .....	8	None	71	520	36,920
A300-76-6009, Revision 02 .....	6	28	67	418	28,006
A310-76-2001, Revision 01 .....	11	4,469	33	5,184	171,072
A310-76-2004, Revision 03 .....	25	26	25	1,651	41,275
A310-76-2005, Revision 01 .....	1	153	46	218	10,028
A310-76-2006, Revision 03 .....	2	None	16	130	2,080
A310-76-2012, Revision 02 .....	6	28	25	418	10,450

Currently, there are no airplanes on the U.S. Register that are affected by Airbus Service Bulletin A300-76-6003, Revision 04, or A310-76-2010, Revision

03. However, if an affected airplane is imported and placed on the U.S. Register in the future, the table below shows the estimated cost of the actions

that will be required by this AD for an affected airplane, at an average labor rate of \$65 per work hour.

#### POTENTIAL COST IMPACT: AIRPLANE ADDED TO U.S. REGISTER IN THE FUTURE

Airplanes subject to the actions in Airbus service bulletin—	Work hours	Parts cost	Estimated cost per airplane
A300-76-6003, Revision 04 .....	2	\$0	\$130
A310-76-2010, Revision 03 .....	8	0	520

If an operator chooses to do the optional terminating action in Airbus Service Bulletin A300-76-6004, Revision 01, or A310-76-2007, Revision 2; rather than continue the repetitive inspections in Airbus Service Bulletin A300-76-6003, Revision 04, or A310-76-2006, Revision 03, respectively; it would take about 20 work hours per airplane to accomplish the optional terminating action, at an average labor rate of \$65 per work hour. Required parts would cost about \$18,800 per airplane. Based on these figures, we estimate the cost of this optional terminating action to be \$20,100 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish

those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

#### Regulatory Impact

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

have federalism implications under Executive Order 13132.

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

**ADDRESSES.**

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

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

**Adoption of the Amendment**

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

2004-08-09 Airbus: Amendment 39-13578. Docket 2001-NM-216-AD

Applicability: Airplanes as listed in Table 1 of this AD, certificated in any category.

TABLE 1.—APPLICABILITY

Airplane models	As listed in Airbus Service Bulletin—
A300 B2 and B4 series .....	A300-76-0007, Revision 06, dated August 23, 2001.
A300 B2 and B4 series .....	A300-76-0015, Revision 02, dated August 23, 2001.
A300 B2 and B4 series .....	A300-76-0016, Revision 03, dated August 23, 2001.
A300 B4-620, B4-622, and C4-620 .....	A300-76-6002, Revision 02, dated August 23, 2001.
A300 B4-620 .....	A300-76-6003, Revision 04, dated February 26, 2002.
A300 B4-601, -603, and -605R .....	A300-76-6007, Revision 01, dated March 14, 2000.
A300 B4-601, B4-603, B4-605R, and C4-605R Variant F .....	A300-76-6009, Revision 02, dated October 29, 1999.
A310-203, -204, -221, and -222 .....	A310-76-2001, Revision 01, dated March 14, 2000.
A310-203 .....	A310-76-2004, Revision 03, dated August 23, 2001.
A310-203, -221, and -222 .....	A310-76-2005, Revision 01, dated March 14, 2000.
A310-221, -222, and -322 .....	A310-76-2006, Revision 03, dated February 26, 2002.
A310-204 and -304 .....	A310-76-2010, Revision 03, dated August 23, 2001.
A310-203, -204, and -304 .....	A310-76-2012, Revision 02, dated November 5, 2001.

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

To prevent hard points in the throttle control system that could lead to jamming of the throttle control cable, which could result in an asymmetric thrust condition and consequent reduced controllability of the airplane, accomplish the following:

**Modifications**

(a) Within 22 months after the effective date of this AD, do the actions specified in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), and (a)(6) of this AD; as applicable.

(1) For airplanes listed in Airbus Service Bulletin A300-76-0007, Revision 06, dated August 23, 2001: Install a flexible ice protection boot on the upper fitting of the throttle and fuel shut-off valve control cables in each engine pylon, per the Accomplishment Instructions of that service bulletin.

(2) For airplanes listed in Airbus Service Bulletin A300-76-0015, Revision 02, dated August 23, 2001; or A310-76-2001, Revision 01, dated March 14, 2000: Install a heating system for the throttle control system in each engine pylon, per the Accomplishment Instructions of the applicable service bulletin.

(3) For airplanes listed in Airbus Service Bulletin A300-76-0016, Revision 03, dated August 23, 2001; A300-76-6002, Revision 02, dated August 23, 2001; or A310-76-2005, Revision 01, dated March 14, 2000: Replace, with new improved parts, the roller and rotation pin of the secondary relay lever of the throttle control system in each engine pylon. Accomplish the replacement per the Accomplishment Instructions of the applicable service bulletin.

(4) For airplanes listed in Airbus Service Bulletin A300-76-6007, Revision 01, dated March 14, 2000; or A310-76-2010, Revision 03, dated August 23, 2001: Install a new

cooling duct and a new cooling shroud for the throttle control cable, per the instructions in the "Description" section of Airbus Service Bulletin A300-76-6007, Revision 01; or per the Accomplishment Instructions of A310-76-2010, Revision 03; as applicable.

**Note 1:** Airbus Service Bulletins A300-76-6007, Revision 01; and A310-76-2010, Revision 03; refer to GE CF6-80C2 Service Bulletins 71-088, Revision 3, dated March 15, 1991; and 75-021, Revision 3, dated August 5, 1992; for additional service information for accomplishing the installation of a new cooling duct and a new cooling shroud for the throttle control cable.

(5) For airplanes listed in Airbus Service Bulletin A300-76-6009, Revision 02, dated October 29, 1999; or A310-76-2012, Revision 02, dated November 5, 2001: Install an elastomer plug filled with grease on the end fitting of the throttle control cable in each engine pylon, per the Accomplishment Instructions of the applicable service bulletin.

(6) For airplanes listed in Airbus Service Bulletin A310-76-2004, Revision 03, dated August 23, 2001: Install a sealing sleeve (also called a sealing boot) on the flexible control ball joint of the throttle control cable in each engine pylon (including a detailed inspection for deterioration of the throttle control cable, and replacement of the throttle control cable, as applicable) by doing all actions in and per the Accomplishment Instructions of the service bulletin. Replacement of the throttle control cable, if required, must be accomplished before further flight.

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

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

**Accomplishment of Required Actions Per Previous Service Bulletin Revisions**

(b) Actions accomplished before the effective date of this AD per previous service bulletin revisions are acceptable for compliance with paragraph (a) of this AD; as specified in paragraph (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), and (b)(6) of this AD; as applicable.

(1) Accomplishment of the installation required by paragraph (a)(1) of this AD per Airbus Service Bulletin A300-76-007, Revision 05, dated March 14, 2000, is acceptable for compliance with paragraph (a)(1) of this AD.

(2) Accomplishment of the installation required by paragraph (a)(2) of this AD per Airbus Service Bulletin A300-76-0015, Revision 01, dated March 14, 2000, is acceptable for compliance with paragraph (a)(2) of this AD.

(3) Accomplishment of the replacement required by paragraph (a)(3) of this AD per Airbus Service Bulletin A300-76-016, Revision 02, dated March 14, 2000; or A300-76-6002, Revision 01, dated March 14, 2000; as applicable; is acceptable for compliance with paragraph (a)(3) of this AD.

(4) Accomplishment of the installation required by paragraph (a)(4) of this AD per Airbus Service Bulletin A310-76-2010, Revision 02, dated March 14, 2000, is acceptable for compliance with paragraph (a)(4) of this AD.

(5) Accomplishment of the installation required by paragraph (a)(5) of this AD per Airbus Service Bulletin A300-76-6009, Revision 01, dated March 5, 1999; or A310-76-2012, Revision 01, dated March 5, 1999;

as applicable; is acceptable for compliance with paragraph (a)(5) of this AD.

(6) Accomplishment of all actions required by paragraph (a)(6) of this AD (including a detailed inspection for deterioration of the throttle control cable, and replacement of the throttle control cable, as applicable) per Airbus Service Bulletin A310-76-2004, Revision 02, dated March 14, 2000, is acceptable for compliance with paragraph (a)(6) of this AD.

**Repetitive Inspections and Corrective Actions if Necessary**

(c) For airplanes listed in Airbus Service Bulletin A300-76-6003, Revision 04, dated February 26, 2002; or A310-76-2006, Revision 03, dated February 26, 2002: Within 500 flight hours after the effective date of this AD, do the inspections and corrective actions, as applicable, required by paragraphs (c)(1) and (c)(2) of this AD, according to the Accomplishment Instructions of the applicable service bulletin. Repeat the inspections and corrective actions, as applicable, thereafter at intervals not to exceed 2,000 flight hours, until paragraph (e) of this AD is accomplished. Although Airbus Service Bulletins A300-76-6003, Revision 04, and A310-76-2006, Revision 03, specify to submit certain information to the

manufacturer, this AD does not include such a requirement.

(1) Perform a detailed inspection to detect discrepancies of the throttle control cable (also called the "push-pull" cable) and the rack-box connection in each engine pylon, especially in the area of the cable guide having part number 221-1325-501. Discrepancies include excessive wear, damage, chafing of the cable in the area of a cable guide, backlash outside limits specified in the service bulletin, or excessive play. If any discrepancy is found, before further flight, replace the throttle control cable or the rack-box, as applicable, per the applicable service bulletin.

(2) Perform a detailed inspection for wear or play of the power lever of the hydromechanical control in the area where the rack-box drive tang is installed in the power lever. If any wear or play is found, before further flight, tighten the drive tang expansion screw to take up play, per the applicable service bulletin.

**Accomplishment of Required Actions Per Previous Service Bulletin Revisions**

(d) Inspections and corrective actions accomplished before the effective date of this AD per Airbus Service Bulletin A300-76-6003, Revision 02, dated June 5, 2000; or

Revision 03, dated November 9, 2000; or A310-76-2006, Revision 02, dated June 5, 2000; as applicable; are acceptable for compliance with paragraph (c) of this AD.

**Optional Terminating Action**

(e) Replacement of the existing throttle control cable assembly with a new improved assembly, per the Accomplishment Instructions of Airbus Service Bulletin A300-76-6004, Revision 01, dated October 11, 2000; or A310-76-2007, Revision 2, dated November 24, 1988; as applicable; constitutes terminating action for the repetitive inspections required by paragraph (c) of this AD.

**Alternative Methods of Compliance**

(f) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

**Incorporation by Reference**

(g) Unless otherwise specified in this AD, the actions shall be done in accordance with the applicable service bulletins listed in Table 2 of this AD. Table 2 of this AD follows:

TABLE 2.—SERVICE BULLETINS INCORPORATED BY REFERENCE

Airbus service bulletin	Revision	Date
A300-76-0007	Revision 06	August 23, 2001.
A300-76-0015	Revision 02	August 23, 2001.
A300-76-0016	Revision 03	August 23, 2001.
A300-76-6002	Revision 02	August 23, 2001.
A300-76-6003	Revision 04	February 26, 2002.
A300-76-6004	Revision 01	October 11, 2000.
A300-76-6007	Revision 01	March 14, 2000.
A300-76-6009	Revision 02	October 29, 1999.
A310-76-2001	Revision 01	March 14, 2000.
A310-76-2004	Revision 03	August 23, 2001.
A310-76-2005	Revision 10	March 14, 2000.
A310-76-2006	Revision 03	February 26, 2002.
A310-76-2007	Revision 2	November 24, 1988.
A310-76-2010	Revision 03	August 23, 2001.
A310-76-2012	Revision 02	November 5, 2001.

Airbus Service Bulletin A310-76-2005, Revision 01, contains the following effective pages:

Page number	Revision level shown on page	Date shown on page
1-5	01	March 14, 2000.
6-11	Original	November 26, 1985.

Airbus Service Bulletin A300-76-6004, Revision 01, contains the following effective pages:

Page number	Revision level shown on page	Date shown on page
1-3, 5	01	October 11, 2000.

Page number	Revision level shown on page	Date shown on page
4, 6-21	Original	October 22, 1986.

Airbus Service Bulletin A310-76-2007, Revision 2, contains the following effective pages:

Page number	Revision level shown on page	Date shown on page
1, 2, 11	2	November 24, 1988.
3-5, 9, 10, 19-21.	1	November 19, 1986.
6-8, 12-18.	Original	September 30, 1986.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 2001-072(B) R2, dated January 23, 2002.

**Effective Date**

(h) This amendment becomes effective on May 24, 2004.

Issued in Renton, Washington, on April 6, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane  
Directorate, Aircraft Certification Service.

[FR Doc. 04-8544 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2003-NM-125-AD; Amendment  
39-13576; AD 2004-08-07]

RIN 2120-AA64

#### Airworthiness Directives; Boeing Model 767-300 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767-300 series airplanes, that requires a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, and corrective actions, if necessary. This amendment also requires modification of the A1 galley. This action is necessary to prevent interference of the A1 galley with the radial stiffener on the aft pressure bulkhead, which could result in fatigue crack propagation. Fatigue crack propagation could lead to possible rapid decompression of the airplane or to damage and/or interference with the airplane control systems that pass through the bulkhead and consequent loss of control of the airplane. This action is intended to address the identified unsafe condition.

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

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

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

**FOR FURTHER INFORMATION CONTACT:**  
Suzanne Masterson, Aerospace  
Engineer, Airframe Branch, ANM-120S,

FAA, Seattle Aircraft Certification  
Office, 1601 Lind Avenue, SW., Renton,  
Washington 98055-4056; telephone  
(425) 917-6441; fax (425) 917-6590.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767-300 series airplanes was published in the *Federal Register* on October 1, 2003 (68 FR 56591). That action proposed to require a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, and corrective actions, if necessary. That action also proposed to require modification of the A1 galley.

#### Comments

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

#### Request To Withdraw the Proposed AD

One commenter, the airplane manufacturer, requests that the proposed AD be withdrawn. The commenter asserts that the proposed AD affects five airplanes currently operated by two operators. Of those five airplanes, the commenter states that three have adequate clearance, and no further action is required for those airplanes by Boeing Service Bulletin 767-53A0102 (referenced in the proposed AD as the appropriate source of service information for accomplishment of the actions in the proposed AD). The commenter further states that the (non-U.S.) operator of the two airplanes, which require further action, has the corrective actions scheduled.

We do not agree that the AD be withdrawn. As we explained in the preamble to the proposed AD, the AD differs from the service bulletin in that the AD mandates modification of the A1 galley regardless of the clearance, because the A1 galley is interchangeable and may be installed on other airplanes. The A1 galley exceeds the allowable size-envelope by three inches; this may result in interference and damage to the radial stiffener on the aft pressure bulkhead when the galley is installed on a different airplane. The airplane manufacturer agrees that such damage to the radial stiffener could cause decompression and/or interference with the airplane control systems. Therefore, we have determined that the modification is necessary.

Additionally, even though the two unmodified airplanes are not registered

in the U.S. and are scheduled to be brought into compliance with the requirements of the AD, the issuance of the AD is still necessary to ensure that those airplanes will be required to be in compliance should they be imported and placed on the U.S. register in the future. For these reasons, we find that the AD cannot be withdrawn. No change to the final rule is necessary in this regard.

#### Request To Reduce Compliance Time

One commenter supports the proposed AD, but requests that the proposed 18-month compliance time for inspection of the clearance between the corners of the A1 galley and the aft pressure bulkhead be reduced. The commenter states that, because of the seriousness of the potential resulting damage caused by improper clearances, the inspection should be conducted and any identified damage be repaired in a more timely manner. The commenter suggests no specific compliance time.

The FAA does not agree. In developing an appropriate compliance time, we considered the safety implications and normal maintenance schedules for timely accomplishment of the inspection. Further, we arrived at the compliance time with operator and manufacturer concurrence. In consideration of these factors, and because the amount of time required for a fatigue crack to initiate and propagate from a single area of damage is sufficiently long, we determined that the compliance time, as proposed, represents an appropriate interval in which the inspection can be accomplished in a timely manner, while still maintaining an adequate level of safety. Operators are always permitted to accomplish the requirements of an AD at a time earlier than the specified compliance time; therefore, an operator may choose to accomplish the inspection before the compliance time. If additional data are presented that would justify a shorter compliance time, we may consider further rulemaking on this issue. No change to the final rule is necessary in this regard.

#### Conclusion

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

#### Cost Impact

There are approximately 5 airplanes of the affected design in the worldwide fleet. The FAA estimates that 1 airplane of U.S. registry will be affected by this AD, that it will take approximately 8

work hours per airplane to accomplish the required inspection and modification, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on the U.S. operator is estimated to be \$520 for that airplane.

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

#### Regulatory Impact

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

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

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

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

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

2004-08-07 Boeing: Amendment 39-13576. Docket 2003-NM-125-AD.

**Applicability:** Model 767-300 series airplanes, line numbers 754, 761, 767, 775, and 776; certificated in any category.

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

To prevent interference of the A1 galley with the radial stiffener on the aft pressure bulkhead, which could result in fatigue crack propagation, leading to possible rapid decompression of the airplane or to damage and/or interference with the airplane control systems that pass through the bulkhead and consequent loss of control of the airplane; accomplish the following:

#### Inspection

(a) Within 18 months after the effective date of this AD, perform a general visual inspection for clearance between the corners of the A1 galley and the aft pressure bulkhead, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Corrective Action: Detailed Inspection

(b) If, during the inspection required by paragraph (a) of this AD, the clearance between the corners of the A1 galley and the aft pressure bulkhead is found to be less than 1.0 inch, before further flight, perform a detailed inspection for damage to the insulation and aft pressure bulkhead structure, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003. If any damage to the insulation or cracking in the aft pressure bulkhead is detected, before further flight, repair the damage and/or cracking per the Accomplishment Instructions of the service bulletin, except where the service bulletin specifies to contact the manufacturer for repair instructions if damage exceeds the conditions covered in the structural repair manual. If damage exceeds the limits specified in the structural repair manual, before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated

Engineering Representative who has been authorized by the Manager, Seattle ACO, to make such findings. For a repair method to be approved, the approval must specifically reference this AD.

**Note 2:** For the purposes of this AD, a detailed inspection is defined as: "An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required."

#### Concurrent Modification

(c) Before or concurrent with the requirements of paragraph (a) of this AD, modify the A1 galley, per the Accomplishment Instructions of Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003.

**Note 3:** Boeing Service Bulletin 767-53A0102, Revision 1, refers to BE Aerospace Service Bulletins 25-30-0079, dated April 22, 2002; and 25-30-0080, dated April 22, 2002; as additional sources of service information for accomplishment of the modification for Model 767-300 series airplanes.

#### Actions Accomplished Per Previous Issue of Service Bulletin

(d) The applicable actions accomplished before the effective date of this AD per Boeing Alert Service Bulletin 767-53A0102, dated November 21, 2002, are considered acceptable for compliance with the corresponding actions specified in this AD.

#### Alternative Methods of Compliance

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

#### Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 767-53A0102, Revision 1, dated April 24, 2003. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, P.O. Box 3707, Seattle, Washington 98124-2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(g) This amendment becomes effective on May 24, 2004.



Issued in Renton, Washington, on April 6, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane  
Directorate, Aircraft Certification Service.  
[FR Doc. 04-8543 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2001-NM-272-AD; Amendment  
39-13575; AD 2004-08-06]

RIN 2120-AA64

#### Airworthiness Directives; BAE Systems (Operations) Limited Model BAe 146-100A and -200A Series Airplanes

AGENCY: Federal Aviation  
Administration, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to all BAE Systems (Operations) Limited Model BAe 146-100A and -200A series airplanes, that requires an inspection to determine the part number of the inner links of the side stays for the main landing gear (MLG), and replacement of the inner links with new parts, if necessary. This action is necessary to prevent the failure of the MLG, which could result in damage to the airplane structure or injury to airplane occupants. This action is intended to address the identified unsafe condition.

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

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055-4056; telephone (425) 227-1175; fax (425) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all BAE Systems (Operations) Limited Model BAe 146-100A and -200A series airplanes was published in the *Federal Register* on December 5, 2003 (68 FR 67986). That action proposed to require an inspection to determine the part number of the inner links of the side stays for the main landing gear (MLG), and replacement of the inner links with new parts, if necessary.

#### Comments

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

#### Request to Revise Description of Part Having Specified Part Numbers

One commenter requests that paragraphs (b) and (c) of the proposed AD be revised to clarify the description of the part having the specified part numbers. The commenter notes that paragraphs (b) and (c) of the proposed AD require actions for side stays having part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343. The commenter contends that this leads readers to believe the part numbers are for the side stay, but the part numbers are actually for the inner link subassembly of the side stay. The commenter recommends that paragraphs (b) and (c) be revised to clarify that the actions are for any side stay having an inner link with part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343.

The FAA agrees that paragraphs (b) and (c) of the final rule should be revised to clarify the description of the part having the specified part numbers. As stated by the commenter, the part numbers specified in paragraphs (b) and (c) of the final rule are found on the inner link. We have revised paragraphs (b) and (c) of the final rule to clarify that the required actions apply to any side stay having an inner link with part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343.

#### Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the

adoption of the rule with the changes described previously. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

#### Cost Impact

The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$975, or \$65 per airplane.

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

#### Regulatory Impact

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

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

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

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

### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

##### § 39.13 [Amended]

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

#### 2004-08-06 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft): Amendment 39-13575. Docket 2001-NM-272-AD.

**Applicability:** All Model BAe 146-100A and -200A series airplanes; certificated in any category.

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

To prevent the failure of the main landing gear (MLG), which could result in damage to the airplane structure or injury to airplane occupants, accomplish the following:

##### Inspection to Determine Part Number

(a) Within 50 landings or 31 days after the effective date of this AD, whichever occurs first: Inspect the inner link of the side stays of the MLG to determine the part number, per the Accomplishment Instructions of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32-166, dated May 28, 2001. Although this service bulletin specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

**Note 1:** BAE Systems (Operations) Limited Inspection Service Bulletin, ISB.32-166, dated May 28, 2001, references Messier-Dowty Service Bulletin 146-32-153, dated May 29, 2001, as an additional source of service information for accomplishment of the inspection and replacement required by this AD. Although the Messier-Dowty service bulletin specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

##### Replacement at New Reduced Safe Life

(b) For any side stay which, during the inspection required by paragraph (a) of this AD, is found to have an inner link with part number 200884319, 200884320, 200884331, 200884332, 200884342, or 200884343: Replace the inner link with a new inner link having the same part number, at the applicable compliance time specified in paragraph 1.D. "Compliance" of BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32-166, dated May 28, 2001, as measured from the effective date of this AD.

##### Safe Remaining Life

(c) If any side stay having an inner link with part number 200884319, 200884320,

200884331, 200884332, 200884342, or 200884343 has been used at different operating weights, and the service bulletin recommends contacting Messier-Dowty for appropriate action based on the safe remaining life of the side stay: Contact the Manager, International Branch, ANM-116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, (or its delegated agent); for appropriate action.

##### Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

##### Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with BAE Systems (Operations) Limited Inspection Service Bulletin ISB.32-166, dated May 28, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 2:** The subject of this AD is addressed in British airworthiness directive 005-05-2001.

##### Effective Date

(f) This amendment becomes effective on May 24, 2004.

Issued in Renton, Washington, on April 6, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04-8541 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 2002-NM-292-AD; Amendment 39-13573; AD 2004-08-04]

RIN 2120-AA64

#### Airworthiness Directives; McDonnell Douglas Model MD-11 and MD-11F Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD),

applicable to certain McDonnell Douglas Model MD-11 and MD-11F airplanes, that requires repetitive inspections of the transfer pipe assembly installation for the tail tank for damage and cracks, and corrective action, if necessary. This action is necessary to detect and correct damage and cracks in the transfer pipe assembly installation for the tail tank, which could result in fuel leakage and possible ignition. This action is intended to address the identified unsafe condition.

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

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 24, 2004.

**ADDRESSES:** The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

##### FOR FURTHER INFORMATION CONTACT:

Samuel Lee, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (562) 627-5262; fax (562) 627-5210.

##### SUPPLEMENTARY INFORMATION:

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model MD-11 and MD-11F airplanes was published in the *Federal Register* on November 28, 2003 (68 FR 66768). That action proposed to require repetitive inspections of the transfer pipe assembly installation for the tail tank for damage and cracks, and corrective action, if necessary.

##### Comments

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

The commenter supports the proposed rule.

### Conclusion

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

### Interim Action

This AD is considered to be interim action. The manufacturer has advised that it currently is developing Service Bulletin MD11-28-111 that will address the unsafe condition addressed by this AD. Once this new service bulletin is developed, approved, and available, the FAA may consider additional rulemaking.

### Cost Impact

There are approximately 187 airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is \$65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$7,800, or \$130 per airplane, per inspection cycle.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions. Manufacturer warranty remedies may be available for labor costs associated with this AD. As a result, the costs attributable to the AD may be less than stated above.

### Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034,

February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

**2004-08-04 McDonnell Douglas:**  
Amendment 39-13573. Docket 2002-NM-292-AD.

**Applicability:** Model MD-11 and MD-11F airplanes, as listed in McDonnell Douglas Alert Service Bulletin MD11-28A110, dated May 2, 2000; certificated in any category.

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

To detect and correct damage and cracks to the transfer pipe assembly installation for the tail tank, which could result in fuel leakage and possible ignition, accomplish the following:

#### Service Bulletin References

(a) The term "service bulletin," as used in this AD, means the Accomplishment Instructions of McDonnell Douglas Alert Service Bulletin MD11-28A110, dated May 2, 2000. Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

#### Initial Inspection

(b) Within 700 flight hours from the effective date of this AD, perform a general visual inspection to detect any damage and cracking on the transfer pipe assembly installation for the tail tank, in accordance with the service bulletin.

**Note 1:** For the purposes of this AD, a general visual inspection is defined as: "A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This

level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked."

#### Condition 1 (No Damage/Cracking)

(c) If no damage or cracking to the transfer pipe assembly installation for the tail tank is found during the inspection required by paragraph (b) of this AD, repeat that inspection thereafter at intervals not to exceed 700 flight hours.

#### Condition 2 (Damage/Cracking found)

(d) If any damage or cracking to the transfer pipe assembly installation for the tail tank is found during the inspection required by paragraph (b) of this AD, before further flight, repair and/or replace any damaged or cracked part with a serviceable part, per the service bulletin. Repeat that inspection thereafter at intervals not to exceed 700 flight hours.

#### Alternative Methods of Compliance

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

#### Incorporation by Reference

(f) The actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11-28A110, dated May 2, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1-L5A (D800-0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

#### Effective Date

(g) This amendment becomes effective on May 24, 2004.

Issued in Renton, Washington, on April 6, 2004.

**Kevin M. Mullin,**

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

[FR Doc. 04-8539 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

[Docket No. FAA-2004-17145; Airspace  
Docket No. 04-ACE-19]

RIN 2120-AA66

**Modification of Class C Airspace, Des  
Moines International Airport, Des  
Moines, IA**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action revises the legal description for the Class C airspace area at the Des Moines International Airport (DSM), Des Moines, IA. The FAA is taking this action due to a change in the location of the airport reference point (ARP) for DSM. This action only revises the legal description of the DSM Class C airspace area and does not change the dimensions of the area.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Steve Rohring, Airspace and Rules, Office of System Operations and Safety, ATO-R, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

**SUPPLEMENTARY INFORMATION:**

**History**

Effective June 10, 2004, all regulatory airspace associated with the DSM terminal area will reflect a change in the DSM ARP. The DSM ARP will change from lat. 41°32'06" N., long. 93°39'39" W., to lat. 41°32'03" N., long. 93°39'45" W. This change results in a six second (approximately 360-foot) change in location. Because the DSM Class C Airspace area is based on the DSM ARP, the FAA is taking this action to revise the legal description of the DSM Class C airspace.

Since this action only changes the DSM ARP and does not involve a change in the dimensions or operational requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

**The Rule**

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) by revising the DSM Class C airspace area. The FAA is taking this action as a result of the change in location of the DSM ARP.

Class C airspace designations are published in paragraph 4000 of FAA

Order 7400.9L, dated September 2, 2003 and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class C airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed action: (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**Environmental Review**

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.ID, Policies and Procedures for Considering Environmental Impacts. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

**International Trade Impact Assessment**

This final rule is a domestic airspace rulemaking and will not constitute a barrier to international trade, including the export of U.S. goods and services to foreign countries or the import of foreign goods and services into the United States.

**Unfunded Mandates Assessment**

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Public Law 104-4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure of \$100 million or more (when adjusted annually for inflation) in any one year by state, local, and tribal governments in the aggregate, or by the private sector. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected

officers (or their designees) of State, local, and tribal governments on a proposed "significant intergovernmental mandate." A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon state, local, and tribal governments in the aggregate of \$100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that, before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan, which, among other things, must provide for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity for those small governments to provide input in the development of regulatory proposals.

This final rule does not contain any Federal intergovernmental or private sector mandates. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE; ROUTES; AND REPORTING POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 4000 Subpart C—Class C Airspace*

\* \* \* \* \*

**ACE IA C Des Moines International Airport, IA [Revised]**

Des Moines International Airport  
(Lat. 41°32'03" N., long. 93°39'45" W.)

That airspace extending upward from the surface to and including 5,000 feet MSL within a 5-mile radius of the Des Moines International Airport, and that airspace

extending upward from 2,200 feet MSL to and including 5,000 feet MSL within a 10-mile radius of the Des Moines International Airport.

\* \* \* \* \*

Issued in Washington, DC, on April 12, 2004.

Reginald C. Matthews,

Manager, Airspace and Rules.

[FR Doc. 04-8810 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2004-16919; Airspace Docket No. 04-ASO-3]

#### Establishment of Class D and E Airspace, Amendment of Class E Airspace; New Smyrna Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This action establishes Class D and Class E4 airspace and amends Class E5 airspace at New Smyrna Beach, FL. A federal contract tower with a weather reporting system is being constructed at the New Smyrna Beach Municipal Airport. Therefore, the airport will meet the criteria for establishment of Class D and Class E4 airspace. Class D surface area airspace and Class E4 airspace designated as an extension to Class D airspace is required when the control tower is open to contain existing Standard Instrument Approach Procedures (SIAPs) and other Instrument Flight Rules (IFR) operations at the airport. This action will establish Class D airspace extending upward from the surface, to but not including 1,200 feet MSL, within a 3.2-mile radius of the New Smyrna Beach Municipal Airport and a Class E4 airspace extension that is 5 miles wide and extends 7 miles southeast of the airport. A regional evaluation has determined the existing Class E5 airspace area should be amended to contain the Nondirectional Radio Beacon (NDB) or Global Positioning System (GPS) Runway (RWY) 29 SIAP. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) needed to contain the SIAP will increase from a 6.5-mile radius of the airport to a 6.6-mile radius of the airport and provide for the procedure turn area.

**EFFECTIVE DATE:** 0901 UTC, August 5, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Walter R. Cochran, Manager, Airspace

Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

#### SUPPLEMENTARY INFORMATION:

##### History

On February 19, 2004, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class D airspace and Class E4 airspace and amending Class E5 airspace at New Smyrna Beach, FL (69 FR 7714). This action provides adequate Class D, Class E4 and Class E5 airspace for IFR operations at New Smyrna Beach Municipal Airport. Designations for Class D Airspace, Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area and Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth are published in paragraphs 5000, 6004 and 6005 respectively, of FAA Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

##### The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes Class D airspace and Class E4 airspace and amends Class E5 airspace at New Smyrna Beach, FL.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR Part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; EO 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

##### *Paragraph 5000 Class D Airspace*

\* \* \* \* \*

##### ASO FL D New Smyrna Beach, FL [NEW]

New Smyrna Beach Municipal Airport, FL (Lat. 29°03'21"N, long. 80°56'54"W)

That airspace extending upward from the surface, to but not including 1,200 feet MSL, within a 3.2-mile radius of New Smyrna Beach Municipal Airport. This Class D airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

##### *Paragraph 6004 Class E4 Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.*

\* \* \* \* \*

##### ASO FL E4 New Smyrna Beach, FL [NEW]

New Smyrna Beach Municipal Airport, FL (Lat. 29°03'21" N, Long. 80°56'54" W)

New Smyrna Beach NDB, FL (Lat. 29°03'16" N, Long. 80°56'28" W)

That airspace extending upward from the surface within 2.5 miles each side of the New Smyrna Beach NDB 124° bearing, extending from the 3.2-mile radius to 7 miles southeast of the NDB. This Class E4 airspace area is effective during the specific days and times established in advance by a Notice to Airmen. The effective days and times will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

##### *Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

**ASO FL E5 New Smyrna Beach, FL**  
[Revised]

New Smyrna Beach Municipal Airport, FL  
(Lat. 29°03'21" N, Long. 80°56'54" W)  
Massey Ranch Airpark Airport  
(Lat. 28°58'44" N, Long. 80°55'30" W)  
New Smyrna Beach NDB, FL  
(Lat. 29°03'16" N, Long. 80°56'28" W)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of New Smyrna Beach Municipal Airport and within 4 miles northeast and 8 miles southwest of the 124° bearing from the New Smyrna Beach NDB extending from the 6.6-mile radius to 16 miles southeast of the airport and within a 6.5-mile radius of Massey Ranch Airpark Airport.

\* \* \* \* \*

Issued in College Park, Georgia, on April 1, 2004.

Jeffrey U. Vincent,  
Acting Manager, Air Traffic Division,  
Southern Region.

[FR Doc. 04-8816 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

[Docket No. FAA-2004-16985; Airspace  
Docket No. 04-ACE-3]

**Establishment of Class E2 Airspace;  
and Modification of Class E5 Airspace;  
Muscatine, IA**

**AGENCY:** Federal Aviation  
Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This rule establishes a Class E surface area at Muscatine, IA. It also modifies the Class E airspace area extending upward from 700 feet above the surface at Muscatine, IA by correcting discrepancies in the Muscatine Municipal Airport airport reference point.

The effect of this rule is to provide appropriate controlled Class E airspace for aircraft executing instrument approach procedures to Muscatine Municipal Airport and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

**DATES:** *Effective Date:* 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:**  
Kathy Randolph, Air Traffic Division,  
Airspace Branch, ACE-520C, DOT  
Regional Headquarters Building, Federal  
Aviation Administration, 901 Locust,  
Kansas City, MO 64106; telephone:  
(816) 329-2525.

**SUPPLEMENTARY INFORMATION:**

**History**

On Wednesday, February 25, 2004, the FAA proposed to amend 14 CFR part 71 to establish a Class E surface area and to modify other Class E airspace at Muscatine, IA (69 FR 8582). The proposal was to establish a Class E surface area at Muscatine, IA. It was also to modify the Muscatine, IA Class E5 airspace area and its legal description. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace designated as a surface area for an airport at Muscatine, IA. Controlled airspace extending upward from the surface of the earth is needed to contain aircraft executing instrument approach procedures. Weather observations will be provided by an Automatic Weather Observing/Reporting System (AWOS) and communications would be direct with Quad City Approach Control for those times when the airspace area is in effect.

This rule also revises the Class E airspace area extending upward from 700 feet above the surface at Muscatine, IA. Airspace required for diverse departures is expanded from a 6.5 to a 6.6-mile radius of Muscatine Municipal Airport. An examination of this Class E airspace area for Muscatine, IA revealed discrepancies in the Port City Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) radials used to define the airspace area extensions and in the descriptions of these extensions. This action corrects these discrepancies. The areas will be depicted on appropriate aeronautical charts.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of the same Order. The Class E airspace designations listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which

frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference,  
Navigation (Air).

**Adoption of the Amendment**

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A,  
CLASS B, CLASS C, CLASS D, AND  
CLASS E AIRSPACE AREAS;  
AIRWAYS; ROUTES; AND REPORTING  
POINTS**

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§ 71.1 [Amended]**

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

*Paragraph 6002 Class E Airspace  
Designated as Surface Areas.*

\* \* \* \* \*

**ACE IA E2 Muscatine, IA**

Muscatine Municipal Airport, IA  
(Lat. 41°22'04" N., long. 91°08'54" W.)

Within a 3.9-mile radius of Muscatine Municipal Airport. This Class E airspace area is effective during specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

*Paragraph 6005 Class E airspace areas  
extending upward from 700 feet or more  
above the surface of the earth.*

\* \* \* \* \*

**ACE IA E5 Muscatine, IA**

Muscatine Municipal Airport, IA

(Lat. 41°22'04" N., long. 91°08'54" W.)  
Port City VOR/DME

(Lat. 41°21'59" N., long. 91°08'58" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Muscatine Municipal Airport and within 2.6 miles each side of the 063° radial of the Port City VOR/DME and within 2.6 miles each side of the 233° radial of the VOR/DME extending from the 6.6-mile radius of the airport to 7 miles southwest of the VOR/DME.

\* \* \* \* \*

Issued in Kansas City, MO, on March 30, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04-8815 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2004-16984; Airspace Docket No. 04-ACE-2]

#### Modification of Class E Airspace; Clinton, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date:

**SUMMARY:** This document confirms the effective date of the direct final rule which revises Class E airspace at Clinton, MO.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

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

**SUPPLEMENTARY INFORMATION:** The FAA published this direct final rule with a request for comments in the *Federal Register* on February 25, 2004 (69 FR 8556) and subsequently published a correction in the direct final rule on March 3, 2004 (69 FR 10103). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become

effective on June 10, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on March 30, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04-8814 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2004-16986; Airspace Docket No. 04-ACE-4]

#### Modification of Class E Airspace; Parsons, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

**SUMMARY:** This document confirms the effective date of the direct final rule which revises Class E airspace at Parsons, KS.

**EFFECTIVE DATE:** 0901 UTC, June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Kathy Randolph, Air Traffic Division, Airspace Branch, ACE-520C, DOT Regional Headquarters Building, Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; telephone: (816) 329-2525.

#### SUPPLEMENTARY INFORMATION:

The FAA published this direct final rule with a request for comments in the *Federal Register* on February 25, 2004 (69 FR 8558). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 10, 2004. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO, on April 6, 2004.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 04-8813 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### 27 CFR Part 9

[T.D. TTB-10; Re: ATF Notice No. 958]

RIN 1513-AA40

#### Temecula Valley Viticultural Area (2001R-280P)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau (TTB), Treasury.

ACTION: Final rule; Treasury decision.

**SUMMARY:** This Treasury decision renames the "Temecula" viticultural area in southern California as the "Temecula Valley" viticultural area. The size and boundaries of the Temecula viticultural area remain unchanged.

**EFFECTIVE DATE:** This final rule is effective on June 18, 2004. Approved labels using the former name for the area may continue to be used until June 19, 2006.

**FOR FURTHER INFORMATION CONTACT:** N. A. Sutton, Specialist, Regulations and Procedures Division (Colorado), Alcohol and Tobacco Tax and Trade Bureau, 6660 Delmonico Drive, No. D422, Colorado Springs, CO 80919; telephone 415-271-1254.

#### SUPPLEMENTARY INFORMATION:

##### Effect of Homeland Security Act

Effective January 24, 2003, the Homeland Security Act of 2002 (Public Law 107-296, 116 Stat. 2135 (2002)) divided the Bureau of Alcohol, Tobacco and Firearms (ATF) into two new agencies, the Alcohol and Tobacco Tax and Trade Bureau (TTB) in the Department of the Treasury and the Bureau of Alcohol, Tobacco, Firearms and Explosives in the Department of Justice. The regulation of alcohol beverage labels, including viticultural area designations, remains the responsibility of the Treasury Department and is a function of TTB. References to ATF and TTB in this document reflect the time frame, before or after January 24, 2003, of the viticultural area petition process.

## Background on Viticultural Areas

### TTB Authority

The Federal Alcohol Administration Act (FAA Act) at 27 U.S.C. 205(e) requires that alcohol beverage labels provide the consumer with adequate information regarding a product's identity while prohibiting the use of misleading information on such labels. The FAA Act also authorizes the Secretary of the Treasury to issue regulations to carry out the Act's provisions. The Department's Alcohol and Tobacco Tax and Trade Bureau (TTB) administers these regulations.

Regulations in 27 CFR Part 4, Labeling and Advertising of Wine, allow the establishment of definitive viticultural areas and the use of their names as appellations of origin on wine labels and in wine advertisements. Title 27 CFR Part 9, American Viticultural Areas, contains the list of approved viticultural areas.

### Definition of an American Viticultural Area

Title 27 CFR, section 4.25(e)(1), defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features whose boundaries have been delineated in subpart C of part 9. These designations allow consumers and vintners to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to its geographic origin. We believe that the establishment of viticultural areas allows wineries to describe more accurately the origin of their wines to consumers and helps consumers identify the wines they may purchase. Establishment of a viticultural area is neither an approval nor endorsement by TTB of the wine produced in that area.

### Requirements To Establish a Viticultural Area

Section 4.25(e)(2) outlines the procedure for proposing or amending an American viticultural area. Any interested person may petition TTB to establish a grape-growing region as a viticultural area or modify an existing area. A petition for a new area should include:

- Evidence that the proposed viticultural area is locally and/or nationally known by the name specified in the petition;
- Historical or current evidence that the boundaries of the proposed viticultural area are as specified in the petition;
- Evidence of geographical features, such as climate, soil, elevation, and

physical features, that distinguish the proposed area from surrounding areas;

- A description of the proposed area's specific boundaries, based on features found on United States Geological Survey (USGS) or USGS-approved maps; and
- A copy of the appropriate USGS-approved map(s) with the boundaries prominently marked.

A petition requesting the modification of an established viticultural area must include information, evidence, and the appropriate maps to support the requested change(s).

### Impact on Current Wine Labels

#### General

This viticultural area's name change may affect bottlers who use brand names containing the terms "Temecula" and "Temecula Valley." If you fall in this category, you must ensure that your existing products are eligible to use the new name of the viticultural area, "Temecula Valley," as an appellation of origin. For a wine to be eligible, at least 85 percent of the grapes in the wine must have been grown within the viticultural area.

If the wine is not eligible for the appellation, you must change the brand name and obtain approval of a new label. Different rules apply if you label a wine in this category with a label approved prior to July 7, 1986. See 27 CFR 4.39(i) for details. Additionally, if you use the viticultural area name on a wine label in a context other than appellation of origin, the general prohibitions against misleading representation in part 4 of the regulations apply.

#### Use of the Name "Temecula" as an Appellation of Origin

From November 23, 1984, until June 18, 2004, the effective date of this final rule, the viticultural area's name was "Temecula." Since this is the first time we have changed the name of a viticultural area, we are allowing a two-year transition period during which approved wine labels bearing this viticultural area's former "Temecula" name may be used.

When this final rule takes effect, we will approve wine labels that show "Temecula Valley," not "Temecula," for the name of this appellation of origin. We have considered the following elements before approving this name change:

- The viticultural area has been known interchangeably by the "Temecula" and "Temecula Valley" names prior to, and since, the 1984 original approval of the viticultural area;

- Commenters confirm the area has been known by either name in the past, but emphasize that the newly approved "Temecula Valley" name is accurate and appropriate for the viticultural area; and
- The "Temecula Valley" name is distinctive and is incorporated into numerous business and area names found within the established boundaries.

Two years after the effective date of this rule, approved labels using the original name for this viticultural area, "Temecula," as an appellation of origin will be revoked by operation of this regulation. We have added a note to this effect as paragraph (d) of the Temecula Valley regulation at 27 CFR 9.50.

If we receive other petitions to change the names of existing viticultural areas, we will request comments on appropriate transition rules and make a decision based on the facts and circumstances of each case.

### Rulemaking Proceedings

#### Temecula Viticultural Area

ATF established the Temecula viticultural area (27 CFR 9.50) in Treasury Decision ATF-188, published in the *Federal Register* on October 23, 1984 (49 FR 42563). Located in southern California, the 33,000-acre Temecula viticultural area is in southwestern Riverside County in the Temecula Basin. The viticultural area covers the southern portion of the former Vail Ranch, and its outer boundaries generally follow those of the historical Santa Rosa, Temecula, Little Temecula, and Pauba land grants.

The original Temecula petitioners desired to use a true, historical name for the viticultural area and not the more recent commercial name of "Rancho California," which some growers in the area favored at first. Treasury Decision ATF-188 noted that the name "Temecula" is derived from the Luiseno Indian word "Temeku," which means "a place where the sun breaks through the white mist." The original Temecula petition stated that this description applied to the entire viticultural area, which is in a valley characterized by bright sun and misty marine air that flows inland from the Pacific Ocean. The 1984 decision noted that it is this marine air, which enters the Temecula Valley through gaps in the Santa Ana Mountains, that allows grape growing in this area.

#### Temecula Valley Petition

In August 2001, the Temecula Valley Winegrowers Association submitted a petition to ATF requesting that the "Temecula" viticultural area's name be



changed to "Temecula Valley." The petition stated that this name change would provide a more accurate description of the Temecula area's geography and greater clarity as to the area's location for wine consumers and the public. The petition did not request any change to the established Temecula viticultural area's boundaries.

The 2001 petition noted that when the Temecula viticultural area was originally established twenty years ago, the area was largely rural and agricultural. It added that the then small, unincorporated village of Temecula is now an incorporated city, larger in size, with a growing population. The city of Temecula's growth, the petition stated, accentuates the differences between the city and the surrounding agricultural region known as the Temecula Valley. The 2001 petition stated that when ATF approved the viticultural area's establishment in 1984, area residents and businesses used the terms "Temecula" and "Temecula Valley" interchangeably. The name change petition noted that the original Temecula Treasury Decision (ATF-188) cited Tom Hudson's 1981 book "A Thousand Years in the Temecula Valley" (Temecula Valley Chamber of Commerce) with its many uses of the term "Temecula Valley." The 1984 decision additionally noted the planned establishment of the Temecula Valley High School within the viticultural area's boundaries.

The Temecula Valley Winegrowers Association's 2001 petition also noted that local Temecula telephone directory lists numerous businesses and agencies using the name "Temecula Valley" in conjunction with their operating name.

Their petition also related that the organization is a merger of the Temecula Valley Vintners Association and the Temecula Winegrape Growers Association. The new Association stated in the petition, "To continue to mandate the term 'Temecula' is to honor a loose and ill-defined use of the term." The petition cited the use of "Napa" and "Napa Valley" as an example of how the differences between a city (Napa) and the surrounding agricultural area (Napa Valley) are recognized in a viticultural area name.

#### Notice of Proposed Rulemaking

ATF published a notice of proposed rulemaking regarding the name change from "Temecula" to "Temecula Valley" in the October 21, 2002, **Federal Register** as Notice No. 958 (67 FR 64573). In that notice, ATF requested comments by December 20, 2002, from all interested persons concerning the renaming of the Temecula viticultural

area as the Temecula Valley viticultural area. ATF received three comments, one with the petition and two in response to Notice No. 958, all in favor of the Temecula Valley viticultural area name change.

Mr. Gary McMillan, one of the original Temecula viticultural area petitioners, sent his supporting comment in with the 2001 name change petition. He recalled in his comment that the names Temecula and Temecula Valley were used interchangeably at the time of the original petition. His comment provided some supporting historical information on the names' interchangeability. The other two commenters, Mr. Peter Poole of Mt. Palomar Winery and Mr. Joe Travis Hart of Hart Winery, also supported the viticultural area's name.

#### TTB Decision

TTB finds that the petitioners provided sufficient evidence supporting their request to rename the "Temecula" viticultural area as "Temecula Valley." Temecula is no longer the small, agricultural village of 20 years ago. It is now a much larger city of 75,000 people covering 18,050 acres (see demographic information at <http://www.cityoftemecula.org>). We agree that "Temecula Valley" is now the more accurate name for this viticultural area. This change allows growers to better describe the origin of their grapes and helps consumers differentiate between the city of Temecula and the surrounding agricultural area in the Temecula Valley.

#### Regulatory Analyses and Notices

##### Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this rule because we impose no requirement to collect information.

##### Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation imposes no new reporting, record keeping, or other compliance burdens on a substantial number of small entities. Any benefit derived from the use and reputation of a viticultural area name is the result of a proprietor's own efforts and consumer acceptance of wines from that area. Accordingly, a regulatory flexibility analysis is not required.

##### Executive Order 12866

This rule is not a significant regulatory action as defined by

Executive Order 12866. Therefore, no regulatory analysis is required.

#### Drafting Information

The principal author of this document is N. A. Sutton (Colorado), Regulations Division and Procedures Division, Alcohol and Tobacco Tax and Trade Bureau.

#### List of Subjects in 27 CFR Part 9

Wine.

#### Authority and Issuance

■ For the reasons discussed in the preamble, title 27, Code of Federal Regulations, Part 9, American Viticultural Areas, is amended as follows:

#### PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

#### Subpart C—Approved American Viticultural Areas

■ 2. Section 9.50 is amended by revising the section heading, paragraph (a), and the introductory text of paragraphs (b) and (c), and by adding paragraph (d) to read as follows:

##### § 9.50 Temecula Valley.

(a) *Name*. The name of the viticultural area described in this section is "Temecula Valley."

(b) *Approved map*. The approved maps for determining the boundary of the Temecula Valley viticultural area are seven USGS quadrangle maps in the 7.5 minute series, as follows:

\* \* \* \* \*

(c) *Boundary*. The Temecula Valley viticultural area is located in Riverside County, California. The boundary is as follows:

\* \* \* \* \*

(d) From November 23, 1984, until June 17, 2004, the name of this viticultural area was "Temecula". Effective June 18, 2004, this viticulture area is named "Temecula Valley". Existing certificates of label approval showing "Temecula" as the appellation of origin will be revoked by operation of this regulation on June 19, 2006.

Signed: November 26, 2003.

Arthur J. Libertucci,  
Administrator.

Approved: March 19, 2004.

Timothy E. Skud,  
Deputy Assistant Secretary (Tax, Trade, and  
Tariff Policy).

[FR Doc. 04-8827 Filed 4-16-04; 8:45 am].

BILLING CODE 4810-31-P

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1952****Alaska State Plan; Approval of Plan Supplement; Level of Federal Enforcement**

**AGENCY:** Occupational Safety and Health Administration (OSHA), Department of Labor.

**ACTION:** Final rule.

**SUMMARY:** This document gives notice of OSHA's approval of a change to the Alaska occupational safety and health state plan excluding coverage from the plan of Alaska Native health care facilities that are federally owned and contractor operated, and of certain military installations. The Native health care facilities include those owned by the U.S. Department of the Interior, Indian Health Service; the U.S. Department of Defense; or the U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and operated by Tribal organizations under contract with the Indian Health Service. The military installations include four missile defense facilities and four U.S. Coast Guard facilities. Accordingly, federal OSHA will exercise enforcement authority over these facilities in Alaska. The State retains jurisdiction over construction and contract maintenance at these Native health care facilities. OSHA is amending its description of the State plan to reflect this change in the level of Federal enforcement in the State.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Paula O. White, Director, Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 693-2200.

**SUPPLEMENTARY INFORMATION:****A. Background**

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that states which wish to assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting, and obtaining federal approval of, a state plan. State plan approval occurs in stages which include initial approval under section 18(c) of the Act and, ultimately, final approval under section 18(e).

The Alaska state plan was initially approved on July 31, 1973, with notice published August 10, 1973 (38 FR 21630). On September 28, 1984, OSHA announced the final approval of the Alaska state plan pursuant to section 8(e) and amended Subpart R of 29 CFR Part 1952 to reflect the Assistant Secretary's decision (49 FR 38252). As a result, federal OSHA relinquished its authority with regard to occupational safety and health issues covered by the Alaska plan. Federal OSHA retained its authority over safety and health in private sector maritime employment; marine-related private sector employment at worksites on the navigable waters, such as floating seafood processing plants, marine construction, employments on artificial islands and offshore oil drilling platforms, and diving operations afloat; private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community and the Denali (Mt. McKinley) National Park; federal government agencies; and the U.S. Postal Service.

*Alaska Native Health Care Facilities*

In September 2000, Alaska Occupational Safety and Health (AKOSH) representatives were denied entry to conduct an inspection of the Kakanak Hospital operated by the Bristol Bay Area Health Corporation at Kakanak, Alaska. The Alaska Attorney General determined that since the hospital is owned by the federal government and operated under contract with the Indian Health Service, AKOSH would not have jurisdictional authority to pursue compulsory process. AKOSH has since determined that there are a number of similarly operated health facilities owned by the federal government over which AKOSH does not have enforcement authority. The OSH Act does not provide specific authority for state plans to include within their jurisdiction those federal instrumentalities which are government owned but contractor operated (GOCO) facilities. (See *Goodyear Atomic Corp. v. Miller*, 486 U.S. 174 (1988).) Accordingly, these facilities are deemed to be an issue no longer covered by the Alaska state plan. On July 10, 2001, AKOSH signed a memorandum of understanding (MOU) with federal OSHA agreeing to relinquish jurisdiction over Native health care facilities in Alaska that are federally owned and contractor operated. These include all Native health care facilities owned by the U.S. Department of the Interior, Indian Health Service; the U.S. Department of Defense; or the U.S. Department of Commerce, National

Oceanic and Atmospheric Administration; and operated by Tribal organizations under contract with the Indian Health Service. Federal OSHA is assuming jurisdiction and enforcement responsibility for these facilities.

Construction and contract maintenance activities at these facilities will remain under the jurisdiction of the State of Alaska, AKOSH, in accordance with a determination by the Alaska Attorney General that jurisdiction over such activities is permissible under state law. However, the Metlakatla Indian Community, Annette Island (Health) Service Unit, remains entirely under federal OSHA jurisdiction pursuant to an earlier modification to the state plan. (See 49 FR 4469.)

AKOSH retains jurisdiction over other Native health care facilities that are leased or owned by Tribal organizations, or city, county and state municipalities, again with the exception of the Metlakatla Indian Community. AKOSH will also provide consultation and training services at all Native health care facilities, upon request.

*Military Installations*

On February 11, 2004, the Alaska Commissioner of Labor requested that federal OSHA assume jurisdictional responsibilities for private contractors at certain military installations. Alaska noted that it was infeasible to obtain the security clearances necessary for highly classified and/or restricted areas at these military bases, and that private contractor compliance ultimately required negotiation with controlling federal agencies on hazard abatement and other compliance issues. Alaska requested that OSHA assume responsibility for conducting safety and health inspections of the operations of private contractors within the borders and confines of four missile defense facilities and four U.S. Coast Guard facilities: Cape Lisburne Long Range Missile Base (U.S. Air Force), Point Lay Short Range Missile Base (U.S. Air Force), Eareckson Air Station (Shemya Island—Department of Defense), Fort Greeley Missile Defense (Delta Junction—U.S. Army), the U.S. Coast Guard's Integrated Support Commands in Kodiak and Ketchikan, the U.S. Coast Guard Air Station in Sitka, and the U.S. Coast Guard 17th District Command in Juneau.

Accordingly, these establishments are deemed to be issues no longer covered by the Alaska state plan. Federal OSHA is assuming jurisdiction and enforcement responsibility for these facilities. AKOSH retains jurisdiction over all other military installations and will conduct safety and health

inspections of private contractors operating on military bases not listed above.

#### Changes to Description of State Plan

OSHA is amending its description of the state plan to reflect this change in the level of federal enforcement. In addition, 29 CFR 1952.243 and 1952.244 are reorganized into subparagraphs for readability.

#### B. Location of Supplement for Inspection and Copying

A copy of the Memorandum of Understanding referenced in this notice and related correspondence may be obtained from: Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW, Washington, DC 20210, (202) 693-2244, fax (202) 693-1671; Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington, 98101-3212, (206) 553-5930, fax (206) 553-6499; and the State of Alaska, Department of Labor and Workforce Development, 1111 W. 8th Street, Room 306, Juneau, Alaska 99802-1149, (907) 465-4855, fax (907) 465-6012. Other information about the Alaska state plan is posted on the State's Web site at <http://www.labor.state.ak.us/lss/>. For an electronic copy of this notice, see OSHA's Web site at <http://www.osha.gov>.

#### C. Public Participation

Under 29 CFR 1953.3(e), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. Alaska's determination that certain Native health care operations and certain military installations are no longer issues covered under the State's plan is already in effect per agreement with OSHA as a result of the State's inability to exercise legal authority. Additionally, under the terms of Alaska's Final Approval determination, which was issued in 1984 after an opportunity for public comment, federal standards and enforcement apply to safety or health issues that the State is unable to cover under its state plan. Accordingly, OSHA finds that further public participation is unnecessary, and this notice of approval is effective upon publication in the Federal Register.

#### List of Subjects in 29 CFR Part 1952

Indians, Intergovernmental relations, Law enforcement, Military installations, Occupational safety and health.

Signed at Washington, DC, this 6th day of April, 2004.

**John L. Henshaw,**  
Assistant Secretary.

■ For the reasons set out in the preamble, 29 CFR Part 1952 is amended as set forth below:

#### PART 1952—[AMENDED]

■ 1. Revise the authority citation for Part 1952 to read as follows:

**Authority:** Sec. 18 of the Occupational Safety and Health Act of 1970, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 5-2002 (67 FR 65007, October 22, 2002).

■ 2. Amend § 1952.243 by revising paragraph (b) to read as follows:

#### § 1952.243 Final approval determination.

\* \* \* \* \*

(b) Except as otherwise noted, the plan which has received final approval covers all activities of employers and all places of employment in Alaska. The plan does not cover:

- (1) Private sector maritime employment;
- (2) Worksites located on the navigable waters, including artificial islands;
- (3) Native health care facilities that are Federally owned and contractor operated, including those owned by the U.S. Department of the Interior—Indian Health Service, the U.S. Department of Defense, or the U.S. Department of Commerce—National Oceanic and Atmospheric Administration, and operated by Tribal organizations under contract with the Indian Health Service;
- (4) Operations of private sector employers within the Metlakatla Indian Community on the Annette Islands;
- (5) Operations of private sector employers within Denali (Mount McKinley) National Park;
- (6) Operations of private contractors at Cape Lisburne Long Range Missile Base, Point Lay Short Range Missile Base, Eareckson Air Station on Shemya Island, Fort Greeley Missile Defense in Delta Junction, the U.S. Coast Guard Integrated Support Commands in Kodiak and Ketchikan, the U.S. Coast Guard Air Station in Sitka, and the U.S. Coast Guard 17th District Command in Juneau;
- (7) Federal government employers and employees;
- (8) The U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-

operated facilities engaged in USPS mail operations; or

(9) The enforcement of the field sanitation standard, 29 CFR 1928.110, and the enforcement of the temporary labor camps standard, 29 CFR 1910.142, with respect to any agricultural establishment where employees are engaged in "agricultural employment" within the meaning of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1802(3), regardless of the number of employees, including employees engaged in hand packing of produce into containers, whether done on the ground, on a moving machine, or in a temporary packing shed, except that Alaska retains enforcement responsibility over agricultural temporary labor camps for employees engaged in egg, poultry, or red meat production, or the post-harvest processing of agricultural or horticultural commodities.

\* \* \* \* \*

■ 3. Amend § 1952.244 by revising paragraph (b) to read as follows:

#### § 1952.244 Level of Federal enforcement.

\* \* \* \* \*

(b) In accordance with section 18(e), final approval relinquishes Federal OSHA authority only with regard to occupational safety and health issues covered by the Alaska plan. OSHA retains full authority over issues which are not subject to State enforcement under the plan.

(1) Federal OSHA retains its authority relative to safety and health in private sector maritime activities and will continue to enforce all provisions of the Act, rules or orders, and all Federal standards, current or future, specifically directed to maritime employment (29 CFR Part 1915, shipyard employment; Part 1917, marine terminals; Part 1918, longshoring; Part 1919, gear certification) as well as provisions of general industry and construction standards (29 CFR Parts 1910 and 1926) appropriate to hazards found in these employments.

(2) Federal jurisdiction will be retained over marine-related private sector employment at worksites on the navigable waters, such as floating seafood processing plants, marine construction, employments on artificial islands, and diving operations in accordance with section 4(b)(1) of the Act.

(3) Federal jurisdiction is also retained and exercised by the Employment Standards Administration, U.S. Department of Labor (Secretary's Order 5-96, December 27, 1996) with respect to the field sanitation standard, 29 CFR 1928.110, and the enforcement

of the temporary labor camps' standard, 29 CFR 1910.142, in agriculture, as described in § 1952.243(b).

(4) Federal jurisdiction is also retained for Native health care facilities that are Federally owned and contractor operated, including those owned by the U.S. Department of the Interior, Indian Health Service; the U.S. Department of Defense; or the U.S. Department of Commerce, National Oceanic and Atmospheric Administration; and operated by Tribal organizations under contract with the Indian Health Service. However, the State retains jurisdiction over construction and contract maintenance activities at these facilities with the exception of the Metlakatla Indian Community, Annette Island Service Unit, which is entirely under Federal jurisdiction. (The State also retains jurisdiction over Native health care facilities that are leased or owned by Tribal organizations, except for the Metlakatla Indian Community.)

(5) Federal jurisdiction is also retained with regard to the operations of private contractors at Cape Lisburne Long Range Missile Base, Point Lay Short Range Missile Base, Eareckson Air Station on Shemya Island, Fort Greeley Missile Defense in Delta Junction, the U.S. Coast Guard Integrated Support Commands in Kodiak and Ketchikan, the U.S. Coast Guard Air Station in Sitka, and the U.S. Coast Guard 17th District Command in Juneau.

(6) Federal jurisdiction is also retained for private sector worksites located within the Annette Islands Reserve of the Metlakatla Indian Community, for private sector worksites located within the Denali (Mount McKinley) National Park, for Federal government employers, and for the U.S. Postal Service (USPS), including USPS employees, and contract employees and contractor-operated facilities engaged in USPS mail operations.

\* \* \* \* \*

[FR Doc. 04-8780 Filed 4-16-04; 8:45 am]

BILLING CODE 4510-26-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1952

#### Washington State Plan; Approval of Plan Supplement; Level of Federal Enforcement

**AGENCY:** Occupational Safety and Health Administration, Department of Labor.

**ACTION:** Final rule.

**SUMMARY:** This document gives notice of OSHA's approval of a change to the State of Washington's occupational safety and health state plan excluding coverage of establishments where the employer is either a federally recognized Indian Tribe or an enrolled member of a federally recognized Indian Tribe, and the establishment is located within the borders of an Indian reservation in the State, or on lands outside these reservations that are held in trust by the federal government for these Tribes. This extends a State plan exclusion previously established for establishments of the Yakama Indian Nation and Colville Confederated Tribes to all other recognized Tribes and their members. Accordingly, federal OSHA will exercise enforcement authority over such establishments in the State of Washington. The State retains jurisdiction over non-member private sector and State and local government employers located within the reservations or on Trust lands, and member employers located outside the reservations or Trust lands. OSHA is amending its description of the State plan to reflect this change in the level of federal enforcement in the State.

**EFFECTIVE DATE:** April 19, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Paula O. White, Director, Cooperative and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3700, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 693-2200.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 18 of the Occupational Safety and Health Act of 1970 (the Act), 29 U.S.C. 667, provides that states which wish to assume responsibility for developing and enforcing their own occupational safety and health standards may do so by submitting, and obtaining federal approval of, a state plan. State plan approval occurs in stages which include initial approval under section 18(c) of the Act and, ultimately, final approval under section 18(e). In the interim, between initial approval and final approval, there is a period of concurrent federal/state jurisdiction within a state operating an approved plan.

On January 26, 1973, OSHA published notice in the *Federal Register* (38 FR 2421) announcing the approval of the Washington state plan, as administered by the Washington Department of Labor and Industries, and the adoption of subpart F to 29 CFR part 1952 containing the decision and describing the state plan. On May 30,

1975, OSHA and the State of Washington entered into an operational status agreement which suspended the exercise of concurrent federal enforcement authority in all except specifically identified areas. OSHA and the State of Washington have subsequently amended this operational status agreement on several occasions. The pertinent provisions concerning the level of federal occupational safety and health enforcement in the State appear at 29 CFR 1952.122.

In April, 1987 and November, 1989 the State of Washington amended its plan to exclude coverage of establishments of the Yakama Indian Nation and the Colville Confederated Tribes. OSHA announced approval of these changes and assumption of federal enforcement responsibility for Indian or Tribally owned facilities within the Yakama and Colville reservations on March 30, 1990 (55 FR 11906) and September 12, 1990 (55 FR 37465), respectively.

The decision by the State of Washington to exclude coverage of member and Tribal employers of all federally recognized Indian Tribes from its state plan follows a refusal by another Tribe, the Makah Indian Tribe, to allow State entry to conduct a discrimination investigation and a safety and health complaint inspection. Based on this and similar denials of entry and questions as to the State's legal authority to regulate Indian-owned or Tribal workplaces, the State subsequently requested that OSHA assume jurisdiction over establishments operated by member and Tribal employers of all federally recognized Indian Tribes within the borders of Indian reservations or on lands held in Trust for the various Tribes in Washington State. Accordingly, these establishments are deemed to be an issue no longer covered by the Washington state plan. OSHA and the State of Washington signed an addendum to their operational status agreement on August 31, 2000. That addendum, which was effective upon signature, relinquishes State jurisdiction and enforcement authority and responsibility for all occupational safety and health matters at establishments of employers who are either federally recognized Indian Tribes or enrolled members of these Tribes, where such employers' establishments are located within the borders of Indian reservations in the State, or on lands outside these reservations that are held in trust by the federal government for these Tribes. Accordingly, federal OSHA is assuming jurisdiction and enforcement authority

for these establishments. Non-member private sector or State and local government employers whose establishments are located within the borders of Indian reservations or Trust lands and member employers located outside the territorial borders of Indian reservations or Trust lands remain under State plan jurisdiction. This addendum expands upon and supersedes the March 30, 1987 addendum addressing the Yakama Indian Nation and is compatible with the November 17, 1989 agreement with the Colville Confederated Tribes.

#### B. Location of Supplement for Inspection and Copying

A copy of the addendum to the operational status agreement and related correspondence may be obtained from: Office of State Programs, Directorate of Cooperative and State Programs, Occupational Safety and Health Administration, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 693-2244, fax (202) 693-1671; Office of the Regional Administrator, Occupational Safety and Health Administration, 1111 Third Avenue, Suite 715, Seattle, Washington, 98101-3212, (206) 553-5930, fax (206) 553-6499; and the State of Washington, Department of Labor and Industries, 7273 Linderson Avenue SW., Tumwater, Washington 98504-4600, (360) 902-5430, fax (360) 902-5529. Other information about the Washington state plan is posted on the State's Web site at <http://www.lni.wa.gov/wisha>. For an electronic copy of this **Federal Register** notice, see OSHA's Web site at <http://www.osha.gov>.

#### C. Public Participation

Under 29 CFR 1953.3(e) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. Washington's determination that certain Indian-operated establishments are no longer an issue covered under the State's plan is already in effect per agreement with OSHA and as a result of the State's inability to exercise legal authority. Additionally, a previous addendum to the State's operational status agreement provides for the limited resumption of federal enforcement authority at the State's request if necessary to protect the safety and health of workers in the State; this notice implements that provision. Accordingly, OSHA finds that public participation is unnecessary, and this notice of approval is effective upon publication in the **Federal Register**.

#### List of Subjects in 29 CFR Part 1952

Indians, Intergovernmental relations, Law enforcement, Occupational safety and health.

Signed at Washington, DC, this 6th day of April, 2004.

**John L. Henshaw,**  
Assistant Secretary.

■ For the reasons set out in the preamble, 29 CFR part 1952 is amended as set forth below:

#### PART 1952—[AMENDED]

■ 1. Revise the authority citation for part 1952 to read as follows:

**Authority:** Sec. 18 of the Occupational Safety and Health Act of 1970, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR part 1902; Secretary of Labor's Order No. 5-2002 (67 FR 65007, October 22, 2002).

■ 2. Section 1952.122 is amended by—

■ A. Removing paragraph (a)(9) and revising paragraph (a)(8).

■ B. Redesignating paragraphs (a)(10) and (a)(11) as paragraphs (a)(9) and (a)(10).

The revised text reads as follows:

#### § 1952.122 Level of Federal enforcement.

(a) \* \* \*

(8) Enforcement at establishments of employers who are federally recognized Indian Tribes or enrolled members of these Tribes—including establishments of the Yakama Indian Nation and Colville Confederated Tribes, which were previously excluded by the State in 1987 and 1989 respectively—where such establishments are located within the borders of Indian reservations, or on lands outside these reservations that are held in trust by the Federal government for these Tribes. (Non-member private sector or State and local government employers located within a reservation or on Trust lands, and member employers located outside the territorial boundaries of a reservation or Trust lands, remain the responsibility of the State.);

\* \* \* \* \*

[FR Doc. 04-8779 Filed 4-16-04; 8:45 am]

BILLING CODE 4510-26-P

#### CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

#### 45 CFR Part 2551

RIN 3045-AA29

#### Senior Companion Program; Amendments

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Final rule.

**SUMMARY:** These amendments to the regulations governing the Senior Companion Program (SCP) modify provisions concerning deductions for medical expenses and the allowability of certain volunteer expense items. The specific amendments are as follows: § 2551.42(c) is modified to increase the ceiling on medical expenses that may be deducted for determining income for eligibility purposes from 15 percent to 50 percent of the applicable income guideline; and §§ 2551.45 and 2551.93(d) are modified to allow project funds, including the required non-Federal share, to be used to reimburse volunteers for expenses, including transportation costs, incurred while performing volunteer assignments, and for purchase of equipment or supplies for volunteers on assignment.

**DATES:** These amendments are effective as of April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Peter L. Boynton, 202-606-5000, ext. 499.

**SUPPLEMENTARY INFORMATION:** The Corporation published a notice of proposed rulemaking (NPRM) for the Senior Companion Program, 45 CFR part 2551, in the **Federal Register** at 69 FR 6225, dated February 10, 2004.

#### Summary of Main Comments

In response to the Corporation's invitation in the notice of proposed rulemaking, the Corporation received 36 responses addressing the proposed amendments to the Senior Companion rules. All 36 respondents supported the proposed amendments modifying the medical expense deduction. Those who provided explanations for why they favored these amendments generally noted that it would permit a larger number of individuals with high medical expenses to serve, thus increasing the number of income-eligible volunteers and broadening their recruitment potential. Several noted that they have had to turn away volunteers who were only slightly over income, and this change would have enabled them to be enrolled. Concerning the amendments that would allow project funds to be used to reimburse volunteers for certain expenses that now may be paid only by the volunteer station, 16 responses expressed support, 1 expressed partial support, and 19 did not comment. Reasons cited for supporting the amendment included: (a) The possibility of developing innovative high-impact volunteer opportunities, (b) the value of increased flexibility to manage funds in accordance with local

needs, (c) the need to reimburse transportation expenses in rural areas, and (d) the desire to provide Senior Companions with certain supplies that they can use on any assignment, regardless of the volunteer station they are assigned to. Other specific comments and the Corporation's responses follow:

**Comment:** In addition to increasing the medical expense deduction, the income eligibility guidelines for Senior Companions should be increased or eliminated.

**Response:** The Domestic Volunteer Service Act currently stipulates that volunteers receiving stipends must have incomes at or below 125% of the poverty level. This provision may not be changed by regulation. In "Principles and Reforms for a Citizen Service Act," issued by President Bush April 9, 2002, the Administration proposed to eliminate the limits on income of Senior Companions receiving stipends. This continues to be the position of the Administration.

**Comment:** Grantees should not be allowed to use project funds to pay for expenses volunteers incur in transporting clients; these should remain the responsibility of the volunteer station.

**Response:** Under the modified regulation, grantees are free to establish their own policies regarding which assignment-related expenses volunteer stations must be responsible for under the memorandum of understanding between the grantee and the volunteer station.

#### Impact of Various Acts and Executive Orders

After carefully reviewing the changes implemented by this amendment, and after coordination with the Office of Management and Budget, it was determined that:

(1) This was a significant regulatory action under section 3(f)(4) of Executive Order 12866 "Regulatory Planning and Review", and required a review by the Office of Management and Budget;

(2) The Corporation hereby certifies that the Regulatory Flexibility Act does not apply because there is no "significant economic impact on a substantial number of small entities";

(3) That the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II) does not apply because the amendment does not result in any annual expenditures of \$100 million by State, local, Indian tribal governments or the private sector;

(4) That the Paperwork Reduction Act does not apply because the amendments

do not impose any additional reporting or record-keeping requirements;

(5) That the Small Business Regulatory Enforcement Fairness Act of 1996 does not apply because it is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, and would not result in an annual effect on the economy of \$100 million or more; result in an increase in cost or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets; and

(6) That Executive Order 13132, "Federalism" does not apply because it would not have substantial direct effects on the States or the relationship between the national government and the States.

#### List of Subjects in 45 CFR Part 2551

Aged, Grant programs—social programs, Volunteers.

■ For the reasons set forth in the preamble, the Corporation for National and Community Service amends 45 CFR part 2551 as follows:

#### PART 2551—THE SENIOR COMPANION PROGRAM

■ 1. The authority citation for part 2551 continues to read as follows:

**Authority:** 42 U.S.C. 4950 *et seq.*

##### § 2551.42 [Amended]

■ 2. In § 2551.42(c), remove the words "15 percent" and add the words "50 percent" in their place.

##### § 2551.45 [Amended]

■ 3. In § 2551.45, add a new paragraph (g), to read as follows:

##### § 2551.45 What cost reimbursements are provided to Senior Companions?

\* \* \* \* \*

(g) *Other volunteer expenses.* Senior Companions may be reimbursed for expenses incurred while performing their volunteer assignments provided these expenses are described in the Memorandum of Understanding negotiated with the volunteer station to which the volunteer is assigned, and there are sufficient funds available to cover these expenses and meet all other requirements identified in the notice of grant award.

##### § 2551.93 [Amended]

■ 4. In § 2551.93, remove paragraph (d) and redesignate paragraphs (e) through (i) as paragraphs (d) through (h).

Dated: April 7, 2004.

**Tess Scannell,**

*Director, National Senior Service Corps.*

[FR Doc. 04-8404 Filed 4-16-04; 8:45 am]

BILLING CODE 6050--\$-P

## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### 45 CFR Part 2553

RIN 3045-AA29

### Retired and Senior Volunteer Program; Amendments

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Final rule.

**SUMMARY:** These amendments to the regulations governing the Retired and Senior Volunteer Program (RSVP) modify provisions concerning the allowability of certain volunteer expense items. The specific amendments are as follows: §§ 2553.43 and 2553.73(d) are modified to allow project funds, including the required non-Federal share, to be used to reimburse volunteers for expenses, including transportation costs, incurred while performing volunteer assignments, and for purchase of equipment or supplies for volunteers on assignment.

**DATES:** These amendments are effective as of April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Peter L. Boynton, 202-606-5000, ext. 499.

**SUPPLEMENTARY INFORMATION:** The Corporation published a notice of proposed rulemaking (NPRM) for the Retired and Senior Volunteer Program, 45 CFR part 2553, in the *Federal Register* at 69 FR 6228, dated February 10, 2004.

#### Summary of Main Comments

In response to the Corporation's invitation in the notice of proposed rulemaking, the Corporation received 12 responses addressing the proposed amendments to the Retired and Senior Volunteer Program rules. 11 responses expressed support for the proposed amendments, and one expressed partial support. Reasons for favoring the amendments included: (a) The need for flexibility for an RSVP project to run its own programs; (b) creation of more options for volunteer placement; (c) improved ability to meet certain community needs; and (d) transportation needs and costs in rural areas. Related comments and the Corporation's responses follow:

*Comment:* Grantees should not be allowed to use project funds to pay for assignment-related equipment and supplies used by volunteers; these should remain the responsibility of the volunteer station.

*Response:* Under the modified regulation, grantees are free to establish their own policies regarding which assignment-related expenses volunteer stations must be responsible under the memorandum of understanding between the grantee and the volunteer station.

*Comment:* The requirement to specify each expense in the Memorandum of Understanding (MOU) may impose additional administrative burden on the grantee and the volunteer station.

*Response:* Since the MOU is the document that defines the respective responsibilities of the grantee and the volunteer station, the Corporation believes it is the appropriate document in which to describe the expenses for which each party to the MOU is responsible.

#### Impact of Various Acts and Executive Orders

After carefully reviewing the changes implemented by this amendment, and after coordination with the Office of Management and Budget, it was determined that:

(1) This was a significant regulatory action under section 3(f)(4) of Executive Order 12866 "Regulatory Planning and Review," and required a review by the Office of Management and Budget;

(2) The Corporation hereby certifies that the Regulatory Flexibility Act does not apply because there is no "significant economic impact on a substantial number of small entities";

(3) That the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II) does not apply because the amendment does not result in any annual expenditures of \$100 million by State, local, Indian tribal governments or the private sector;

(4) That the Paperwork Reduction Act does not apply because the amendments do not impose any additional reporting or record-keeping requirements;

(5) That the Small Business Regulatory Enforcement Fairness Act of 1996 does not apply because it is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996, and would not result in an annual effect on the economy of \$100 million or more; result in an increase in cost or prices; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-

based companies in domestic and export markets; and

(6) That Executive Order 13132, "Federalism" does not apply because it would not have substantial direct effects on the States or the relationship between the national government and the States.

#### List of Subjects in 45 CFR Part 2553

Aged, Grant programs—social programs, Volunteers.

■ For the reasons set forth in the preamble, the Corporation for National and Community Service amends 45 CFR part 2553 as follows:

#### PART 2553—THE RETIRED AND SENIOR VOLUNTEER PROGRAM

■ 1. The authority citation for part 2553 continues to read as follows:

*Authority:* 42 U.S.C. 4950 *et seq.*

■ 2. In § 2553.43, add a new paragraph (e) to read as follows:

#### § 2553.43 What cost reimbursements are provided to RSVP volunteers?

\* \* \* \* \*

(e) *Other volunteer expenses.* RSVP volunteers may be reimbursed for expenses incurred while performing their volunteer assignments provided these expenses are described in the Memorandum of Understanding negotiated with the volunteer station to which the volunteer is assigned.

#### § 2553.73 [Amended]

■ 3. In § 2553.73, remove paragraph (d) and redesignate paragraphs (e) through (i) as paragraphs (d) through (h).

Dated: April 7, 2004.

Tess Scannell,

Director, National Senior Service Corps.

[FR Doc. 04-8403 Filed 4-16-04; 8:45 am]

BILLING CODE 6050-SS-P

#### DEPARTMENT OF TRANSPORTATION

#### Research and Special Programs Administration

#### 49 CFR Part 172

[Docket No. RSPA-03-13658 (HM-215E)]

RIN 2137-AD41

#### Harmonization With the United Nations Recommendations, International Maritime Dangerous Goods Code, and International Civil Aviation Organization's Technical Instructions

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule; extension of compliance date.

**SUMMARY:** RSPA is extending the compliance date of the recently adopted air eligibility marking requirement. On July 31, 2003, RSPA published a final rule under Docket Number RSPA-2002-13658 (HM-215E) requiring mandatory compliance with the air eligibility marking by October 1, 2004. This final rule extends the October 1, 2004 mandatory compliance date to October 1, 2006.

**DATES:** The effective date of this final rule is April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Joan McIntyre, Office of Hazardous Materials Standards, telephone (202) 366-8553, or Shane Kelley, International Standards, telephone (202) 366-0656, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590-0001.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

On July 31, 2003, the Research and Special Programs Administration (RSPA, we) published a final rule under Docket HM-215E (68 FR 44992) revising the Hazardous Materials Regulations (HMR) to maintain alignment with recent changes to corresponding provisions in the International Civil Aviation Organization's (ICAO) Technical Instructions, the International Maritime Dangerous Goods Code and the United Nations Recommendations. One of the amendments made in the July 31, 2003 final rule was the incorporation into the HMR of an air eligibility marking requirement, consistent with the ICAO Technical Instructions' air eligibility marking requirement. Since publication of the final rule, ICAO approved an amendment to the 2005-2006 ICAO Technical Instructions that will replace the air eligibility mark with a shipper's certification on the shipping paper, and approved an addendum to the 2003-2004 edition of the ICAO Technical Instructions that revises the air eligibility marking requirement by making it optional rather than mandatory during the interim period leading up to the effective date of the 2005-2006 ICAO Technical Instructions. Based on ICAO's action, we are re-evaluating the marking requirement. To provide an opportunity for public comment, this issue will be addressed in an upcoming NPRM to be issued under Docket HM-215G. Currently under the HMR, the air eligibility marking requirement becomes mandatory on October 1, 2004. Taking into consideration the time element involved with the HM-215G rulemaking

process, in this final rule we are adding a new paragraph (e) in § 172.321 to extend the mandatory compliance date for meeting the air eligibility marking requirement to October 1, 2006.

## II. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This final rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and was not reviewed by the Office of Management and Budget. This final rule is not considered significant under the Regulatory Policies and Procedures of the Department of Transportation [44 FR 11034]. This final rule amends a July 31, 2003 final rule by extending the compliance date for the air eligibility marking requirement from October 1, 2004 to October 1, 2006. The compliance date extension adopted in this final rule does not alter the cost-benefit analysis and conclusions contained in the Regulatory Evaluation prepared for the July 31, 2003 final rule. Indeed, the compliance date extension assures that persons who offer hazardous materials for transportation by air will not incur increased costs to comply with a requirement that may be amended.

### B. Executive Order 13132

This final rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 ("Federalism"). This rulemaking preempts State, local and Indian tribe requirements but does not propose any regulation that has substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

The Federal hazardous material transportation law, 49 U.S.C. 5101–5127, contains an express preemption provision (49 U.S.C. 5125(b)) that preempts State, local, and Indian tribe requirements on certain covered subjects. Covered subjects are:

- (1) The designation, description, and classification of hazardous materials;
- (2) The packing, repacking, handling, labeling, marking, and placarding of hazardous materials;
- (3) The preparation, execution, and use of shipping documents related to hazardous materials and requirements related to the number, contents, and placement of those documents;
- (4) The written notification, recording, and reporting of the

unintentional release in transportation of hazardous; or

(5) The design, manufacture, fabrication, marking, maintenance, recondition, repair, or testing of a packaging or container represented, marked, certified, or sold as qualified for use in transporting hazardous material.

This final rule addresses covered subject item (2) above and would preempt State, local, and Indian tribe requirements not meeting the "substantively the same" standard. Federal hazardous materials transportation law provides at 49 U.S.C. 5125(b)(2) that, if DOT issues a regulation concerning any of the covered subjects, DOT must determine and publish in the **Federal Register** the effective date of Federal preemption. The effective date may not be earlier than the 90th day following the date of issuance of this final rule and not later than two years after the date of issuance. The effective date of Federal preemption is July 19, 2004.

### C. Executive Order 13175

This final rule was analyzed in accordance with the principles and criteria contained in Executive Order 13175 ("Consultation and Coordination with Indian Tribal Governments"). Because this final rule does not have tribal implications, does not impose substantial direct compliance costs, and is required by statute, the funding and consultation requirements of Executive Order 13175 do not apply.

### D. Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires an agency to review regulations to assess their impact on small entities, unless the agency determines that a rule is not expected to have a significant impact on a substantial number of small entities. This final rule applies to businesses, some of whom are small entities, that offer for transportation or transport hazardous materials in commerce for transportation by air. This final rule provides an extension of the compliance date for the recently adopted air eligibility marking requirement. The compliance date extension assures that persons who offer hazardous materials for transportation by air will not incur increased costs to comply with a requirement that may be amended. Therefore, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

This final rule has been developed in accordance with Executive Order 13272 ("Proper Consideration of Small Entities

in Agency Rulemaking") and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act to ensure that potential impacts of draft rules on small entities are properly considered.

### E. Paperwork Reduction Act

This final rule does not impose new information collection requirements.

### F. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross-reference this action with the Unified Agenda.

### G. Unfunded Mandates Reform Act

This final rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to either State, local or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objective of the rule.

### H. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA) requires Federal agencies to consider the consequences of major Federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. The environmental assessment prepared for the July 31, 2003 final rule can be found in the public docket for this rulemaking. The revisions adopted in this final rule do not alter the conclusions contained in the environmental assessment. There are no significant environmental impacts associated with this final rule.

### List of Subjects in 49 CFR Part 172

Education, Hazardous materials transportation, Hazardous waste, Labeling, Markings, Packaging and containers, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, amend 49 CFR Chapter I as follows:

### PART 172—HAZARDOUS MATERIALS TABLE, SPECIAL PROVISIONS, HAZARDOUS MATERIALS COMMUNICATIONS, EMERGENCY RESPONSE INFORMATION, AND TRAINING REQUIREMENTS

■ 1. The authority citation for part 172 continues to read as follows:



Authority: 49 U.S.C. 5101-5127; 49 CFR 1.53.

■ 2. In § 172.321, a new paragraph (e) is added to read as follows:

**§ 172.321 Air eligibility mark.**

\* \* \* \* \*

(e) *Transition Date.* Compliance with the requirements of this section is not mandatory until October 1, 2006.

Issued in Washington, DC, on April 12, 2004, under authority delegated in 49 CFR part 1.

Samuel G. Bonasso,

Deputy Administrator, Research and Special Programs Administration.

[FR Doc. 04-8825 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-60-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031124287-4060-02; I.D. 041404B]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/"Other flatfish" Fishery Category by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

**ACTION:** Closure.

**SUMMARY:** NMFS is closing directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in

the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category in the BSAI.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), April 16, 2004, through 1200 hrs, A.l.t., July 4, 2004.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The 2004 halibut bycatch allowance was specified for the trawl rock sole/flathead sole/"other flatfish" fishery category in the BSAI by the 2004 final harvest specifications for groundfish of the BSAI (69 FR 9242, February 27, 2004), as 164 metric tons for the period of 1200 hrs, A.l.t., April 1, 2004 through 1200 hrs, A.l.t., July 4, 2004.

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the amount of the second seasonal apportionment of the 2004 halibut bycatch allowance specified for the trawl rock sole/flathead sole/"other flatfish" fishery category in the BSAI has been caught. Consequently, NMFS is closing directed

fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for species in the rock sole/flathead sole/"other flatfish" fishery category by vessels using trawl gear in the BSAI.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: April 14, 2004.

**Alan D. Risenhoover,**

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 04-8765 Filed 4-14-04; 4:26 pm]

BILLING CODE 3510-22-S

## Proposed Rules

Federal Register

Vol. 69, No. 75

Monday, April 19, 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.

### DEPARTMENT OF AGRICULTURE

#### Farm Service Agency

7 CFR Parts 761, 762, 763, 764, 765, 766, 767, 768, and 769

RIN 0560-AF60

#### Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Proposed rule: reopening and extension of comment period.

**SUMMARY:** The Farm Service Agency (FSA) is reopening and extending the comment period for the proposed rulemaking, Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs. The original comment period for the proposed rule closed on April 9, 2004, and FSA is reopening and extending it for 15 days from the date of this notice. FSA also will consider any comments received from April 9, 2004, to the date of this notice. This action responds to requests from the public to provide more time to comment on the proposed rule.

**DATES:** Comments must be submitted by May 4, 2004 to be assured consideration. Comments received after that date will be considered to the extent practical.

**ADDRESSES:** FSA invites interested persons to submit comments. Comments may be submitted by any of the following methods:

- *E-mail:* Send comments to [bill\\_cobb@wdc.usda.gov](mailto:bill_cobb@wdc.usda.gov).
- *Fax:* Submit comments by facsimile transmission to 202-690-3573.
- *Mail:* Send comments to: Deputy Administrator for Farm Loan Programs, USDA/FSA/DAFLP/STOP 0520, 1400 Independence Avenue SW., Washington, DC 20250-0520.
- *Hand Delivery or Courier:* Deliver comments to: Deputy Administrator for Farm Loan Programs, Room 3605 South Building, 1400 Independence Avenue SW., Washington, DC 20250.

• *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

• Persons with disabilities who require alternative means for communication for regulatory information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD).

Comments may be inspected in the Office of the Deputy Administrator for Farm Loan Programs, FSA, USDA, Room 3605 South Building, 1400 Independence Ave., SW., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**SUPPLEMENTARY INFORMATION:** On February 9, 2004, FSA published a proposed rule, Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs, in the *Federal Register* (69 FR 6055). The rule proposed to streamline regulations covering the direct Farm Loan Programs by reorganizing loan making and loan servicing policies and removing internal and administrative procedures. In addition, the rule proposed to move the direct loan regulations from Chapter XVIII of Title VII of the Code of Federal Regulations to Chapter VII of Title VII. Finally, the rule proposed to revise loan making and servicing policies within the confines of the existing statutory authority.

The Agency believes that the request for additional time to comment on the proposed rule is reasonable and will still allow the rulemaking to proceed in a timely manner. As a result of the reopening and extension, the comment period for the proposed rule will close on May 4, 2004.

Signed in Washington, DC, April 12, 2004.

**Verle E. Lanier,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 04-8772 Filed 4-16-04; 8:45 am]

BILLING CODE 3410-05-P

### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2003-16810; Airspace Docket No. 03-AWA-8]

RIN 2120-AA66

#### Proposed Revision to the Class C Airspace Area, Manchester; NH

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This action proposes to revise the Manchester Airport, Manchester NH, Class C airspace area by changing the hours of the airspace to be consistent with current operational requirements. Specifically, the hours of operation would be reduced from continuous, to only during the specific dates and times established in advance by a Notice to Airmen (NOTAM). The effective dates and times would coincide with the hours of operation of the Manchester Airport Traffic Control Tower (ATCT). This proposed action would not change the actual dimensions, configuration, or operating requirements of the Manchester Class C airspace area.

**DATES:** Comments must be received on or before June 3, 2004.

**ADDRESSES:** Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify FAA Docket No. FAA-2003-16810, and Airspace Docket No. 03-AWA-8, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Paul Gallant, Airspace and Rules, Office of System Operations and Safety, ATO-R, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-8783.

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views,

or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA-2003-6810, and Airspace Docket No. 03-AWA-8) and be submitted in triplicate to the Docket Management System (see ADDRESSES section for address and phone number). You may also submit comments through the Internet at <http://dms.dot.gov>.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to FAA Docket No. FAA-2003-16810, and Airspace Docket No. 03-AWA-8." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov>, or the Federal Register's Web page at <http://www.gpoaccess.gov/fr/index.html>.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see ADDRESSES section for address and phone number) between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

Persons interested in being placed on a mailing list for future NPRM's should

call the FAA's Office of Rulemaking, (202) 267-9677, for a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

#### The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 (part 71) to revise the Manchester, NH, Class C airspace area. The proposed action would change the hours of the airspace from continuous to specific dates and times established in advance by a NOTAM. The effective dates and times would coincide with the hours of operation of the Manchester ATCT. The planned revised operating hours of the Manchester ATCT are from 6:00 am to midnight local time, daily. When the Manchester ATCT is not operational, the Class C airspace area would revert to a Class E airspace area. The proposed action would not change the actual dimensions, configuration, or operating requirements of the Manchester Class C airspace area.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

#### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9L, Airspace Designations and Reporting Points, dated September 2, 2003, and effective September 16, 2003, is amended as follows:

Paragraph 4000 Class C Airspace.

\* \* \* \* \*

#### ANE NH C Manchester Airport, NH [Revised]

Manchester Airport, NH

(Lat. 42°56'00" N., long. 71°26'16" W.)

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of the Manchester Airport; including that airspace extending upward from 2,500 feet MSL to and including 4,300 feet MSL within a 10-mile radius of the airport; including that airspace from 1,500 feet MSL between a 5-mile and 10-mile radius south of the airport from Interstate 93 clockwise to the eastern edge of the 5-mile radius of Nashua Airport; including that airspace from 2,000 feet MSL between a 5-mile radius and 10-mile radius north of the airport from the Manchester VORTAC 315° radial clockwise to Interstate 93. This Class C airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

\* \* \* \* \*

Issued in Washington, DC, on April 7, 2004.

Reginald C. Matthews,  
Manager, Airspace and Rules.

[FR Doc. 04-8809 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

#### DEPARTMENT OF TRANSPORTATION

#### Federal Aviation Administration

#### 14 CFR Part 71

[Docket No. FAA-2004-17496; Airspace Docket No. 04-AAL-4]

#### Proposed Establishment of Class E Airspace; Allakaket, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish new Class E airspace at Allakaket, AK. Two new Standard Instrument Approach Procedures (SIAP) and one new Textual Departure Procedure are being published for the Allakaket Airport. There is no existing Class E airspace to contain aircraft

executing the new instrument approaches at Allakaket, AK. Adoption of this proposal would result in the establishment of Class E airspace upward from 700 feet (ft.) and 1200 ft. above the surface at Allakaket, AK.

**DATES:** Comments must be received on or before June 3, 2004.

**ADDRESSES:** Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-17496/Airspace Docket No. 04-AAL-4, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Manager, Operations Branch, AAL-530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

**FOR FURTHER INFORMATION CONTACT:** Jesse Patterson, AAL-538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail: [Jesse.CTR.Patterson@faa.gov](mailto:Jesse.CTR.Patterson@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

**SUPPLEMENTARY INFORMATION:**

**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following

statement is made: "Comments to Docket No. FAA-2004-17496/Airspace Docket No. 04-AAL-4." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of Notice of Proposed Rulemaking's (NPRM's)**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71) by establishing new Class E airspace at Allakaket, AK. The intended effect of this proposal is to establish Class E airspace upward from 700 ft. and 1,200 ft. above the surface, to contain Instrument Flight Rules (IFR) operations at Allakaket, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAPs for the Allakaket Airport. The new approaches are: (1) Area Navigation (Global Positioning System) (RNAV GPS) Runway (RWY) 5, original; and (2) RNAV (GPS) Runway 23, original. A Textual Departure Procedure will also be established. New

Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface within the Allakaket Airport area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedures for the Allakaket Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are published in paragraph 6005 in FAA Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**The Proposed Amendment**

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

**PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389.

**§71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, is to be amended as follows:

\* \* \* \* \*

*Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

**AAL AK E5 Allakaket, AK [New]**

Allakaket Airport, AK  
(Lat. 66°33'07" N., long. 152°37'20" W.)

That airspace extending upward from 700 feet above the surface within a 7.1-mile radius of the Allakaket Airport and that airspace extending upward from 1,200 feet above the surface within an area bounded by 66°09' N. 153°40' W. to 66°40' N. 153°00'10" W. to 66°09' N. 153°00' W. to point of beginning, excluding the Fairbanks Class E airspace, the Indian Mountain Class E airspace, and that airspace designated for federal airways.

\* \* \* \* \*

Issued in Anchorage, AK, on April 8, 2004.

Anthony M. Wylie,  
*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04-8812 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-P

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2004-17497; Airspace Docket No. 04-AAL-05]

**Proposed Revision of Class E Airspace; Kipnuk, AK**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This action proposes to revise Class E airspace at Kipnuk, AK.

Two new Standard Instrument Approach Procedures (SIAP's) are being published for the Kipnuk Airport. An airspace review has determined that the existing Class E airspace at Kipnuk is insufficient to contain aircraft executing the new SIAP's. Adoption of this proposal would result in additional Class E airspace upward from 700 feet (ft.) above the surface at Kipnuk, AK.

**DATES:** Comments must be received on or before June 3, 2004.

**ADDRESSES:** Send comments on the proposal to the Docket Management

System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590-0001. You must identify the docket number FAA-2004-17497/Airspace Docket No. 04-AAL-05, at the beginning of your comments. You may also submit comments on the Internet at <http://dms.dot.gov>. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1-800-647-5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, Manager, Operations Branch, AAL-530, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587.

**FOR FURTHER INFORMATION CONTACT:** Jesse Patterson, AAL-538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513-7587; telephone number (907) 271-5898; fax: (907) 271-2850; e-mail: [Jesse.ctr.Patterson@faa.gov](mailto:Jesse.ctr.Patterson@faa.gov). Internet address: <http://www.alaska.faa.gov/at>.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire.

Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2004-17497/Airspace Docket No. 04-AAL-05." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may

be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of Notice of Proposed Rulemaking's (NPRM's)**

An electronic copy of this document may be downloaded through the Internet at <http://dms.dot.gov>. Recently published rulemaking documents can also be accessed through the FAA's Web page at <http://www.faa.gov> or the Superintendent of Document's Web page at <http://www.access.gpo.gov/nara>.

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic Airspace Management, ATA-400, 800 Independence Avenue, SW., Washington, DC 20591 or by calling (202) 267-8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267-9677, to request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

**The Proposal**

The FAA is considering an amendment to the Code of Federal Regulations (14 CFR Part 71) by revising Class E airspace at Kipnuk, AK. The intended effect of this proposal is to extend Class E airspace upward from 700 ft. above the surface, to contain Instrument Flight Rules (IFR) operations at Kipnuk, AK.

The FAA Instrument Flight Procedures Production and Maintenance Branch has developed two new SIAP's for the Kipnuk Airport. The new approaches are (1) Area Navigation (Global Positioning System) (RNAV GPS) RWY 33, original and (2) RNAV (GPS) RWY 15, original. Additional Class E controlled airspace extending upward from 700 ft. above the surface within the Kipnuk, Alaska area would be created by this action. The proposed airspace is sufficient to contain aircraft executing the new instrument procedure for the Kipnuk Airport.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 foot transition areas are

published in paragraph 6005 in FAA Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

#### **PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS**

1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9L, *Airspace Designations and Reporting Points*, dated September 2, 2003, and effective September 16, 2003, is to be amended as follows:

\* \* \* \* \*

*Paragraph 6005 Class E airspace extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

AAL AK E5 Kipnuk, AK [Revised]  
Kipnuk Airport, AK

(Lat. 59°55'59" N., long. 164°01'50" W.)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of the Kipnuk Airport.

\* \* \* \* \*

Issued in Anchorage, AK, on April 8, 2004.

**Anthony M. Wylie,**  
*Acting Manager, Air Traffic Division, Alaskan Region.*

[FR Doc. 04–8811 Filed 4–16–04; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 101

[Docket No. 2003N–0076]

#### **Food Labeling: Trans Fatty Acids in Nutrition Labeling; Consumer Research to Consider Nutrient Content and Health Claims and Possible Footnote or Disclosure Statements; Extension of the Comment Period**

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

**ACTION:** Advanced notice of proposed rulemaking; extension of comment period.

**SUMMARY:** The Food and Drug Administration (FDA) is extending for 60 days the comment period for an advanced notice of proposed rulemaking (ANPRM) published in the *Federal Register* of July 11, 2003 (68 FR 41507). FDA reopened the comment period in the *Federal Register* of March 1, 2004. Since reopening the comment period, FDA has scheduled a Food Advisory Committee (FAC) Nutrition Subcommittee meeting for April 27 and 28, 2004. The outcome of this meeting may help determine the course of action for trans fat labeling. FDA is extending the comment period to receive comments that consider the information resulting from this upcoming FAC Nutrition Subcommittee meeting specific to this ANPRM and trans fat labeling. Information and data obtained from comments to this ANPRM may be used to help draft a proposed rule on trans fat labeling.

**DATES:** Submit written or electronic comments by June 18, 2004.

**ADDRESSES:** You may submit comments, identified by Docket No. 2003N–0076, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web site: <http://www.fda.gov/dockets/ecomments>.

[www.fda.gov/dockets/ecomments](http://www.fda.gov/dockets/ecomments).

Follow the instructions for submitting comments on the agency Web site.

- E-mail: [fdadockets@oc.fda.gov](mailto:fdadockets@oc.fda.gov). Include Docket No. 2003N–0076 in the subject line of your e-mail message.
- FAX: 301–827–6870.
- Mail/Hand delivery/Courier [For paper, disk, or CD–ROM submissions]: Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**Instructions:** All submissions received must include the agency name and Docket No. or Regulatory Information Number (RIN) for this rulemaking. All comments received will be posted without change to <http://www.fda.gov/dockets/ecomments>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the “How to Submit Comments” heading of the SUPPLEMENTARY INFORMATION section of this document.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.fda.gov/dockets/ecomments> and/or the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

**FOR FURTHER INFORMATION CONTACT:** Julie Schrimpf, Center for Food Safety and Applied Nutrition (HFS–830), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740–3835, 301–436–1450, FAX 301–436–2636.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In the *Federal Register* of July 11, 2003 (68 FR 41507), FDA published an ANPRM to solicit information and data that potentially could be used to establish new nutrient content claims about trans fatty acids (trans fat); to establish qualifying criteria for trans fat in current nutrient content claims for saturated fatty acids (saturated fat) and cholesterol, lean and extra lean claims, and health claims that contain a message about cholesterol-raising lipids; and, in addition, to establish disclosure and disqualifying criteria to help consumers make heart-healthy food choices. We also requested comments on whether we should consider statements about trans fat, either alone or in combination with saturated fat and cholesterol, as a footnote in the nutrition facts panel or as a disclosure statement in conjunction with claims to enhance consumers’ understanding about such cholesterol-raising lipids

and how to use the information to make healthy food choices. The comment period was open until October 9, 2003.

In December 2003, the Institute of Medicine of the National Academy of Science (IOM/NAS) issued a report entitled "Dietary Reference Intakes: Guiding Principles for Nutrition Labeling and Fortification" (the 2003 report) in which the overarching goal was to have updated nutrition labeling that consumers can use to make informed dietary choices. The IOM/NAS's Dietary Reference Intake (DRI) 2002 report on macronutrients did not establish an estimated average requirement (EAR), an adequate intake (AI), or an acceptable macronutrient distribution range (AMDR) for trans fat because the presence in the diet meets no known nutritional need, hence there are no DRI values that can be readily used as the basis for a trans fat daily value (DV). Therefore, to establish a DV for trans fat, the 2003 report suggested an approach to estimate minimum trans fat intakes within a nutritionally adequate North American diet and use this value to establish a DV for trans fat. The 2003 report also recommended that saturated fat and trans fat amounts be listed on separate lines, but that one numerical value for the percent DV (%DV) be included in the nutrition facts panel for these two nutrients together. In response to requests received in this docket, FDA reopened the comment period on March 1, 2004 (69 FR 9559), to allow interested persons the opportunity to consider the 2003 report and its discussion specific to trans fat labeling in comments submitted on the ANPRM.

Recently, FDA has scheduled a FAC Nutrition Subcommittee meeting for April 27 and 28, 2004 (see the notice of meeting in the *Federal Register* of March 29, 2004 (69 FR 16275), or <http://www.fda.gov/OHRMS/DOCKETS/>), to discuss, in part, the current scientific evidence for determining a maximal daily intake value of trans fat and how trans fat compares to saturated fat with respect to reducing coronary heart disease risk. The outcome of this meeting may help determine the course of action for trans fat labeling. We believe it is necessary to extend the comment period to allow stakeholders time to consider the new information when commenting in this docket. Using this new information will provide a stronger science base for a subsequent proposal. Therefore, we are requesting comment on whether the available scientific evidence, as will be discussed in the FAC Nutrition Subcommittee meeting, supports listing the %DV for saturated fat and trans fat together or

separately on the nutrition facts panel and what the maximal daily intake of trans fat may be. A transcript of the subcommittee meeting is expected to be placed in Docket 2003N-0076 by May 14, 2004.

We are continuing to request comments on whether a DV for trans fat or joint DV for saturated and trans fats would eliminate the necessity for considering a disclosure statement, in conjunction with nutrient content or health claims, concerning levels of saturated fat, trans fat, or cholesterol in a food or in the diet, or a message about the role of such cholesterol-raising lipids in increasing the risk of coronary heart disease. Further, we are requesting comment on whether a DV for trans fat or a joint DV for saturated and trans fats would eliminate the need for a footnote about trans fat, either alone or in combination with saturated fat and cholesterol.

Information and data obtained from comments and from consumer studies may be used to help draft a proposed rule on trans fat to: (1) Establish criteria for certain nutrient content or health claims; (2) require the use of a footnote, or other labeling approach, about one or more cholesterol-raising lipids in the nutrition facts panel; and (3) develop a DV for trans fat either alone or in combination with saturated fat for use with a joint %DV for saturated and trans fat on the nutrition label to assist consumers in maintaining healthy dietary practices.

## II. How to Submit Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this ANPRM. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the ANPRM at <http://www.gpoaccess.gov/fr/index.html> by browsing the "Table of Contents from Back Issues" and selecting the publication date of Friday, July 11, 2003.

Dated: April 13, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04-8778 Filed 4-14-04; 2:05 pm]

BILLING CODE 4160-01-S

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Parts 30, 37, 39, 42, 44, and 47

RIN 1076-AE49

#### Need To Resubmit Comments on the No Child Left Behind Proposed Rule

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule; notice of need to resubmit comments.

**SUMMARY:** During the period of March 16 through March 25, 2004, the Department of the Interior had no internet access or e-mail capability. Comments on the No Child Left Behind rule submitted via e-mail or the internet during the period of March 16 through March 25, 2004, on this rule that the comments must be resubmitted. Because the comment period is still open and there is adequate time to resubmit any electronic comments, we will not be extending the comment period for this rule.

**DATES:** Comments on the proposed rule must be received on or before June 24, 2004.

**ADDRESSES:** Submit comments to one of the following addresses. Mail: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1076-AE49. Personal or messenger delivery: 1620 L Street NW., Room 401, Washington, DC 20036. Direct Internet response: <http://www.blm.gov/nhp/news/regulatory/index.html>, or at <http://www.blm.gov>, or at [regulations.gov](http://regulations.gov) under Indian Affairs Bureau. Send comments on the information collections in the proposal to: Interior Desk Officer (1076-AE49), Office of Management and Budget, 725 15th Street NW., Washington, DC 20503; 202/395-6566 (facsimile); e-mail: [oir\\_docket@omb.eop.gov](mailto:oir_docket@omb.eop.gov).

#### FOR FURTHER INFORMATION CONTACT:

Catherine Freels, Designated Federal Official, P.O. Box 1430, Albuquerque, NM 87103-1430; Phone: 505-248-7240; e-mail: [cfreels@bia.edu](mailto:cfreels@bia.edu).

**SUPPLEMENTARY INFORMATION:** The Department published the proposed rule to implement the No Child Left Behind on February 25, 2004 at 40 FR 8751.

Although this rule is published by the Bureau of Indian Affairs, the Bureau of Land Management is processing comments under agreement with the Bureau of Indian Affairs. If you wish to comment on this proposed rule, you may submit your comments by any one of several methods.

(1) You may mail comments to: Director (630), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1076-AE49.

(2) You may submit comments electronically by direct Internet response to either <http://www.blm.gov/nhp/news/regulatory/index.html>, or <http://www.blm.gov>,

(3) You may hand-deliver comments to: 1620 L Street NW., Room 401, Washington, DC 20036.

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 from the rulemaking record. We will honor the request to the extent allowable by law.

There may be circumstances in which we would withhold from the rulemaking record 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 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.

Dated: April 1, 2004.

David W. Anderson,

Assistant Secretary—Indian Affairs.

[FR Doc. 04-8775 Filed 4-16-04; 8:45 am]

BILLING CODE 4310-SW-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Parts 20 and 301

[REG-139845-02]

RIN 1545-BB12

#### Gross Estate; Election to Value on Alternate Valuation Date; Hearing

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

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This document provides notice of public hearing on proposed regulations relating to the election under section 2032 to value a decedent's gross estate on the alternate valuation date.

**DATES:** The public hearing is being held on Thursday, June 3, 2004, at 10 a.m. The IRS must receive outlines of the topics to be discussed at the hearing by Thursday, May 13, 2004.

**ADDRESSES:** The public hearing is being held in room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the Constitution Avenue entrance. In addition, all visitors must present photo identification to enter the building.

Mail outlines to: Publications and Regulations Branch CC:PA:LPD:PR (REG-138945-02), room 5203, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Hand deliver outlines Monday through Friday between the hours of 8 a.m. and 4 p.m. to: Publications and Regulations Branch CC:PA:LPD:PR (REG-138945-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Submit outlines electronically via the Internet directly to the IRS Internet site at [http://www.irs.gov/tax\\_regs](http://www.irs.gov/tax_regs).

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

**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is the notice of proposed regulations (REG-138945-02) that was published in the *Federal Register* on Wednesday, December 24, 2003 (68 FR 74534).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who have submitted written comments and wish to present oral comments at the hearing must submit an outline of the topics to be discussed and the amount of time to be devoted to each topic (signed original and eight (8) copies) by May 13, 2004.

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing. Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the

hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

Dale Goode,

Federal Register Liaison, Legal Processing Division, Associate Chief Counsel (Procedures and Administration).

[FR Doc. 04-8828 Filed 4-16-04; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

#### 29 CFR Part 1926

[Docket No. S-030]

RIN No. 1218-AC01

#### Safety Standards for Cranes and Derricks

**AGENCY:** Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

**ACTION:** Notice of Negotiated Rulemaking Committee meeting.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) announces the meeting of the Crane and Derrick Negotiated Rulemaking Advisory Committee (C-DAC) on May 4, 5, 6 and 7. The Committee will review summary notes of the prior meeting, review draft regulatory text and continue to address substantive issues. The meetings will be open to the public.

**DATES:** The meeting will be on May 4, 5, 6, 7, 2004. It will begin each day at 8:30 a.m. Individuals with disabilities wishing to attend should contact Luz Delacruz by telephone at 202-693-2020 or by fax at 202-693-1689 to obtain appropriate accommodations no later than Friday, April 23, 2004 for the May meeting. The meeting is expected to last three and a half days.

**ADDRESSES:** The May meeting will be held at the U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 and will be in conference room N-3437 A, B, C.

Written comments to the Committee may be submitted in any of three ways: by mail, by fax, or by e-mail. Please include "Docket No. S-030" on all submissions.

By mail, submit three (3) copies to: OSHA Docket Office, Docket No. S-030, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-2625, Washington, DC 20210, telephone (202) 693-2350. Note that receipt of comments submitted by mail may be delayed by several weeks.



By fax, written comments that are 10 pages or fewer may be transmitted to the OSHA Docket Office at fax number (202) 693-1648.

Electronically, comments may be submitted through OSHA's Web page at <http://ecomments.osha.gov>. Please note that you may not attach materials such as studies or journal articles to your electronic comments. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, clearly identify your electronic comments by name, date, subject, and Docket Number, so that we can attach the materials to your electronic comments.

**FOR FURTHER INFORMATION CONTACT:**

Audrey Rollor, Office of Construction Standards and Guidance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3468, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone: (202) 693-2020.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On July 16, 2002, OSHA published a notice of intent to establish a negotiated rulemaking committee, requesting comments and nominations for membership (Volume 67 of the *Federal Register*, page 46612). In subsequent notices the Department of Labor announced the establishment of the Committee (Volume 68 of the *Federal Register*, page 35172, June 12, 2003), requested comments on a list of proposed members (68 FR 9036, February 27, 2003), published a final membership list (68 FR 39877, July 3, 2003), and announced the first meeting, (68 FR 39880, July 3, 2003), which was held July 30–August 1, 2003. The Agency published notices announcing the subsequent meetings.

**II. Agenda**

The Committee will review draft materials prepared by the Agency based on discussions at prior meetings, and will address additional issues. While the pace of the discussions at the C-DAC meetings varies, C-DAC anticipates the committee will be discussing limited requirements for cranes with a rated capacity of 2,000 pounds or less as well as continuing its discussions of key issues from the list.

**III. Anticipated Key Issues for Negotiation**

OSHA anticipates that CDAC will continue discussing key issues from the following list in upcoming meetings:

1. Scope

2. General Requirements
3. Assembly/Disassembly
4. Operation—Procedures
5. Authority to Stop Operation
6. Signals
7. Requirements for equipment with a manufacturer-rated hoisting/lifting capacity below 2,000 pounds
8. Operational Aids/Safety Devices
9. Inspections
10. Equipment Modifications
11. Personnel Training
12. Wire Rope
13. Operator Qualifications
14. Keeping Clear of the Load
15. Fall Protection (ladder access and catwalks, fall arrest)
16. Hoisting Personnel
17. Qualifications of Maintenance & Repair Workers
18. Machine Guarding
19. Responsibility for environmental considerations, site conditions, ground conditions
20. Work Zone Control (access/egress)
21. Power line safety
22. Derricks
23. Verification criteria for structural adequacy of crane components and stability testing requirements
24. Floating Cranes & Cranes on Barges
25. Free Fall/Power Down
26. Multiple Crane Lifts
27. Tower Cranes
28. Operator Cab Criteria
29. Overhead & Gantry Cranes
30. Definitions

**IV. Public Participation**

All interested parties are invited to attend these public meetings at the times and places indicated above. Note, however, that a government issued photo ID card (State or Federal) is required for entry into the Department of Labor building. No advance registration is required. The public must enter the Department of Labor for the meeting through the 3rd and C Street, NW, entrance. Seating will be available to the public on a first-come, first-served basis. Individuals with disabilities wishing to attend should contact Luz Delacruz by telephone at 202-693-2020 or by fax at 202-693-1689 to obtain appropriate accommodations no later than Friday, April 23, 2004, for the May meeting. The meeting is expected to last three and a half days.

In addition, members of the general public may request an opportunity to make oral presentations to the Committee. The Facilitator has the authority to decide to what extent oral presentations by members of the public may be permitted at the meeting. Oral presentations will be limited to statements of fact and views, and shall not include any questioning of the

committee members or other participants.

Minutes of the meetings and materials prepared for the Committee will be available for public inspection at the OSHA Docket Office, Room N-2625, 200 Constitution Ave., NW., Washington, DC 20210; Telephone (202) 693-2350. Minutes will also be available on the OSHA Docket Web page: <http://dockets.osha.gov/>.

The Facilitator, Susan Podziba, can be reached at Susan Podziba and Associates, 21 Orchard Road, Brookline, MA 02445; telephone (617) 738-5320, fax (617) 738-6911.

Signed at Washington, DC, this 12th day of April, 2004.

**John L. Henshaw,**

*Assistant Secretary of Labor for Occupational Safety and Health.*

[FR Doc. 04-8748 Filed 4-16-04; 8:45 am]

**BILLING CODE 4510-26-M**

**POSTAL SERVICE**

**39 CFR Part 111**

**Eligibility Requirements for Standard Mail**

**AGENCY:** Postal Service.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would amend the *Domestic Mail Manual* (DMM) standards concerning material eligible for mailing at Standard Mail postage rates. Specifically, it would clarify the circumstances in which mail containing "personal" information may be eligible for Standard Mail rather than First-Class Mail rates. The proposal also reorganizes and renumbers other provisions for First-Class Mail and Standard Mail to better describe the service provided under each class.

**DATES:** Written comments must be received on or before June 18, 2004.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Mailing Standards, U.S. Postal Service, 1735 N Lynn St Rm 3025, Arlington VA 22209-6038. Copies of all written comments will be available for inspection and photocopying at USPS Headquarters Library, 475 L'Enfant Plaza SW., 11th Floor N, Washington DC between 9 a.m. and 4 p.m., Monday through Friday. Comments may not be submitted via fax or e-mail.

**FOR FURTHER INFORMATION CONTACT:**

Sherry Freda, Manager, Mailing Standards, U.S. Postal Service, 703-292-3648 or [Sherry.L.Freda@usps.gov](mailto:Sherry.L.Freda@usps.gov).

**SUPPLEMENTARY INFORMATION:** Certain types of mail, such as bills, statements

of account, and handwritten and typewritten material, are required to be mailed as First-Class Mail (which includes Priority Mail) or Express Mail. In addition, material having the character of actual and personal correspondence must be mailed as First-Class Mail or Express Mail.

As technology has evolved, mailers have been able to increase the amount of personal information in computer-generated mailings, including advertising material typically entered as Standard Mail. These advances in technology have motivated some Postal Service customers to request more explicit guidance on Standard Mail eligibility. The Postal Service has reviewed the standards and proposes the following revisions to the *Domestic Mail Manual* to clarify the distinction between First-Class Mail and Standard Mail.

#### Background

Postal Service standards for First-Class Mail and Standard Mail are based, in part, on laws enacted by Congress. These regulations specify that printed material weighing less than 16 ounces may be sent as Standard Mail if it is not required to be entered as First-Class Mail. Generally, mail wholly or partially in writing or typewriting, mail closed against postal inspection, material having the character of actual and personal correspondence, and bills and statements of account must be mailed as First-Class Mail or Express Mail.

Printed material, most of which is prepared by computers, often qualifies at the Standard Mail rates. If it includes personal information, printed material may have the character of actual and personal correspondence and be subject to the First-Class Mail rates. However, under certain conditions, printed material containing personal information may be eligible for Standard Mail rates.

The distinction is based on a regulation adopted by the Postal Service in the early 1980s. At that time, as computers were becoming increasingly sophisticated and commonplace, mailers were able to include personal information to individuals in an otherwise generic mailing. Marketers began to use personal information, such as information concerning previous purchases, to influence an addressee to make new purchases. Since such materials, albeit without the personal information, usually had been sent at Standard Mail rates, mailers sought to continue to use those rates.

These efforts resulted in the adoption of the standards in current DMM E610.2.3, which create a limited

exception to the general principle that material containing personal information be entered as First-Class Mail. Over the last several years this provision has become more significant. As mailers have been able to build more complex data files on customers, they have increasingly sought to include personal information in Standard Mail mailings. Furthermore, questions have been raised recently concerning printed material, including computer-generated personal information in mailpieces such as tax materials, warranties, proxy materials, financial services mailings such as credit card and equity loan advertisements, and others. Some of these mailings included advertising, while others did not. Given the potential consequences of a decision that a mailing is not eligible for Standard Mail rates, mailers have sought, and the Postal Service proposes, the following guidance to distinguish First-Class Mail from Standard Mail.

The classification of a mailpiece is based upon an examination of its specific contents. This rulemaking is intended to help mailers and Postal Service employees determine how to design and decide whether mail may be sent as Standard Mail or First-Class Mail, and help mailers plan and budget for their mailing campaigns.

#### Summary of Standard Mail Eligibility Decisions and the Scope of the Proposed Changes

As the Postal Service has discussed with customers, the proposed changes are intended to create a "bright line" concerning the inclusion of personal information in Standard Mail. Other eligibility standards are left unchanged, although we reorganized them for clarity and to better describe our services.

This proposal concerns the content limits for Standard Mail. However, before considering whether the content of printed material qualifies for entry as Standard Mail, there are basic requirements to consider. First, there is a weight limit on Standard Mail: each piece must weigh less than 16 ounces. There are also volume and preparation requirements. Mail that does not comply with any of these standards is not eligible for Standard Mail rates, regardless of content. These provisions are not affected by the proposal.

To be eligible for Standard Mail rates, printed material must be sent in identical terms to more than one person. This standard has not changed.

Mail that is authorized to be entered as Periodicals mail is ineligible for Standard Mail rates. The proposal does not affect this restriction.

Mail that is required to be mailed as First-Class Mail, and is therefore ineligible for Standard Mail, includes material containing the following: (1) Bills and statements of account; (2) handwritten or typewritten material; (3) mail sealed against postal inspection; and (4) material having the character of actual and personal correspondence. This proposal would not affect any of the first three categories.

The *Domestic Mail Manual* does not provide any exceptions to the requirement that mail having the character of actual and personal correspondence be entered as First-Class Mail other than the stipulation that the inclusion of the date and name of the addressee and sender does not render a piece ineligible for Standard Mail. However, as explained above, the Postal Service created standards in the early 1980s recognizing technological advancements that permitted the inclusion of personalized information in advertising material historically sent as Standard Mail. Customers sought to include such personal information in their mailings, without forfeiting eligibility to mail at Standard Mail rates, because the inclusion of this information increased the effectiveness of their advertising.

An example of such a mailpiece is one produced by a firm that markets and ships candies. Rather than sending a generic catalog to potential customers, the company includes with the catalog a list of the specific purchases the addressee made the previous year (*i.e.*, the items purchased and the names and addresses of the recipients) and asks whether the addressee wishes to duplicate or add to that order. The previous year's purchases are considered to be personal information for the addressee. However, that information is directly related to the mailer's advertising for the sale of its products, has no intended use other than to increase the effectiveness of the advertising, and has no purpose other than to promote additional sales of candy. Consequently, the mailing is eligible for Standard Mail rates.

#### The "Exclusive Purpose" Test

The Postal Service continues to believe that this example mailpiece should be entitled to Standard Mail rates, and this proposal would not change its eligibility. The mailpieces that are the subject of recent concerns are certain pieces with the dual purpose of conveying personal information to the addressee while advertising a product or service or soliciting donations. Postal Service standards did not provide guidance for accepting dual-

purpose pieces that convey personal information.

Clarifying the standards should benefit mailers and consumers. For mailers, this lack of guidance for dual-purpose mailpieces has led to two consequences. First, they might be uncertain if a piece would be accepted at Standard Mail rates, making budgeting and marketing decisions difficult. And second, a competitive advantage might be created if they are required to mail at First-Class Mail rates while a business competitor is permitted to mail a similar piece at Standard Mail rates. Clarifying the standard should ensure that nonmarketing, personal material is mailed as First-Class Mail. First-Class Mail is sealed against postal inspection and is the most secure class of mail. Clarifying the standard has become increasingly important given the heightened awareness and sensitivity about the need to safeguard personal information.

While reviewing the cases that prompted customer concerns it became clear that it was important to establish a "purpose" test. Customer comments confirmed that this issue needed to be addressed. After careful review, the Postal Service proposes that personal information be permitted in advertising and solicitation mail sent at Standard Mail rates only when advertising or solicitation is the exclusive purpose of the piece, and personal information is included solely to increase the effectiveness of the advertising or solicitation.

There are three reasons for this choice. First, but of least importance, it is consistent with the spirit of the original rulemaking in the 1980s. We caution that this is the least important reason since the standard could be changed if there are worthy reasons for changing it.

Second, it is open to question whether dual-purpose pieces—pieces intended to convey personal information to the addressee as well as to advertise products or services or solicit donations—are eligible for Standard Mail rates. The authority on which the DMM standards are based, the Domestic Mail Classification Schedule and, before that, federal statute, provides that material having the character of actual and personal correspondence is not eligible for Standard Mail rates. It is questionable whether such material is eligible for Standard Mail rates by "piggybacking" on advertising or solicitation matter that, by itself, is eligible for that rate.

Finally, an "exclusive purpose" test lends itself to clearer administration. It

will promote consistent classification decisions by Postal Service personnel and an understanding among customers of how their mail will be classified. In turn, this will promote two of the goals that mailers have advised are important to them: (1) Certainty in planning and budgeting mailing campaigns; and (2) minimizing situations where a business, because of mail classification decisions, gains a competitive advantage over another business.

#### Explanation of Proposed Changes

The proposed standards reorganize and renumber *Domestic Mail Manual* E110 and E610, which provide the basic descriptions of First-Class Mail and Standard Mail. These revisions, which do not effect any substantive changes, are intended to better describe our services and allow customers to compare the characteristics and benefits of each.

The clarification of the circumstances in which personal information may be included in Standard Mail is in proposed E610.3.1. In addition, the provisions for First-Class Mail, E110.3.4, would clearly explain that mail eligible for Standard Mail rates under new E610.3.1 would not be required to be entered as First-Class Mail.

One change between the existing and proposed standards is that the proposed provisions no longer differentiate between "circulars" and other types of printed material as do current E610.2.1 and E610.2.2. Similar standards apply to all printed material entered as Standard Mail.

The existing provisions explaining when personal information may be included in Standard Mail, current E610.2.3, would be renumbered and revised as E610.3.1. Current provisions E610.2.3(a), (b), and (c) would be deleted from the proposed standards. These provisions describe certain types of personal information that might be included in Standard Mail under proposed E610.3.1. However, we do not see a reason to limit the types of personal information that might be included in Standard Mail under the revised standard. Rather, under the proposal, personal information might be included in Standard Mail if the piece meets the conditions outlined in proposed E610.3.1.

In contrast to current DMM E610.2.3, revised E610.3.1 would list the conditions that must be met for a mailpiece containing personal information to be eligible for Standard Mail rates. If a mailpiece contains personal information concerning the addressee, it will be eligible for Standard Mail rates only if it meets each

of the following conditions: (1) It contains explicit advertising for a product or service for sale or lease or a solicitation for a donation; (2) all of the personal information concerning the addressee is directly related to the advertising or solicitation; and (3) advertising or solicitation is the exclusive purpose of the mailpiece.

Whether the piece contains personal information will be determined under the same policies as those that apply today. As explained in proposed E110.3.2, personal information includes any information specific to the addressee. For the purposes of applying the standard, personal information need not be unique to the addressee; for example, two addressees may share the same birthday, which is personal information specific to the addressee, but not unique to one addressee alone.

The Postal Service will make a determination of mailpiece eligibility based on the mailpiece itself. For example, numbers that are not labeled or elsewhere defined in the mailpiece are not considered to be personal, even if information provided apart from the mailpiece reveals the numbers to be PINs or other personal information. Instructions or other information in the mailpiece that are provided equally to all addressees in the mailing are not considered personal. And, finally, under the conditions in proposed E610.3.1, even if personal information is included in the mailpiece it will not disqualify it from entry at Standard Mail rates if conditions (a) through (c) are met.

The requirement that the mailpiece contain advertising for a product or service for sale or lease or a solicitation for a donation is similar to the current standard, except that the proposal states that the advertising or solicitation must be explicit. That is, the advertisement or solicitation should not be "subtle" or "implied." Anyone reading the piece should understand that it includes advertising or a solicitation and should be able to easily identify the product or service advertised or the cause for which donations are sought.

The requirement that the personal information be directly related to the advertising or solicitation is similar to the current standard. The proposal makes clear that all of the personal information must be directly related to the advertisement or solicitation.

Proposed E610.3.1(c) explains the "exclusive purpose" test, which is discussed more fully in an earlier section of this notice. Under this standard, the personal information in the piece should have no intended purpose other than to increase the appeal of the advertising or solicitation.

A finding that the personal information has an intended use other than to increase the appeal of the advertising or solicitation may be based, for example, on how the information is labeled (*i.e.*, if the piece explains a use for the information), or on the sender's legal, contractual, or other obligation to provide the information to the addressee.

The mere fact that the information may incidentally serve some useful purpose to the addressee does not disqualify the piece from entry at Standard Mail rates. For example, in the candy shipper scenario described above, the list of the names and addresses of the previous year's purchases may remind the addressee of a relative's address he or she had misplaced. However, that was not the intended use of that information and would not disqualify the piece from entry at Standard Mail rates.

#### Implementation Schedule

If the proposal is adopted, the Postal Service intends to defer its implementation until January 1, 2005. This time frame is intended to provide customers adequate time to budget and plan future mail campaigns. Until then, the Postal Service will continue to apply the current standards.

As explained in previous sections of this notice, most of the current policies would remain intact under the proposed standard, with the major difference being the "exclusive purpose" test in proposed E610.3.1(c). Accordingly, if personal information is included in the mailpiece, it still must be directly related to advertising for a product or service for sale or lease or solicitation for donations to qualify for Standard Mail rates before January 1, 2005. However, until that date, the Postal Service will not employ a purpose test, and a piece in which the personal information is directly related to advertising or a solicitation will qualify for Standard Mail rates without regard to compliance with a purpose test.

If the proposal is adopted, the Postal Service will review and revise as needed existing Customer Support Rulings concerning Standard Mail and will issue new rulings as appropriate.

Although exempt from the notice and comment requirements of the Administrative Procedure Act [5 U.S.C. 553(b),(c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions to the *Domestic Mail Manual*, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.

#### List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

#### PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

**Authority:** 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the *Domestic Mail Manual* (DMM) as set forth below:

#### E ELIGIBILITY

\* \* \* \* \*

#### E100 First-Class Mail

##### E110 Basic Standards

[Renumber current 2.0 through 5.0 as 4.0 through 7.0. Replace current 1.0 with new 1.0, 2.0, and 3.0, as follows:]

#### 1.0 DESCRIPTION OF SERVICE

##### 1.1 Service Objectives

First-Class Mail receives expeditious handling and transportation. Service objectives for delivery are 1 to 3 days; however, delivery time is not guaranteed.

##### 1.2 Rate Options

First-Class Mail offers the flexibility of single-piece rates, and discounted rates for mailings of 500 or more pieces that weigh 13 ounces or less.

##### 1.3 Mailable Items

First-Class Mail may be used for any mailable item, including postcards, letters, flats, and small packages. Customized MarketMail under E660 and other restricted material as described in C020 may not be mailed as First-Class Mail.

#### 2.0 DEFINING CHARACTERISTICS

##### 2.1 Inspection of Contents

First-Class Mail is closed against postal inspection. Federal law and Postal Service regulations restrict both opening and reviewing the contents of First-Class Mail by anyone other than the addressee.

##### 2.2 Forwarding Service

The price of First-Class Mail includes forwarding service to a new address for up to 12 months.

##### 2.3 Return Service

The price of First-Class Mail includes return service if the mailpiece is undeliverable.

#### 2.4 Extra Services Exclusive to First-Class Mail

First-Class Mail is the only class of mail eligible to receive the following extra services: registered mail service and certified mail service.

#### 2.5 Additional Extra Services

Additional extra services available with First-Class Mail are certificate of mailing service, COD service, Delivery Confirmation service (parcels only), insured mail service (merchandise only), return receipt service, restricted delivery service, Signature Confirmation service (parcels only), and special handling. See S900.

#### 3.0 CONTENT STANDARDS

##### 3.1 Bills and Statements of Account

Bills and statements of account must be mailed as First-Class Mail (or Express Mail) as follows:

a. Bills and statements of account assert a debt in a definite amount owed by the addressee to the sender or a third party. In addition, bills include a demand for payment; statements of account do not include a demand for payment. The debt does not have to be due immediately but may become due at a later time or on demand. The debt asserted need not be legally collectible or owed.

b. Bills and statements of account do not need to state the precise amount due if they contain information that would enable the debtor to determine that amount.

##### 3.2 Personal Information

Mail containing personal information must be mailed as First-Class Mail (or Express Mail). Personal information is any information specific to the addressee.

##### 3.3 Handwritten and Typewritten Material

Mail containing handwritten or typewritten material must be mailed as First-Class Mail (or Express Mail).

##### 3.4 Material Not Required to be Mailed as First-Class Mail

Mail eligible for Standard Mail or Package Services rates under E610 or E700 is not required to be mailed as First-Class Mail or Express Mail.

\* \* \* \* \*

#### E600 Standard Mail

##### E610 Basic Standards

[Renumber current 3.0 through 9.0 as 4.0 through 10.0. Replace current 1.0 and 2.0 with new 1.0, 2.0, and 3.0, as follows:]

**1.0 DESCRIPTION OF SERVICE****1.1 Service Objectives**

Standard Mail may receive deferred handling. Service objectives for delivery are 2 to 9 days; however, delivery time is not guaranteed.

**1.2 Quantity**

Standard Mail provides economical rates for mailings of 200 or more pieces or at least 50 pounds of mail.

**2.0 DEFINING CHARACTERISTICS****2.1 Mailpiece Weight Limit**

All Standard Mail pieces—letters, flats, and small packages—must weigh less than 16 ounces.

**2.2 Preparation Requirements**

Standard Mail is subject to specific volume, marking, and preparation requirements.

**2.3 Inspection of Contents**

Standard Mail is not sealed against postal inspection.

**2.4 Forwarding Service**

The price of Standard Mail does not include forwarding service. Forwarding is available for an additional fee. Undeliverable Standard Mail with no ancillary service endorsement is disposed of by the Postal Service under F010.5.3.

**2.5 Return Service**

The price of Standard Mail does not include return service. Return service is available under F010.5.3 for an additional fee.

**2.6 Extra Services**

Extra services available with Standard Mail are insured mail service (bulk insurance only), certificate of mailing service (bulk certificate of mailing only), return receipt for merchandise service, and Delivery Confirmation service (parcels only). See S900.

**2.7 Periodicals**

Authorized Periodicals may not be entered as Standard Mail unless permitted by standard.

**2.8 Identical Pieces**

The contents of printed matter in a Standard Mail mailing must be identical to a piece sent to at least one other addressee. Standard Mail may include the addressee's name and address but may not transmit personal information except as permitted under 3.0.

**3.0 CONTENT STANDARDS****3.1 Personal Information**

Personal information may not be included in a Standard Mail mailpiece unless all of the following conditions are met:

a. The mailpiece contains explicit advertising for a product or service for sale or lease or an explicit solicitation for a donation.

b. All of the personal information is directly related to the advertising or solicitation.

c. Advertising or solicitation is the exclusive purpose of the mailpiece.

**3.2 Bills and Statements of Account**

Mail containing bills or statements of account as defined in E110.3.0 may not be entered as Standard Mail except under the conditions described in 5.2.

**3.3 Handwritten and Typewritten Matter**

Mail containing handwritten or typewritten matter may not be entered as Standard Mail except under the conditions described in 4.0.

An appropriate amendment to 39 CFR part 111 will be published if the proposal is adopted.

Neva R. Watson,  
Attorney, Legislative.

[FR Doc. 04-8722 Filed 4-16-04; 8:45 am]  
BILLING CODE 7710-12-P

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 64**

[CG Docket No. 02-386; FCC 04-50]

**Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rules.

**SUMMARY:** In this document, the Commission seeks comment on whether it should impose mandatory minimum Customer Account Record Exchange (CARE) obligations on all local and interexchange carriers and, in specified situations, require carriers to transmit certain CARE codes to involved carriers that are designed to provide specific billing and other essential customer data. It also asks whether adopting a mandatory minimum CARE standard for wireline-to-wireless porting would impose a burden on LECs and/or commercial mobile radio service

(CMRS) providers, and seeks input on what steps might be taken to ameliorate or minimize any such burden. The document also seeks comment on proposals for addressing billing issues in wireline-to-wireless number porting situations.

**DATES:** Comments are due June 3, 2004 and reply comments are due June 18, 2004. Written comments by the public on the proposed information collection(s) are due June 18, 2004. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collection(s) on or before June 18, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Room TW-A325, Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) contained herein should be submitted to Leslie Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov), and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC, 20503, or via the Internet to [Kristy.L.\\_LaLonde@omb.eop.gov](mailto:Kristy.L._LaLonde@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** Alex Johns at 202-418-2512, Consumer & Governmental Affairs Bureau. For additional information concerning the information collection(s) contained in this document, contact Leslie Smith at 202-418-0217 or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

**SUPPLEMENTARY INFORMATION:** This Notice of Proposed Rulemaking (NPRM), Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers, CG Docket No. 02-386, FCC 04-50, contains proposed information collection(s) subject to the Paperwork Reduction Act of 1995 (PRA). It will be submitted to the OMB for review under the Paperwork Reduction Act (PRA). OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection(s) contained in this proceeding. This is a summary of the Commission's NPRM, adopted March 10, 2004, and released March 25, 2004. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121, May 1, 1998. Comments

filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Services mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Kelli Farmer, Federal Communications Commission, 445 12th Street, SW., Room 4-C734, Washington, DC 20554. Such

submissions should be on a 3.5 inch diskette formatted in an IBM compatible format using Word 97 or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number in this case, CG Docket No. 02-386, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this NPRM may be purchased from the Commission's duplication contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. This is a permit-but disclose notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0531 (voice), (202) 418-7365 (TTY).

#### Paperwork Reduction Act

This NPRM contains proposed information collection(s). The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this NPRM, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments on the proposed information collection(s) are due June 18, 2004. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of

the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees." Only those proposals that might change an information collection requirement are discussed below.

*OMB Control Number:* 3060-XXXX.

*Title:* Rules and Regulations Implementing Minimum Customer Account Record Exchange Obligations on All Local and Interexchange Carriers CG Docket No. 02-386 (NPRM), FCC 04-50.

*Form Number:* N/A.

*Type of Review:* New collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 3,100.

*Estimated Time per Response:* 2 minutes—96 hours (multiple responses annually).

*Frequency of Response:* Recordkeeping.

*Total Annual Burden:* 18,104,000 hours.

*Total Annual Costs:* None.

*Privacy Impact Assessment:* No impact(s).

*Needs and Uses:* In this NPRM, the Commission seeks comment on whether the Commission should impose mandatory minimum Customer Account Record Exchange (CARE) obligations on all local and interexchange carriers. Taking into account the variety of methods carriers may use to exchange the necessary information, we estimate that a requirement making CARE obligations mandatory may result in an additional burden of anywhere from two minutes to 96 burden hours per exchange of CARE data.

#### Synopsis

The CARE system provides a uniform method for the exchange of certain information by interexchange carriers and LECs. CARE allows these carriers to exchange the data necessary to establish and maintain customer accounts, and to execute and confirm customer orders and customer transfers from one long distance carrier to another. At the time the existing CARE process was developed, incumbent Local Exchange Carriers (LECs), for the most part, did not compete for long distance service,

and local markets were not competitive. However, subsequent to the passage of the Telecommunications Act of 1996 (the 1996 Act), the growth of customer migration in the competitive local exchange market has affected the ability of long distance carriers to bill for long distance services rendered to those customers.

The CARE process was developed by the telecommunications industry in response to the break-up of the Bell System and the introduction of competitive long distance services. To facilitate the equal access and cooperation among telecommunications providers mandated by the Modified Final Judgment, the industry created the Alliance for Telecommunications Industry Solutions ("ATIS"), a developer of telecommunications standards and operational guidelines that has 124 member companies, representing nearly every sector of the telecommunications industry. The Carrier Liaison Committee of ATIS in turn created the Ordering and Billing Forum ("OBF"), which established voluntary industry standards for CARE among carriers, based on input from all participating segments of the industry. The CARE standards were developed to facilitate the exchange of customer account information to allow LECs to comply with their obligation to provide all interexchange carriers with access that is equal in type, quality, and price to that provided to AT&T and its affiliates. CARE generically identifies data elements that might be shared between carriers and supports a data format intended to facilitate the mechanized exchange of that information. It aims to provide a consistent definition and data format for the exchange of common data elements.

Historically, incumbent LECs managed the exchange of customer data between themselves and the various interexchange carriers that were competing for the provision of long distance services. When a customer elected to change long distance carriers, or otherwise changed his or her billing, name, and address (BNA) information, the incumbent LEC would provide CARE data to the appropriate interexchange carrier(s) to ensure seamless provision of service to the customer.

Though most LECs and long distance carriers participated in CARE prior to 1996, CARE data is not currently exchanged in a uniform manner now that the number of LECs has increased significantly. As a result, interexchange carriers may often be unable to identify local carrier lines in the current competitive marketplace. Interexchange

carriers may therefore be unaware of whether a customer remains on the network, has switched to another local or long distance carrier, has been disconnected, or has made changes to BNA information. This can inhibit customers' ability to move seamlessly from one carrier to another, and can result in substantial increases in unbillable calls and customer complaints. These problems may also arise in the context of customers porting wireline telephone numbers to wireless carriers. In addition, carriers may be viewed as being responsible for double or continued billing, cramming, slamming, or violations of the Commission's truth-in-billing requirements when they do not receive accurate, timely, or complete information regarding their customers' accounts.

On September 5, 2002, Americatele filed a petition for declaratory ruling to clarify LEC obligations with regard to the provision of BNA service. Specifically, Americatele seeks a declaration that: (1) All local exchange carriers, both competitive and incumbent LECs, are obligated to provide BNA service, subject to existing safeguards; (2) all LECs have an obligation to provide the appropriate presubscribed long distance carrier with the identity of the new serving carrier whenever one of the LEC's customers changes local service providers; and (3) any LEC that no longer serves a particular end user customer has an obligation, upon the request of a long distance carrier, to indicate which other LEC is now providing service to such end user customer. Americatele also requests that we require all carriers to exchange customer billing information under specific parameters developed by the industry through the OBF. AT&T, Sprint, and MCI (Joint Petitioners) filed a petition on November 22, 2002, requesting that the Commission initiate a rulemaking proceeding to require certain mandatory CARE obligations for all local and interexchange carriers. Under this proposal, all carriers would be required, in specified situations, to transmit certain CARE codes to involved carriers that are designed to provide specific billing and other essential customer data. Joint Petitioners ask that carriers be given flexibility to provide for the transmission of required data in a variety of ways, including paper (facsimile, U.S. and/or overnight mail), e-mail, cartridge, Internet processing, mechanized processing, or real-time processing. Joint Petitioners argue that this flexibility will minimize implementation costs on the industry,

particularly on smaller carriers. In addition, Joint Petitioners propose to provide flexibility for carriers to use alternate codes for certain transactions, in order to minimize potential development costs for carriers that are not already providing all of the CARE codes. Finally, Joint Petitioners propose that we adopt performance measurements for timeliness, accuracy, and completeness of CARE data.

Fifteen parties filed comments or replies in response to the two petitions. While most agree that the concerns raised in the petitions have some merit, most also contend that the solutions proposed by petitioners are inappropriate or overly broad. Incumbent LECs generally argue that they are already providing CARE and BNA data, and that petitioners have not demonstrated that the existing CARE process is deficient with respect to incumbent LECs. They assert that the problems described by petitioners arise due to certain competitive LECs' failure to participate in CARE and BNA data exchange, or to provide such information to interexchange carriers in the same manner as the incumbent LECs. Accordingly, incumbent LECs argue that competitive LECs should be the sole focus of any proposed rules. Small and rural LECs in particular express concern that mandatory minimum CARE standards will impose additional, unnecessary burdens on them.

After reviewing the petitions and the subsequent comments and replies, we believe that the issues raised in the petitions would be more appropriately addressed through a notice and comment rulemaking proceeding than by an immediate ruling on the petitions. Accordingly, we seek comment on whether mandatory minimum CARE standards could provide consistency within the industry, and could eliminate a significant percentage of consumer complaints concerning billing errors. We focus here primarily on the proposals outlined in the Joint Petition, and do not address Americatele's petition in full at this time. In particular, with respect to Americatele's request for declaratory relief regarding LECs' BNA service obligations, we note that § 64.1201 makes no distinction between the responsibilities of independent LECs and competitive LECs, and places the obligations of notice and access on all LECs.

As a general matter, we believe that a uniform process observed by all regulated entities—competitive LECs, incumbent LECs, and interexchange carriers alike—could also provide a better framework for fair and consistent

enforcement activity by the Commission. We therefore seek comment on whether we should impose mandatory minimum CARE obligations on all local and interexchange carriers. How extensive are the billing problems described in the petitions? Are they sufficiently pervasive throughout the industry to warrant regulatory intervention at this time? To what extent would adoption of the proposed minimum CARE standards place a burden on LECs and interexchange carriers generally? The Joint Petitioners have recommended a Minimum CARE Standard composed of a subset of the existing OBF CARE/Industry Support Interface guideline Transaction Code Status Indicators (TCSIs).

They state that these recommended TCSIs are essential for an interexchange carrier to be able to do all of the following:

- Submit a Preferred Interexchange Carrier (PIC) order to the correct LEC on behalf of the end user (01XX TCSIs—0101, 0104, 0105);
- Know when any LEC has put an end user on the interexchange carrier's network (20XX TCSIs—2003, 2004, 2005, 2007, 2008, 2009, 2010, 2011, 2020);
- Know when any LEC has removed an end user from the interexchange carrier's network (22XX TCSIs—2201, 2202, 2203, 2206, 2215, 2216, 2217, 2218, 2219, 2231, 2233, 2234);
- Receive critical changes to the account for the end user currently PIC'd at the local switch to the interexchange carrier (23XX TCSIs—2317, 2368, 2369);
- Facilitate a request for BNA for end users who have usage on the requesting carrier's network where the interexchange carrier does not have an existing account for the end user (TCSIs 0501, 2503, 2504);
- Know whom the LEC has suspended or blocked from using the carrier network due to collection or fraud issues to allow the PIC'd interexchange carrier to take appropriate steps necessary to maintain customer continuity with the carriers network and/or calling card process (27XX TCSIs—2710, 2711, 2716, 2717, 2720, 2721); and
- Receive a notification of order failure with a reason specific to the order to allow the interexchange carrier to correct the order or take alternative steps (all applicable reject TCSIs—21XX, 31XX, 41XX, 26XX).

We seek comment on whether, if we were to adopt minimum CARE standards, the Joint Petitioner's proposed standard is appropriate and adequate to address the concerns raised in the petitions. Are any modifications

to these proposals necessary? Cox notes that, to the extent any new standards adopted are appropriate and are truly minimal, they should be applied to all LECs, and should not create any meaningful burden on incumbent LECs who are already interacting with interexchange carriers. We seek comment on this view. In addition, should all LECs, including competitive LECs, be required to notify the appropriate presubscribed long distance carrier whenever a specific customer changes local service providers, as Ameritel requests? Should all LECs that no longer serve a particular end user customer be required, upon the request of a long distance carrier, to indicate which other carrier is providing local service to that customer? To the extent commenters suggest modifications or other alternatives to petitioners' proposals, commenters should specifically outline the minimum data exchange necessary to address the problems described in the petitions.

In the *Wireless LNP Order*, we acknowledged that the billing problems described by Joint Petitioners may also arise in the context of wireline-to-wireless number porting. As AT&T explains, where a stand-alone interexchange carrier customer exercises the right to port a wireline telephone number to a wireless carrier, there are no procedures currently in place requiring notification of interexchange carriers that the customer has selected a wireless carrier to provide long distance service. As a result, those customers may continue to be billed by their former interexchange carrier unless and until they advise that carrier that they are discontinuing their long distance service. We note that analogous Interexchange Carrier (IXC) notification issues do not arise in the context of wireless-to-wireline porting. Because wireless carriers typically provide for long distance as part of their service to customers, wireless customers do not have a separate commercial relationship with an IXC and are not separately billed by the IXC. Accordingly, if a wireless customer ports to a wireline carrier, there is no need for separate notification to the IXC that the wireless service is being discontinued.

We seek comment on these wireline-to-wireless number porting concerns. Have consumers or carriers experienced such problems yet, and if so, to what extent have they arisen so far? What have those carriers that have experienced local number porting billing issues done to address them and prevent them from recurring? The Joint Petitioners have suggested that a

possible solution to this problem would be to require LECs to notify IXCs when a local exchange number is ported from a wireline to a wireless carrier. One possibility might be a CARE code that would add a "W" designation for local lines that are ported to wireless carriers. We seek comment on this and any other proposals for addressing billing issues in wireline-to-wireless number porting situations. Would a new CARE code be necessary or appropriate under these circumstances? What else might be done to prevent the billing problems that Joint Petitioners contend may arise in this context? If we were to adopt a mandatory minimum CARE standard for wireline-to-wireless porting, would that standard impose a burden on LECs and/or commercial mobile radio service (CMRS) providers? If so, what steps could we take to ameliorate or minimize that burden? Would voluntary standards be adequate? We note that, in the circumstance of a wireline-to-wireless port, the CMRS provider (unlike the LEC) would not necessarily know the identity of the customer's presubscribed carrier.

We also seek comment on the expected implementation costs associated with adopting minimum CARE standards, as well as the appropriate allocation of those costs. Commenters should also discuss how, if we adopt minimum CARE standards, we can provide sufficient flexibility to protect carriers, particularly small and/or rural LECs, from unduly burdensome requirements. Joint Petitioners claim that their proposal, which would require carriers to use fewer than five percent of the total CARE codes developed by ATIS, provides for transmission of required data in a variety of ways, provides flexibility for carriers to utilize alternate codes for certain transactions, and minimizes start-up costs and potential development costs for all carriers that are not already providing CARE data. Will these steps sufficiently alleviate the cost concerns raised in the comments on the petitions? Are there further, or perhaps better, steps we should consider to minimize the cost and burdens of imposing mandatory CARE standards, particularly for small and/or rural carriers?

We also seek comment on Joint Petitioners' request that we provide for "reasonable" performance measurements for any minimum CARE standards that we adopt. Joint Petitioners have identified specific recommendations for timeliness, accuracy and completeness thresholds. Specifically, they propose: (1) Timeliness thresholds for the various



CARE processing methods (real-time, mechanized, e-mail or internet, and cartridge and paper) that vary from 12 hours to five business days, depending on the method employed; (2) that all carriers use "best efforts" and "quality practices and methods" to ensure that the data exchange is accurate and complete; and (3) that all carriers use the guidelines set forth in the ATIS OBF Equal Access Subscription CARE/ Industry Support Interface document to ensure the accuracy and completeness of CARE data. Are these recommendations appropriate or necessary? Would other measures provide a more accurate assessment of carrier compliance with any minimum standards we might adopt?

Americatel agrees that Joint Petitioners' proposals would resolve many billing-related issues for presubscribed calls, but states that those proposals do not address additional problems associated with dial-around traffic, which is subject to greater collection risks and fraud because the serving carrier does not have any credit information about the customer. Dial-around service providers, who do not have established business relationships with their customers, must either enter into billing and collection agreements with LECs or obtain BNA data from LECs, in order to bill their end users. Americatel supports adoption of a line-level database as a comprehensive solution to current data exchange problems in the industry.

In contrast, Joint Petitioners urge us to address these billing concerns with a phased approach, first requiring all LECs and interexchange carriers to participate in mandatory minimum CARE, and later examining the possibility of creating an industry-wide, line level database to address billing problems not remedied in the first phase. Joint Petitioners believe that mandating minimum CARE standards would alleviate a substantial portion of the billing problems faced by both pre-subscribed and dial-around service providers.

Although, as Joint Petitioners acknowledge, establishing a national line-level database might provide a more comprehensive solution to the billing problems petitioners are experiencing, it appears that development and implementation of such a solution would not provide relief for petitioners in the short term. As Americatel itself notes, the OBF has not been able to reach consensus on a database solution, despite several years of review, development and analysis. CARE is an already established, industry-developed solution that has

worked reasonably well in the past, and we believe that establishing uniform, minimal CARE obligations for all carriers could more readily and quickly provide at least some relief for petitioners than the database solution proposed by Americatel. We seek comment on these views.

Several carriers also argue that the industry-wide OBF is the more appropriate venue for addressing these issues. They note that the existing CARE process was developed by the industry, and ask the Commission to carefully consider the status of industry solutions before adopting rules that may increase burdens on the industry. According to these commenters, the OBF should be used to address any changes to the CARE process because it is better suited to considering the technical and operational aspects of the way information will be exchanged than a notice and comment rulemaking. Conversely, petitioners claim that the OBF has been looking into these billing problems for several years now, but has been unable to reach a resolution. OBF has been attempting to develop a database solution for the exchange of customer billing information among multiple carriers in those cases where the customer has changed one or more of its carriers. The petitioners assert that they have asked us to address these issues precisely because OBF has been unable to do so.

We seek comment on this debate. Would federally-mandated minimum CARE obligations for all carriers restrict the evolution of CARE standards? Or would mandatory, nationwide standards merely establish uniformity that is currently lacking in the CARE process and prove helpful to consumers, carriers, and the Commission?

Finally, we note that the NARUC Subcommittee on Consumer Affairs has been working to draft model carrier change guidelines that could help address some of the issues raised by the petitions, in the absence of uniform minimum CARE requirements. Once finalized, the NARUC model guidelines could be adopted on a state-by-state basis to address customer account record concerns, but would be superseded by any federal rules we might adopt. We seek comment on the NARUC proposals. Will these model guidelines adequately address petitioners' concerns?

#### Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the

possible significant economic impact on small entities by the policies and rules proposed in this NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the NPRM. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. See 5 U.S.C. 603(a). In addition, this NPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

#### Need for, and Objectives of, the Proposed Rules

The CARE system provides a uniform method for the exchange of certain information by interexchange carriers and LECs. CARE allows these carriers to exchange the data necessary to establish and maintain customer accounts, and to execute and confirm customer orders and customer transfers from one long distance carrier to another. At the time the existing CARE process was developed, incumbent LECs, for the most part, did not compete for long distance service, and local markets were not competitive. However, subsequent to the passage of the 1996 Act, the growth of customer migration in the competitive local exchange market has affected the ability of long distance carriers to bill for long distance services rendered to those customers.

Though most LECs and long distance carriers participated in CARE prior to 1996, CARE data is not currently exchanged in a uniform manner now that the number of LECs has increased significantly. This can inhibit customers' ability to move seamlessly from one carrier to another, and can result in substantial increases in unbillable calls and customer complaints. *This Notice of Proposed Rulemaking (NPRM)* seeks comment on whether the Commission should impose mandatory minimum CARE obligations on all local and interexchange carriers. The NPRM also seeks comment on whether such billing problems may also arise in the context of wireline-to-wireless number porting and, if so, what might be done to prevent such problems that may arise in this context?

#### Legal Basis

The legal basis for any action that may be taken pursuant to this NPRM is contained in sections 1, 4(i), 4(j), 201, 206-208 and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206-208 and 258, and sections 1.421 and 1.429 of the Commission's Rules, 47 CFR 1.421 and 1.429.

### Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under section 3 of the Small Business Act. Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

We have included small incumbent LECs in this RFA analysis. As noted above, a small business" under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a wireline telecommunications business having 1,500 or fewer employees), and "is not dominant in its field of operation." The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not "national" in scope. We have therefore included small incumbent LECs in this RFA analysis, although we emphasize that this RFA action has no effect on the Commission's analyses and determinations in other, non-RFA contexts.

**Incumbent Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business size standard for providers of incumbent local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 1,337 incumbent local exchange carriers reported that they were engaged in the provision of local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of local exchange service are small entities that may be affected by the rules and policies adopted herein.

**Competitive Local Exchange Carriers.** Neither the Commission nor the SBA has developed a specific small business

size standard for providers of competitive local exchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 companies, an estimated 458 have 1,500 or fewer employees, and 151 have more than 1,500 employees. Consequently, the Commission estimates that the majority of providers of competitive local exchange service are small entities that may be affected by the rules.

**Competitive Access Providers.** Neither the Commission nor the SBA has developed a specific size standard for competitive access providers (CAPs). The closest applicable standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 609 CAPs or competitive local exchange carriers and 51 other local exchange carriers reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 competitive access providers and competitive local exchange carriers, an estimated 458 have 1,500 or fewer employees, and 151 have more than 1,500 employees. Of the 51 other local exchange carriers, an estimated 50 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of small entity CAPs and the majority of other local exchange carriers may be affected by the rules.

**Local Resellers.** The SBA has developed a specific size standard for small businesses within the category of Telecommunications Resellers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 133 companies reported that they were engaged in the provision of local resale services. Of these 133 companies, an estimated 127 have 1,500 or fewer employees, and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers may be affected by the rules.

**Toll Resellers.** The SBA has developed a specific size standard for small businesses within the category of

Telecommunications Resellers. Under that SBA definition, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 625 companies reported that they were engaged in the provision of toll resale services. Of these 625 companies, an estimated 590 have 1,500 or fewer employees, and 35 have more than 1,500 employees. Consequently, the Commission estimates that a majority of toll resellers may be affected by the rules.

**Interexchange Carriers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to providers of interexchange services. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 261 carriers reported that their primary telecommunications service activity was the provision of interexchange services. Of these 261 carriers, an estimated 223 have 1,500 or fewer employees, and 38 have more than 1,500 employees. Consequently, we estimate that a majority of interexchange carriers may be affected by the rules.

**Operator Service Providers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to operator service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 23 companies reported that they were engaged in the provision of operator services. Of these 23 companies, an estimated 22 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of local resellers may be affected by the rules.

**Prepaid Calling Card Providers.** The SBA has developed a size standard for small businesses within the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 37 companies reported that they were engaged in the provision of prepaid calling cards. Of these 37 companies, an estimated 36 have 1,500 or fewer employees, and one has more than 1,500 employees. Consequently, the Commission estimates that a majority of prepaid

calling providers may be affected by the rules.

**Other Toll Carriers.** Neither the Commission nor the SBA has developed a specific size standard for small entities specifically applicable to "Other Toll Carriers." This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC's *Telephone Trends Report* data, 92 carriers reported that they were engaged in the provision of "Other Toll Services." Of these 92 carriers, an estimated 82 have 1,500 or fewer employees, and ten have more than 1,500 employees. Consequently, the Commission estimates that a majority of "Other Toll Carriers" may be affected by the rules.

#### **Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities**

As noted, we seek comment on whether mandatory minimum CARE standards could provide consistency in the exchange of customer account information within the industry, could eliminate a significant percentage of consumer complaints concerning billing errors, and whether we should impose mandatory minimum CARE obligations on all local and interexchange carriers. In the event any new standards are adopted, we expect that such standards

will be minimal and will provide sufficient flexibility in their application that they will not create any significant burden on small entities.

#### **Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered**

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. **Mandatory Minimum CARE Requirements.** The *NPRM* seeks comment on whether the Commission should impose mandatory minimum CARE obligations on all local and interexchange carriers. We especially seek information addressing the possible financial impact of such mandatory requirements on smaller carriers. We also ask commenters to discuss how, if we were to adopt minimum CARE standards, we could provide sufficient flexibility to protect carriers, particularly small/rural LECs and CMRS providers, from unduly burdensome requirements. We do not have any evidence before us at this time regarding whether the proposals outlined in this *NPRM* would, if

adopted, have a significant economic impact on a substantial number of small entities. However, we recognize that the RFA requires us to consider that such an impact may occur. We therefore seek comment on the potential impact of these proposals on small entities, and whether there are any less burdensome alternatives that we should consider.

#### **Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules**

None.

#### **Ordering Clauses**

Accordingly, it is ordered, pursuant to sections 1, 4(i), 4(j), 201, 206-208 and 258 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201, 206-208 and 258 and sections 1.421 and 1.429 of the Commission's Rules, 47 CFR 1.421 and 1.429, that the *Notice of Proposed Rulemaking* in CG Docket No. 02-386 is adopted.

*It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 04-8481 Filed 4-16-04; 8:45 am]

BILLING CODE 6712-01-P

## Notices

Federal Register

Vol. 69, No. 75

Monday, April 19, 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

#### Agricultural Research Service

#### Office of the Under Secretary, Research, Education and Economics; Notice of Intent To Seek Approval To Collect Information

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13) and Office of Management and Budget (OMB) regulations at 5 CFR part 1320 (60 FR 4497, August 29, 1995), this notice announces the Economics Research Service's (ERS) intention to request approval to establish an information collection for reviewers of proposals for Federal financial assistance.

**DATES:** Written comments on this notice must be received by June 18, 2004, to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Address all comments to Ken Kessler, Agreements Analyst, Extramural Agreements Division, Agricultural Research Service, USDA-MS 5110, 5601 Sunnyside Ave., Beltsville, MD 20705-5110. Telephone: (301) 504-1148, E-mail: [kkessler@ars.usda.gov](mailto:kkessler@ars.usda.gov).

**FOR FURTHER INFORMATION CONTACT:** Extramural Agreements Division, Phone: (301) 504-1147, FAX: (301) 504-1262.

**ADDITIONAL INFORMATION OR COMMENTS:** Contact Ken Kessler, Agreements Analyst, Agricultural Research Service, USDA-MS 5110, 5601 Sunnyside Ave., Beltsville, Md 20705-5110. Telephone: (301) 504-1148, E-mail: [kkessler@ars.usda.gov](mailto:kkessler@ars.usda.gov).

**SUPPLEMENTARY INFORMATION:**  
Title: FANRP Application Kit.

**OMB Number:** Not yet assigned.  
**Expiration Date of Current Approval:** Not Applicable.

**Type of Request:** Intent to seek approval to establish an information collection for three years.

**Abstract:** The ERS's Food Assistance and Nutrition Research Program (FANRP) will address the research needs of the United States Department of Agriculture's (USDA) food assistance and nutrition programs. Through the research gathered by this program the agency intends to analyze: diet and nutritional outcomes of needy Americans; food program targeting and delivery; and program dynamics and administration. The USDA programs affected by this research will include the Food Stamp Program; the Special Supplemental Nutrition Program for Women Infants and Children; and child nutrition programs, such as the National School Lunch Program and School Breakfast Programs. FANRP research on food assistance programs is designed to meet the critical information needs of the Administration, Congress, program managers, policy officials, clients, the research community, and the public at large. FANRP research is conducted through internal research at ERS and through a portfolio of external research. Through partnerships with other agencies and organizations, FANRP also enhances national surveys to maintain a food assistance dimension.

To accomplish this research, ERS will be conducting a competitive grant program through which both grants and cooperative agreements will be offered to accomplish the program objectives. In order determine those entities most qualified to perform the research, ERS will solicit applications for grants through the use of the FANRP Application Kit, which is the subject of this information collection approval. Before awards can be made, certain information is required from applicants as part of an overall proposal package. In addition to project summaries, descriptions of the research, extension, or education efforts, literature reviews, curricula vitae of project directors, and other, relevant technical aspects of the proposed project, supporting documentation of an administrative and budgetary nature also must be provided.

Because of the nature of the competitive, peer-reviewed process, it is important that information from

applicants be available in a standardized format to ensure equitable treatment. Each year, solicitations will be issued requesting proposals for targeted areas of food and nutrition research following formats outlined in proposal application guidelines accompanying each program's solicitation.

The Application Kit is divided into separate sections designed to address the specifics of the research being proposed. The Application Kit has been designed to capture the following information: *Application Cover Page*—The title of the proposal, the Program to which you are applying, the priority research being addressed, the names of the principle Investigator(s) and the project director, the type of institution that is applying, telephone and fax numbers of the principle investigator(s) and signature and date of the application; *Table of Contents*—a table which will direct readers to the pages for all sections; *Project Summary*—a description of the overall project goals and supporting objectives, and the plans to accomplish the project; *Project Description* (containing the following sections) *Introduction*—a statement of the supporting objectives or research questions of the proposed project, descriptions of the most significant work in the field under consideration including the work of key project personnel and the current status of research in the field; *Rationale and Significance*—a concise presentation of the rationale behind the proposed research and relationship between the project objectives and the potential long-term efficiencies of the USDA's food and nutrition programs; *Research Methods*—a statement of the hypotheses being asked and the methodology being applied to the proposed project; a description of the research proposed in the sequence in which it is to be performed, the techniques to be used in carrying out the proposed project including the feasibility of the techniques, an explanation of the data collection methods, the results expected, means by which data will be analyzed or interpreted, discussion of relevant variables, possible application of results, pitfalls that may be encountered, limitations to proposed procedures, and a tentative work plan for conducting major steps; *Citations to Project Description*—citations for all

publication referenced in the proposal including titles and all co-authors; *Collaborative Arrangements*—a full explanation of any collaboration by the principle investigators and evidence that the collaborators are willing to provide the assistance; *Vitae and Publications*—a presentation of the academic and research credentials including education employment, professional history, honors and awards; and, a chronological list of all publications in referenced journals for the past 5 years; *Budget* (ARS-455)—a detailed request of the support for the overall project including salaries and wages, nonexpendable equipment, materials and supplies, domestic travel, publication costs, computer costs other direct and indirect costs; *Indirect Cost Rate Schedule*—a copy of the entity's indirect cost rate schedule that reports the applicant's federally negotiated audited rate; *Current and Pending Support*—a statement of the contribution that the proposed work will make to the applicant's overall research program; *Additions to the Project Description*—other information necessary to support data provided in other sections of the application/proposal.

In addition to the above referenced Application Kit, ERS will utilize the following forms: SF-424, SF-424a "application for Federal Assistance," SF-424b "Assurances—Non-Construction Programs," SF-269 "Financial Status Report," "Request for Advance or Reimbursement." We have determined that the standardized public burden hours associated with these forms is valid and appropriate for use with this information collection, and those standard hours will be added to the burden hours associated with the Application Kit.

*Estimate of Burden: Application Kit*—24.75 hours; SF-424 "Application For Federal Assistance"—.75 hours; SF-424a "Budget Information—Non-construction Programs"—3.0 hours; SF-424b—"Assurances—Non-Construction Programs"—.25 hours; SF-269 "Financial Status Report"—.50 hours; SF-270 "Request for Advance or Reimbursement"—1.0 hours. The public reporting burden for this collection of information is estimated to average 30.25.

*Respondents:* Public and private institutions of higher education, State agricultural experiment stations, Federal, State and County agencies, private organizations, corporations, and individuals that meet criteria set forth in program regulations.

*Estimated Number of Respondents:* Approximately 60 applicants are

expected to submit proposals annually for this program.

*Estimated Annual Number of Responses Per Respondent:* One.

*Estimated Total Annual Burden on Respondents: Application Cover Page and associated forms referenced above*—60 (applicants) X 30.25 (estimate of burden) hours = 1,815 hours.

*Frequency of Responses:* Annually.

*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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and, (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the address stated in the preamble. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: April 9, 2004.

Joseph J. Jen,

Under Secretary for Research, Education, and Economics.

[FR Doc. 04-8723 Filed 4-16-04; 8:45 am]

BILLING CODE 3410-03-P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

#### Regulatory Streamlining of the Direct Farm Loan Programs; Availability of a Draft Environmental Assessment and a Draft Finding of No Significant Impact

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice of availability and request for comments.

**SUMMARY:** The Farm Service Agency (FSA) announces the availability of the Draft Environmental Assessment (EA) and Draft Finding of No Significant Impact (FONSI) for the Regulatory Streamlining of FSA's Direct Farm Loan Programs regulations for public review and comment. The EA has been prepared in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (NEPA); Council on Environmental Quality regulations

implementing NEPA at 40 CFR parts 1500-1508; and FSA NEPA regulations at 7 CFR part 1940, subpart G.

**DATES:** Comments should be submitted by May 19, 2004, to be assured consideration. Comments received after that date will be considered to the extent practical.

**ADDRESSES:** FSA invites interested persons to submit comments on the EA and FONSI. Comments may be submitted by any of the following methods:

- *E-Mail:* Send comments to [james\\_fortner@wdc.fsa.usda.gov](mailto:james_fortner@wdc.fsa.usda.gov).
- *Fax:* Submit comments by facsimile transmission to: (202) 720-4619.
- *Mail:* Send comments to James P.

Fortner, National Environmental Compliance Manager, Conservation and Environmental Protection Division (CEPD), Farm Service Agency, Stop Code 0513, 1400 Independence Ave., SW., Washington, DC 20250-0513.

- *Hand Delivery or Courier:* Deliver comments to the above address.

Comments may be inspected in the Office of the Director, CEPD, FSA, USDA, Room 4714 South Building, 1400 Independence Ave., SW., Washington, DC between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** For a copy of the draft EA or for further information, contact James P. Fortner, National Environmental Compliance Manager, telephone (202) 720-5533; fax (202) 720-4619; e-mail [jfortner@wdc.usda.gov](mailto:jfortner@wdc.usda.gov). The draft EA and associated FONSI are also available on FSA's Web site at <http://www.fsa.usda.gov/dafp/cepd/epb/assessments.htm>.

**SUPPLEMENTARY INFORMATION:** FSA published a proposed rule February 9, 2004 (69 FR 6055), that will: Simplify and clarify direct loan regulations; implement the recommendations of the USDA Civil Rights Action Team; meet the objectives of the Paperwork Reduction Act of 1995; meet the goals and objectives of the National Performance Review; and separate FSA's direct farm loan program regulations from the Rural Development mission area loan program regulations. The draft EA evaluates the potential impacts to the human environment associated with this proposed streamlining of the regulations governing its direct farm loan programs.

On the basis of the draft EA, FSA has concluded that the proposed regulatory action will not result in either short-term, long-term, or cumulative significant adverse impacts to the

human environment. Because the proposed regulatory action would not result in significant adverse environmental impacts, FSA concluded that the preparation of a FONSI was appropriate, and therefore, an environmental impact statement is not required.

The basis for the conclusion is supported by the following findings. Cumulative impacts are expected to be minor as implementation of the proposed regulatory action will mainly result in FSA continuing to provide farm ownership, operating and emergency loans and loan servicing actions to farmers and ranchers. Each loan request will be reviewed on a site-specific basis to determine the potential impacts to the human environment.

*Title:* Draft Environmental Assessment and Finding of No Significant Impact for Regulatory Streamlining of the Farm Service Agency's Direct Farm Loan Programs.

Signed in Washington, DC, April 12, 2004.

**Verle E. Lanier,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 04-8773 Filed 4-16-04; 8:45 am]

BILLING CODE 3450-05-P

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Ravalli County Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ravalli County Resource Advisory Committee will be meeting to discuss 2004 projects and the Fred Burr 80 project, receive reports on Forest Plan Revision community groups, discuss public outreach methods, and hold a short public forum (question and answer session). The meeting is being held pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92-463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106-393). The meeting is open to the public.

**DATES:** The meeting will be held on April 20, 2004, 6:30 p.m.

**ADDRESSES:** The meeting will be held at the Supervisor's Office of the Bitterroot National Forest, 1801 N. 1st Street, Hamilton, Montana. Send written comments to Jeanne Higgins, District Ranger, Stevensville Ranger District, 88 Main Street, Stevensville, MT 59870, by facsimile (406) 777-7423, or electronically to [jmhiggins@fs.fed.us](mailto:jmhiggins@fs.fed.us).

**FOR FURTHER INFORMATION CONTACT:** Jeanne Higgins, Stevensville District

Ranger and Designated Federal Officer, Phone: (406) 777-5461.

Dated: April 9, 2004.

**David T. Bull,**

*Forest Supervisor.*

[FR Doc. 04-8752 Filed 4-16-04; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* Bureau of Industry and Security (BIS).

*Title:* One-Time Report For Foreign Software or Technology Eligible For De Minimis Exclusion.

*Agency Form Number:* Not applicable.

*OMB Approval Number:* 0694-0101.

*Type of Request:* Extension of a currently approved collection of information.

*Burden:* 875 hours.

*Average Time Per Response:* 25 hours per response.

*Number of Respondents:* 35 respondents.

*Needs and Uses:* Any company that is seeking exemption from export controls on foreign software and technology commingled with U.S. software or technology must file a one-time report for the foreign software or technology. The report must include the percentage of relevant values in determining U.S. content, assumptions, and the basis or methodologies for making the percentage calculation. The methodologies must be based upon accounting standards used in the operation of the relevant business, which must be specified in the report.

*Affected Public:* Individuals, businesses or other for-profit institutions.

*Respondent's Obligation:* Mandatory.

*OMB Desk Officer:* Dave Rostker.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20230.

Dated: April 13, 2004.

**Madeleine Clayton,**

*Management Analyst.*

[FR Doc. 04-8735 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-33-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket 15-2004]

#### Foreign-Trade Zone 14—Little Rock, Arkansas; Application for Subzone; L'Oreal USA, Inc.; (Cosmetic and Beauty Products); Little Rock, Arkansas

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Arkansas Department of Economic Development, grantee of FTZ 14, requesting special-purpose subzone status for the manufacturing and warehousing facilities of L'Oreal USA, Inc. (L'Oreal USA), located in Little Rock. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR part 400). It was formally filed on April 12, 2004.

The proposed L'Oreal USA subzone has two sites with 921 employees in Pulaski County, Arkansas: Site 1 (100 acres)—located at 11500 Ray Wilson Drive, North Little Rock; and Site 2 (10.4 acres)—located at 6001 Lindsey Road, Little Rock.

The L'Oreal USA facilities will be used for the manufacturing and warehousing of cosmetic and beauty products including hair care, cosmetic, treatment products and fragrance products (HTS 3302.90, 3303.00, 3304.10, 3304.20, 3304.30, 3304.91, 3304.99, 3305.10, 3305.20, 3305.30, 3305.90, 3307.10, 3307.20, 3307.30, 3401.11, 3401.20 and 3401.30). Components and materials sourced from abroad represent some 27% of all parts consumed in manufacturing. The primary inverted tariff savings will come from the following components: plastic, glass, base metal and aluminum packaging components, pads for cosmetic application, carboxylic with additional O2 function, paraphenylenediamine, O2 function amino compounds, quaternary ammonium salts, acyclic amide, fatty substances, animal or vegetable polyethers, polyether nonionic surfactant, mixtures of amino acids, chemical preparations, mixtures of

proteins and preservatives, polymers of vinyl esters, vinyl acetate polymers, polyamide, petroleum resins and thermosetting polymers (HTS 2918.90, 2921.51, 2922.50, 2923.90, 2924.19, 3402.13, 3824.90, 3905.19, 3908.10, 3911.90, 3923.10, 3923.30, 3923.50, 3923.90, 3926.90, 7010.90, 7010.94, 7020.00, 7117.19, 7612.10, 7612.90 and 9616.20, duty rate ranges from 2.4 to 11%). The application also indicates that the company may import under FTZ procedures other materials used in the production of cosmetic and beauty products falling under the following HTS, as further described in the application: HTS 0408, 0409, 1108, 1301, 1302, 1504, 1505, 1511, 1515, 1516, 1521, 1603, 1702.90.90, 2009, 2106, 2507, 2520, 2525, 2526, 2710, 2712, 2811, 2815, 2817, 2818, 2821, 2823, 2827, 2835, 2836, 2901, 2904, 2906, 2907, 2909, 2914, 2915, 2916, 2918, 2919, 2921, 2922, 2923, 2924, 2925, 2930, 2932, 2933, 2934, 2936, 2938, 3301, 3302, 3304, 3402, 3404, 3501, 3504, 3507, 3806, 3808, 3823, 3824, 3901, 3902, 3903, 3904, 3905, 3906, 3907, 3908, 3910, 3911, 3912, 3913, 3923, 4701, 4819, 4821, 8214, 8424, 9616 (duty rate ranges from duty-free to 7.4%). In addition, the application indicates that they may import coloring matter, but that any products imported under Chapter 32 of the HTS would be admitted in privileged-foreign status.

FTZ procedures would exempt L'Oreal USA from Customs duty payments on the foreign components used in export production. Some 5 percent of the plant's shipments are exported. On its domestic sales, L'Oreal USA would be able to choose the duty rates during Customs entry procedures that apply to cosmetic and beauty products (duty-free to 5.8%) for the foreign inputs noted above. The request indicates that the savings from FTZ procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ staff has been appointed examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions Via Express/Package Delivery Services: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005; or

2. Submissions Via the U.S. Postal Service: Foreign-Trade-Zones Board,

U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave. NW., Washington, DC 20230. The closing period for their receipt is June 18, 2004. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 6, 2004).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 425 West Capitol Avenue, Suite 700, Little Rock, Arkansas 72201.

Dated: April 12, 2004.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 04-8805 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 1324]

#### Grant of Authority for Subzone Status General Electric Wind Energy and Energy Rentals (Wind Turbines); Pensacola, Florida

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Foreign-Trade Zones Act provides for " \* \* \* the establishment \* \* \* of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," and authorizes the Foreign-Trade Zones Board (the Board) to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and when the activity results in a significant public benefit and is in the public interest;

Whereas, the Pensacola-Escambia County Promotion and Development Commission, grantee of Foreign-Trade Zone 249, has made application for authority to establish special-purpose subzone status at the wind turbine manufacturing plant of General Electric Wind Energy and Energy Rentals, located in Pensacola, Florida (FTZ

Docket 50-2003, filed 9-25-2003; application amended 2-27-2004 to, remove HTSUS Heading 7019 from the scope of authority);

Whereas, notice inviting public comment was given in the Federal Register (68 FR 57868, 10-7-2003); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application, as amended, is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the wind turbine manufacturing plant of General Electric Wind Energy and Energy Rentals, located in Pensacola, Florida (Subzone 249A), at the location described in the application, subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 2nd day of April, 2004.

James J. Jochum,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 04-8804 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### U.S. and Foreign Commercial Service; the President's "E" Award and the President's "E" Certificate of Service

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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 the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506 (2)(A)).

DATES: Written comments must be submitted on or before June 18, 2004.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th & Constitution Avenue, NW., Washington, DC 20230. Phone number (202) 482-0266. E-mail: dHynek@doc.gov.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection

instrument and instructions should be directed to: John Howell or Jennifer Kirsch, Room 3802, Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230; phone (202) 482-5777, fax (202) 482-5013.

#### SUPPLEMENTARY INFORMATION:

I. *Abstract:* The President's "E" Award for Excellence in Exporting is our nation's highest award to honor American exporters. "E" Awards recognize firms and organizations for their competitive achievements in world markets, as well as the benefits of their success to the U.S. economy. The President's "E Star" Award recognizes the sustained superior international marketing performance of "E" Award winners.

II. *Method of Collection:* An application form is the vehicle designed to determine eligibility for the award within established criteria. The completed application is submitted to the appropriate U.S. Department of Commerce Export Assistance Center for review and endorsement, and then forwarded to the Office of Domestic Operations in the U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, Washington, DC, for processing.

#### III. Data:

OMB Number: 0625-0065.

Form Number: ITA 725P.

Type of Review: Extension-Regular submission.

Affected Public: U.S. firms and organizations and American subsidiaries of foreign-owned or controlled corporations.

Estimated Number of Respondents: 10.

Estimated Time Per Response: 20 hours.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: \$18,200.00.

#### IV. Requested for 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 (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 13, 2004.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-8734 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-FP-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-812]

#### Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Notice of Court Decision and Suspension of Liquidation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Court Decision and Suspension of Liquidation.

SUMMARY: On April 1, 2004, the United States Court of International Trade (CIT) affirmed the Department of Commerce's results of redetermination on remand of the final results of the seventh administrative review of the antidumping duty order on Dynamic Random Access Memory Semiconductors of One Megabit or Above (DRAMs) from the Republic of Korea (Korea). See *Hynix Semiconductor, Inc., v. United States*, Slip Op. 04-30 (April 1, 2004), Court No. 01-00988 (*Hynix III*). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (Federal Circuit) in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*), the Department of Commerce (the Department) is notifying the public that *Hynix* and the CIT's earlier opinion in this case were "not in harmony" with the Department's original results.

EFFECTIVE DATE: April 19, 2004.

FOR FURTHER INFORMATION CONTACT: Ron Trentham or Tom Futtner, Office 4, Group II, AD/CVD Enforcement, Import

Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6320 and (202) 482-3814, respectively.

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 12, 2001, the Department published a notice of the final results of the seventh review of DRAMs from Korea. See *Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review*, 66 FR 52097 (October 12, 2001) (*Final Results*). Subsequent to the Department's Final Results, Hynix Semiconductor, Inc., filed a suit in the CIT challenging these results. Thereafter, the CIT issued an Order and Opinion dated November 24, 2003 in remanding two issues to the Department. See, *Hynix Semiconductor, Inc. v. United States*, 295 F. Supp 2d 1365 (CIT 2003) (*Hynix II*). Pursuant to the CIT's November 24, 2003 Order and Opinion, the Department filed its remand results on December 17, 2003. On April 1, 2004, the CIT affirmed the Department's results of redetermination in *Hynix III*.

##### Suspension of Liquidation

In its decision in *Timken*, the Federal Circuit held that, pursuant to 19 U.S.C. 1516a(e), the Department must publish notice of a decision of the CIT which is "not in harmony" with the Department's *Final Results*. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a "conclusive" decision in the case. The CIT's decision in *Hynix III* and its November 24, 2003 Order and Opinion in this case were not in harmony with the Department's final antidumping duty results of review. Therefore, publication of this notice fulfills the obligation imposed upon the Department by the decision in *Timken*. In addition, this notice will serve to continue the suspension of liquidation. If this decision is not appealed, or if appealed, if it is upheld, the Department will publish amended final antidumping duty results.

Dated: April 9, 2004.

James J. Jochum,

Assistant Secretary for Import Administration.

[FR Doc. 04-8801 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-S



## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-866]

**Notice of Rescission of Antidumping Duty Administrative Review: Certain Folding Gift Boxes from the People's Republic of China**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Rescission of Antidumping Duty Administrative Review.

**SUMMARY:** On February 24, 2004, the Department of Commerce published in the *Federal Register* a notice announcing the initiation of an administrative review of the antidumping duty order on certain folding gift boxes from the People's Republic of China for one producer/exporter of certain folding gift boxes from the People's Republic of China, Red Point Paper Products Co., Ltd., covering the period of review January 1, 2003, through December 31, 2003. On April 2, 2004, the Department of Commerce received a request for withdrawal of this review from Red Point Paper Products Co., Ltd., the respondent which requested this review. In accordance with 19 CFR 351.213(d)(1), the Department of Commerce is now rescinding its initiation of this review because the producer/exporter has timely withdrawn its request for review and no other interested parties have requested a review.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Yang Jin Chun or Thomas Schauer, Group 1, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482-5760, and (202) 482-0410, respectively.

**SUPPLEMENTARY INFORMATION:** On January 2, 2004, the Department of Commerce (the Department) published in the *Federal Register* a notice of opportunity to request an administrative review of the antidumping duty order on certain folding gift boxes (gift boxes) from the People's Republic of China (PRC). See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 69 FR 50. On January 26, 2004, Red Point Paper Products Co., Ltd. (Red Point), a producer/exporter of gift

boxes from the PRC, requested that the Department conduct an administrative review of the antidumping duty order on gift boxes from the PRC produced/exported by Red Point for the period of review January 1, 2003, through December 31, 2003. On February 3, 2004, Red Point re-submitted its January 26, 2004, request for administrative review to correct a typographical error.

On February 5, 2004, the Department issued a review questionnaire to Red Point. On February 24, 2004, the Department initiated an administrative review of the antidumping duty order on gift boxes from the PRC for Red Point. See *Notice of Initiation of Antidumping and Countervailing Duty Administrative Review*, 69 FR 8379. On April 2, 2004, Red Point withdrew its request for a review.

If a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review, the Secretary will rescind the review pursuant to 19 CFR 351.213(d)(1)(2003). In this case, Red Point has withdrawn its request for a review within 90 days from the date of initiation. No other interested party requested a review and we have received no comments regarding Red Point's withdrawal of its request for a review. Therefore, we are rescinding the initiation of this review of the antidumping duty order on gift boxes from the PRC.

We are issuing and publishing this notice in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(1)(2003).

Dated: April 13, 2004.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 04-8799 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-S

## DEPARTMENT OF COMMERCE

## International Trade Administration

[A-570-863]

**Honey From the People's Republic of China: Extension of Time Limit for Final Results of Antidumping Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Angelica Mendoza or Brandon Farlander at (202) 482-3019 or (202)

482-0182, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

**SUPPLEMENTARY INFORMATION:****Background**

On December 10, 2001, the Department of Commerce (the Department) published the antidumping duty order on honey from the People's Republic of China (PRC). See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order; Honey From the People's Republic of China*, 66 FR 63670 (December 10, 2001). On December 17, 2002, the Department published an opportunity to request an administrative review of the antidumping duty order on honey from the PRC for the period May 11, 2001, through November 30, 2002 (67 FR 77222). On December 31, 2002, the Department received a timely request from the American Honey Producers Association and the Sioux Honey Association (collectively, petitioners) requesting that the Department conduct an administrative review of the antidumping duty order on honey exported to the United States from the following PRC honey producers/exporters: (1) Anhui Native Produce Import & Export Corp. (Anhui); (2) Henan Native Produce and Animal By-Products Import & Export Company (Henan); (3) High Hope International Group Jiangsu Foodstuffs Import and Export Corp. (High Hope); (4) Inner Mongolia Autonomous Region Native Produce and Animal By-Products Import & Export Corp. (Inner Mongolia); (5) Kunshan Foreign Trade Company (Kunshan); (6) Shanghai Eswell Enterprise Co., Ltd. (Shanghai Eswell); (7) Shanghai Xiuwei International Trading Co., Ltd. (Shanghai Xiuwei); (8) Sichuan-Dujiangyan Dubao Bee Industrial Co., Ltd. (Sichuan Dubao); (9) Wuhan Bee Healthy Co., Ltd. (Wuhan); and (10) Zhejiang Native Produce and Animal By-Products Import & Export Corp.

On December 31, 2002, we received a timely request from Zhejiang Native Produce and Animal By-Products Import & Export Corp., a.k.a. Zhejiang Native Produce and Animal By-Products Import and Export Group Corporation (Zhejiang), requesting that the Department conduct an administrative review of its honey shipments to the United States during the period May 11, 2001, through November 30, 2002. On

January 22, 2003, the Department initiated the first administrative review of the antidumping duty order on honey from the PRC, for the period of May 11, 2001, through November 30, 2002, in order to determine whether merchandise imported into the United States is being sold at less than fair value with respect to these ten companies. See *Initiation of Antidumping and Countervailing Duty Administrative Review and Requests for Revocations in Part*, 68 FR 3009 (January 22, 2003) (*Administrative Review Initiation*).<sup>1</sup>

On January 27, 2003, the Department clarified that the period of review (POR) for High Hope, Kunshan, Zhejiang, Wuhan, Shanghai Xiuwei, and Sichuan Dubao is February 10, 2001, through November 30, 2002. See Memorandum to the File through Donna L. Kinsella, Case Manager, Office 8; POR for Exporters of Honey From the People's Republic of China With Affirmative Critical Circumstances Findings (January 27, 2003).

On July 25, 2003, the Department extended the due date for the preliminary results of this review (68 FR 44046). On December 16, 2003, the Department published the preliminary results of this review (68 FR 69988).

#### Extension of Time Limit for Final Results

Pursuant to section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of the final results of an administrative review if it determines that it is not practicable to complete the final results within the statutory time limit of 120 days from the date on which the preliminary results were published. The Department has determined that it is not practicable to complete the final results of this review within the statutory time limit. Due to the complexity of the surrogate value issues raised in the case briefs, it is not practicable to complete this review within the time limits mandated by section 751(a)(3)(A) of the Act and section 19 CFR 351.213(h)(1) of the Department's regulations. Therefore, the Department is extending the time limit for the completion of these final results

<sup>1</sup> In a separate proceeding, the Department also received timely requests from Shanghai Xiuwei and Sichuan Dubao, in accordance with 19 CFR 351.214(c), for new shipper reviews of the antidumping duty order on honey from the PRC, which has a December annual anniversary month. On February 5, 2003, we initiated new shipper reviews for Shanghai Xiuwei and Sichuan Dubao. See *Initiation of New Shipper Antidumping Duty Reviews*, 68 FR 5868 (February 5, 2003). The POR for the new shipper reviews of these two companies is identical to the POR for the administrative review.

by 14 days. Accordingly, the final results will now be due no later than April 28, 2004.

This notice is published in accordance with section 751(1)(3)(A) of the Act and section 19 CFR 351.213(h)(2) of the Department's regulations.

Dated: April 13, 2004.

**Barbara E. Tillman,**

*Acting Deputy Assistant Secretary for Import Administration, Group III.*

[FR Doc. 04-8803 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-504]

#### Amended Notice of Final Results of the Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On March 15, 2004, the Department of Commerce (Department) published the final results of its administrative review of the antidumping duty order on petroleum wax candles from the People's Republic of China (PRC) for the period from August 1, 2001 to July 31, 2002 in the *Federal Register*. See *Notice of Final Results and Rescission, In Part, of the Antidumping Duty Administrative Review: Petroleum Wax Candles from the People's Republic of China*, 69 Fed. Reg. 12121 (March 15, 2004) (*Final Results*). We are amending our *Final Results* to correct ministerial errors alleged by the National Candle Association (the Petitioner) pursuant to section 751(h) of the Tariff Act of 1930, as amended (the Act).

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Sally Gannon at (202) 482-0162 or Mark Hoadley at (202) 482-3148, Office of AD/CVD Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

#### SUPPLEMENTARY INFORMATION:

##### Scope of the Antidumping Order

The products covered by this order are certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. They are sold in the following shapes: tapers, spirals, and straight-sided dinner candles; rounds,

columns, pillars, votives; and various wax-filled containers. The products were classified under the Tariff Schedules of the United States (TSUS) item 755.25, Candles and Tapers. The products are currently classified under the Harmonized Tariff Schedule of the United States, Annotated for Statistical Reporting Purposes (2004) (HTSUS) item 3406.00.00. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

#### Amendment of Final Results

On March 15, 2004, the Department published the final results for its review of the antidumping duty order on petroleum wax candles from the PRC. See *Final Results*. On March 23, 2004, in accordance with section 751(h) of the Act and 19 C.F.R. 351.224(c)(2), the Petitioner timely filed an allegation that there were ministerial errors in the *Final Results*. The Petitioner contends that in the *Final Results*, the Department erred in its calculations of surrogate values from the Indian import data used by the Department as the basis for valuation of certain of the factors of production. Dongguan Fay Candle Co., Ltd. (the Respondent) did not allege any ministerial errors, nor did they rebut the Petitioner's allegations. The Petitioner alleges two types of ministerial errors.

For the following factors of production: Masonite board, Styrofoam, wick, metal plate, metal stand, metal star, and wick stand, the Petitioner alleges that the Department incorrectly multiplied the value of Indian imports by 100 million rupees (100,000,000 rupees), instead of the correct figure of one billion rupees (1,000,000,000 rupees), prior to division by the quantity of imports in kilograms. The Petitioner notes that the Indian import data is provided in billions of rupees, and, therefore, must be multiplied by 1,000,000,000 rupees in the Department's formula to calculate the correct surrogate value. The Petitioner states that the correct multiplier was used in other comparable formulas for other factors of production calculations disclosed by the Department in this case. The Petitioner suggests the following formula in order to correct the surrogate value for these inputs:

(sum of total value \* 1,000,000,000 rupees) / sum of total quantity

For banding strap, the Petitioner alleges that the Department used average unit values in rupees per kilogram, instead of the Indian price data in the numerator of the formula used to calculate the surrogate value. As a result, according to the Petitioner,

when the average unit values were summed, the calculated total was not the total value of imports. The Petitioner suggests that the Department use the Indian import data to calculate the surrogate value for banding strap in order to correct this ministerial error.

The Act, as well as the Department's regulations, define a ministerial error as one involving "addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the Secretary considers ministerial." See section 751(h) of the Act and 19 CFR 351.224(f).

After reviewing Petitioner's allegations, we have determined that the alleged errors are ministerial errors pursuant to section 751(h) of the Act and 19 CFR 351.224(f). Therefore, we are amending the *Final Results* to correct the above-described ministerial errors. First, the Petitioner is correct that to calculate the total Indian import values, the value in the statistics must be multiplied by one billion rupees. Therefore, for Masonite board, Styrofoam, wick, metal plate, metal stand, metal star, and wick stand, we are amending the formula used to calculate the surrogate values to reflect that the data are provided in billions of Indian Rupees. As stated above, the correct formula used for these amended final results is: (sum of total value \* 1,000,000,000) / sum of total quantity. See *Memorandum to the File through Sally Gannon from Sebastian Wright Regarding Correction of Ministerial Errors in the Determination of Surrogate Values for Use in the Amended Final Results of the Administrative Review of Petroleum Wax Candles from the People's Republic of China*, dated April 2, 2004 (Ministerial Error Memo). (This memorandum is on the record of this review and is on file in room B-099 of the Central Records Unit of the main Department of Commerce building.) With regard to banding strap, we agree that the Department inadvertently used average unit values rather than total import values to calculate the surrogate value. Therefore, we used the Indian import total value data for banding strap as provided by the World Trade Atlas for the period of review. See *Ministerial Error Memo*.

#### Amended Final Results of Review

In the *Final Results*, the Department determined that the Respondent, Shandong Jiaye General Merchandise Co., Ltd. (Shandong Jiaye), and Shanghai Charming Wax Co., Ltd. (Shanghai Charming) each remained eligible for a separate, company-specific

rate. We also determined to apply total adverse facts available (AFA) to the PRC entity. See *Final Results*. As AFA, and as the PRC-wide rate, the Department assigned Fay Candle's calculated rate from the instant review, which was the highest rate determined in the current or any previous segment of this proceeding. See *Final Results*. As a result of correcting the ministerial errors described supra, we are amending the rates for each company that we determined was eligible for a separate rate, and for the PRC entity rate, as stated below. We are also amending the AFA rate, which we applied to the 97 companies identified in Attachment II of the *Final Results*, to reflect the ministerial corrections.

We determine that the following percentage margins exist for the period August 1, 2001 through July 31, 2002.

Manufacturer/Exporter	Margin
Dongguan Fay Candle Co., Ltd. ....	108.30 percent
Shanghai Charming Wax Co., Ltd. ....	108.30 percent
Shandong Jiaye General Merchandise Co., Ltd.	108.30 percent
PRC-Wide Rate .....	108.30 percent

#### Assessment and Cash Deposit Requirements

The following deposit requirements will be effective upon publication of these amended final results for this administrative review for all shipments of petroleum wax candles from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash deposit rates for Fay Candle, Shanghai Charming, and Shandong Jiaye will be the rates listed above in the "Amended Final Results of Review" section; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the new PRC-wide rate, as listed above in the "Amended Final Results of Review" section; and, (4) for all other non-PRC exporters, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Accordingly, the Department will determine, and U.S. Customs and Border Production (CBP) shall assess, antidumping duties on all appropriate entries. The Department will issue

appropriate assessment instructions directly to CBP within 15 days of publication of these amended final results of review.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(1), 751(h), and 777(i)(1) of the Act and 19 C.F.R. 351.224(f).

Dated: April 12, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04-8800 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-5

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-583-830]

#### Stainless Steel Plate in Coils From Taiwan: Final Rescission of Antidumping Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of the Final Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan.

**SUMMARY:** On December 16, 2003, the Department of Commerce ("the Department") published in the *Federal Register* the preliminary rescission of its administrative review of the antidumping duty order on stainless steel plate in coils from Taiwan. See *Notice of the Preliminary Rescission of Antidumping Duty Administrative Review of Stainless Steel Plate in Coils from Taiwan*, 68 FR 69998 (December 16, 2003) ("Preliminary Rescission"). This review covers two manufacturers of the subject merchandise, Yieh United Steel Corporation ("YUSCO"), a Taiwanese producer of subject merchandise, and Ta Chen Stainless Pipe Co., Ltd. ("Ta Chen"), also a Taiwanese producer of subject merchandise. The period of review ("POR") is May 1, 2002 through April 30, 2003.

We preliminarily rescinded this review based on record evidence supporting the conclusion that there were no entries into the United States of subject merchandise during the POR by respondents. See *Preliminary Rescission*. We are now issuing our final rescission of this review based on evidence on the record indicating that there were no entries into the United States of subject merchandise during the POR from the respondents.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Catherine Bertrand or Lilit Astvatsatrian, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-3207 or (202) 482-6412, respectively.

**Background**

On May 21, 1999, the Department of Commerce ("Department") published the antidumping duty order on stainless steel plate in coils from Taiwan. See *Antidumping Duty Orders; Certain Stainless Steel Plate in Coils From Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 64 FR 27756 (May 21, 1999). On May 1, 2003, the Department published a notice of opportunity to request an administrative review of this order for the period May 1, 2002 through April 30, 2003. See *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 68 FR 23281 (May 1, 2003). On May 30, 2003, petitioners<sup>1</sup> timely requested the Department to conduct an administrative review of sales by YUSCO and Ta Chen, producers and exporters of subject merchandise in Taiwan. On July 1, 2003, in accordance with section 751(a) of the Tariff Act of 1930 as amended ("the Act"), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review of sales by YUSCO and Ta Chen for the period May 1, 2002 through April 30, 2003. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 68 FR 39055 (July 1, 2003).

On July 3, 2003, the Department issued its antidumping duty questionnaire to YUSCO and Ta Chen. On August 19, 2003, Ta Chen certified that it did not have any U.S. sales or exports of subject merchandise during the POR, and requested to be excluded from the review. On August 20, 2003, YUSCO certified that it did not have any U.S. sales, shipments or entries of subject merchandise during the POR. On August 21, 2003, petitioners alleged that Ta Chen and YUSCO are affiliated with other companies that may have shipped subject merchandise to the United States during the POR and requested the Department to instruct Ta Chen and YUSCO to submit a completed Section A questionnaire response. On September 8, 2003, we sent an inquiry to U.S. Customs and

Border Protection ("CBP") to confirm that YUSCO and Ta Chen had no shipments of subject merchandise into the United States during the POR. CBP did not indicate that there were any entries of subject merchandise by Ta Chen or YUSCO during the POR.

On March 11, 2003, the Department amended the scope of the antidumping duty orders to remove the original language from the scope which excluded cold-rolled stainless steel plate in coils, in accordance with the Court of International Trade's ("CIT") decision in *Allegheny Ludlum Corp. v. United States*, 287 F.3d 1365 (Fed. Cir. 2000). See *Notice of Amended Antidumping Duty Orders: Certain Stainless Steel Plate in Coils from Belgium, Canada, Italy, the Republic of Korea, South Africa, and Taiwan*, 68 FR 11520, (March 11, 2003) ("Scope of the Review"). Therefore, the new scope was effective March 11, 2003. See *Scope of the Review* below.

On December 16, 2003, the Department preliminary rescinded the administrative review with respect to Ta Chen and YUSCO based on record evidence and the CBP inquiry, both of which it determined supported the conclusion that there were no entries of subject merchandise during the POR. See *Preliminary Rescission*. On January 15, 2004, petitioners filed a case brief. Neither respondent filed a case brief nor rebuttal brief in this review. In addition, neither petitioners nor respondents requested a hearing in the instant review.

**Scope of the Review**

*Effective: May 1, 2002 Through March 10, 2003*

For purposes of this review, the product covered is certain stainless steel plate 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 plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars. In addition, certain cold-rolled stainless steel plate in coils is also excluded from the scope

of these orders. The excluded cold-rolled stainless steel plate in coils is defined as that merchandise which meets the physical characteristics described above that has undergone a cold-reduction process that reduced the thickness of the steel by 25 percent or more, and has been annealed and pickled after this cold reduction process.

The merchandise subject to this review is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219110030, 7219110060, 7219120005, 7219120020, 7219120025, 7219120050, 7219120055, 7219120065, 7219120070, 7219120080, 7219310010, 7219900010, 7219900020, 7219900025, 7219900060, 7219900080, 7220110000, 7220201010, 7220201015, 7220201060, 7220201080, 7220206005, 7220206010, 7220206015, 7220206060, 7220206080, 7220900010, 7220900015, 7220900060, and 7220900080. Although the HTS subheadings are provided for convenience and CBP purposes, the written description of the merchandise under investigation is dispositive.

Effective March 11, 2003, and in accordance with the CIT's December 12, 2002 opinion in *Allegheny Ludlum Corp. v. United States*, the scope of the order is as stated below:

*Effective: March 11, 2003 Through April 30, 2003*

The product covered by these orders is certain stainless steel plate 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 plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (e.g., cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of these orders are the following: (1) Plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this review is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.06, 7219.12.00.21, 7219.12.00.26, 7219.12.00.51, 7219.12.00.56, 7219.12.00.66, 7219.12.00.71, 7219.12.00.81, 7219.31.00.10, 7219.90.00.10,

7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80.

Although the HTS subheadings are provided for convenience and CBP purposes, the written description of the merchandise subject to these orders is dispositive.

#### Period of Review

The POR is May 1, 2002 through April 30, 2003.

#### Analysis of Comments Received

All issues raised in the case brief and rebuttal brief by parties to this administrative review are addressed in the "Issues and Decision Memorandum" ("Decision Memorandum") from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, Group III, to James J. Jochum, Assistant Secretary for Import Administration, dated April 13, 2004, which is hereby adopted by this notice. Petitioners argue that the Department should, at minimum, obtain section A questionnaire responses from respondents which would inform the Department of their affiliated parties, definition of subject merchandise and otherwise create a substantiated record. We have determined to rescind this administrative review because the Department's interpretation of its statute and regulations, as affirmed by the Court of Appeals for the Federal Circuit, does not support conducting an administrative review when the evidence on the record indicates that respondents had no entries of subject merchandise during the POR. Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Furthermore, to the extent that petitioners believe affiliated parties should be reviewed, section 19 CFR 351.213(b)(1) specifically states that requests for administrative reviews from the domestic parties must specify the name of the individual exporter or producer covered by an antidumping duty order. As the Court of Appeals for the Federal Circuit affirmed in *Floral Trade Council v. United States*, 888 F. 2d 1366, 1369 (Fed. Cir. 1989), petitioners have the minimum burden of naming and selecting the proper party to be reviewed. Petitioners did not request

a review of these specific, named "affiliates" in this case.

A complete list of the issues which petitioners have raised and to which we have responded, are in the *Decision Memorandum* which is attached to this notice as an Appendix. 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 the Central Records Unit, Room B-099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/summary/list.htm>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Final Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise, as the case may be. In this case the Department is satisfied, after a review of information on the record, that there were no entries of stainless steel plate in coils produced and exported from Ta Chen or YUSCO during the POR. Therefore, we are rescinding this review with respect to Ta Chen and YUSCO in accordance with 19 CFR 351.213(d)(3). The cash deposit rate for YUSCO will remain at 8.02 percent, for Ta Chen the cash deposit rate will remain at 10.20 percent, and for "all other" producers/exporters of the subject merchandise the cash deposit rate will remain at 7.39 percent, the rates established in the most recently completed segment of this proceeding. See *Notice of Final Results and Rescission in Part of Antidumping Duty Administrative Review: Stainless Steel Plate in Coils From Taiwan*, 67 FR 40914 (June 14, 2002). These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Changes Since the Preliminary Rescission

We have made no changes since the *Preliminary Rescission* of this review.

#### Notification of Interested Parties

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to

comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

This issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: April 13, 2004.

Jeffrey A. May,

Acting Assistant Secretary for Import Administration.

#### Appendix I—List of Issues for Discussion

##### A. Issues with Respect to Ta Chen and YUSCO

Comment 1: Section A Questionnaire from Ta Chen and YUSCO

Comment 2: Review of the Affiliated Parties

[FR Doc. 04-8802 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-549-818]

#### Certain Hot-Rolled Carbon Steel Flat Products from Thailand; Notice of Rescission of Countervailing Duty Administrative Review

**AGENCY:** Import Administration, International Trade Administration, U.S. Department of Commerce.

**SUMMARY:** In accordance with 19 CFR 351.213(b)(1), petitioner, United States Steel Corporation, submitted a timely request for an administrative review of the countervailing duty order on hot-rolled carbon steel flat products from Thailand for Sahaviriya Steel Industries Public Company Limited (SSI). We initiated this review on January 22, 2004. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in*

Part, 69 FR 3117 (January 22, 2004) (Initiation Notice). We are now rescinding this administrative review because petitioner has withdrawn its request for review in accordance with 19 CFR § 351.213(d)(1).

**FOR FURTHER INFORMATION CONTACT:**

Sean Carey, AD/CVD Enforcement, Group III, Office 7, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482-3964.

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 3, 2001, the Department of Commerce (the Department) published a countervailing duty order on certain hot-rolled carbon steel flat products (hot-rolled steel) from Thailand. See *Notice of Countervailing Duty Orders: Certain Hot-Rolled Carbon Steel Flat Products from Thailand*, 66 FR 60197 (December 3, 2001). On December 31, 2003, petitioner, United States Steel Corporation, requested an administrative review of the countervailing duty order for hot-rolled steel from Thailand, produced/exported by SSI during the period January 1, 2002 through December 31, 2002. In accordance with 19 CFR 351.221(c)(1)(i), we published a notice of initiation of the review on January 22, 2004. See *Initiation Notice*. On February 27, 2004, petitioner withdrew its request for review.

**Rescission of Countervailing Duty Administrative Review**

The Department's regulations at 19 CFR 351.213(d)(1) provide that the Department will rescind an administrative review if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. Petitioner, United States Steel Corporation, withdrew its request for an administrative review on February 27, 2004, which is within the 90-day deadline. No other party requested a review of the order. Therefore, the Department is rescinding this administrative review for the period January 1, 2002 through December 31, 2002.

The Department will issue appropriate assessment instructions directly to U.S. Customs and Border Protection (CBP) within 15 days of publication of this notice. The Department will direct CBP to assess countervailing duties for all entries of subject merchandise, including those produced or exported by SSI, at the cash deposit rate in effect on the date of entry

during the period January 1, 2002 through December 31, 2002.

This determination and notice are issued and published in accordance with 19 CFR 351.213(d)(4) and sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 8, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

[FR Doc. 04-8798 Filed 4-16-04; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 032504B]

**Taking and Importing of Marine Mammals**

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

**ACTION:** Notice of affirmative finding.

**SUMMARY:** The Assistant Administrator for Fisheries, NMFS, (Assistant Administrator) renewed the affirmative finding for the Republic of El Salvador under the Marine Mammal Protection Act (MMPA). This affirmative finding will allow yellowfin tuna harvested in the eastern tropical Pacific Ocean (ETP) in compliance with the International Dolphin Conservation Program (IDCP) by El Salvadorian-flag purse seine vessels or purse seine vessels operating under El Salvador's jurisdiction to continue to be imported into the United States. The affirmative finding was based on review of documentary evidence submitted by the Republic of El Salvador and obtained from the Inter-American Tropical Tuna Commission (IATTC) and the Department of State.

**DATES:** Effective April 8, 2004, through March 31, 2005.

**FOR FURTHER INFORMATION CONTACT:** Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802-4213; Phone 562-980-4000; Fax 562-980-4018.

**SUPPLEMENTARY INFORMATION:** The MMPA, 16 U.S.C. 1361 *et seq.*, as amended by the International Dolphin Conservation Program Act (IDCPA) (Public Law 105-42), allows the entry into the United States of yellowfin tuna harvested by purse seine vessels in the ETP under certain conditions. If requested by the harvesting nation, the Assistant Administrator will determine whether to make an affirmative finding

based upon documentary evidence provided by the government of the harvesting nation, the IATTC, or the Department of State. A finding will remain valid for 1 year (April 1 through March 31) or for such other period as the Assistant Administrator may determine. An affirmative finding applies to tuna and tuna products that were harvested in the ETP by purse seine vessels of the nation, and applies to any tuna harvested in the ETP purse seine fishery after March 3, 1999, the effective date of the IDCPA.

The affirmative finding process requires that the harvesting nation meet several conditions related to compliance with the IDCP. A nation may opt to provide information regarding compliance with the IDCP directly to NMFS on an annual basis or authorize the IATTC to release the information to NMFS in years when NMFS will conduct an annual review of the affirmative finding.

An affirmative finding will be terminated, in consultation with the Secretary of State, if the Assistant Administrator determines that the requirements of 50 CFR 216.24(f) are no longer being met or that a nation is consistently failing to take enforcement actions on violations which diminish the effectiveness of the IDCP. Every 5 years, the government of the harvesting nation, must request an affirmative finding and submit the required documentary evidence directly to the Assistant Administrator.

As a part of the affirmative finding process set forth in 50 CFR 216.24(f), the Assistant Administrator considered documentary evidence submitted by the Republic of El Salvador and obtained from the IATTC and the Department of State and determined that the requirements under the MMPA to receive an affirmative finding have been met.

After consultation with the Department of State, NMFS renewed the Republic of El Salvador's affirmative finding allowing the importation into the United States of yellowfin tuna and products derived from yellowfin tuna harvested in the ETP, by El Salvadorian-flag purse seine vessels or vessels under El Salvadorian jurisdiction.

In subsequent years, the Assistant Administrator will determine on an annual basis whether the Republic of El Salvador is meeting the requirements under section 101(a)(2)(B) and (C) of the MMPA. If necessary, documentary evidence may also be requested from the Republic of El Salvador to determine whether the affirmative finding criteria are being met. If the affirmative finding for the Republic of El Salvador is

renewed after NMFS's annual review in the years 2005 through 2007, the Republic of El Salvador must submit a new application in early 2008 for an affirmative finding to be effective for the period April 1, 2008, through March 31, 2009, and the subsequent 4 years.

Dated: April 13, 2004.

**Wanda L. Cain,**

*Acting Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 04-8770 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-22-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 041204A]

#### Pacific Fishery Management Council; Public Meetings

**AGENCY:** National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

**ACTION:** Notice of public meeting.

**SUMMARY:** The Council's Groundfish Management Team (GMT) will hold a working meeting to develop a preliminary draft environmental impact statement for harvest specifications and management measures for 2005-2006 West Coast groundfish fisheries. This meeting is open to the public.

**DATES:** The GMT working meeting will convene on Monday, May 3, 2004, at 1 p.m. and may go into the evening until business for the day is completed. The GMT meeting will reconvene from 8:30 a.m. to 5 p.m. Tuesday, May 4 through Friday, May 7 until business for the day is completed.

**ADDRESSES:** The GMT working meeting will be held at the Pacific Fishery Management Council office, West Conference Room, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220, telephone: 503-820-2280.

*Council address:* Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384, telephone: 503-820-2280.

**FOR FURTHER INFORMATION CONTACT:** Mr. John DeVore, Pacific Fishery Management Council Staff Officer for Groundfish, telephone: 503-820-2280.

**SUPPLEMENTARY INFORMATION:** The primary purpose of the GMT working meeting is to develop a preliminary draft environmental impact statement for harvest specifications and management measures for 2005-2006 West Coast groundfish fisheries and

address other assignments relating to groundfish management.

Although nonemergency issues not contained in this agenda may come before the GMT for discussion, those issues may not be the subject of formal GMT action during this meeting. GMT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice requiring emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

#### Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503-820-2280 at least 5 days prior to the meeting date.

Dated: April 14, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. E4-871 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-22-M

## DEPARTMENT OF COMMERCE

### Technology Administration

#### National Medal of Technology Nomination Evaluation Committee; Notice of Determination for Closure of Meeting

The National Medal of Technology Nomination Evaluation Committee has scheduled a meeting for May 7, 2004.

The Committee was established to assist the Department in executing its responsibilities under 15 U.S.C. 3711. Under this provision, the Secretary of Commerce is responsible for recommending to the President prospective recipients of the National Medal of Technology. The committee's recommendations are made after reviewing all nominations received in response to a public solicitation. The Committee is chartered to have twelve members.

**Time and Place:** The meeting will begin at 10 a.m. and end at 4 p.m. on May 7, 2004. The meeting will be held in Room 4813 at the U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. For further information contact: Mildred S. Porter, Director National Medal of Technology, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Herbert C. Hoover Building, Room 4843,

Washington, DC 20230, Phone: 202-482-5572.

If a member of the public would like to submit written comments concerning the committee's affairs at any time before and after the meeting, written comments should be addressed to the Director of the National Medal of Technology as indicated above.

**SUPPLEMENTARY INFORMATION:** The meeting will be closed to discuss the relative merits of persons and companies nominated for the Medal. Public disclosure of this information would be likely to significantly frustrate implementation of the National Medal of Technology program because premature publicity about candidates under consideration for the Medal, who may or may not ultimately receive the award, would be likely to discourage nominations for the Medal.

Accordingly, I find and determine, pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended, that the May 7, 2004, meeting may be closed to the public in accordance with Section 552b(c)(9)(B) of Title 5, United States Code because revealing information about Medal candidates would be likely to significantly frustrate implementation of a proposed agency Action.

Due to closure of the meeting, copies of the minutes of the meeting will not be available, however a copy of the Notice of determination will be available for public inspection and copying in the office of Mildred Porter, Director, National Medal of Technology, 1401 Constitution Avenue, NW., Herbert Hoover Building, Room 4843, Washington, DC 20230, Phone: 202/482-5572.

Dated: April 14, 2004.

**Phillip J. Bond,**

*Under Secretary of Commerce for Technology.*

[FR Doc. 04-8783 Filed 4-16-04; 8:45 am]

BILLING CODE 3510-18-P

## DEPARTMENT OF DEFENSE

### GENERAL SERVICES ADMINISTRATION

#### NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0090]

#### Federal Acquisition Regulation; Submission for OMB Review; Rights in Data and Copyrights

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0090).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning rights in data and copyrights. A request for public comments was published at 69 FR 5511 on February 5, 2004. No comments were received.

*Public comments are particularly invited on:* Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

**DATES:** Submit comments on or before May 19, 2004.

**ADDRESSES:** Submit comments including suggestions for reducing this burden to the General Services Administration, FAR Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Craig Goral, Acquisition Policy Division, GSA (202) 501-3856.

**SUPPLEMENTARY INFORMATION:**

**A. Purpose**

Rights in Data is a regulation which concerns the rights of the Government, and organizations with which the Government contracts, to information developed under such contracts. The delineation of such rights is necessary in order to protect the contractor's rights to not disclose proprietary data and to insure that data developed with public funds is available to the public.

The information collection burdens and recordkeeping requirements included in this regulation fall into the following four categories:

(a) A provision which is to be included in solicitations where the proposer would identify any proprietary data he would use during contract performance in order that the contracting officer might ascertain if

such proprietary data should be delivered.

(b) Contract provisions which, in unusual circumstances, would be included in a contract and require a contractor to deliver proprietary data to the Government for use in evaluation of work results, or is software to be used in a Government computer. These situations would arise only when the very nature of the contractor's work is comprised of limited rights data or restricted computer software and if the Government would need to see that data in order to determine the extent of the work.

(c) A technical data certification for major systems, which requires the contractor to certify that the data delivered under the contract is complete, accurate and compliant with the requirements of the contract. As this provision is for major systems only, and few civilian agencies have such major systems, only about 30 contracts will involve this certification.

(d) The Additional Data Requirements clause, which is to be included in all contracts for experimental, developmental, research, or demonstration work (other than basic or applied research to be performed solely by a university or college where the contract amount will be \$500,000 or less). The clause requires that the contractor keep all data first produced in the performance of the contract for a period of three years from the final acceptance of all items delivered under the contract. Much of this data will be in the form of the deliverables provided to the Government under the contract (final report, drawings, specifications, etc.). Some data, however, will be in the form of computations, preliminary data, records of experiments, etc., and these will be the data that will be required to be kept over and above the deliverables. The purpose of such recordkeeping requirements is to insure that the Government can fully evaluate the research in order to ascertain future activities and to insure that the research was completed and fully reported, as well as to give the public an opportunity to assess the research results and secure any additional information. All data covered by this clause is unlimited rights data paid for by the Government.

Paragraph (d) of the Rights in Data-General clause outlines a procedure whereby a contracting officer can challenge restrictive markings on data delivered. Under civilian agency contracts, limited rights data or restricted computer software is rarely, if ever, delivered to the Government. Therefore, there will rarely be any

challenges. Thus, there is no burden on the public.

**B. Annual Reporting Burden**

*Respondents:* 1,100.  
*Responses Per Respondent:* 1.  
*Total Responses:* 1,100.  
*Hours per Response:* .95  
*Total Burden Hours:* 1,040.

**C. Annual Recordkeeping Burden**

The annual recordkeeping burden is estimated as follows:

*Recordkeepers:* 9,000.  
*Hours per Recordkeeper:* 2.  
*Total Recordkeeping Burden Hours:* 18,000.

*Obtaining Copies of Proposals:*

Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (MVA), Room 4035, 1800 F Street, Washington, DC 20405, telephone (202) 501-4755. Please cite OMB Control Number 9000-0090, Rights in Data and Copyrights, in all correspondence.

Dated: April 9, 2004.

**Ralph DeStefano,**

*Acting Director, Acquisition Policy Division.*

[FR Doc. 04-8750 Filed 4-16-04; 8:45 am]

BILLING CODE 6820-EP-P

**DEPARTMENT OF DEFENSE**

**Department of the Air Force**

**Privacy Act of 1974; System of Records**

**AGENCY:** Department of the Air Force, DoD.

**ACTION:** Notice to add a record system.

**SUMMARY:** The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

**DATES:** The actions will be effective on May 19, 2004, unless comments are received that would result in a contrary determination.

**ADDRESSES:** Send comments to the Air Force FOIA/Privacy Manager, AF-CIO/P, 1155 Air Force Pentagon, Washington, DC 20330-1155.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Anne P. Rollins at (703) 601-4043.

**SUPPLEMENTARY INFORMATION:** The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the *Federal Register* and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the



Privacy Act of 1974, as amended, was submitted on April 12, 2004, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A-130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 12, 2004.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

#### F044 AS SG U

##### SYSTEM NAME:

Special Needs and Educational and Developmental Intervention Services (EDIS).

##### SYSTEM LOCATION:

Headquarters United States Air Force, Office of the Surgeon General, 110 Luke Avenue, Room 400, Bolling Air Force Base, Washington, DC 20332-7050;

Headquarters, Air Force Medical Support Agency, 5203 Leesburg Pike, Suite 702, Falls Church, VA 22041-3410; and

Major Command Surgeon's offices; Air Force hospitals, medical centers and clinics. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All DoD beneficiaries who are entitled to healthcare at Air Force medical facilities.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

Records of family member special medical and/or educational needs, records of children receiving early intervention or related services from the Educational and Developmental Intervention Services clinics, medical summaries, individual educational program plans, general supportive documentation and correspondence.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force and E.O. 9397 (SSN).

##### PURPOSE(S):

To document the treatment and activities of the Special Needs and Educational and Developmental Intervention Services (EDIS) process as they pertain to special educational and/or medical needs of children and family members, perform outreach and prevention activities, conduct

assessment and survey activities; compile database for statistical analysis, tracking, and reporting; evaluate program effectiveness and conduct research.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To any member of the family in whose sponsor's name the file is maintained, in furtherance of treating any member of the family.

To officials and employees of the Department of Veterans Affairs in the performance of their official duties relating to the adjudication of veterans claims and in providing medical care to members of the Air Force.

To officials and employees of other departments and agencies of the Executive Branch of government upon request in the performance of their official duties relating to review of the official qualifications and medical history of applicants and employees who are covered by this record system and for the conduct of research studies and relating to the coordination of EDIS and Special Needs programs, medical care and research concerning special educational or medical conditions.

To private organizations (including educational institutions) and individuals for authorized health research in the interest of the Federal government and the public. When not considered mandatory, patient identification data shall be eliminated from records used for research studies.

To officials and employees of the National Research Council in cooperative studies of the National History of Diseases; of prognosis and of epidemiology. Each study in which the records of members and former members of the Air Force are used must be approved by the Surgeon General of the Air Force.

To officials and employees of local and State governments and agencies in the performance of their official duties pursuant to the laws and regulations governing local control of communicable diseases, preventive medicine and safety programs, developmental disabilities, and other public health and welfare programs.

To the Federal, State or local governmental agencies when appropriate in the counseling and treatment of individuals or families with

special medical or educational needs, or receiving early intervention or related services.

To authorized surveying bodies for professional certification and accreditations.

To the individual organization or government agency as necessary when required by Federal statute, E.O., or by treaty.

The DoD 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

**Note:** This system of records contains individually identifiable health information. The DoD Health Information Privacy Regulation (DoD 6025.18-R) issued pursuant to the Health Insurance Portability and Accountability Act of 1996, applies to most such health information. DoD 6025.18-R may place additional procedural requirements on the uses and disclosures of such information beyond those found in the Privacy Act of 1974 or mentioned in this system of records notice.

##### POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

###### STORAGE:

Records may be stored in file folders, in computers, and on computer output products.

###### RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the sponsor or the sponsor's spouse.

###### SAFEGUARDS:

Records are maintained in various types of lockable filing equipment in monitored or controlled access lockable rooms or areas. Records are accessible only to authorized personnel that are properly screened and trained. Computer terminals are located in supervised areas with access controlled by password or other user-code systems. Records on computer storage devices are protected by computer system security software or physically stored in lockable filing equipment.

###### RETENTION AND DISPOSAL:

A Special Needs Assignment Coordination Record is closed when criteria for the Q-Code identifier no longer is met, or the AD member separates or retires from military services. An Educational and Developmental Intervention Services, early intervention services record is closed when the child, 0-3 years old, has reached and maintained age appropriate skills and is determined to no longer require services. A related services record is closed when the school age child no longer requires

services, passes the age criteria, transfers to a public education system. Cut off and transfer to the National Personnel Records Center, 9700 Page Blvd, St. Louis, MO 63132-1547, 2-years after the end of the calendar year in which the Q-code deletion request has been affirmed by AFPC where they are destroyed after 25 years.

**SYSTEM MANAGER(S) AND ADDRESS:**

Air Force Special Needs Program Manager and Educational and Developmental Intervention Services Program Manager, Air Force Medical Support Agency, Special Needs Program, 5203 Leesburg Pike, Suite 702, Falls Church, VA 22041-3410. Major Command Surgeons, and Commanders of Air Force medical treatment facilities. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

**NOTIFICATION PROCEDURE:**

Individuals seeking to determine if this system of records contains information on them should address inquiries to the Special Needs Coordinator at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Requests should include the name and Social Security Number of the individual concerned.

**RECORD ACCESS PROCEDURES:**

Individuals seeking to access their records in this system should address requests to the Special Needs Coordinator at the Air Force medical treatment facility where services were provided. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

Requests should include the name and Social Security Number of the individual concerned.

**CONTESTING RECORD PROCEDURES:**

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 33-332; 32 CFR part 806b; or may be obtained from the system manager.

**RECORD SOURCE CATEGORIES:**

Individual to whom the record pertains, reports from physicians and other medical department personnel; reports and information from other sources including educational institutions, medical institutions, public and private health and welfare agencies.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

None.

[FR Doc. 04-8649 Filed 4-16-04; 8:45 am]

BILLING CODE 5001-06-M

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**Notice of Intent To Grant Exclusive Patent Licenses; Seahawk Biosystems Corporation**

**AGENCY:** Department of the Navy, DoD.

**ACTION:** Notice.

**SUMMARY:** The Department of the Navy hereby gives notice of its intent to grant to Seahawk Biosystems Corporation, a revocable, nonassignable, exclusive license to practice in the fields of pathogen detection, disease and infection diagnostic testing, genetic testing for veterinary applications (small and large animals, including equine); pathogen and toxin detection and genetic testing in food products derived from animals; pathogen and toxin detection and genetic testing in food processing; pathogen and toxin detection in, and monitoring of, public water, wastewater, and groundwater in the United States and certain foreign countries, the Government-Owned inventions described in U.S. Patent No. 5,981,297 entitled "Biosensor Using Magnetically-Detected Label", Navy Case No. 77,576; U.S. Patent No. 6,180,418 entitled "Force Discrimination Assay", Navy Case No. 78,183; and U.S. Patent Application Serial No. 10/457,705 entitled "Fluidic Force Discrimination", Navy Case No. 84,529.

**DATES:** Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than May 4, 2004.

**ADDRESSES:** Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jane F. Kuhl, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375-5320, telephone (202) 767-3083. Due to U.S. Postal delays, please fax (202) 404-7920, e-mail: [kuhl@utopia.nrl.navy.mil](mailto:kuhl@utopia.nrl.navy.mil) or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR part 404)

Dated: April 13, 2004.

S. A. Hughes,

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

[FR Doc. 04-8753 Filed 4-16-04; 8:45 am]

BILLING CODE 3810-FF-P

**DEPARTMENT OF EDUCATION**

**Notice of Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Acting Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 28, 2004. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 18, 2004.

**ADDRESSES:** Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Melanie Kadlic, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address [Melanie\\_Kadlic@omb.eop.gov](mailto:Melanie_Kadlic@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer,

publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: April 14, 2004.

Jeanne Van Vlandren,

Acting Leader, Regulatory Information Management Group, Office of the Chief Information Officer.

#### Office of Elementary and Secondary Education

Type of Review: Revision.

Title: Consolidated State Performance Report.

Abstract: Abstract: This information collection package contains the Consolidated State Performance Report (CSPR). It collects data that is required under section 1111 of NCLB which mandates the requirements for the Secretary's report to Congress and information necessary for the Secretary to report on the Department's GPRA indicators

#### Additional Information

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 14,452.

Burden Hours: 55,784.

Requests for copies of the proposed information collection request may be accessed from <http://edicsweb.ed.gov>, by selecting the "Browse Pending Collections" link and by clicking on link number 2431. When you access the information collection, click on "Download Attachments" to view. Written requests for information should

be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202-4651 or to the e-mail address [vivian.reese@ed.gov](mailto:vivian.reese@ed.gov). Requests may also be electronically mailed to the internet address [OCIO\\_RIMG@ed.gov](mailto:OCIO_RIMG@ed.gov) or faxed to (202) 708-9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements, contact Joe Schubart at his e-mail address [Joe.Schubart@ed.gov](mailto:Joe.Schubart@ed.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

[FR Doc. 04-8806 Filed 4-16-04; 8:45 am]

BILLING CODE 4000-01-P

#### DEPARTMENT OF EDUCATION

##### Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 12, 2004, the Department of Education published a 60-day public comment period notice in the *Federal Register* (Page 19171, Column 1) for the information collection, "Part B, Individuals With Disabilities Education Act (IDEA-B) Implementation of Free Appropriate Public Education (FAPE) Requirements." The Type of Review is hereby corrected from Reinstatement to Extension.

Dated: April 13, 2004.

Angela C. Arrington,

Regulatory Information Management Group, Office of the Chief Information Officer.

[FR Doc. 04-8743 Filed 4-16-04; 8:45 am]

BILLING CODE 4000-01-P

#### DEPARTMENT OF EDUCATION

##### Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On April 12, 2004, the Department of Education published a 60-day public comment period notice in the *Federal Register* (Page 19170, Column 3) for the information collection, "Report of Children with Disabilities Receiving Special Education under Part B of the Individuals With Disabilities Education Act (IDEA-B)".

The Type of Review is hereby corrected from Reinstatement to Extension.

Dated: April 13, 2004.

Angela C. Arrington,

Regulatory Information Management Group, Office of the Chief Information Officer.

[FR Doc. 04-8744 Filed 4-16-04; 8:45 am]

BILLING CODE 4000-01-P

#### DEPARTMENT OF ENERGY

##### Energy Information Administration

##### Policy Statement; Disclosure Limitation Policy for Statistical Information Based on Survey Data for Renewable Fuels, Alternative Fueled Vehicles, and Alternative Transportation Fuels

AGENCY: Energy Information Administration (EIA), Department of Energy (DOE).

ACTION: Policy statement; disclosure limitation policy for statistical information based on survey data for renewable fuels, alternative fueled vehicles, and alternative transportation fuels.

SUMMARY: The EIA is announcing its disclosure limitation policy for statistical information based on survey data collected on Forms EIA-63A ("Annual Solar Thermal Collector Manufacturers Survey"), EIA-63B ("Annual Photovoltaic Module/Cell Manufacturers Survey"), EIA-886 ("Annual Survey of Alternative Fueled Vehicle Suppliers and Users"), and EIA-902 ("Annual Geothermal Heat Pump Manufacturers Survey"). The policy is based on EIA's mandate for carrying out a central, comprehensive, and unified energy data and information program responsive to users' needs for credible, reliable, and timely energy information that will improve and broaden understanding of energy in the United States.

DATES: This policy becomes effective April 19, 2004.

ADDRESSES: Requests for additional information or questions about this policy should be directed to Fred Mayes, Chief of EIA's Renewables Information Team. Contact by e-mail ([fred.mayes@eia.doe.gov](mailto:fred.mayes@eia.doe.gov)) or FAX (202-287-1964) is recommended to expedite response. The mailing address is Renewables Information Team (EI-52), Forrestal Building, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585-0650. Alternatively, Mr. Mayes may be contacted by telephone at (202) 287-1750.

**FOR FURTHER INFORMATION CONTACT:**

Requests for additional information should be directed to Mr. Mayes at the address listed above.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Discussion of Comments
- III. Current Actions

**I. Background**

The Federal Energy Administration Act of 1974 (Pub. L. 93-275, 15 U.S.C. 761 *et seq.*) and the DOE Organization Act (Pub. L. 95-91, 42 U.S.C. 7101 *et seq.*) require the EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer-term domestic demands.

The EIA provides the public and other Federal agencies with opportunities to comment on collections of energy information conducted by EIA. As appropriate, EIA also requests comments on important issues relevant to the dissemination of energy information. Comments received help the EIA when preparing information collections and information products necessary to support EIA's mission.

On February 17, 2004, EIA issued two **Federal Register** notices. The first notice (69 FR 7459) requested public comments on EIA's disclosure limitation policy for statistical information based on alternative fueled vehicles and alternative transportation fuels survey data collected on Form EIA-886. The second notice (69 FR 7460) requested comments on EIA's disclosure limitation policy for renewable fuels survey data collected on Forms EIA-63A, EIA-63B, and EIA-902. In the notices, EIA discussed the proposed policies as well as EIA's reasons for proposing it.

When used, disclosure limitation methods are designed to minimize the possibility that individually-identifiable information reported by a survey respondent may be inferred from published statistics. The use of disclosure limitation methods would result in numerous renewable fuels, alternative fueled vehicles, and alternative transportation fuels statistics being suppressed from public dissemination and unavailable to public and private analysts. However, by not using disclosure limitation methods, a published statistic based on survey data

from fewer than three respondents or dominated by data from one or two large respondents may be used by a knowledgeable person to estimate the data reported by a specific respondent.

While the specific forms and data elements in the renewable fuels, alternative fueled vehicles, and alternative transportation fuels surveys are expected to change over time to reflect the industry, the disclosure limitation policy will apply to all survey information collected under a pledge of confidentiality for Forms EIA-63A, EIA-63B, EIA-886, and EIA-902. The overall purpose of these surveys is to provide credible, reliable, and timely information.

**II. Discussion of Comments**

EIA received no comments in response to the requests for public comments.

**III. Current Actions**

The EIA is announcing its disclosure limitation policy for statistical information based on survey data collected on Forms EIA-63A ("Annual Solar Thermal Collector Manufacturers Survey"), EIA-63B ("Annual Photovoltaic Module/Cell Manufacturers Survey"), EIA-886, ("Annual Survey of Alternative Fueled Vehicle Suppliers and Users"), and EIA-902 ("Annual Geothermal Heat Pump Manufacturers Survey").

For renewable fuels survey data collected on Forms EIA-63A, EIA-63B, and EIA-902, EIA's policy is to only apply disclosure limitation methods to statistics based on financial data reported on those forms. For statistics based on nonfinancial data reported on the forms, EIA will not apply disclosure limitation methods.

For alternative fueled vehicles and alternative transportation fuels data collected on Form EIA-886, EIA's policy is to only apply disclosure limitation methods to statistics based on projected data reported on Form EIA-886. For statistics based on historical data reported on Form EIA-886, EIA will not apply disclosure limitation methods.

EIA will continue to protect information collected under a pledge of confidentiality by not publicly releasing respondent-level survey data directly linked to names or other identifiers of the survey respondents. The policy is based on EIA's mandate for carrying out a central, comprehensive, and unified energy data and information program responsive to users' needs for credible, reliable, and timely energy information that will improve and broaden

understanding of energy in the United States.

**Statutory Authority:** Section 52 of the Federal Energy Administration Act (Pub. L. 93-275, 15 U.S.C. 790a).

Issued in Washington, DC, April 12, 2004.

**Guy F. Caruso,**  
*Administrator, Energy Information Administration.*

[FR Doc. 04-8769 Filed 4-16-04; 8:45 am]

BILLING CODE 6450-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. CP04-103-000]

**Dominion Transmission, Inc.; Notice of Application**

April 12, 2004.

On April 7, 2004, Dominion Transmission, Inc. (DTI), 120 Tredegar Street, Richmond, Virginia 23219, filed an application in the above referenced docket, pursuant to section 7(b) of the Natural Gas Act (NGA), and part 157 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations to abandon Well 9037 at its Bridgeport Storage Complex in Harrison County, West Virginia. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at <http://www.ferc.gov> using the "e-Library" link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (866) 208-3676, or for TTY, (202) 502-8659.

Any questions regarding this application should be directed to Anne E. Bomar, Managing Director, Transmission Rates and Regulation, Dominion Transmission, Inc., 120 Tredegar Street, Richmond, Virginia 23219, telephone (804) 819-2134.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.214 or 385.211) and the regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list

maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages electronic filings.

*Comment Date:* April 28, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-868 Filed 4-16-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EC04-92-000, et al.]

#### UniSource Energy Corporation, et al.; Electric Rate and Corporate Filings

April 9, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

#### 1. UniSource Energy Corporation; Tucson Electric Power Company; UNS Electric, Inc.; Saguaro Utility Group I Corp.; Saguaro Acquisition Corp.; and Saguaro Utility Group L.P.

[Docket No. EC04-92-000]

Take notice that on April 7, 2004, UniSource Energy Corporation, Tucson Electric Power Company, UNS Electric, Inc., Saguaro Utility Group I Corp., Saguaro Acquisition Corp., and Saguaro Utility Group, L.P. (collectively, Applicants) submitted a joint application pursuant to section 203 of the Federal Power Act seeking all authorizations and approvals necessary for an indirect disposition of jurisdictional facilities in connection with the acquisition of UniSource Energy Corporation by Saguaro Utility Group I Corp., as described in the joint application.

*Comment Date:* April 28, 2004.

#### 2. Eagle Point Cogeneration Partnership and Sunoco Power Generation LLC

[Docket No. EC04-93-000]

Take notice that on April 7, 2004, Eagle Point Cogeneration Partnership (Eagle Point), and Sunoco Power Generation LLC (Sunoco Power) (jointly, Applicants), filed with the Federal Energy Regulatory Commission an application pursuant to section 203 of the Federal Power Act for authorization for Eagle Point to lease certain jurisdictional facilities to Sunoco Power. The jurisdictional facilities are associated with the Eagle Point Cogeneration Facility.

*Comment Date:* April 28, 2004.

#### 3. Avista Corporation

[Docket No. ER04-477-001]

Take notice that on April 5, 2004, Avista Corporation (Avista) submitted an executed signature page for the service agreement between Avista and Bonneville Power Administration designated as Rate Schedule No. 307 under Avista's FERC Electric Tariff Original Volume No. 10.

*Comment Date:* April 26, 2004.

#### 4. Orion Power MidWest, LP

[Docket No. ER04-717-000]

Take notice that on April 6, 2004 Orion Power Midwest, LP (OPMW) filed a rate schedule and supporting cost data for its proposed Reactive Support and Voltage Control from Generation Sources Service tariff from its generation facilities within the American Transmission System, Incorporated control area.

*Comment Date:* April 27, 2004.

#### 5. Cinergy Services, Inc.

[Docket No. ER04-719-000]

Take notice that on April 7, 2004, Cinergy Services, Inc. (Cinergy) tendered for filing an amended and restated Interconnection Agreement entered into by and between Cinergy Services, Inc., acting as agent for and on behalf of PSI Energy, Inc., and Allegheny Energy Supply Generating Facility, L.L.C. (Wheatland), dated as of March 31, 2004. Wheatland was previously known as WestFork Land Development Company, L.L.C.

Cinergy states that it has served copies of its filing upon the Indiana Utility Regulatory Commission and Wheatland.

*Comment Date:* April 27, 2004.

#### Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at <http://www.ferc.gov>, using the "FERRIS" link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502-8222 or TTY, (202) 502-8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The

Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4-869 Filed 4-16-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP04-60-000]

#### Tennessee Gas Pipeline Company; Notice of Technical Conference

April 12, 2004.

On January 30, 2004, Tennessee Gas Pipeline Company (Tennessee) filed a request pursuant to §§ 157.205, 157.208 and 157.211 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), for authorization to construct a lateral pipeline and delivery point to facilitate gas transportation services to a new delivery point in Massachusetts under Tennessee's blanket certificate issued in Docket No. CP82-413-000. Commission staff protested the application, objecting to Tennessee's rate proposal. The purpose of the conference is to discuss the Commission staff's protest, the nature of Tennessee's proposal and the underlying business transaction.

Take notice that a technical conference to discuss the various issues mentioned above will take place on April 22, 2004, at 10 a.m. at the Commission's offices at 888 First Street NE., Washington, DC 20426.

Any parties to this proceeding who have questions about, or plan to attend the technical conference should contact Todd Ruhkamp at (202) 502-6812 or William Zoller at (202) 502-8191.

Magalie R. Salas,

Secretary.

[FR Doc. E4-867 Filed 4-16-04; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[UST-2004-0001, FRL-7649-4]

### Agency Information Collection Activities: Proposed Collection; Comment Request; Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures, EPA ICR Number 1360.07, OMB Control Number 2050-0068

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit a continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB). This is a request to renew an existing approved collection which is scheduled to expire on October 31, 2004. 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 June 18, 2004.

**ADDRESSES:** Submit your comments, referencing docket ID number UST-2004-0001 to EPA online using EDOCKET (our preferred method), by e-mail to [rcra-docket@epa.gov](mailto:rcra-docket@epa.gov), or by mail to: EPA Docket Center, Environmental Protection Agency, Underground Storage Tank (UST) Docket, Mail Code 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Sammy Ng, Office of Underground Storage Tanks, Mail Code 5401G, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 603-9900; fax number: (703) 603-0175; e-mail address: [ng.sammy@epa.gov](mailto:ng.sammy@epa.gov).

**SUPPLEMENTARY INFORMATION:** EPA has established a public docket for this ICR under Docket ID number UST-2004-0001 which is available for public viewing at the UST 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 UST Docket is (202) 566-0270. 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 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 those facilities that own and operate underground storage tanks (USTs) and those States that implement the UST programs.

**Title:** "Underground Storage Tanks: Technical and Financial Requirements, and State Program Approval Procedures."

**Abstract:** Subtitle I of the Resource Conservation and Recovery Act (RCRA), as amended, requires that EPA develop standards for UST systems, as may be necessary, to protect human health and the environment, and procedures for approving State programs in lieu of the Federal program. EPA promulgated technical and financial requirements for owners and operators of USTs at 40 CFR part 280, and State program approval procedures at 40 CFR part 281. This ICR is a comprehensive presentation of all information collection requirements contained at 40 CFR parts 280 and 281.

The data collected for new and existing UST system operations and financial requirements are used by

owners and operators and/or EPA or the implementing agency to monitor results of testing, inspections, and operation of UST systems, as well as to demonstrate compliance with regulations. EPA believes strongly that if the minimum requirements specified under the regulations are not met, neither the facilities nor EPA can ensure that UST systems are being managed in a manner protective of human health and the environment.

EPA uses State program applications to determine whether to approve a State program. Before granting approval, EPA must determine that programs will be no less stringent than the Federal program and contain adequate enforcement mechanisms.

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.

The EPA would like to solicit comments to:

(i) 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;

(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 automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**Burden Statement:** EPA estimates the total annual respondent burden for all activities covered in this proposed ICR to be 6,814,362 hours. The total annual respondent cost burden is estimated to be \$713,330,054 (\$369,823,007 in labor costs; \$80,250,656 in capital/startup costs; and \$263,256,390 in operation and maintenance costs). The Agency estimates the average total annual number of respondents will be 254,668 (i.e., 254,666 UST facilities and two States) and the frequency of their response will depend upon the individual reporting and recordkeeping requirements.

Based on this analysis, the public reporting burden for UST facilities is estimated to average 15 hours per

respondent per year. This estimate includes time for preparing and submitting notices, preparing and submitting demonstrations and applications, reporting releases, gathering information, and preparing and submitting reports. The recordkeeping burden for UST facilities is estimated to average 12 hours per respondent per year. This estimate includes time for gathering information and for developing and maintaining records.

For States applying for program approval, the reporting burden is estimated to average 13 hours per respondent per year. This estimate includes time for preparing and submitting an application and associated information. The recordkeeping burden is estimated to average 15 hours per respondent per year. This estimate includes time for maintaining application files.

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: April 6, 2004.

**Cliff Rothenstein,**

*Director, Office of Underground Storage Tanks.*

[FR Doc. 04-8796 Filed 4-16-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPPT-2004-0082; FRL-7350-4]

### Lead-Based Paint Pre-Renovation Information Dissemination - TSCA Section 406(b); Request for Comment on Renewal of Information Collection Activities

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) (44

U.S.C. 3501 *et seq.*), EPA is seeking public comment and information on the following Information Collection Request (ICR): Lead-Based Paint Pre-Renovation Information Dissemination - Toxic Substances Control Act (TSCA) Section 406(b) (EPA ICR No. 1669.04, OMB Control No. 2070-0158). This ICR involves a collection activity that is currently approved and scheduled to expire on December 31, 2004. The information collected under this ICR relates to requirements that persons who perform housing renovations provide certain information on any lead hazards created by the renovation to the owner and occupant of such housing prior to beginning renovation, thereby protecting public health and the environment. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

**DATES:** Written comments, identified by the docket ID number OPPT-2004-0082, must be received on or before June 18, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** For general information contact: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

For technical information contact: John Wilkins, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 566-0477; fax number: (202) 566-0469; e-mail address: [wilkins.john@epa.gov](mailto:wilkins.john@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. General Information

#### A. Does this Action Apply to Me?

You may be potentially affected by this action if you perform renovations of certain types of housing, constructed prior to 1978, for compensation. Potentially affected entities may include, but are not limited to:

- Building, developing, and general contracting (NAICS 233), e.g., Single family housing construction, multifamily housing construction, etc.
- Special trade contractors (NAICS 235), e.g., Plumbing, heating, and air-conditioning contractors, painting and wall covering contractors, electrical contractors, carpentry contractors, concrete contractors, wrecking and demolition contractors, etc.
- Real estate (NAICS 531), e.g., Lessors of residential buildings and dwellings, offices of real estate agents and brokers, residential property managers, offices of real estate appraisers, etc.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *B. How Can I Get Copies of this Document and Other Related Information?*

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPPT-2004-0082. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102-Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566-1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566-0280.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's

electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be

scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

#### *C. How and to Whom Do I Submit the Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically.* If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket/>, and follow the online instructions for submitting comments. Once in the system, select "search," and then key in docket ID number OPPT-2004-0082. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or



other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by e-mail to *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT-2004-0082. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail.* Send your comments to: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

3. *By hand delivery or courier.* Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Bldg., Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT-2004-0082. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564-8930.

#### *D. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM,

mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *E. What Should I Consider when I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.
5. Provide specific examples to illustrate your concerns.
6. Offer alternative ways to improve the collection activity.
7. Make sure to submit your comments by the deadline in this notice.
8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

#### *F. What Information is EPA Particularly Interested in?*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.
3. Enhance the quality, utility, and clarity of the information to be collected.
4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

## **II. What Information Collection Activity or ICR Does this Action Apply to?**

EPA is seeking comments on the following ICR:

*Title:* Lead-Based Paint Pre-Renovation Information Dissemination - TSCA Section 406(b).

*ICR numbers:* EPA ICR No. 1669.04, OMB Control No. 2070-0158.

*ICR status:* This ICR is currently scheduled to expire on December 31, 2004. 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 title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable.

*Abstract:* This information collection involves third-party notification to owners and occupants of housing that will allow these individuals to avoid exposure to lead-contaminated dust and lead-based paint debris that are sometimes generated during renovations of housing where lead-based paint is present, thereby protecting public health. Since young children are especially susceptible to the hazards of lead, owners and occupants with children can take action to protect their children from lead poisonings. TSCA section 406(b) requires EPA to promulgate regulations requiring certain persons who perform renovations of target housing for compensation to provide a lead hazard information pamphlet (developed under TSCA section 406(a)) to the owner and occupants of such housing prior to beginning the renovation. Those who fail to provide the pamphlet as required may be subject to both civil and criminal sanctions.

Responses to the collection of information are mandatory (see 40 CFR part 745, subpart E). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

## **III. What are EPA's Burden and Cost Estimates for this ICR?**

Under the PRA, "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. For this collection it 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.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average 1.39 hours per respondent. The following is a summary of the estimates taken from the ICR:

*Respondents/affected entities:*  
2,482,000.

*Estimated total number of potential respondents:* 2,482,000.

*Frequency of response:* On occasion.

*Estimated total/average number of responses for each respondent:* 8.

*Estimated total annual burden hours:*  
3,461,542 hours.

*Estimated total annual burden costs:*  
\$111,929,595.

#### IV. Are There Changes in the Estimates from the Last Approval?

This request reflects an increase of 522,996 hours (from 2,938,546 hours to 3,461,542 hours) in the total estimated respondent burden from that currently in the OMB inventory. This increase is due to an increase in the estimated number of annual renovation events, as detailed in Table 4 of the Supporting Statement for this ICR. The increased number of renovation events is the result of increased spending on renovations and reflects a general economic trend. The change in burden represents an adjustment.

#### V. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: April 12, 2004.

**Susan B. Hazen,**

*Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.*

[FR Doc. 04-8797 Filed 4-16-04; 8:45 am]

**BILLING CODE 6560-50-S**

#### ENVIRONMENTAL PROTECTION AGENCY

[Docket ID No. OW-2004-0004; FRL-7649-6]

#### Notice of Availability: Tribal Drinking Water Operator Certification Program Draft Final Guidelines

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) is announcing the availability of the Tribal Drinking Water Operator Certification Program Draft Final Guidelines (Draft Final Guidelines). The Safe Drinking Water Act (SDWA) Amendments of 1996 directed the EPA, in cooperation with the States, to develop guidelines specifying minimum standards for certification and recertification of operators of State community and nontransient noncommunity public water systems. The requirements pertaining to States do not apply to tribes; however, since having a certified operator is a key factor in public health protection, EPA has developed a voluntary Tribal Drinking Water Operator Certification Program. This program is intended to protect public health by providing operators of drinking water systems in Indian country with additional opportunities to become trained and certified, by developing baseline standards for non-State organizations certifying operators of systems in Indian country, and by establishing a consistent method of assessing, tracking, and addressing certification and training needs of those operators.

The draft guidelines were made available to the public in a Federal Register notice dated March 30, 2000 (65 FR 16917), and comments were sought. See the **SUPPLEMENTARY INFORMATION** section for a brief summary of those comments. Today, EPA is seeking any additional comments from tribes and other interested parties who will be affected by the Tribal Drinking Water Operator Certification Program. EPA will consider the comments

received when finalizing the Program Guidelines.

**DATES:** Comments should be postmarked or received via email or courier by June 18, 2004.

**ADDRESSES:** Comments may be submitted electronically, by mail, or through hand delivery/courier. Send comments to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW-2004-0004.

**FOR FURTHER INFORMATION CONTACT:** For copies of the Draft Final Guidelines, and for general information about the document, please contact the Safe Drinking Water Hotline at 800-426-4791. The Draft Final Guidelines are also available on the EPA Office of Ground Water and Drinking Water Web site at <http://www.epa.gov/safewater/tribal.html>. For technical inquiries, contact Jill Nogi, Environmental Protection Agency, Office of Ground Water and Drinking Water, Mail Code: 4606M, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone: (202) 564-1721; email: [nogi.jill@epa.gov](mailto:nogi.jill@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. General Information

##### A. How Can I Get Copies Of This Document and Other Related Information?

1. Docket. EPA has established an official public docket for this action under Docket ID No. OW-2004-0004. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Water Docket is (202) 566-2426. If you would like to schedule an appointment for access to docket material, please call (202) 566-2426.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to

access those documents in the public docket that are available electronically. Once in the system, select "search," then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in section I.A.1.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

#### *B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your

comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets.* Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at <http://www.epa.gov/edocket>, and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select "Information Sources," "Dockets," and "EPA Dockets." Once in the system, select "search," and then key in Docket ID No. OW-2004-0004. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail.* Comments may be sent by electronic mail (e-mail) to OW-Docket@epa.gov, Attention Docket ID No. OW-2004-0004. In contrast to EPA's electronic public docket, EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official

public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the following mailing address in Section I.B.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send an original and three copies of your comments to: Water Docket, Environmental Protection Agency, Mail Code 4101T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. OW-2004-0004.

3. *By Hand Delivery or Courier.* Deliver your comments to: Environmental Protection Agency, EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OW-2004-0004. Such deliveries are only accepted during the Docket's normal hours of operation as identified in section I.A.1.

#### *C. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### **II. Summary of Comments on the March 30, 2000 Draft Guidelines**

EPA responded to comments received on the March 30, 2000, Draft Guidelines in detail in the Tribal Drinking Water Operator Certification Program Draft Final Guidelines, dated March 2004, briefly summarized as follows:

1. Is the Tribal Operator Certification Program mandatory or voluntary? EPA responded in the Draft Final Guidelines that this program is voluntary unless a

Tribe is receiving funds from the Drinking Water Infrastructure Grant (State Revolving Fund) Tribal Set-Aside (DWIG TSA). Other drinking water grants may also have water system operator certification conditions in order for Tribes to be eligible for financial assistance. EPA Regions will have the flexibility to issue such a grant condition for drinking water grants other than the DWIG TSA.

2. Would State certification of water system operators be acceptable under the Tribal Drinking Water Operator Certification Program? EPA responded that it will accept State certification if the State has an EPA approved program, and the level of certification is appropriate for the EPA classification of the water system.

3. Could an operator who is currently operating a system, but who may not meet the certification requirements of the Tribal Drinking Water Operator Certification Program, continue working under this program? EPA responded that an operator who is currently working could continue to operate the system under a grandparenting clause provision in the guidelines; however, there are certain qualifications and restrictions on grandparenting. (Refer to the Draft Final Guidelines for details.)

4. Would State classification of water systems be acceptable, or would the systems have to be classified under EPA criteria? EPA determined that it will classify water systems in Indian country.

5. Would operators of water systems with both distribution and treatment characteristics need two separate certifications? EPA responded that large system operators may be required to have certifications for both distribution and treatment, however, small system operators may be allowed to have one certification that includes both distribution and treatment.

Dated: April 13, 2004.

**Benjamin H. Grumbles,**

*Acting Assistant Administrator, Office of Water.*

[FR Doc. 04-8795 Filed 4-16-04; 8:45 am]

BILLING CODE 6560-50-P

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Sunshine Act Meeting

**ACTION:** Notice of partially open meeting of the Board of Directors of the Export-Import Bank of the United States.

**TIME AND PLACE:** Thursday, April 22, 2004 at 9:30 a.m. The meeting will be

held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

**OPEN AGENDA ITEM:** Ex-Im Bank Advisory Committee (15th Member) for 2004.

**PUBLIC PARTICIPATION:** The meeting will be open to public participation for Item No. 1 only.

**FOR FURTHER INFORMATION CONTACT:** Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Tele. No. (202) 565-3957).

**Peter B. Saba,**  
*General Counsel.*

[FR Doc. 04-8947 Filed 4-15-04; 2:52 pm]

BILLING CODE 6690-01-M

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than May 3, 2004.

**Federal Reserve Bank of Chicago**  
(Patrick M. Wilder, Managing Examiner)  
230 South LaSalle Street, Chicago,  
Illinois 60690-1414:

1. *Marantz Investments, L.P.*, Springfield, Illinois, Tom E. Marantz, Springfield, Illinois, Natalie K. Marantz, Springfield, Illinois, Marla J. Marantz, Springfield, Missouri, Melissa J. Hayner, Springfield, Illinois, Tom E. Marantz as Trustee for the Marla Marantz Trust, Tom E. Marantz as Trustee for the Tom Marantz Trust, and Marla J. Marantz as Trustee for the Marla Marantz Irrevocable Trust, to retain voting shares of Spring Bancorp, Inc., Springfield, Illinois, and thereby indirectly retain voting shares of the Bank of Springfield, Springfield, Illinois, and Bank of Jacksonville, Jacksonville, Illinois, d/b/a a branch of Bank of Springfield.

Board of Governors of the Federal Reserve System, April 13, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04-8727 Filed 4-16-04; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 13, 2004.

**A. Federal Reserve Bank of Kansas City** (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *The Farmers State Bank of Fort Morgan Employee Stock Ownership Plan*, Fort Morgan, Colorado; to acquire 38 percent of the voting shares of FSB Bancorporation, Inc., Fort Morgan, Colorado, and thereby indirectly acquire Farmers State Bank, Fort Morgan, Colorado.

Board of Governors of the Federal Reserve System, April 13, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04-8725 Filed 4-16-04; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 2004.

**A. Federal Reserve Bank of San Francisco** (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105-1579:

1. *Western Alliance Bancorporation*, Las Vegas, Nevada; to acquire 100 percent of the voting shares of Miller/Russell & Associates, Phoenix, Arizona, and thereby acting as an investment advisor pursuant to section 225.28(b)(6)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, April 13, 2004.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 04-8726 Filed 4-16-04; 8:45 am]

BILLING CODE 6210-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Notice of Meetings

In accordance with section 10(d) of the Federal Advisory Committee Act as amended (5 U.S.C., appendix 2), the Agency for Healthcare Research and Quality (AHRQ) announces meetings of scientific peer review groups. The subcommittees listed below are part of the Agency's Health Services Research Initial Review Group Committee.

The subcommittee meetings will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications are to be reviewed and discussed at these meetings. These discussions are likely to involve information concerning individuals associated with the application, including assessments of their personal qualifications to conduct their proposed projects. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of Subcommittee:* Health Care Research Training.

*Date:* May 20-21, 2004 (Open from 8 a.m. to 8:15 a.m. on May 20 and closed for remainder of the meeting).

2. *Name of Subcommittee:* Health Research Dissemination and Implementation.

*Date:* June 17-18, 2004 (Open from 8 a.m. to 8:15 a.m. on June 17 and closed for remainder of the meeting).

3. *Name of Subcommittee:* Health Systems Research.

*Date:* June 17-18, 2004 (Open from 8 a.m. to 8-15 a.m. on June 17 and closed for remainder of the meeting).

4. *Name of Subcommittee:* Health Care Quality and Effectiveness Research.

*Date:* June 24-25, 2004 (Open from 8 a.m. to 8:15 a.m. on June 24 and closed for remainder of the meeting).

5. *Name of Subcommittee:* Health Care Technology and Decision Sciences.

*Date:* June 24-25, 2004 (Open from 8 a.m. to 8:15 a.m. on June 24 and closed for remainder of the meeting).

*All the meetings above will take place at:* AHRQ, John Eisenberg Building, 540 Gaither Road, Conference Center, Rockville, Maryland 20850.

*Contact Person:* Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of the meetings should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Suite 2000, Rockville, Maryland 20850, Telephone (301) 427-1554. Agenda items for these meetings are subject to change as priorities dictate.

Dated: April 9, 2004.

**Carolyn M. Clancy,**

*Director.*

[FR Doc. 04-8732 Filed 4-16-04; 8:45 am]

BILLING CODE 4160-90-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-04-41]

#### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Sandra Gambescia, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-E11, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

#### Proposed Project

Accommodation of Hearing-Impaired Workers—New—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

#### Background

CDC, National Institute for Occupational Safety and Health mission is to promote safety and health at work for all people through research and prevention. This study will evaluate the effectiveness of an evaluation and intervention protocol that can be used to accommodate the special needs of

noise-exposed, hearing-impaired workers so that they can continue to perform their jobs safely while preventing additional hearing loss. Three General Motors (GM) manufacturing plants have agreed to participate in the field-testing phase of this project as part of the Memorandum of Understanding between NIOSH, the General Motors Corporation and the International Union, United Automotive, Aerospace and Agricultural Implement Workers of America (UAW) which was signed on October 23, 2000. Beginning in 2002 and continuing into 2003, the field study proposal was developed in consultation with representatives from GM and the UAW from each of the three plants. The field

study is scheduled to begin during 2004 and to conclude during 2005.

One hundred noise-exposed, hearing-impaired workers will be enrolled in the study. Participants will complete the necessary release of information forms, receive a clinical hearing evaluation and case history interview by a certified audiologist to identify the type of hearing protection most appropriate for them, and be provided with this protector for use in their actual job. As part of the impact and evaluation component of this project, each study participant will fill out a 36-item pre-intervention Hearing Protection Device (HPD) Questionnaire at the time he or she enrolls in the study. The HPD Questionnaire is an expansion of a

previously approved HPD questionnaire (OMB NO. 0920-0552) which was developed in 1999 by NIOSH researchers. The post-intervention HPD Questionnaire will be mailed to each participant along with the 7-item Post-Intervention Questionnaire following a one-year trial with the study HPD. NIOSH researchers will use this information to assess the success of the evaluation and HPD selection protocol, and make recommendations to hearing health professionals and hearing conservation program managers, regarding the auditory management of noise-exposed, hearing-impaired workers. This request is for 2 years. There is no cost to respondents.

Respondents	No. of respondents	No. of responses/ respondents	Avg. burden/ response (in hrs)	Total burden hours
Release of Information (GM to NIOSH) .....	100	1	5/60	8
Release of Information (Clinic to NIOSH) .....	100	1	5/60	8
Contact Information Card .....	100	1	2/60	3
HPD Questionnaire (pre-intervention) .....	100	1	15/60	25
HPD Questionnaire (post-intervention) .....	100	1	15/60	25
Case History .....	100	1	10/60	17
Telephone Follow-Up .....	100	6	7/60	70
Post-Intervention Questionnaire .....	100	1	10/60	17
<b>Total</b> .....				<b>173</b>

Dated: April 12, 2004.

**Diane Allen,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 04-8754 Filed 4-16-04; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-04-40]

#### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-E11, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

#### Proposed Project

Integrating HIV and Other Prevention Services into Reproductive Health and Other Community Settings On-Line Performance Reporting System—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

#### Background

Integrating HIV and Other Prevention Services into Reproductive Health and Other Community Settings is a training project of CDC, National Center for Chronic Disease Prevention and Health Promotion, the grantees, and their ten family planning regional training centers. The grantees must submit project reports twice a year (each of whom corresponds to one of the ten federal public health regions) on their training-centered intervention activities. CDC guidelines also obligate grantees under cooperative agreements to provide performance reporting. To facilitate grantee compliance with performance reporting requirements, a secure online performance reporting system has been designed to capture training activity information—an indicator of consistent and measurable project progress. Each grantee enters and edits their own training activity data and generates project evaluation documents and semi-annual reports on the Internet. CDC will use the reported data to assess project progress towards achieving:

- Measurable information about grantees' prevention training activities.
- Prevention training needs, complexity, diversity, and availability.

- Comparisons between the trained population and the general population of the local area.
- Special cultural and regional needs.
- Complexity of the trained workforce.

- Grantees access to on-line data reports.
- Grantees' semi-annual performance reports are due March 31 and September 30 during each year of the 5-year cooperative agreement. Using the on-line system, grantees enter data during

each reporting period. The information obtained from the online performance reporting system will help CDC meet its evaluation objectives. No proprietary items or sensitive information will be collected. There is no cost to respondents except their time.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
Region 1 Grantee .....	1	2	1	2
Region 2 Grantee .....	1	2	1	2
Region 3 Grantee .....	1	2	1	2
Region 4 Grantee .....	1	2	1	2
Region 5 Grantee .....	1	2	1	2
Region 6 Grantee .....	1	2	1	2
Region 7 Grantee .....	1	2	1	2
Region 8 Grantee .....	1	2	1	2
Region 9 Grantee .....	1	2	1	2
Region 10 Grantee .....	1	2	1	2
Total .....				20

Dated: April 9, 2004.

**Diane Allen,**  
Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-8755 Filed 4-16-04; 8:45 am]  
BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day-04-39]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-E11, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

**Proposed Project**

Assessment of State Early Hearing Detection and Intervention Programs (EHDI): A Program Operations Evaluation Protocol—New—National Center on Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Every year, an estimated 12,000 newborns are diagnosed with permanent hearing loss, a condition that if not identified and treated early can lead to impaired functioning and development. CDC's role in the detection, diagnosis, and treatment of early hearing loss through the "Early Hearing Detection and Intervention Program" (EHDI) is of vital importance for families of newborns and infants affected by hearing loss. Nonetheless, recent data indicate that only 60 percent of the newborns that fail hearing screening are evaluated by the recommended 3 months of age.

This study aims to examine the policy, structural, personal, and financial factors and barriers associated with loss to follow-up and identify "best practices" for improving detection; referral to evaluation and intervention; and adherence to intervention. Data

from this evaluation will be used to improve EHDI programs across the nation.

The evaluation will involve an integrative evaluation approach that encompasses the following activities, conducted in Arkansas, Massachusetts, Michigan, Utah, and Virginia: (1) a 10-minute survey of 3,000 mothers whose newborns have been screened (the "Maternal Exit Survey"); and (2) a 20-minute computer-assisted telephone interviewing (CATI) survey of 1,000 mothers of newborns who have been referred for additional hearing evaluation (the "Maternal CATI Interview"). The Maternal Exit Survey and the Maternal CATI Interview will address the following research questions: (1) What are the factors that impede or enable families to follow-up for early hearing evaluation and intervention; (2) What EHDI strategies implemented by hospitals appear to be most successful in reducing loss to follow-up; and (3) Is loss to follow-up associated with maternal characteristics such as parity, age or ethnicity? Both surveys will be available in English and Spanish.

Hearing loss is the most common disorder that can be detected through newborn screening programs. Prior to the implementation of newborn hearing screening, children with hearing loss typically were not identified until 2 to 3 years of age. This is well beyond the period of early language development. Now, with comprehensive EHDI programs, the average age of identification of children with hearing loss has been reduced so that it is now possible to provide interventions for

children younger than one year of age. With early identification, children with hearing loss can begin receiving appropriate intervention services that provide the best opportunity for these children to reach their maximum potential in such areas as language, communication, social and emotional development, and school achievement.

Newborn hearing screening is only the first step in the identification of children with hearing loss. Children who do not pass their screening need to be further evaluated to determine if they have hearing loss. The value of newborn hearing screening cannot be realized

unless children complete the screening, evaluation, and intervention process. Since recent data indicate that nearly 40 percent of children do not complete the evaluation-intervention process, this project is designed to understand what barriers exist to following through with evaluation and intervention. This evaluation also plans to provide data necessary to develop innovative solutions that can be applied by states, hospitals, and local programs. Results from this collection have the potential to strengthen the EHDI process and minimize social and economic disability among persons born with hearing loss.

By evaluating the policy, structural, personal, and financial factors and barriers associated with loss to follow-up in the EHDI program, this study seeks to identify "best practices" for improving detection, referral to evaluation and intervention, and adherence to intervention. CDC's plan to publish data and results from this evaluation will help state health officials, other federal agencies, and other stakeholders to improve the EHDI process-providing direct benefit to infants with hearing loss and their families.

Instrument	Number of respondents	Responses per respondent	Average burden per response (hrs)	Total burden (hrs)
Maternal Exit Survey .....	3,000	1	10/60	500
Maternal CATI Interview .....	1,000	1	20/60	333
Total .....				833

Dated: April 9, 2004.

**Diane Allen,**

*Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 04-8756 Filed 4-16-04; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60Day-04-38]

#### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404)498-1210.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the

agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-E11, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

#### Proposed Project

*Heads Up: High School Sports—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).*

It is estimated that 300,000 sports-related traumatic brain injuries of mild to moderate severity, most of which can be classified as concussions, occur each year in the United States. While the proportion of these injuries that are repeat occurrences is unknown, there is an increased risk of subsequent concussion among persons who have had at least one previous concussion. Repeated concussions occurring over an extended period can result in cumulative neurological and cognitive problems. Repeated concussions occurring within a short period of time (second impact syndrome) can be

catastrophic or fatal. One of the goals of CDC is to reduce negative outcomes resulting from sports-related concussion and reduce the occurrence of second-impact syndrome in high schools. To help achieve these goals CDC, National Center for Injury Prevention and Control (NCIPC) will undertake a communication and education effort in the form of a concussion tool kit aimed at high school coaches. The objectives of the tool kit include providing coaches with materials and tools that will help them to: (1) Raise their own awareness about sports-related concussion; (2) prevent sports-related concussion; (3) take appropriate action when injury occurs; and (4) educate athletes, parents, and school officials about sports-related concussion. After review of the tool kit, NCIPC will conduct a telephone survey to assess short-term impact of the communication and educational initiative directed at high school athletic coaches about sports-related concussions.

Specifically, the survey will assess knowledge and awareness about sports-related concussion, appropriateness of content, perceived value, intentions to use, and actual use of tool kit materials. Survey results will be used to identify revisions and improvements that need to be made to the tool kit materials before they are promoted and distributed nationally in 2005. This one-time survey will be conducted over a two to three month period.



Respondents	Number of respondents	Number of responses per respondent	Average burden per respondent (in hrs.)	Total burden (in hrs)
High School Coaches .....	500	1	15	125
Total .....				125

Dated: April 9, 2004.

Diane Allen,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 04-8757 Filed 4-16-04; 8:45 am]

BILLING CODE 4163-18-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Grants and Cooperative Agreements; Notice of Availability

*Federal Agency Contact Name:* Administration for Children and Families, Children's Bureau.

*Funding Opportunity Title:* Recreational Services for Children Affected by HIV/AIDS.

*Announcement Type:* Initial—Grant.  
*Funding Opportunity Number:* HHS-2004-ACF-ACYF-CB-0008.

*CFDA Number:* 93.551.

*Due Date for Applications:* The due date for receipt of applications is June 18, 2004.

#### I. Funding Opportunity Description

The purpose of this funding opportunity is to fund programs that provide counseling, support services and/or respite care in a recreational or camp setting for children and adolescents affected by HIV/AIDS. Projects supported under this funding opportunity are expected to serve as models for service provision to children and adolescents affected by HIV/AIDS. A model project funded under this initiative must:

- Develop and implement an evidence-based project with specific components or strategies that are based on theory, research, or evaluation data; or, replicate or test the transferability of successfully evaluated program models;
- Determine the effectiveness of the model and its components or strategies; and
- Produce materials that will enable others to replicate the model.

#### Background

The purposes of Pub. L. 100-505, the Abandoned Infants Act of 1988 as

amended, are to establish a program of local support services projects to prevent the abandonment in hospitals of infants and young children, particularly those who have been perinatally exposed to a dangerous drug and those with the human immunodeficiency virus (HIV) or who have been perinatally exposed to the virus; to identify and address the needs of those infants and children who are, or might be, abandoned; to develop a program of comprehensive support services for these infants and young children and their natural families (see *Definitions*) that include, but are not limited to, foster family care services, case management services, family support services, parenting skills, in-home support services, counseling services and group residential home services; and to recruit and train health and social services personnel, foster care families, and residential care providers to meet the needs of abandoned children and infants and children who are at risk of abandonment. The legislation also allows for the provision of a technical assistance training program to support the planning, development and operation of the service demonstration projects. The reauthorized legislation allows the Secretary to give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.

Projects funded under this funding opportunity will examine the impact that a supportive, recreational or camping program may have on children/adolescents in coming to terms with the loss of a parent(s) and or in coming to terms with their own illness due to HIV/AIDS. This effort will test the assumption that a supportive recreational or camping environment will have a positive impact on children/adolescents in which they will learn to reduce their own risk behavior; develop a peer network of support with others who have had a similar experience and find ways to deal with their fears and anxieties. ACYF will provide support for recreational (camping) programs that

can be one day, one week or several weeks in duration or once a week over a period of several weeks. This proposed project can take place either in the summer months or during the school year.

Applicants are expected to present a program design that includes detailed procedures for documenting project activities and results, including the development of a data collection infrastructure that is sufficient to support a methodologically sound and rigorous evaluation. Applicants must describe how and what data will be collected on children; types of activities and/or services provided; and, the types and nature of needs identified and met.

#### Definitions

*Abandoned and Abandonment*—The terms “abandoned” and “abandonment”, used with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

*Acquired Immune Deficiency Syndrome*—The term “acquired immune deficiency syndrome” includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

*Dangerous Drug*—The term “dangerous drug” means a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

*Natural Family*—The term “natural family” shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a caregiving situation, with respect to infants and young children covered under this Act.

#### II. Award Information

*Funding Instrument Type:* Grant.  
*Anticipated Total Priority Area Funding:* The anticipated total for all

awards under this funding announcement in FY 2004 is \$300,000.

**Anticipated Number of Awards:** It is anticipated that 3 projects will be funded.

**Ceiling on Amount of Individual Awards:** The maximum Federal share of the project is \$100,000 in the first budget period. An application received that exceeds that amount will be considered "non-responsive" and be returned to the applicant without further review.

**Floor of Individual Award Amounts:** None.

**Average Projected Award Amount:** \$100,000 per budget period.

**Project Periods for Awards:** The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

**Available Funds:** Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds. The size of the actual awards will vary. In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competitions.

### III. Eligibility Information

#### 1. Eligible Applicants

State governments  
 County governments  
 City or township governments  
 State controlled institutions of higher education  
 Native American tribal governments (Federally recognized)  
 Native American tribal organizations (other than Federally recognized tribal governments)  
 Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education  
 Private institutions of higher education  
 Faith-based and Community-based organizations

#### Additional Information on Eligibility

Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Applications that exceed the \$100,000 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

#### 2. Cost Sharing or Matching

The grantee must provide at least 10 per cent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting \$100,000 per budget period must include a match of at least \$11,111 per budget period. Applicants should provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

The following example shows how to calculate the required 10% match amount for a \$100,000 grant:  
 \$100,000 (Federal share) divided by .90 (100%–10%) equals \$111,111 (total project cost including match) minus \$100,000 (federal share) equals \$11,111 (required 10% match).

The non-federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

#### 3. Other

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal

policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal ([www.Grants.gov](http://www.Grants.gov)). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number online at <http://www.dnb.com>.

### IV. Application and Submission Information

#### 1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132; Telephone: (866) 796-1591.

#### 2. Content and Form of Application Submission

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the [www.Grants.gov](http://www.Grants.gov) apply site. If you use Grants.gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov.

- Electronic submission is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.

- You will not receive additional point value because you submit a grant application in paper format.

- You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.

- Your application must comply with any page limitation requirements described in this program announcement.

- After you electronically submit your application, you will receive an automatic acknowledgement from [Grants.gov](http://Grants.gov) that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application form [Grants.gov](http://Grants.gov).

- We may request that you provide original signatures on forms at a later date.

- You may access the electronic application for this program on [www.Grants.gov](http://www.Grants.gov).

- You must search for the downloadable application package by the CFDA number.

*Electronic Address Where Applications Will Be Accepted:*  
[Grants.gov](http://Grants.gov).

*Address Where Hard Copy Applications Will Be Accepted:* ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132.

Each application must contain the following items in the order listed:

- Application for Federal Assistance (Standard Form 424). Follow the instructions below and those that accompany the form.

- In Item 5 of Form 424, put DUNS number in "Organizational DUNS:" box.

- In Item 5 of Form 424, include name, phone number, and, if available, email and fax numbers of the contact person.

- In Item 8 of Form 424, check 'New.'

- In Item 10 of Form 424, clearly identify the Catalog of Federal Domestic Assistance (CFDA) program title and number for the program for which funds are being requested as stated in this funding opportunity announcement.

- In Item 11 of Form 424, identify the single funding opportunity the application addresses.

- In Item 12 of Form 424, identify the specific geographic area to be served.

- In Item 14 of Form 424, identify Congressional districts of both the applicant and project.

- Budget Information Non-Construction Programs (Form 424A) and Budget Justification.

Follow the instructions provided and those in the Uniform Project Description. Note that Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants.

Applicants have the option of omitting from application copies (not originals) specific salary rates or amounts for individuals specified in the application budget. The copies may include summary salary information.

—Certifications/Assurances.

Applicants requesting financial assistance for nonconstruction projects must file the Standard Form 424B, 'Assurances: Non-Construction Programs.' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification regarding environmental tobacco smoke. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

If applicable, applicants must include a completed SPOC certification (Single Point of Contact) with the date of the SPOC contact entered in line 16, page 1 of the Form 424.

By signing the "Signature of Authorized Representative" on the SF 424, the applicant is providing a certification and need not mail assurances for completing the following grant and cooperative agreement requirements:

- The applicant will have the project fully functioning within 90 days of the notification of the grant award.

- The applicant will submit all required semi-annual and final Financial Status Reports (SF269) and Program Performance Reports in a timely manner, in hard-copy and electronic formats (preferably MS WORD and PDF) as negotiated with the Federal Project Officer.

- The applicant will allocate sufficient funds in the budget to provide for the project director and the evaluator attend an annual three-day grantees' meeting in Washington, DC, and an early kick off meeting to be held within the first six months of the project (first year only) in Washington, DC. Attendance at these meetings is a grant requirement.

The applicant will participate if the Children's Bureau chooses to do a national evaluation or a technical assistance contract that relates to this funding opportunity.

The applicant will budget five percent of the total approved project cost for an evaluation of the project. For example, a grant award of \$100,000 with a match of \$11,111 per budget year must commit no less than \$5,556 annually to the evaluation effort.

The Office for Human Research Protections of the U.S. Department of Health and Human Services provides website information and policy guidance on the Federal regulations pertaining to protection of human subjects (45 CFR 46), informed consent, informed consent checklists, confidentiality of personal identification information, data collection procedures, and internal review boards: <http://ohrp.osophs.dhhs.gov/polasur.htm>.

If applicable, applicants must include a completed Form 310, Protection of Human Subjects.

In implementing their projects, grantees are expected to comply with all applicable administrative regulations regarding extent or types of costs. Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

- Project Abstract/Summary (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the Form 424, identify the competitive grant funding opportunity and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the Form 424. The summary description should not exceed 300 words.

- Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

- Project Description for Evaluation. Applicants should organize their project description according to the Evaluation Criteria described in this funding opportunity announcement providing information that addresses all the components. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

- Proof of non-profit status (if applicable).

- Indirect cost rate agreement. If claiming indirect costs, provide documentation that applicant currently has an indirect cost rate approved by the Department of Health and Human

Services (HHS) or another cognizant Federal agency.

—Letters of agreement and memoranda of understanding. If applicable, include a letter of commitment or Memorandum of Understanding from each partner organization and/or sub-contractor describing their role, detailing specific tasks to be performed, and expressing commitment to participate if the proposed project is funded.

—Provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

—The application limit is 75 pages total including all forms and attachments. Submit one original and two copies.

To be considered for funding, each application must be submitted with the Standard Federal Forms (provided at the end of this announcement or through the electronic links provided) and following the guidance provided. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all forms and attachments, to the Application Receipt Point specified in the section titled *Deadline* at the beginning of the announcement. The original copy of the application must have original signatures, signed in *black* ink.

The application must be typed, double spaced, printed on only one side, with at least 1/2 inch margins on each side and 1 inch at the top and bottom, using standard 12 Point fonts (such as Times Roman or Courier). Pages must be numbered.

Pages over the page limit stated within this funding opportunity announcement will be removed from the application and will not be reviewed. All copies of an application must be submitted in a single package, and a separate package must be submitted for each funding opportunity. The package must be clearly labeled for the specific funding opportunity it is addressing.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic-feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation.

Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review. Each copy must be stapled securely in the upper left corner.

*Tips for Preparing a Competitive Application.* It is essential that applicants read the entire announcement package carefully before preparing an application and include all of the required application forms and attachments. The application must reflect a thorough understanding of the purpose and objectives of the Children's Bureau priority-area initiatives. Reviewers expect applicants to understand the goals of the legislation and the Children's Bureau's interest in each topic. A "responsive application" is one that addresses all of the evaluation criteria in ways that demonstrate this understanding. Applications that are considered to be "unresponsive" generally receive very low scores and are rarely funded.

The Children's Bureau's Web site (<http://www.acf.dhhs.gov/programs/cb>) provides a wide range of information and links to other relevant web sites. Before you begin preparing an application, we suggest that you learn more about the mission and programs of the Children's Bureau by exploring the website.

*Organizing Your Application.* The specific evaluation criteria in Section V of this funding announcement will be used to review and evaluate each application. The applicant should address each of these specific evaluation criteria in the project description. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

*Project Evaluation Plan.* Project evaluations are very important. If you do not have the in-house capacity to conduct an objective, comprehensive evaluation of the project, then the Children's Bureau advises that you propose contracting with a third-party evaluator specializing in social science or evaluation, or a university or college, to conduct the evaluation. A skilled evaluator can assist you in designing a data collection strategy that is appropriate for the evaluation of your proposed project. Additional assistance may be found in a document titled "Program Manager's Guide to Evaluation." A copy of this document can be accessed at [http://www.acf.dhhs.gov/programs/core/pubs\\_reports/prog\\_mgr.html](http://www.acf.dhhs.gov/programs/core/pubs_reports/prog_mgr.html) or ordered

by contacting the National Clearinghouse on Child Abuse and Neglect Information, 330 C Street, SW., Washington, DC 20447; phone (800) 394-3366; fax (703) 385-3206; e-mail [nccanch@calib.com](mailto:nccanch@calib.com).

*Logic Model.* A logic model is a tool that presents the conceptual framework for a proposed project and explains the linkages among program elements. While there are many versions of the logic model, they generally summarize the logical connections among the needs that are the focus of the project, project goals and objectives, the target population, project inputs (resources), the proposed activities/processes/ outputs directed toward the target population, the expected short- and long-term outcomes the initiative is designed to achieve, and the evaluation plan for measuring the extent to which proposed processes and outcomes actually occur. Information on the development of logic models is available on the Internet at <http://www.uwex.edu/ces/pdand/> or [http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome\\_logicmdir.html](http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome_logicmdir.html).

*Use of Human Subjects.* If your evaluation plan includes gathering data from or about clients, there are specific procedures that must be followed in order to protect their privacy and ensure the confidentiality of the information about them. Applicants planning to gather such data are asked to describe their plans regarding an Institutional Review Board (IRB) review. For more information about use of human subjects and IRB's you can visit these Web sites: [http://ohrp.osoph.dhhs.gov/irb/irb\\_chapter2.htm#d2](http://ohrp.osoph.dhhs.gov/irb/irb_chapter2.htm#d2) and <http://ohrp.osoph.dhhs.gov/humansubjects/guidance/ictips.htm>.

### 3. Submission Dates and Times

The closing date for receipt of applications is 4:30 p.m. eastern standard time (e.s.t.) on June 18, 2004. Mailed applications received after the closing date will be classified as late.

*Deadline.* Mailed applications shall be considered as meeting an announced deadline if they are received on or before June 18, 2004, at the following address: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

*Late applications.* Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines.* ACF may extend application deadlines when

circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of

mails service. Determinations to extend or waive deadline requirements rest

with the Chief Grants Management Officer.

#### REQUIRED FORMS

What to submit	Required content	Required form or format	When to submit
1. SF424 .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
2. SF424A .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.a. SF424B .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.b. Certification regarding lobbying .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.c. Disclosure of Lobbying Activities (SF-LLL) .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
4. Project Summary/Abstract .....	Summary of application request.	See instructions in this funding announcement.	See application due date.
5. Project Description .....	Responsiveness to evaluation criteria.	See instructions in this funding announcement.	See application due date.
6. Proof of non-profit status .....	See above .....	See above .....	See application due date.
7. Indirect cost rate agreement .....	See above .....	See above .....	See application due date.
8. Letters of agreement & MOUs .....	See above .....	See above .....	See application due date.
9. Non-Federal share letter .....	See above .....	See above .....	See application due date.
Total application .....	See above .....	Application limit 75 pages total including all forms and attachments. Submit one original and two copies.	See application due date.

#### Additional Forms

Private-non-profit organizations may submit with their applications the

additional survey located under "Grant Related Documents and Forms" titled

"Survey for Private, Non-Profit Grant Applicants."

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form .....	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	By application due date.

#### 4. Intergovernmental Review

##### State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs", and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio,

Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date

of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate

in E.O. 12372 can be found on the following URL: <http://www.whitehouse.gov/omb/grants/spoc.html>.

#### 5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs. Construction is not an allowable activity or expenditure under this solicitation.

#### 6. Other Submission Requirements

**Submission by Mail.** An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications should be mailed to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

**For Hand Delivery.** Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations, The Dixon Group, ATTN: Children's Bureau 118 Q Street, NE., Washington, DC 20002-2132. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed. Electronic Submission: Please see Section IV. 2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

##### *The Paperwork Reduction Act of 1995 (Pub. L. 104-13)*

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970-0139 which expires 3/31/2004. 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.

#### Instruction

##### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

##### 1. Criteria

##### *General Instruction for Preparing Full Project Description*

##### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

##### Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological

order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

##### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

##### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

##### Personnel

*Description:* Costs of employee salaries and wages.

**Justification:** Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

#### Fringe Benefits

**Description:** Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

**Justification:** Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

#### Travel

**Description:** Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

**Justification:** For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

#### Equipment

**Description:** "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

**Justification:** For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its

policy that includes the equipment definition.

#### Supplies

**Description:** Costs of all tangible personal property other than that included under the Equipment category.

**Justification:** Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

#### Contractual

**Description:** Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

**Justification:** All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub recipients, other than States that are required to use part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

**Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

#### Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

**Justification:** Provide computations, a narrative description and a justification for each cost under this category.

#### Indirect Charges

**Description:** Total amount of indirect costs. This category should be used only when the applicant currently has an

indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

**Justification:** An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

#### Specific Evaluation Criteria

The following criteria will be used to review and evaluate each application. The applicant should address each criterion in the project description. The point values (summing up to 100) indicate the maximum numerical weight each criterion will be accorded in the review process.

#### Criterion 1. Objectives and Need for Assistance

In reviewing the objectives and need for assistance, the following factors will be considered: (20 points)

(1) The extent to which the application clearly describes appropriate goals (end results of an effective project) and objectives (measurable steps for reaching these goals) for the proposed project. The extent to which these goals and objectives will effectively address community needs

(2) The extent to which the application clearly demonstrates that there is a need for the program (e.g. sharing the results of a thorough assessment of community needs and including letters of support for the proposed program from community-based agencies).

(3) The extent to which the application clearly identifies the population to be served by the project

and thoroughly describes the needs of the target population.

(4) The extent to which the estimated number of infants, young children and families to be served by the project is reasonable and appropriate.

(5) The extent to which the geographic location to be served by the project is clearly defined and justified based on factors such as the key socioeconomic, demographic characteristics of the target community as they relate to children/adolescents impacted by AIDS and the current availability of services needed by the target population.

(6) The extent to which the application describes significant results or benefits that can be expected for the children of substance-abusing women and/or women with HIV/AIDS and the grandparents or other relatives providing care, and community-wide results, if any.

(7) The extent to which the program results will benefit national policy and practice, and lead to additional research in this field.

#### Criterion 2. Approach

In reviewing the approach, the following factors will be considered: (50 points)

(1) The extent to which the timeline for implementing the proposed project, including major milestones and target dates, is comprehensive and reasonable. The extent to which the proposed plan for managing factors which could speed or hinder project implementation is feasible.

(2) The extent to which the specific services which would be provided under the proposed project are appropriate and are described in detail.

(3) The extent to which the application demonstrates a thorough understanding of the problems involved in providing support services for children and adolescents impacted by HIV/AIDS, particularly the emotional and psychological issues and ways to encourage children and adolescents to discuss those issues.

(4) The extent to which the application demonstrates a thorough understanding of the multiple needs of children and adolescents who have lost a parent(s) to AIDS and who themselves may be HIV positive.

(5) Describe your understanding of the program, service and legal issues involved in serving families affected by substance abuse and HIV/AIDS.

(6) The extent to which the project will be culturally responsive to the target population.

(7) The extent to which the application demonstrates a commitment

to work effectively with appropriate social services, public health, mental health agencies or legal services in providing excellent consultation, support services and advice to meet the needs of family caregivers.

(8) The extent to which the application describes appropriate procedures for conducting an effective minimal evaluation effort. The extent to which data on the individuals and families served; types of services provided; service utilization information; types and nature of needs identified and met and any other such information that may be required by ACYF. The extent to which the methods/procedures used will effectively determine the extent to which the program has achieved the stated objectives. The extent to which the proposed evaluation plan would be likely to yield useful findings or results about effective strategies, and contribute to and promote evaluation research and evidence-based practices that could be used to guide replication or testing in other settings. The extent to which the application provides a sound plan for collecting this data and securing informed consent. The extent to which the plan includes appropriate procedures for an Institutional Review Board (IRB) review, if applicable.

(9) The extent to which there is a sound plan for continuing this project beyond the period of Federal funding.

#### Criterion 3. Organizational Profiles

In reviewing the organizational profiles, the following factors will be considered: (20 points)

(1) The extent to which the applicant organization and its staff have sufficient experience in successfully providing needed support services to children and adolescents impacted by AIDS and the applicant's experience in collaborating with community-based agencies. The extent to which the applicant's relevant program, administrative and fiscal management experience, and their history and relationship with the targeted community will assist in the successful implementation of the proposed project.

(2) If the applicant represents a consortium of partner agencies, the extent to which their background and experience with children and families impacted by substance abuse and HIV/AIDS will support the planning and implementation of the proposed project. The extent to which there are letters of commitment from each partner authorizing the applicant to apply on behalf of the consortium and agreeing to participate if the proposal is funded.

(3) The extent to which the proposed project director and key project staff possess sufficient relevant knowledge, experience and capabilities to implement and manage a project of this size, scope and complexity effectively. The extent to which the role, responsibilities and time commitments of each proposed project staff position, including consultants, subcontractors and/or partners, are clearly defined and appropriate to the successful implementation of the proposed project. The extent to which the author of this proposal will be closely involved throughout the implementation of the proposed project.

(4) The extent to which there is a sound management plan for achieving the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines and milestones for accomplishing project tasks and ensuring quality. The extent to which the plan clearly defines the role and responsibilities of the lead agency. The extent to which the plan clearly describes the effective management and coordination of activities carried out by any partners, subcontractors and consultants (if appropriate). The extent to which there would be a mutually beneficial relationship between the proposed project and other work planned, anticipated or underway with Federal assistance by the applicant.

#### Criterion 4. Budget and Budget Justification

In reviewing the budget and budget justification, the following factors will be considered: (10 points)

(1) The extent to which the costs of the proposed project are reasonable and programmatically justified, in view of the targeted population and community, the activities to be conducted and the expected results and benefits. The extent to which the dollar amount requested is fully justified and documented in terms of the targeted population and community.

(2) The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.

#### 2. Review and Selection Process

When the Operations Center receives your application it will be screened to confirm that your application was received by the deadline. Federal staff will verify that you are an eligible applicant and that the application contains all the essential elements.



Applications received from ineligible organizations and applications received after the deadline will be withdrawn from further consideration.

A panel of at least three reviewers (primarily experts from outside the Federal government) will use the evaluation criteria described in this announcement to evaluate each application. The reviewers will determine the strengths and weaknesses of each application, provide comments about the strengths and weaknesses and give each application a numerical score.

All applications will be reviewed and evaluated using four major criteria: (1) Objectives and need for assistance, (2) approach, (3) organizational profiles, and (4) budget and budget justification. Each criterion has been assigned a point value. The point values (summing up to 100) indicate the maximum numerical weight each criterion may be given in the review and evaluation process.

Reviewers also are evaluating the project products and materials that you propose. They will be interested in your plans for sustaining your project without Federal funds if the evaluation findings are supportive. Reviewers will be looking to see that the total budget you propose and the way you have apportioned that budget are appropriate and reasonable for the project you have described. Remember that the reviewers only have the information that you give them—it needs to be clear, complete, and concise.

The results of the competitive review are a primary factor in making funding decisions. In addition, Federal staff conducts administrative reviews of the applications and, in light of the results of the competitive review, will recommend applications for funding to the ACYF Commissioner. ACYF reserves the option of discussing applications with other funding sources when this is in the best interest of the Federal government. ACYF may also solicit and consider comments from ACF Regional Office staff in making funding decisions. ACYF may take into consideration the involvement (financial and/or programmatic) of the private sector, national, or State or community foundations; a favorable balance between Federal and non-Federal funds for the proposed project; or the potential for high benefit from low Federal investment. ACYF may elect not to fund any applicants having known management, fiscal, reporting, programmatic, or other problems which make it unlikely that they would be able to provide effective services or effectively complete the proposed activity.

With the results of the peer review and the information from Federal staff, the Commissioner of ACYF makes the final funding decisions. The Commissioner may give special consideration to applications proposing services of special interest to the Government and to achieve geographic distributions of grant awards. Applications of special interest may include, but are not limited to, applications focusing on unserved or inadequately served clients or service areas and programs addressing diverse ethnic populations.

### 3. Other

*Anticipated Announcement and Award Dates:* Applications will be reviewed during the Summer 2004. Grant awards will have a start date no later than September 30, 2004.

## VI. Award Administration Information

### 1. Award Notices

Successful applicants will receive a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant or cooperative agreement, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, if applicable, and the total project period for which support is contemplated. The Grants Management Office signs and issues the award notice.

The Commissioner will notify organizations in writing when their applications will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

### 2. Administrative and National Policy Requirements

45 CFR Part 74 and 45 CFR Part 92

Faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

### 3. Reporting

*Reporting Requirements.* Programmatic Reports and Financial Reports are required semi-annually with final reports due 90 days after project end date. All required reports will be submitted in a timely manner, in recommended formats (to be provided), and the final report will also be submitted on disk or electronically using a standard word-processing program.

Within 90 days of project end date, the applicant will submit a copy of the

final report, the evaluation report, and any program products to the National Clearinghouse on Child Abuse and Neglect, 330 C Street, SW., Washington, DC 20447. This is in addition to the standard requirement that the final program and evaluation report must also be submitted to the Grants Management Specialist and the Federal Project Officer.

## VII. Agency Contacts

### Program Office Contact

Pat Campiglia, 330 C St., SW., Washington, DC 20447, 202-205-8060, [pcampiglia@acf.hhs.gov](mailto:pcampiglia@acf.hhs.gov).

### Grants Management Office Contact

William Wilson, 330 C St., SW., Washington, DC 20447, 202-205-8913, [wwilson@acf.hhs.gov](mailto:wwilson@acf.hhs.gov).

### General

ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, Telephone: (866) 796-1591.

## VIII. Other Information

Additional information about this program and its purpose can be located on the following Web sites: <http://www.acf.hhs.gov/programs/cb/>.

Copies of the following Forms, Assurances, and Certifications are available online at <http://www.acf.hhs.gov/programs/ofs/grants/form.htm>.

Standard Form 424: Application for Federal Assistance

Standard Form 424A: Budget Information

Standard Form 424B: Assurances—Non-Construction Programs

Form LLL: Disclosure of Lobbying

Certification Regarding Environmental Tobacco Smoke Standard Form 310: Protection of Human Subjects

The State Single Point of Contact SPOC listing is available online at <http://www.whitehouse.gov/omb/grants/spoc.html>.

Dated: April 9, 2004.

**Frank Fuentes,**

*Deputy Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 04-8782 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Office of Community Services; Funding Opportunity: Compassion Capital Fund Targeted Capacity Building Program

*Announcement Type:* Competitive Grant-Initial.

*Funding Opportunity Number:* HHS-2004-ACF-OCS-EJ-0008.

*CFDA Number:* 93.647.

*Dates:* May 19, 2004.

#### I. Funding Opportunity Description

The Administration for Children and Families (ACF), Office of Community Services (OCS) announces that competing applications will be accepted for new grants pursuant to the U.S. Department of Health and Human Services (HHS) Secretary's Compassion Capital Fund (CCF) authorized under section 1110 of the Social Security Act governing Social Services Research and Demonstration activities and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004, P.L. 107-116, Title II. Pursuant to this announcement, OCS will award funds to faith-based and community organizations that address the needs of either at-risk youth; the homeless; or provide marriage education and preparation services to help couples who choose marriage for themselves develop the skills and knowledge to form and sustain healthy marriages; or provide social services to those living in rural communities.

##### A. Background

Faith-based and community organizations have a long history of providing an array of important services to people and communities in need of charitable services in the United States. These groups have unique strengths that government cannot duplicate. They hold the trust of their community neighbors and leaders and have great understanding of the needs of the community and its systems. As a result, they are well positioned to understand the unique needs of at-risk youth, the homeless, those choosing to develop the skills and knowledge to form and sustain healthy marriages, and those living in rural communities in need of social services. Furthermore, the sense of mission from which these organizations work often translates into a unique approach to service delivery, a dedication of service to others, and a

cultural awareness specific to their surrounding communities.

In recognition of this history and ability, President Bush believes it is in the public's interest to broaden Federal efforts to work with faith-based and community organizations, and he has made it a priority to ensure that these groups are treated equally with other organizations that apply for Federal funding. A key part of this effort to enhance and expand the participation of faith-based and community groups in serving those in need is the Compassion Capital Fund (CCF) Targeted-Capacity Building program described in this announcement.

##### B. Program Purpose and Objectives

The purpose of the CCF Targeted Capacity Building awards is to build the capacity of faith-based and community organizations that address one of the following four priority areas:

- At-risk youth;
- Homeless;
- Marriage education and preparation services to help couples who choose marriage for themselves develop the skills and knowledge to form and sustain healthy marriages;
- Social services to those living in rural communities. (See Section III. Eligibility Information for more information on rural communities)

CCF Capacity-Building awards will assist faith-based and community organizations to improve their program effectiveness and sustainability enhance their ability to provide social services, expand the organization, diversify the funding sources, and emulate model programs and best practices. The goal is to help promising organizations bolster their sustainability and ultimately be able to serve more people on a continuing basis.

Applicants must describe, in concrete terms, their plans for using funds to improve their organization in a sustainable way. Grantees must use these awards to increase efficiency and capacity; therefore, these awards cannot be used to augment or supplant direct service delivery funds. For example, an organization that distributes food to the poor will not receive a grant simply to purchase additional food. Nor, for example, will an organization that provides substance abuse treatment services receive additional funds simply to enable it to provide exactly the same services to more people. Although these awards might well enable these organizations to assist additional individuals, they would not serve to improve the organizations' sustainability, efficiency, or capacity. Rather, the organizations would simply

use additional funds in the same way they use existing funds, without fundamentally changing or improving their services.

#### II. Award Information

*Funding Instrument Type:* Grant.

*Anticipated total Priority Area*

*Funding:* \$5.0 million.

*Anticipated Number of Awards:* 100.

*Ceiling on amount of Individual Awards:* \$50,000.

*Floor on Individual Award Amounts:* None.

*Average projected Award Amount:* \$50,000.

*Project Periods for Awards:* This announcement is soliciting applications for a 12-month project period. Awards, on a competitive basis, will be for a 12-month budget period.

#### III. Eligibility Information

##### 1. Eligible Applicants

Non-profit organizations having a 501(c) (3) status with the Internal Revenue Code, other than institutions of higher education and Non-profit organizations that do not have a 501(c) (3) status with the Internal Revenue Code, other than institutions of higher education, and Native American Tribal governments (federally recognized). Faith-based organizations are eligible to apply for these grants.

*Additional Information on Eligibility:* Per the Department of Health and Human Services' Rural Office of Health, the following explanation provides a definition of those organizations eligible under the social service priority area, Rural Communities. All organizations in Non-Metropolitan counties as defined by the Office of Management and Budget are eligible for a grant under the social service priority area, Rural Communities. Due to the fact that entire counties are designated as Metropolitan when in fact, large parts of many counties may be rural in nature; ZIP Codes in Metropolitan counties that meet the criteria as defined by the Office of Rural Health are also eligible. To determine if a ZIP Code is defined as rural, please refer to the website at <http://ruralhealth.hrsa.gov/funding/eligibilitytestv2.asp>.

To be eligible for funding, applicants must demonstrate proof of non-profit status and this proof must be included in their applications (see section IV. 2). Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Fiscal year (FY) 2003 ACF Compassion Capital Fund Targeted Capacity Building grantees are eligible to apply for FY2004 funding as long as the social service priority area addressed by their FY2004 proposed project differs from the priority area addressed in their FY2003 project.

Applicants are cautioned that the ceiling for individual awards is \$50,000.

Applications exceeding the \$50,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

### 2. Cost Sharing or Matching: No

### 3. Other (If Applicable)

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (<http://www.Grants.gov>). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

Applicants are cautioned that the ceiling for individual awards is \$50,000. Applications exceeding the \$50,000

threshold will be considered non-responsive and will not be eligible for funding under this announcement.

Applications that do not follow the required format described in section IV.2 Application Requirements will be considered non-responsive and will not be eligible for funding under this announcement.

## IV. Application and Submission Information

### 1. Address To Request Application Package

U.S. Department of Health and Human Services (HHS), Administration for Children and Families Office of Community Services Operations Center, Compassion Capital Fund Targeted Capacity Building Program, 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209, Attention: Eduardo Hernandez, Telephone: 1-800-281-9519, E-mail: [ocs@lcnnet.com](mailto:ocs@lcnnet.com).

### 2. Content and Form of Application Submission

An original and two copies of the complete application are required. The original and 2 copies must include all required forms, certifications, assurances, and appendices, be signed by an authorized representative, have original signatures, and be submitted unbound. Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget.

Applicants must demonstrate proof of non-profit status and this proof must be included in their applications. Please include any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the <http://www.Grants.gov> apply site. If you use Grants.Gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.Gov.

- Electronic submission is voluntary.
- When you enter the Grants.Gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.Gov.

- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.

- You will not receive additional point value because you submit a grant application in paper format.

- You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.

- Your application must comply with any page limitation requirements described in this program announcement.

- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.Gov that contains a Grants.Gov tracking number. The Administration for Children and Families will retrieve your application form Grants.Gov.

- We may request that you provide original signatures on forms at a later date.

- You may access the electronic application for this program on <http://www.Grants.gov>. You must search for the downloadable application package by the CFDA number.

### Application Requirements

While applicants may be working in more than one priority area, they must select one (1) area and label their application accordingly. The application must identify one of the following four priority areas:

- At-risk youth.
- Homeless.
- Healthy Marriage.
- Rural Communities.

Applications proposing projects covering more than one priority area

will not be given a higher priority than those projects working in just one area.

The application must be double-spaced and single-sided on 8½ x 11 plain white paper, with 1" margins on all sides. The application must use Times New Roman 12 point font or Arial 12 point font. All pages of the application (including appendices, resumes, charts, references/footnotes, tables, maps and exhibits) must be sequentially numbered. Each application may include only one proposed project.

The Project Narrative including the Table of Contents must not exceed 8 pages. Pages submitted beyond the first 8 in the application Project Narrative section and Table of Contents will be removed prior to panel review. The Narrative Budget Justification, Standard Forms for Assurances, Certifications, Disclosures and appendices and the cost-share letters are not included in this limitation, yet applicants are urged to be concise.

*Any additional supporting documentation, including letters of support and appendixes must not exceed 5 pages.* Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process.

*Forms and Certifications:* The project description should include all the information requirements described in the specific evaluation criteria outlined in the program announcement under Part V. In addition to the project description, the applicant needs to complete all the standard forms required for making applications for awards under this announcement. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, "Assurances: Non-Construction Programs." Applicants must sign and

return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications. Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form, if applicable, with their applications. The forms (Forms 424, 424A-B; and Certifications) may be found at: <http://www.acf.hhs.gov/programs/ofs/forms.htm> under new announcements. Fill out Standard Forms 424 and 424A and the associated certifications and assurances based on the instructions on the forms.

Private, non-profit organizations are encouraged to submit with their applications the survey located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant Applicants." The forms are located on the web at <http://www.acf.hhs.gov/programs/ofs/forms.htm>.

**3. Submission Dates and Times**

The closing time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) on May 19, 2004. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late.

*Deadline:* Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the following address: U.S. Department of Health and Human Services (HHS), Administration for Children and Families Office of Community Services Operations Center, Compassion Capital Fund Targeted Capacity Building

Program—(Applicant identifies one of the following priority areas: At-risk youth, Homeless, Healthy Marriage, or Rural Community), 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209, Attention: Barbara Ziegler Johnson, Telephone: 1-800-281-9519.

Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 5 p.m., EST, at the following address: U.S. Department of Health and Human Services (HHS), Administration for Children and Families Office of Community Services Operations Center, Compassion Capital Fund Targeted Capacity Building Program—(Applicant identifies one of the following priority areas: At-risk youth, Homeless, Healthy Marriage, or Rural Community), 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209, Attention: Barbara Ziegler Johnson, Telephone: 1-800-281-9519.

*Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines:* ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

**Required Forms:**

What to submit	Required content	Required form or format	When to submit
Narrative .....	Described in Section v of this Announcement.	Format described in Section V .....	By application due date.
SF 424, SF 424A, and SF 424B .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.
Certification regarding Lobbying and associated Disclosure of Lobbying Activities (SF LLL).	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.
Environmental Tobacco Smoke Certification ...	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.

*Additional Forms:* Private-non-profit organizations may submit with their applications the additional survey

located under "Grant Related Documents and Forms" titled "Survey

for Private, Non-Profit Grant Applicants".

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form .....	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/form.htm">http://www.acf.hhs.gov/programs/ofs/form.htm</a> .	By application due date.

#### 4. Intergovernmental Review

##### State Single Point of Contact (SPOC)

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. As of June 20, 2001, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372:

All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming have elected to participate in the Executive Order process and have established Single Point of Contacts (SPOCs). Applicants from these twenty-five jurisdictions need take no action regarding Executive Order 12372.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs.

Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them about the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application

deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

Comments should be submitted directly to Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington DC, 20447.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this announcement.

#### 5. Funding Restrictions

##### Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. The applicant must have a substantive role in the implementation of the project for which funding is requested. This prohibition does not bar the making of sub-grants or sub-contracting for specific services or activities needed to conduct the project.

##### Number of Projects in Application

Each application may include only one proposed project.

Applicants are cautioned that the ceiling for individual awards is \$50,000. Applications exceeding the \$50,000 threshold will be considered non-responsive and will not be eligible for funding under this announcement.

Fiscal year (FY) 2003 ACF Compassion Capital Fund Targeted Capacity Building grantees are eligible to apply for FY2004 funding as long as the social service priority area addressed by their FY2004 proposed project differs from the priority area addressed in their FY2003 project.

In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration

in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in the later competition.

#### 6. Other Submission Requirements

**Submission by Mail:** An Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The Application must be received at the address below by 4:30 PM Eastern Standard Time on or before the closing date. Applications should be mailed to: U.S. Department of Health and Human Services (HHS), Administration for Children and Families Office of Community Services Operations Center, Compassion Capital Fund Targeted Capacity Building Program—(Applicant identifies one of the following priority areas: At-risk youth, Homeless, Healthy Marriage, or Rural Community), 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209, Attention: Barbara Ziegler Johnson, Telephone: 1-800-281-9519.

**Hand Delivery:** An Applicant must provide an original application with all attachments signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. Eastern Standard Time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. to 4:30 p.m., Monday through Friday. Applications may be delivered to: U.S. Department of Health and Human Services (HHS), Administration for Children and Families Office of Community Services Operations Center 1815 North Fort Meyer Drive, Suite 300 Arlington, VA 22209, Attention: Barbara Ziegler Johnson, Telephone: 1-800-281-9519.

#### V. Application Review Information

##### 1. Criteria

##### General Instructions for the Uniform Project Description

The following section provides a general overview of the recommended contents of each applicant's project narrative. Following this general description are criteria specific to the Compassion Capital Fund Targeted Capacity Building program.

**Approach**

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

**Organizational Profiles**

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and any other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit 501 (c) (3) status in its application at the time of submission.

**Results or Benefits Expected**

Identify the results and benefits to be derived. For example, when applying for an award to expand program capacity, increase the types of services offered, increase access to funding from different sources and sectors, or improve staff capabilities, describe the goals and objectives of the activity and expected outcomes.

**Objectives and Need for Assistance**

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Demographic data and participant/beneficiary information should be incorporated, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

**Budget and Budget Justification**

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

**Evaluation Criterion I: Approach (Maximum: 30 points)****Factors:**

(1) Capacity-Building Strategy (25 points). Applications will be evaluated based on the extent to which the capacity-building approach or strategy is logical, reasonable, and clearly linked to the desired results and benefits expected. Applications will also be evaluated on the extent to which the principles and conditions outlined in the Announcement are evident in the applicant's approach.

(2) Geographic Location: (5 Points). Applications will be evaluated based on the extent to which they include a description of the precise region to be served, the rationale for proposing the region, and a detailed description of the population served in the proposed area, including statistics and facts that convey an understanding of the unique needs of the population in the area.

**Evaluation Criterion II: Organizational Profiles (Maximum: 25 points)****Factors:**

(1) Staff and Position Data: (10 Points). Applications will be evaluated on the extent to which they include a listing of key positions required to carry out the project, the individuals proposed to fill the positions, and a detailed description of the kind of work they will perform. Applications will also be evaluated on the extent to which evidence is provided demonstrating the staff's skill, knowledge, and experience in carrying out their assigned activities such as evidence that demonstrates not only staff's good technical skills, but also a clear record of working with faith-based and community organizations. Applications will also be evaluated on the extent to which the above information is provided with regard to consultants or staff from other organizations proposed to work on the project.

(2) Past Experience Working in Priority Social Service Area (at-risk youth, homeless, healthy marriage, or rural communities): (15 Points). Applications will be evaluated on the extent to which the applicant demonstrates experience and a proven track record in addressing the needs of at-risk youth, or the homeless, or those who choose marriage for themselves develop the skills and knowledge to form and sustain healthy marriages, and or those living in rural communities who in are need of social services. The applicant will be also be evaluated on the extent to which the application includes concrete examples of services and/or programs.

**Evaluation Criterion III: Results or Benefits Expected (Maximum: 20 points)**

Applications will be evaluated on the extent to which the specific goals of the project and the results and benefits proposed by the applicant are reasonable and likely, quantified, clearly linked to and supported by the proposed capacity-building approach, and supportive of the stated goals under this announcement.

**Evaluation Criterion IV: Objectives and Need for Assistance (Maximum: 15 points)**

Applications will be evaluated on the extent to which the objectives of the proposed project are clearly stated and shown to address the needs of the organization. In addition, applications will be evaluated on the extent to which the applicant presents a compelling need in the community for an increase

or improvement in services and the extent to which the applicant demonstrates how the receipt of this Federal grant will enable the applicant to increase its capacity to address these vital needs.

**Evaluation Criterion V: Budget and Budget Justification (Maximum: 10 points)**

Applications will be evaluated based on the extent to which they include a budget that is clear, easy to understand, and that provides a detailed justification for the amount requested. Applicants should refer to the budget information presented in the Standard Forms 424 and 424A and to the budget justification instructions in section C. General Instructions for the Uniform Project Description. Since non-Federal reviewers will be used in the review of applications, applicants may omit from the copies of the application submitted (not from the original), the specific salary rates or amounts for individuals in the application budget and instead provide only summary information. The application should also state the last two years' recent operating budgets of the applicant; however, details of the budget are not required.

**2. Review and Selection Process**

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal government, will use the evaluation criteria listed in Part V of this announcement to review and score the applications. The results of this review will be a primary factor in making funding decisions. ACF may also solicit comments from Regional Office staff and other Federal agencies. ACF may consider a variety of factors in addition to the review criteria identified above, including geographic diversity/coverage and types of applicant organizations, in order to ensure that the interests of the Federal Government are met in making the final selections. Furthermore, ACF may limit the number of awards made to the same or affiliated organizations although they would serve different geographic areas. Please note that applicants that do not comply with the requirements in the section titled "Eligible Applicants" will not be included in the review process.

Applications proposing projects in more than one area will not be given a higher priority than those working in only one priority area.

**Legal Rules That Apply to Faith-Based Organizations That Receive Government Funds**

CCF monies shall not be used to support inherently religious practices such as religious instruction, worship, or proselytization. Grant or sub-award recipients, therefore, may not and will not be selected based on religious criteria. Neutral, non-religious criteria that neither favor nor disfavor religion must be employed in selection of a grantee and sub-award recipients under this announcement.

**Approved but Unfunded Applications:** In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in the later competition.

**VI. Award Administration Information**

**1. Award Notices**

The successful applicants will be notified through the issuance of a Financial Assistance Award document which sets forth the amount of funds granted, the terms and conditions of the grant, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, and the total project period for which support is contemplated. The Financial Assistance Award will be signed by the Grants Officer.

Organizations whose applications will not be funded will be notified in writing by the Office of Community Services.

**2. Administrative and National Policy Requirements**

45 CFR Part 74 and 45 CFR Part 92

Public reporting burden for this collection of information is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. Under the Paperwork Reduction Act of 1995, Pub.L. 104-13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements or regulations including program

announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under the Program Narrative Statement by OMB (Approval Number 0980-0204) which expires 3/31/2004. 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.

**3. Reporting**

**Programmatic Reports:** Semi-annually.

**Financial Reports:** Semi-annually.

**Special Reporting Requirements:** None.

All grantees are required to submit semi-annual program reports; grantees are also required to submit semi-annual expenditure reports using the required financial standard form (SF-269) which is located on the Internet at: <http://forms.psc.gov/forms/sf/SF-269.pdf>. A suggested format for the program report will be sent to all grantees after the awards are made.

**VII. Agency Contacts**

**Program Office Contact:** Kelly Cowles, Office of Community Services, 370 L'Enfant Promenade, SW., Suite 500 West, Aerospace Building, Washington, DC 20447-0002, E-mail: [ocs@lcnnet.com](mailto:ocs@lcnnet.com). Telephone: (800) 281-9519.

**Grants Management Office Contact:** Barbara Ziegler, Office of Grants Management, Division of Discretionary Grants, 370 L'Enfant Promenade, SW. 4th Floor West, Aerospace Building, Washington, DC 20447-0002.

E-mail: [ocs@lcnnet.com](mailto:ocs@lcnnet.com). Telephone: (800) 281-9519.

**General:** Office of Community Services Operations Center, Compassion Capital Fund Demonstration Program, 1815 North Fort Meyer Drive, Suite 300, Arlington, VA 22209, Attention: Eduardo Hernandez, Telephone: 1-800-281-9519.

E-mail: [ocs@lcnnet.com](mailto:ocs@lcnnet.com).

**VIII. Other Information**

Additional information about this program and its purpose can be located on the following Web sites: <http://www.acf.hhs.gov/programs/ccf/>, <http://www.acf.hhs.gov/programs/ocs/>, <http://www.acf.hhs.gov/programs/ccf/>.

Dated: April 12, 2004.

**Clarence Carter,**

*Director, Office of Community Services.*

[FR Doc. 04-8791 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### State Grants for Election Assistance for Individuals With Disabilities (EAID)

**AGENCY:** Administration on Developmental Disabilities (ADD), Administration for Children and Families, Department of Health and Human Services.

**ACTION:** Notification of the availability of Fiscal Year 2004 funds under the Help America Vote Act, Public Law (Pub. L.) 107-252, title II subtitle D, part 2, section 261, Payments to States and Units of Local Governments to Assure Access for Individuals with Disabilities (42 U.S.C. 15421).

**SUMMARY:** This notice (1) sets forth the requirements that must be met by a State seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002 (HAVA); and (2) secures assurances from such a State related to conditions prior to receiving a payment.

**EFFECTIVE DATE:** April 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Contact Margaret Schaefer at (202) 690-5962, [mschaefer@acf.hhs.gov](mailto:mschaefer@acf.hhs.gov).

#### Part I: Introduction

The Help America Vote Act (HAVA), signed into law by President George W. Bush on October 29, 2002, contains several provisions that will enable an applicant to establish, expand, and improve access to and participation by individuals with the full range of disabilities (e.g., visual impairments including blindness, hearing impairments including deafness, the full range of mobility impairments including gross and fine motor impairments, emotional impairments, and intellectual impairments) in the election process. The Catalog of Federal Domestic Assistance Number for this announcement is: 93.617.

#### Background

HAVA assigned responsibility for the EAID to the Secretary of Health and Human Services (the Secretary), who has assigned responsibility for carrying out this program to the Administration for Children and Families (ACF). Within ACF, the Administration on Developmental Disabilities (ADD) is responsible for the administration of the EAID grant program.

#### Eligible Applicants

As defined by section 901 of HAVA, States (including the District of

Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands) are eligible to apply for grants under the EAID program. Grants are not available to local units of government directly from the Federal government in FY 2004 because the Consolidated Appropriations Act, Pub. L. 108-199, appropriated funds only for grants to States for FY 2004.

#### Availability and Distribution of Funds

On January 23, 2004, in Pub. L. 108-199, Congress appropriated \$10,000,000 for payments to States for Federal fiscal year 2004, of which \$9,941,000 is available. Payment amounts to States and Territories will be based on the relative size of the voting age population (i.e., number of individuals 18 years of age or older as reported in the 2000 U.S. Census) of those States and Territories requesting payment, with the exception that no State or Territory applying for funds shall receive a payment of less than \$100,000. See Table I for the amount reserved for each State and Territory, assuming all 55 States and Territories submit applications. If fewer than 55 States and Territories submit applications, those States and Territories applying for payment will receive a proportionately higher amount than that listed on Table I. Any payment distributed shall remain available until expended. In order to receive a payment, a State must meet all of the requirements in part II of this notice. State governments receiving funds under this announcement will need to collaborate with local chief election officials and local units of government (including Indian tribes which are involved in conducting elections for Federal offices) in determining where and how to spend funds. The Federal government reserves the right to audit expenditure of funds received under this announcement pursuant to section 902 of the Help America Vote Act, 42 U.S.C. 15542 and 45 CFR 92.26, where applicable.

#### Use of Allotments

Section 261 of HAVA provides that funds be made available to:

a. Make polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with the full range of disabilities (e.g., visual impairments including blindness, hearing impairments including deafness, the full range of mobility impairments including gross and fine motor impairments, emotional impairments, and intellectual impairments).

b. Provide the same opportunity for access and participation (including privacy and independence) to individuals with the full range of disabilities.

c. Provide training for election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with the full range of disabilities in elections for Federal office.

d. Provide individuals with the full range of disabilities with information about the accessibility of polling places.

#### Part II: Application Requirements

All of the following conditions must be met by an applicant seeking a payment under 42 U.S.C. 15421 of the Help America Vote Act of 2002. An applicant must agree to these conditions in writing prior to receiving a payment by submitting an application. The conditions are to ensure that a payment will be used in compliance with HAVA. Payments must be used to pay for the activities described under part I, Use of Allotments.

#### Conditions

1. Except as noted, the grant must be used for each of the following activities:

a. Unless a state submits an assurance that all polling places are accessible, making polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities.

b. Providing the same opportunity for access and participation (including privacy and independence) to individuals with disabilities as for other voters.

c. Training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections for Federal office.

d. Providing individuals with disabilities with information about the accessibility of polling places.

2. In an application, an applicant must provide:

a. The name of the State submitting the application.

b. The name of the Chief Election Official of the State submitting the application.

c. Contact person: Name, title, address, phone, fax, and e-mail address.

d. A description of what the applicant intends to do in each of the four categories of activities outlined under 1 above. [Note the exception in #1 above related to assuring that all polling places are accessible.]

e. How much of the payment that the applicant intends to spend on each of



the four categories of activities outlined in 1 above. [Note the exception in #1 above related to assuring that all polling places are accessible.]

f. An assurance that six months after the ending of the fiscal year in which a payment is received, the Chief Election Official or his/her designee will submit a report to the Administration on Developmental Disabilities for the Secretary of Health and Human Services describing how the payment received was used with regard to the four categories of activities. [Note the exception in #1 above related to assuring that all polling places are accessible.]

3. The application must include a completed SF 424, available at this Web address: <http://www.acf.hhs.gov/programs/add/announce.htm>.

4. The application must include the following certifications:

a. Anti-Lobbying Certification and Disclosure Form (45 CFR part 93).

b. Other Certifications: The signature on the application by the authorized official attests to the intent to comply with the following other certifications:

A. Certification Regarding Drug-Free Work Place (45 CFR part 76)

B. Debarment Certification (45 CFR part 76); and

C. Certification Regarding Environmental Tobacco Smoke.

5. The application must be signed by the Chief Election Official.

6. The closing time and date for receipt of applications is 4:30 p.m. eastern standard time (e.s.t.) 30 days from date of publication in the **Federal Register**. Mailed or hand carried applications received after 4:30 p.m. on the closing date will be classified as late. Any applications received after 4:30 p.m. on the deadline date will not be considered for payment.

**Deadline:** Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Developmental Disabilities, 370 L'Enfant Promenade, SW., Mail Stop HHH 405-D, Washington, DC 20447, Attention: Margaret Schaefer. Hand-delivered applications should be delivered to Margaret Schaefer at this same address.

### Part III: Additional Information

#### Closing Date for Receipt of Assurances

The closing date for receipt of all applications is 30 days from date of publication in the **Federal Register**.

### Grant Administration Regulations

The regulations that govern the administration of these grants are: 45 CFR part 16—Procedures of the Departmental Grant Appeals Board; 45 CFR part 30—Claims Collection; 45 CFR part 76—Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants); 45 CFR part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964; 45 CFR part 81—Practice and Procedure for Hearings Under Part 80 of This Title; 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance; 45 CFR part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance; 45 CFR part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; and 45 CFR part 93—New Restrictions on Lobbying.

### Reporting Requirements

Each grantee is required to submit annually a narrative report that describes how the funds are used in regard to the four categories of activities authorized under 42 U.S.C. 15461 of the Help America Vote Act of 2002. [Note the exception for the first category related to assuring that all polling places are accessible.] These reports are due no later than March 31 of each year.

Reports must be mailed to: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Developmental Disabilities, 370 L'Enfant Promenade, SW., Mail Stop HHH 405-D, Washington, DC 20447, Attention: Margaret Schaefer.

Expenditures under the EAID program are to be reported using a Financial Status Report (SF-269A). Grantees are required to submit annual financial reports (SF-269A) at the end of each 12 month grant period (October 1—September 30) until all funds have been expended. Funds under EAID are available until expended. Final reports are due 90 days after the end of the grant period.

Submit the original SF-269A to ACF at the address below: Administration for Children and Families, Office of Administration, Division of Mandatory Grants, Attn: Joseph Lonergan, 370 L'Enfant Promenade, SW., Washington, DC 20447.

### Notification Under Executive Order 12372

This program is covered under E.O. 12372, "Intergovernmental Review of Federal Programs" and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." However, since units of local governments are not funded in Fiscal Year 2003, the review and comment provisions of the Executive Order and part 100 do not apply for fiscal year 2004.

### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0348-0043.

TABLE I.—FY 2004 ALLOCATIONS FOR ELECTION ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES—FY 2004 STATE ALLOTMENTS

[Voting access for individuals with disabilities—States]

State/Territory	FY 2004 enacted
Alabama .....	129,831
Alaska .....	100,000
Arizona .....	152,889
Arkansas .....	100,000
California .....	985,955
Colorado .....	128,910
Connecticut .....	100,000
Delaware .....	100,000
District of Columbia .....	100,000
Florida .....	492,941
Georgia .....	241,722
Hawaii .....	100,000
Idaho .....	100,000
Illinois .....	359,062
Indiana .....	175,350
Iowa .....	100,000
Kansas .....	100,000
Kentucky .....	121,452
Louisiana .....	126,664
Maine .....	100,000
Maryland .....	156,678
Massachusetts .....	190,726
Michigan .....	287,376
Minnesota .....	144,745
Mississippi .....	100,000
Missouri .....	164,243
Montana .....	100,000
Nebraska .....	100,000
Nevada .....	100,000
New Hampshire .....	100,000
New Jersey .....	248,294
New Mexico .....	100,000
New York .....	558,767
North Carolina .....	240,165
North Dakota .....	100,000
Ohio .....	328,144
Oklahoma .....	100,662
Oregon .....	102,439
Pennsylvania .....	363,885

TABLE I.—FY 2004 ALLOCATIONS FOR ELECTION ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES—FY 2004 STATE ALLOTMENTS—Continued

[Voting access for individuals with disabilities—States]

State/Territory	FY 2004 enacted
Rhode Island .....	100,000
South Carolina .....	120,173
South Dakota .....	100,000
Tennessee .....	168,757
Texas .....	602,306
Utah .....	100,000
Vermont .....	100,000
Virginia .....	211,844
Washington .....	175,020
West Virginia .....	100,000
Wisconsin .....	157,636
Wyoming .....	100,000
Subtotal .....	9,536,636
American Samoa .....	100,000
Guam .....	100,000
Puerto Rico .....	104,364
Virgin Islands .....	100,000
Subtotal .....	404,364
Total resources .....	9,941,000

Patricia A. Morrissey,

Commissioner, Administration on Developmental Disabilities.

[FR Doc. 04-8789 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Grants and Cooperative Agreements; Notice of Availability

*Federal Agency Contact Name:* Administration for Children and Families, Children's Bureau.

*Funding Opportunity Title:* Training of Child Welfare Agency Supervisors in the Effective Delivery and Management of Federal Independent Living Services.

*Announcement Type:* Competitive Grant—Initial.

*Funding Opportunity Number:* HHS-2004-ACF-ACYF-CT-0009.

*CFDA Number:* 93.674.

*Due Date for Applications:* The due date for receipt of applications is June 18, 2004.

#### I. Funding Opportunity Description

The Children's Bureau announces the availability of funds and requests applications to develop and implement a training curriculum for public child welfare agency supervisors.

This curriculum will strengthen supervision of staffs' interventions with older youth who are in foster care and/or in independent living programs. These youth, mostly age 16 to 21, need assistance in making a successful transition to adulthood, as well as help in avoiding long-term dependency on the social welfare system.

These youth often face decisions with regard to personal housing, transportation, employment and education. They need workers who can guide and understand these challenges. The target youth also need workers who have a grounding in the four core principles that have been identified as critical for adolescent transition programs to be successful. The principles are:

- (1) Positive youth development;
- (2) Collaboration;
- (3) Cultural competence; and
- (4) Permanent connections.

For more information on these principles contact the University of Oklahoma, National Resource Center for Youth Services at <http://www.nrcys.ou.edu>.

Child welfare supervisors must ensure that child welfare workers understand and utilize:

- (1) Positive youth development philosophy;
- (2) Client assessment;
- (3) Age-appropriate intervention planning; and
- (4) Implementation and evaluation of individualized Independent Living Program (ILP) training and program activities.

Training based on the curriculum should increase child welfare supervisor's ability to supervise a worker in:

- (1) Assessing a youth's readiness for ILP services, support and training;
- (2) Identifying culturally competent ILP program services and activities;
- (3) Utilizing positive youth development principles for involving youth in decision-making, implementation and evaluation of training and program activities;
- (4) Identifying areas of stress and its impact on youth in foster care;
- (5) Working with youth to help them deal with crisis situations and to assess the results of the intervention;
- (6) Working with youth to develop and maintain permanent connections; and
- (7) Collaborating with both inter- and intra-agency resource people to achieve positive outcomes for youth transitioning to adulthood.

#### Background

In December 1999, Congress passed new independent living legislation, the

John H. Chaffee Foster Care Independence Program. The new program provides States with increased funding and flexibility to help youth make the transition from foster care to self-sufficiency. Currently all 50 States, Puerto Rico and the District of Columbia have an ILP. Services and activities include educational and employment assistance, training in basic living skills (budgeting, housekeeping, food shopping, building and maintaining positive social relationships), counseling, housing, case management and outreach services. The new legislation allows the use of these funds for additional activities including room and board, age-appropriate services to youth younger than 16, post-secondary educational assistance and preventive health activities.

In addition, the Adoption and Safe Families Act of 1997 (ASFA) has had considerable impact on child welfare practice and how the goals of safety, permanency and well-being of youth must be accomplished. Thus, there is a need to refocus attention on practice approaches that give attention, as appropriate, to reunification with the biological parents, adoption, placement or other alternative approaches to permanency for youth of all ages. For many older foster care youth, permanency means learning to live independently. Even if they can spend time with family members, their chances for a successful transition to adulthood are greatly improved if they learn to count on themselves to address their daily challenges, and if they have the knowledge, skills and experience to do so.

Older youth in foster care need special help and support. As of September 30, 2002 there were an estimated 533,897 children in substitute/foster care. Of these children an estimated 39% were identified as being 13 years of age or older (AFCARS—Adoption and Foster Care Analysis and Reporting System—data as of October 2003). Approximately 20,000 youth age out of the system every year. These young people often have histories of significant abuse, neglect and multiple foster care placements. They often find themselves completely on their own after discharge, with few, if any, financial resources; limited education, training and employment options; no safe place to live; and little or no support from family, friends and community. A focus on the four core principles for these youth is crucial. The permanent connections work to help ground the youth in the community and provide a support system that these traumatized youth often lack.

Collaborations help to ensure that a full array of services is available to the youth during and after their transition from care. A focus on positive youth development allows the youth to have the daily living skills needed to function on their own along with the knowledge to maintain their emotional health. Through the provision of culturally competent services, the agencies ensure that youth feel protected and connected in their environment. For more information on the four core principles see <http://www.nrcys.ou.edu>.

Training of child welfare supervisors has predominantly focused on supervising staff to meet generalized permanency needs while focusing on the family as a whole. Most of this work is still done in the context of family-centered services that build on family strengths and meet family needs. There is limited attention given to assessing problem situations from the youth's perspective and preparing a youth for independence and/or transitioning out of foster care. This training would focus on strategies for supervising the child welfare worker in how to identify the specific needs of teenagers as a separate entity in the family structure and develop a plan for achieving goals to meet those needs regardless of other permanency work being done in the family unit.

Specialized skills are essential to work effectively with older youth. Child welfare supervisors need training to understand youth development principles and strategies, to focus on giving young people age-appropriate opportunities to exercise leadership, build skills, and become involved in the decision-making about their future.

In January 2000, DHHS established the Child and Family Service Reviews (CFSR) that have enhanced monitoring of State child welfare programs. Previous approaches had not allowed for states to learn from their mistakes and make improvements accordingly. Meetings with stakeholders during CFSR indicate that foster parents, guardians and other primary care providers need youth development training. In addition, state agency staff need training and technical assistance in assisting youth in developing their case plan, and developing life-long connections that will assist them with permanency. Results of the 2002 reviews indicate that all of the states were found to need improvement in involving the family in case planning, assessing needs and providing services.

The Children's Bureau recognizes the need to involve young people in decision-making and planning for a life of independence. To accomplish this,

service providers must offer specialized, age-appropriate support for these youth as they transition to adulthood. Training implemented under this program will provide child welfare supervisors with the training and tools needed to assist child welfare workers to help move their older youth through a successful transition to independence and achieving self-sufficiency.

## II. Award Information

*Funding Instrument Type:* Grant.

*Anticipated Total Funding:* The anticipated total for all awards under this funding opportunity in FY2004 is \$500,000.

*Anticipated Number of Awards:* It is anticipated that 3 projects will be funded.

*Ceiling on Amount of Individual Awards:* The grant amount will not exceed \$166,667 in the first budget period. An application that exceeds the upper value dollar range specified will be considered "non-responsive" and be returned to the applicant without further review.

*Floor of Individual Award Amounts:* None.

*Average Anticipated Award Amount:* \$166,667 per budget period.

*Project Periods for Awards:* The projects will be awarded for a project period of 36 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

*Available Funds:* Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds. The size of the actual awards will vary. In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competitions.

## III. Eligibility Information

### 1. Eligible Applicants

State governments;  
County governments;

City or township governments;  
State controlled institutions of higher education;

Native American tribal governments (Federally recognized);

Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education;

Private institutions of higher education;

Faith-based and community organizations that meet all other eligibility requirements.

### *Additional Information on Eligibility:*

Institutions of higher education that choose to apply must have an accredited social work education program, or other accredited bachelor or graduate level programs leading to a degree relevant to work in child welfare. Government agencies must be child welfare agencies to be eligible to apply.

Applications that exceed the \$166,667 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

2. *Cost Sharing or Matching:* The grantee must provide at least 25 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting \$166,667 per budget period must include a match of at least \$55,556 per budget period. Applicants should provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

The following example shows how to calculate the required 25% match amount for a \$167,777 grant:

\$166,667 (Federal share) divided by .75 (100% - 25%) equals \$222,223 (total project cost including match) minus \$166,667 (Federal share) equals \$55,556 (required 25% match).

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent. Funds from this grant cannot be used to match title IV-E training funds.

The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

### 3. Other

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all

Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (<http://www.Grants.gov>). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

#### IV. Application and Submission Information

##### 1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, (866) 796-1591.

##### 2. Content and Form of Application Submission

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the <http://www.Grants.gov> apply site. If you use Grants.gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov.

- Electronic submission is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in paper format.
- You may submit all documents electronically, including all information

typically included on the SF424 and all necessary assurances and certifications.

- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.
- You may access the electronic application for this program on <http://www.Grants.gov>.
- You must search for the downloadable application package by the CFDA number.

*Electronic Address Where Applications Will Be Accepted:* Grants.gov.

*Address Where Hard Copy Applications Will Be Accepted:* Children's Bureau Grant Receipt Point, ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132.

Each application must contain the following items in the order listed:—Application for Federal Assistance (Standard Form 424). Follow the instructions below and those that accompany the form.

In Item 5 of Form 424, put DUNS number in "Organizational DUNS:" box.

In Item 5 of Form 424, include name, phone number, and, if available, e-mail and fax numbers of the contact person.

In Item 8 of Form 424, check "New."

In Item 10 of Form 424, clearly identify the Catalog of Federal Domestic Assistance (CFDA) program title and number for the program for which funds are being requested as stated at the end of this funding opportunity announcement.

In Item 11 of Form 424, identify the single funding opportunity the application addresses.

In Item 12 of Form 424, identify the specific geographic area to be served.

In Item 14 of Form 424, identify Congressional districts of both the applicant and project.

—Budget Information Non-Construction Programs (Form 424A) and Budget Justification.

Follow the instructions provided and those in the Uniform Project Description. Note that Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants.

Applicants have the option of omitting from application copies (not

originals) specific salary rates or amounts for individuals specified in the application budget. The copies may include summary salary information.

—Certifications/Assurances.

Applicants requesting financial assistance for nonconstruction projects must file the Standard Form 424B, 'Assurances: Non-Construction Programs.' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification regarding environmental tobacco smoke. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

If applicable, applicants must include a completed SPOC certification (Single Point of Contact) with the date of the SPOC contact entered in line 16, page 1 of the Form 424.

By signing the "Signature of Authorized Representative" on the SF 424, the applicant is providing a certification and need not mail assurances for completing the following grant and cooperative agreement requirements:

participation in any evaluation or technical assistance effort supported by ACYF;

submission of all required semi-annual and final Financial Status Reports (SF269) and Program Performance Reports in a timely manner, in hard-copy and electronic formats (preferably MS WORD and PDF) as negotiated with the Federal Project Officer; and

attendance of a key staff person and evaluator from the project at an annual 3-5 day grantees' meeting (to be determined by the Children's Bureau) in Washington, DC and at a "kick-off" meeting following award.

The Office for Human Research Protections of the U.S. Department of Health and Human Services provides website information and policy guidance on the Federal regulations

pertaining to protection of human subjects (45 CFR 46), informed consent, informed consent checklists, confidentiality of personal identification information, data collection procedures, and internal review boards: <http://ohrp.osophs.dhhs.gov/polasur.htm>.

If applicable, applicants must include a completed Form 310, Protection of Human Subjects.

In implementing their projects, grantees are expected to comply with all applicable administrative regulations regarding extent or types of costs. Applicable DHHS regulations can be found in 45 CFR Part 74 or 92.

—Project Abstract/Summary (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the Form 424, identify the competitive grant funding opportunity and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the Form 424. The summary description should not exceed 300 words.

Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

—Project Description for Evaluation. Applicants should organize their project description according to the Evaluation Criteria described in this funding opportunity announcement providing information that addresses all the components.

—Proof of non-profit status.

—Indirect cost rate agreement. If claiming indirect costs, provide documentation that applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

—Letters of agreement and memoranda of understanding. If applicable, include a letter of commitment or Memorandum of Understanding from each partner and/or sub-contractor describing their role, detailing specific tasks to be performed, and expressing commitment to participate if the proposed project is funded.

—Provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

—The application limit is 50 pages total including all forms and attachments. Submit one original and two copies.

To be considered for funding, each application must be submitted with the Standard Federal Forms (provided at the end of this announcement or through the electronic links provided) and

following the guidance provided. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all forms and attachments, to the Application Receipt Point specified in the section titles Deadline at the beginning of the announcement. The original copy of the application must have original signatures, signed in black ink.

The application must be typed, double spaced, printed on only one side, with at least 1/2 inch margins on each side and 1 inch at the top and bottom, using standard 12 Point fonts (such as Times Roman or Courier). Pages must be numbered.

Pages over the page limit stated within this funding opportunity announcement will be removed from the application and will not be reviewed. All copies of an application must be submitted in a single package, and a separate package must be submitted for each funding opportunity. The package must be clearly labeled for the specific funding opportunity it is addressing.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs. Plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review. Each copy must be stapled securely in the upper left corner.

*Tips for Preparing a Competitive Application:* It is essential that applicants read the entire announcement package carefully before preparing an application and include all of the required application forms and attachments. The application must reflect a thorough understanding of the purpose and objectives of the Children's Bureau's Chaffee Foster Care Independence Program. Reviewers expect applicants to understand the goals of the legislation and the Children's Bureau's interest in each topic. A "responsive application" is one that addresses all of the evaluation criteria in ways that demonstrate this understanding. Applications that are

considered to be "unresponsive" generally receive very low scores and are rarely funded.

The Children's Bureau's Web site (<http://www.acf.dhhs.gov/programs/cb>) provides a wide range of information and links to other relevant Web sites. Before you begin preparing an application, we suggest that you learn more about the mission and programs of the Children's Bureau by exploring the Web site.

*Organizing Your Application:* The specific evaluation criteria in Section V of this funding announcement will be used to review and evaluate each application. The applicant should address each of these specific evaluation criteria in the project description. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

*Project Evaluation Plan:* Project evaluations are very important. If you do not have the in-house capacity to conduct an objective, comprehensive evaluation of the project, then the Children's Bureau advises that you propose contracting with a third-party evaluator specializing in social science or evaluation, or a university or college, to conduct the evaluation. A skilled evaluator can assist you in designing a data collection strategy that is appropriate for the evaluation of your proposed project. Additional assistance may be found in a document titled "Program Manager's Guide to Evaluation." A copy of this document can be accessed at [http://www.acf.hhs.gov/programs/core/pubs\\_reports/prog\\_mgr.html](http://www.acf.hhs.gov/programs/core/pubs_reports/prog_mgr.html) or ordered by contacting the National Clearinghouse on Child Abuse and Neglect Information, 330 C Street, SW., Washington, DC 20447; phone (800) 394-3366; fax (703) 385-3206; e-mail [nccanrch@calib.com](mailto:nccanrch@calib.com).

*Logic Model:* A logic model is a tool that presents the conceptual framework for a proposed project and explains the linkages among program elements. While there are many versions of the logic model, they generally summarize the logical connections among the needs that are the focus of the project, project goals and objectives, the target population, project inputs (resources), the proposed activities/processes/outputs directed toward the target population, the expected short- and long-term outcomes the initiative is designed to achieve, and the evaluation plan for measuring the extent to which proposed processes and outcomes

actually occur. Information on the development of logic models is available on the Internet at <http://www.uwex.edu/ces/pdande/> or [http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome\\_logicmdir.html](http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome_logicmdir.html).

*Use of Human Subjects:* If your evaluation plan includes gathering data from or about clients, there are specific procedures which must be followed in order to protect their privacy and ensure the confidentiality of the information about them. Applicants planning to gather such data are asked to describe their plans regarding an Institutional Review Board (IRB) review. For more information about use of human subjects and IRB's you can visit these Web sites: [http://ohrp.osophs.dhhs.gov/irb/irb\\_chapter2.htm#d2](http://ohrp.osophs.dhhs.gov/irb/irb_chapter2.htm#d2) and <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/ictips.htm>.

**3. Submission Dates and Times**

The closing date for receipt of applications is 4:30 p.m. eastern standard time (e.s.t.) on June 18, 2004. Mailed applications received after the closing date will be classified as late.

Deadline: Mailed applications shall be considered as meeting an announced deadline if they are received on or before June 18, 2004 at the following address: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., e.s.t., at ACYF Operations, The Dixon Group, ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132,

between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "ATTN: Children's Bureau." Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

*Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines:* ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

**REQUIRED FORMS**

What to submit	Required content	Required form or format	When to submit
1. SF424 .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
2. SF424A .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.a. SF424B .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.b. Certification regarding lobbying .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.c. Disclosure of Lobbying Activities (SF-LLL) .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
4. Project Summary Abstract .....	Summary of application request.	See instructions in this funding announcement.	See application due date.
5. Project Description .....	Responsiveness to evaluation criteria.	See instructions in this funding announcement.	See application due date.
6. Proof of non-profit status .....	See above .....	See above .....	See application due date.
7. Indirect cost rate agreement .....	See above .....	See above .....	See application due date.
8. Letters of agreement & MOUs .....	See above .....	See above .....	See application due date.
9. Non-Federal share letter .....	See above .....	See above .....	See application due date.
Total application .....	See above .....	Application limit 50 pages total including all forms and attachments. Submit one original and two copies.	See application due date.

**Additional Forms**

Private-non-profit organizations may submit with their applications the

additional survey located under "Grant Related Documents and Forms" titled

"Survey for Private, Non-Profit Grant Applicants."

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.

#### 4. Intergovernmental Review

##### State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs", and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be

addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: <http://www.whitehouse.gov/omb/grants/spoc.html>.

#### 5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this solicitation.

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent. Funds from this grant cannot be used to match title IV-E training funds.

#### 6. Other Submission Requirements

**Submission by Mail:** An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications should be mailed to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

**For Hand Delivery:** Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

**Electronic Submission:** Please see Section IV.2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

##### *The Paperwork Reduction Act of 1995 (Pub. L. 104-13)*

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970-0139 which expires 3/31/2004. 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.

#### Instruction

##### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

##### 1. Criteria

##### *General Instruction for Preparing Full Project Description*

##### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

##### Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the

application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

#### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

#### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class

identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

#### Personnel

*Description:* Costs of employee salaries and wages.

*Justification:* Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

#### Fringe Benefits

*Description:* Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

*Justification:* Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

#### Travel

*Description:* Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

*Justification:* For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

#### Equipment

*Description:* "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary

apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

*Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

#### Supplies

*Description:* Costs of all tangible personal property other than that included under the Equipment category.

*Justification:* Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

#### Contractual

*Description:* Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

*Justification:* All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

**Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.



**Other**

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

*Justification:* Provide computations, a narrative description and a justification for each cost under this category.

**Indirect Charges**

*Description:* Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

*Justification:* An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

**Specific Evaluation Criteria**

The following criteria will be used to review and evaluate each application. The applicant should address each criterion in the project description. The point values (summing up to 100) indicate the maximum numerical weight each criterion will be accorded in the review process.

**Criterion 1. Objectives and Need for Assistance**

In reviewing the objectives and need for assistance, the following factors will be considered: (20 points)

(1) The extent to which the application demonstrates a thorough

understanding of the need for a specific curriculum and training to strengthen child welfare supervisors' capacity to prepare and guide staff in their work with older youth involved in the child welfare system.

(2) The extent to which the application demonstrates a thorough knowledge and understanding of the issues faced by older youth involved in the child welfare system and appropriate intervention approaches for working with these youth.

(3) The extent to which the proposed project's goals (end products of an effective project) and objectives (measurable steps for reaching these goals) clearly and appropriately relate to the training needs of public child welfare agency frontline workers and supervisory staff.

(4) The extent to which the proposed project would produce significant results and benefits by developing, field testing, delivering, evaluating and disseminating a youth-focused training curriculum for supervisors.

(5) The extent to which an appropriate group of trainees and a reasonable number of trainees will be trained over the life of the project.

(6) The extent to which the lessons learned from the project will clearly and significantly benefit policy, practice and theory development in addressing older youth's transition needs, issues and crises.

**Criterion 2. Approach**

In reviewing the approach, the following factors will be considered: (50 points)

(1) The extent to which there is a reasonable timeline for effectively implementing the proposed project, including major milestones and target dates. The extent to which the project will complete the development, field testing and revisions of the training program in a timely manner and conduct a thorough evaluation of its effectiveness within the 3-year project time frame.

(2) The extent to which the application proposes development of appropriate materials and provides for effective training under the proposed project.

(3) The extent to which the application demonstrates a thorough knowledge and understanding of the issues related to interventions with older youth and differences and similarities between youth-centered and family-centered practice. The extent to which the application demonstrates a thorough understanding of these issues in terms of the Adoption and Safe Families Act goals of safety,

permanency and well-being of older youth and the results of the Child and Family Service Reviews.

(4) The extent to which the application evidences a thorough knowledge and understanding of the challenges of providing and improving training for supervisors within a public child welfare agency. The extent to which the proposed project would successfully overcome these challenges.

(5) The extent to which the proposed approach to developing a curriculum is soundly based on an appropriate conceptual framework, research and practice experience. The extent to which this curriculum would build on, expand and strengthen the existing curriculum approaches/models that emphasize youth-focused services.

(6) The extent to which the application evidences a thorough knowledge and understanding of the four core principles (youth development, cultural competence, collaboration, and permanent connections) and the challenges attendant to incorporating these principles within child welfare practices.

(7) The extent to which the curriculum development and training of supervisors will be culturally responsive to the diverse child welfare population.

(8) The extent to which appropriate criteria would be utilized for selection and recruitment of trainees and specific strategies for recruiting minority and Tribal agency trainees.

(9) The extent to which there is a sound plan for evaluating the training curriculum. The extent to which there is a sound plan for field-testing the effectiveness of the competency-based curriculum and modifying the curriculum, if necessary. The extent to which the applicant clearly identifies and justifies the location of the project and the State/local child welfare agencies where the proposed curriculum will be field-tested.

(10) The extent to which there is a sound plan for dissemination of the curriculum and project evaluation findings.

(11) The extent to which there is a sound plan for continuing this project beyond the period of Federal funding.

**Criterion 3. Organizational Profiles**

In reviewing the organizational profiles, the following factors will be considered: (20 points)

(1) The extent to which the application demonstrates sufficient organizational capability and experience in developing training curricula and providing training to child welfare

agency staff in the area of youth-focused services.

(2) The extent to which the project director, other key staff, partners and consultants have the necessary knowledge, capabilities and experience to develop the proposed training curriculum and manage the project effectively (e.g. resumes). The extent to which the author of this proposal will be involved throughout the implementation of the proposed project.

(3) The extent to which past and/or current collaboration between the applicant and the public (State/local and tribal) agencies in training of child welfare staff would strengthen this project. The extent to which this project will be strengthened by building on existing partnerships with such agencies. The extent to which the applicant includes interagency agreements and commitments from the participating entities.

(4) The extent to which there is a sound management plan for achieving the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines and milestones for accomplishing project tasks and ensuring quality. The extent to which the plan clearly defines the role and responsibilities of the lead agency. The extent to which the plan clearly describes the effective management and coordination of activities carried out by any partners, subcontractors and consultants (if appropriate). The extent to which there would be a mutually beneficial relationship between the proposed project and other work planned, anticipated or underway with Federal assistance by the applicant.

#### *Criterion 4. Budget and Budget Justification*

In reviewing the budget and budget justification, the following factors will be considered: (10 points)

(1) The extent to which the costs of the proposed project are reasonable, in view of the activities to be conducted and expected results and benefits.

(2) The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.

#### *2. Review and Selection Process*

When the Operations Center receives your application it will be screened to confirm that your application was received by the deadline. Federal staff will verify that you are an eligible applicant and that the application

contains all the essential elements. Applications received from ineligible organizations and applications received after the deadline will be withdrawn from further consideration.

A panel of at least three reviewers (primarily experts from outside the Federal government) will use the evaluation criteria described in this announcement to evaluate each application. The reviewers will determine the strengths and weaknesses of each application, provide comments about the strengths and weaknesses and give each application a numerical score.

All applications will be reviewed and evaluated using four major criteria: (1) Objectives and need for assistance, (2) approach, (3) organizational profiles, and (4) budget and budget justification. Each criterion has been assigned a point value. The point values (summing up to 100) indicate the maximum numerical weight each criterion may be given in the review and evaluation process.

Reviewers also are evaluating the project products and materials that you propose. They will be interested in your plans for sustaining your project without Federal funds if the evaluation findings are supportive. Reviewers will be looking to see that the total budget you propose and the way you have apportioned that budget are appropriate and reasonable for the project you have described. Remember that the reviewers only have the information that you give them—it needs to be clear, complete, and concise.

The results of the competitive review are a primary factor in making funding decisions. In addition, Federal staff conducts administrative reviews of the applications and, in light of the results of the competitive review, will recommend applications for funding to the ACYF Commissioner. ACYF reserves the option of discussing applications with other funding sources when this is in the best interest of the Federal government. ACYF may also solicit and consider comments from ACF Regional Office staff in making funding decisions. ACYF may take into consideration the involvement (financial and/or programmatic) of the private sector, national, or State or community foundations; a favorable balance between Federal and non-Federal funds for the proposed project; or the potential for high benefit from low Federal investment. ACYF may elect not to fund any applicants having known management, fiscal, reporting, programmatic, or other problems which make it unlikely that they would be able to provide effective services or effectively complete the proposed activity.

With the results of the peer review and the information from Federal staff, the Commissioner of ACYF makes the final funding decisions. The Commissioner may give special consideration to applications proposing services of special interest to the Government and to achieve geographic distributions of grant awards. Applications of special interest may include, but are not limited to, applications focusing on unserved or inadequately served clients or service areas and programs addressing diverse ethnic populations.

#### *3. Other*

*Anticipated Announcement and Award Dates:* Applications will be reviewed during Summer 2004. Grant awards will have a start date no later than September 30, 2004.

### **VI. Award Administration Information**

#### *1. Award Notices*

Successful applicants will receive a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant or cooperative agreement, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, if applicable, and the total project period for which support is contemplated. The Grants Management Office signs and issues the award notice.

The Commissioner will notify organizations in writing when their applications will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

#### *2. Administrative and National Policy Requirements*

45 CFR Part 74 and 45 CFR Part 92

Faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

#### *3. Reporting*

*Reporting Requirements:* Programmatic Reports and Financial Reports are required semi-annually with final reports due 90 days after project end date. All required reports will be submitted in a timely manner, in recommended formats (to be provided), and the final report will also be submitted on disk or electronically using a standard word-processing program.

Within 90 days of project end date, the applicant will submit a copy of the

final report, the evaluation report, and any program products to the National Clearinghouse on Child Abuse and Neglect, 330 C Street, SW., Washington, DC 20447. This is in addition to the standard requirement that the final program and evaluation report must also be submitted to the Grants Management Specialist and the Federal Project Officer.

#### VII. Agency Contacts

##### Program Office Contact

Pam Johnson, 330 C St. SW.,  
Washington, DC 20447, 202-205-  
8086, [pjohnson@acf.hhs.gov](mailto:pjohnson@acf.hhs.gov).

##### Grants Management Office Contact

William Wilson, 330 C Street, SW.,  
Washington, DC 20447, 202-205-  
8913, [wwilson@acf.hhs.gov](mailto:wwilson@acf.hhs.gov).

##### General

The Dixon Group, ACYF Operations  
Center, 118 Q Street, NE.,  
Washington, DC 20002-2132,  
Telephone: (866) 796-1591.

#### VIII. Other Information

Additional information about this program and its purpose can be located on the following Web site: <http://www.acf.hhs.gov/programs/cb/>.

Copies of the following Forms, Assurances, and Certifications are available online at <http://www.acf.hhs.gov/programs/ofs/grants/form.htm>.

Standard Form 424: Application for Federal Assistance;

Standard Form 424A: Budget Information;

Standard Form 424B: Assurances—Non-Construction Programs;

Form LLL: Disclosure of Lobbying; Certification Regarding Environmental Tobacco Smoke;

Standard Form 310: Protection of Human Subjects.

The State Single Point of Contact SPOC listing is available on line at <http://www.whitehouse.gov/omb/grants/spoc.html>.

Dated: April 9, 2004.

##### Frank Fuentes,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 04-8784 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Grants and Cooperative Agreements; Notice of Availability

*Federal Agency Contact Name:* Administration for Children and Families (ACF), Administration on Children, Youth and Families, Child Care Bureau.

*Funding Opportunity Title:* Native Hawaiian and Nonprofit American Indian Organization Child Care Grants.

*Announcement Type:* Initial.

*Funding Opportunity Number:* HHS-2004-ACF-ACYF-YN-0012.

*CFDA Number:* 93.575.

*Due Date for Applications:* The due date for receipt of applications is May 19, 2004.

#### I. Funding Opportunity Description

Grants awarded under this announcement are to increase the availability, affordability and quality of child care services by establishing child care programs in areas that have been previously underserved and/or have unmet needs. This funding opportunity provides funding for up to two child care programs: one serving Native Hawaiian youth; and one serving Indian and/or Native Hawaiian youth.

One of the goals of the Child Care and Development Block Grant (CCDBG) Act is "to promote parental choice to empower working parents to make their own decisions on the child care that best suits their family's needs." In support of this goal, the applicant is expected to design and implement a certificate program since it promotes parental choice in selecting Child Care and Development Fund (CCDF) funded child care providers. However, while certificates ensure parental choice, contracted slots also play an important role in meeting the child care needs of families, particularly in rural areas, for infant-care, or for children with special needs. To promote full parental choice, care by sectarian providers (e.g., faith-based) may not be limited or excluded under this announcement.

To meet the purposes and goals of the CCDBG Act, as amended, the applicant is required to comply with the same requirements as grantees receiving tribal formula grants under the CCDF program. Therefore, unless otherwise indicated, the regulations at 45 CFR parts 98 and 99 will apply to grants awarded under this program announcement. The applicant must also include a statement that it will comply

with the applicable list of assurances found in 45 CFR 98.15 of the CCDF final rule.

Therefore, it is incumbent for the applicant to design a child care program that will adequately address the needs and unique circumstances of the population it intends to serve. If the applicant is unable to operate a certificate program, or chooses to provide child care services through grants and contracts exclusively, it must justify this approach in its program narrative and assure how the alternative approach will promote parental choice. In developing a project, an applicant should review the CCDF Tribal Plan Preprint because it requests information required by the CCDF Act and regulations at 45 CFR parts 98 and 99. The Tribal Plan Preprint is available on the Child Care Bureau's Web site at: <http://www.acf.dhhs.gov/programs/ccb/policy1/current/pi0303/preprint.htm>. The Child Care Bureau's website also contains extensive technical assistance resources to assist applicants in developing proposals (<http://www.acf.hhs.gov/programs/ccb/ta/index.htm>).

Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104-193) amended the CCDBG Act to permit Tribal grantees to use CCDF funds for construction or major renovation of child care facilities. Therefore, in its grant application the applicant should describe any anticipated construction and renovation projects that will be funded with CCDF funds, and estimate the amount of funds that will be used for these projects. However, grant funds cannot be spent for construction or major renovation until a grantee has applied for and received approval, through a separate application process, from the Department of Health and Human Services (DHHS). A grantee may submit a request to spend part of its grant for construction or renovation through this separate application process once it has been awarded a CCDF grant under this announcement.

Information on the separate application process can be found on the Bureau's Web site at: <http://www.acf.hhs.gov/programs/ccb/policy1/current/pi0101/pi0101.htm>. As part of the separate application process, a grantee must show that adequate facilities are not otherwise available to carry out child care programs, and that the lack of facilities will inhibit the operation of such programs in the future. The amount of funds that a grantee may request for construction or major renovation through the separate application process is limited to the

amount estimated in the grantee's original CCDF application under this announcement.

Furthermore, statutory language at section 6580(c)(6) of the amended CCDBG Act indicates that Congress does not intend for construction and major renovation projects to unnecessarily divert resources from the provision of child care services. Because grants under this announcement are designed to operate child care programs in areas with unmet need, a grantee should reserve adequate funds for direct child care services. While some construction and major renovation activity is allowable under this program announcement, in accordance with V Application Review Information, 1 Evaluation Criterion, Criterion 5 Budget, the applicant will have to demonstrate that funds will be used for direct child care services and the funds requested are reasonable in regard to the number of eligible children to be served.

**Definition of Terms.** The following definitions apply:

**Categories of Care**—center-based child care, group home child care, family child care and in-home care.

**Center-Based Child Care Provider**—a provider licensed or otherwise authorized to provide child care services for fewer than 24 hours per day per child in a non-residential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

**Child Care Certificate**—a certificate (that may be a check, or other disbursement) that is issued by a grantee directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider, pursuant to 45 CFR 98.30. Nothing in this part shall preclude the use of such certificate for sectarian child care services if freely chosen by the parent. For the purposes of this part, a child care certificate is assistance to the parent, not assistance to the provider.

**Construction**—the erection of a facility that does not currently exist.

**Discretionary Funds**—the funds authorized under section 658B of the Child Care and Development Block Grant Act. The Discretionary funds were formerly referred to as the Child Care and Development Block Grant.

**Eligible Child Care Provider**—(1) A center-based child care provider, a group home child care provider, a family child care provider, an in-home child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under applicable State or local law as

described in 45 CFR 98.40; and satisfies State and local requirements, including those referred to in 45 CFR 98.41 applicable to the child care services it provides; or (2) A child care provider who is 18 years of age or older who provides child care services only to eligible children who are, by marriage, blood relationship, or court decree, the grandchild, great grandchild, sibling (if such provider lives in separate residence), niece, or nephew of such provider, and complies with any applicable requirements that govern child care provided by the relative involved.

**Family Child Care Provider**—one individual who provides child care services for fewer than 24 hours per day per child, as the sole caregiver, in a private residence other than the child's residence, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

**Group Home Child Care Provider**—two or more individuals who provide child care services for fewer than 24 hours per day per child, in a private residence other than the child's residence, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

**Indian Tribe**—any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. section 1601 *et seq.*) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**In-Home Child Care Provider**—an individual who provides child care services in the child's own home.

**Licensing or Regulatory Requirements**—requirements necessary for a provider to legally provide child care services in a State or locality, including registration requirements established under State, local or Tribal law.

**Major Renovation**—(1) structural changes to the foundation, roof, floor exterior or load-bearing walls of a facility, or the extension of a facility to increase its floor area; or (2) extensive alteration of a facility such as to significantly change its function and purpose, even if such renovation does not include any structural change.

**Native Hawaiian Organization**—a private nonprofit organization that serves the interests of Native Hawaiians and is recognized by the Governor of Hawaii for the purpose of planning, conducting or administering programs

(or portions of programs) for the benefit of Native Hawaiians.

**Other Tribal Organizations**—for purposes of this announcement, such term refers to those organizations defined by section 658P(14)(B) of the CCDBG Act as a private nonprofit organizations established for the purpose of serving youth who are Indians or Native Hawaiians.

**Parent**—a parent by blood, marriage or adoption and also means a legal guardian, or other person standing *in loco parentis*.

**Provider**—the entity providing child care services.

**Sliding Fee Scale**—a system of cost sharing by a family based on income and size of the family, in accordance with 45 CFR 98.42.

**Types of Providers**—the different classes of providers under each category of care. For the purposes of the CCDF, types of providers include non-profit providers, for-profit providers, sectarian providers and relatives who provide care.

## II. Award Information

**Funding Instrument Type:** Grant.

**Category of Funding Activity:** ISS Income Security and Social Services.

**Anticipated Total Program Funding:** \$2,000,000 in FY2004.

**Anticipated Number of Awards:** 1-2.  
**Ceiling on Amount of Individual Awards:** \$1,000,000 per budget period.

An application that exceeds the upper value of the dollar range specified will be considered "non-responsive" and be returned to the applicant without further review.

**Floor of Individual Awards:** \$500,000 per budget period.

**Average Anticipated Award Amount:** \$500,000 to \$1,000,000 per budget period.

**Project Periods for Awards:** Up to three year project period with three 12 month budget periods.

## III. Eligibility Information

1. **Eligible Applicants:** Native American tribal organizations.

**Additional Information on Eligibility:** The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) amended the CCDBG Act to add the following definition to the term "tribal organization," to indicate other organizations that are potentially eligible for Discretionary Funding: "Other organizations—Such term includes a Native Hawaiian Organization, as defined in section 4009(4) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 and a private

nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians."

Therefore, under this announcement, eligible applicants are: (1) A private nonprofit organization that serves the interests of Native Hawaiians and is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or parts of programs) for the benefit of Native Hawaiians; and (2) a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

If an Indian organization is already receiving CCDF funding, it is not eligible to apply for funding under this program announcement. A list of current tribal CCDF grantees is available at: <http://nccic.org/tribal/grantees.html>.

#### *Applicant Board Composition*

An applicant must provide assurance that its duly elected or appointed board of directors is representative of the community identified to be served. To establish compliance with the requirement, applicants should provide information establishing that at least a majority of the individuals serving on the non-profit's governing board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

Non-profit organizations applying for funding are required to submit proof of their non-profit status. Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization is a non-profit and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Private, non-profit organizations are encouraged to submit with their applications the survey located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant Applicants" at [www.acf.hhs.gov/programs/ofs/forms.htm](http://www.acf.hhs.gov/programs/ofs/forms.htm).

2. *Cost Sharing or Matching*: No. Cost sharing or matching funds are not required for applications submitted under this program announcement.

3. Other.

#### *DUNS Number*

On June 27, 2003 the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal ([www.Grants.gov](http://www.Grants.gov)). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

#### *Beneficiary Eligibility Criteria*

To be eligible to receive CCDF-funded child care services under this announcement, a child must be under the age of 13 and reside with a family whose income does not exceed 85% of the State Median Income (or Tribal Median Income) for a family of the same size and whose parent(s) are working or attending a job training or educational program or who receive or need to receive protective services.

An applicant may only submit one applicant under this announcement.

#### **IV. Application and Submission Information**

##### *1. Address To Request Application Package*

ACYF Operations Center, c/o The Dixon Group, Inc., OTO/CCB Funding, 118 Q Street, NE., Washington, DC 20002-2132, [CCB@dixongroup.com](mailto:CCB@dixongroup.com), 1-866-796-1591, URL to Obtain Application Page: [www.Grants.Gov](http://www.Grants.Gov).

##### *2. Content and Form of Application Submission*

###### **A. Application Content**

An original and two copies of each application are required. Each application must include the following components:

1. Table of Contents.
2. Abstract of Proposed Project—very brief, not to exceed 250 words, that would be suitable for use in an announcement that the application has been selected for a grant award and which identifies the type of project, the target population and the major elements of the work plan.
3. Completed Standard Form 424—that has been signed by an Official of the organization applying for the grant who has authority to obligate the organization legally.
4. Standard Form 424A—Budget Information—Non-Construction Programs.
5. Narrative Budget Justification—for each object class category required under Section B, Standard Form 424A.
6. Project Narrative—a narrative that addresses issues described in the "Application Review Information" and the "Review and Selection Criteria" sections of this announcement.

###### **B. Application Format**

1. Each application should include one signed original application and two additional copies of the same application.
2. Application materials must be submitted on white 8 and 1/2 x 11 inch paper only. Do not use colored, oversized or folded materials.
3. Do not include organizational brochures or other promotional materials, slides, films, clips, videos, etc.
4. The font size may be no smaller than 12 pitch and the margins must be at least one inch on all sides.
5. All application pages must be sequentially numbered throughout the package, beginning with the abstract of the proposed project as page number one.
6. Application materials must be presented either in loose-leaf notebooks or in folders with pages two-hole punched at the top center and fastened separately with a slide paper fastener.

###### **C. Page Limitation**

The application package, including sections for the Table of Contents, Project Abstract, Project and Budget Narratives and Business Plan, must not exceed 65 pages. The page limitation does not include the following attachments and appendices: Standard

Forms for Assurances, Certifications, Disclosures, or any other supplemental documents that are required in this announcement.

#### D. Required Standard Forms

1. Applicants requesting financial assistance for a non-construction project must sign and return Standard Form 424B, Assurances: Non-Construction Programs, with their application. **Note:** Although construction is an allowable cost if approved by ACF (See I Funding Opportunity Description), the non-construction assurances must be submitted with this application.

2. Applicants must provide a Certification Regarding Lobbying. Prior to receiving an award in excess of \$100,000, applicants shall furnish an executed copy of the lobbying certification. Applicants must sign and return the certification with their application.

3. Applicants must make the appropriate certification of their compliance with all Federal statutes relating to nondiscrimination. By signing and submitting the application, applicants are providing the certification and need not mail back a certification form.

4. Applicants must make the appropriate certification of their compliance with the requirements of the Pro-Children Act of 1994, as outlined in the Certification Regarding Environmental Tobacco Smoke.

Applicants have the option of omitting from the application copies (not the original) specific salary rates or amounts for individuals specified in the application budget. The copies may include summary information.

You may submit your application to us in either electronic or paper format. To submit an application electronically, please use the [www.Grants.gov](http://www.Grants.gov) apply site. If you use Grants.gov, you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not email an electronic copy of a grant application.

Please note the following if you plan to submit your application electronically via Grants.gov:

- Electronic submission is voluntary.
- When you enter the Grants.Gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.

- You will not receive additional point value because you submit a grant application in electronic format, nor will we penalize you if you submit an application in paper format.

- You may submit all documents electronically, including all information typically included on the SF 424 and all necessary assurances and certifications.

- Your application must comply with any page limitation requirements described in this program announcement.

- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov

- We may request that you provide original signatures on forms at a later date.

- You may access the electronic application for this program on [www.Grants.gov](http://www.Grants.gov).

- You may search for the downloadable application package by the CFDA number.

Private non-profit organizations may voluntarily submit with their applications the survey located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant Applicants" at [www.acf.hhs.gov/programs/ofs/forms.htm](http://www.acf.hhs.gov/programs/ofs/forms.htm).

Please see Section V Criteria, for instructions on preparing the project

summary/abstract and the full project description.

#### 3. Explanation of Application Due Dates

The closing time and date for receipt of applications is 4:30 p.m. Eastern Standard Time (EST) on May 19, 2004. Mailed or hand carried applications received after 4:30 EST p.m. on the closing date will be classified as late.

**Deadline:** Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, Attention: OTO/CCB Funding. Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at the ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "Attention: OTO/CCB Funding." Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

**Late applications:** Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

**Extension of deadlines:** ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

What to submit	Required content	Required form or format	When to submit
Table of Contents .....	As described above ...	Consistent with guidance in "Application Format" section of this announcement.	By application date.
Abstract of Proposed Project .....	Brief abstract that identifies the type of project, the target population and the major elements of the proposed project.	Consistent with guidance in "Application Format" section of this announcement.	By application due date.
Completed Standard Form 424 .....	As described above and per required form.	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.

What to submit	Required content	Required form or format	When to submit
Completed Standard Form 424A .....	As described above and per required form.	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.
Narrative Budget Justification .....	As described above ...	Consistent with guidance in "Application Format" section of this announcement.	By application due date.
Project Narrative .....	A narrative that addresses issues described in the "Application Review Information" and the "Review and Selection Criteria" sections of this announcement.	Consistent with guidance in "Application Format" section of this announcement.	By application due date.
Completed Standard Form 424B .....	As described above and per required form.	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.
Certification regarding lobbying .....	As described above and per required form.	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.
Certification regarding environmental tobacco smoke.	As described above and per required form.	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	By application due date.

*Additional Forms:* Private non-profit organizations may voluntarily submit with their applications the survey

located under "Grant Related Documents and Forms" titled "Survey for Private, Non-Profit Grant

Applicants" at [www.acf.hhs.gov/programs/ofs/forms.htm](http://www.acf.hhs.gov/programs/ofs/forms.htm).

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non Profit Grant Applicant	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/forms.htm">http://www.acf.hhs.gov/programs/ofs/forms.htm</a> .	60 days from release date.

#### 4. Intergovernmental Review

##### State Single Point of Contact (SPOC)

This program is not covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities."

##### 5. Funding Restrictions

Pre-award costs are not allowable reimbursement charges to this grant program.

##### 6. Other Submission Requirements

*Electronic Link to Full Announcement:* <http://www.acf.hhs.gov/programs/ccb>.

*Electronic Address to Submit Applications:* [www.Grants.Gov](http://www.Grants.Gov).

*Submission by Mail:* Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, Attention: OTO/CCB Funding Applicants are responsible for mailing applications well in advance, when using all mail services, to ensure that

the applications are received on or before the deadline time and date.

*Hand Delivery:* Applications hand-carried by applicants, applicant couriers, other representatives of the applicant, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132, Attention: OTO/CCB Funding between Monday and Friday (excluding Federal holidays). Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

ACYF cannot accommodate transmission of applications by fax.

*Electronic Submission:* Please see Section IV Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

*Paperwork Reduction Act of 1995 (Pub. L. 104-13):*

Under the Paperwork Reduction Act of 1995, Pub. L. 104-13, the Department is required to submit to the Office of Management and Budget (OMB) for

review and approval of any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ACF grant applications under the Program Narrative Statement by OMB (Approval Number 0970-0319 which expires 3/31/2004).

Public reporting burden for this collection is estimated to average 25 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of 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.

##### 1. Criteria

###### Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested.

Supporting documents should be included where they can present information clearly and succinctly. In preparing your project description, all information requested through each specific evaluation criteria should be provided. Awarding offices use this and other information in making their funding recommendations. It is important, therefore, that this information be included in the application.

#### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

#### Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

#### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

#### Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe who will receive child care services, where and how these services will be provided, the anticipated numbers of children and families to be served, and how the services will benefit the children, families and community to be served.

#### Approach

Outline a plan of action, which describes the scope and detail of how the proposed work will be accomplished. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of children to be served and the number of activities accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reasons for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technical innovations, reductions in cost or time or extraordinary social and community involvement. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Provide a biographical sketch for each key person appointed and a job description for each vacant key position.

Provide a plan for securing resources and continuing project activities after Federal assistance has ceased.

#### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt

organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

#### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

#### Evaluation Criteria

The five evaluation criteria that follow will be used to review and evaluate each application. Each of the criteria should be addressed in the project description section of the application. The point values indicate the maximum numerical weight each criterion will be accorded in the review process. Note that the highest possible score an application can receive is 100 points.

##### Criterion 1: Approach (40 Points)

- The extent to which the plan of action is appropriate and sufficient for addressing the scope of work.
- The extent to which specific outcomes to be achieved; performance targets; and critical milestones are identified.
- The extent to which the application defines the comprehensive nature of the project and demonstrates methods that will be used to ensure that the results can be used to address a statewide or nationwide project, in conformance with the scope of work.

##### Criterion 2: Objectives and Need for Assistance (20 points)

- The extent to which the application demonstrates that the proposed project addresses vital needs related to the program purposes and provides statistics and other data and information in support of its contention.
- The extent to which the application provides current supporting documentation or other testimonies regarding needs from State and local child care agencies and related organizations.



**Criterion 3: Organizational Profiles (20 points)**

- The extent to which the key staff possess the expertise necessary to conduct the activities demonstrated in the application and information contained in their vitae.
- The adequacy of the time devoted to this project by the project director and other key staff in order to ensure a high level of professional input and attention.
- The extent to which the application demonstrates the capacity to provide child care services that offer full parental choice.
- If training and technical assistance is proposed, the extent to which the application documents its abilities to provide those services in the area to be served by the project. If applicable, information provided by the applicant also addresses related achievements and competence of each cooperating or sponsoring organization.
- The extent to which the application documents effective coordination with other State, Native Hawaiian, Tribal and local early childhood education partners in its activities, as appropriate.

**Criterion 4: Results and Benefits Expected (10 Points)**

- The extent to which the objectives and need for assistance are clearly stated.
- The extent to which the application demonstrates the expected results will benefit the population to be served in meeting its child care needs.

**Criterion 5: Budget ( 10 Points)**

- The extent to which the scope of the project is reasonable for the funds available for these grants.
- The extent to which the budget and budget justification are appropriate for carrying out the proposed project.

**2. Review and Selection Process**

Each application submitted to ACYF will be screened to determine whether it was received by the closing date and time.

Applications received by the closing date and time will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

All applications must comply with the following requirements except as noted:

(a) The application must contain a signed Standard Form 424 Application for Federal Assistance "SF-424", a Standard Form 424A Budget Information "SF-424A" and signed Standard Form 2424B Assurance-Non-Construction Programs "SF-424B" completed according to the instructions provided in this Program Announcement. The forms SF-424 and the SF-424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant's legal name as required on the SF-424 (Item 5) must match that listed as corresponding to the Employer Identification Number (Item 6);

(b) The application must include a project narrative that meets requirements set forth in this announcement.

(c) The application must contain documentation of the applicant's tax-exempt status as indicated in the "Additional Information on Eligibility" section of this announcement.

**ACYF Evaluation of Applications**

Applications that pass the initial ACYF screening will be reviewed and rated by a panel based on the program elements and review criteria presented in relevant sections of this program announcement. The review criteria are designed to enable the review panel to assess the quality of a proposed project and determine the likelihood of its success. The criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. The review panel awards points only to applications that are responsive to the program elements and relevant review criteria within the context of this program announcement.

The ACYF Commissioner and program staff use the review scores when considering competing applications. Reviewer scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by the review panel. Because other important factors are taken into consideration, highly ranked applications are not guaranteed funding. These other considerations include, for example: the timely and proper completion by the applicant of projects funded with ACYF funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; amount and duration of the grant requested and the proposed project's consistency and harmony with ACYF goals and policy; geographic distribution of applications;

previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and the applicant's progress in resolving any final audit disallowance on previous ACYF or other Federal agency grants.

**VI. Award Administration Information****1. Award Notices**

Successful applicants shall be notified 90 days following the application due date.

Following approval of the application selected for funding, ACF will mail a written notice of award to the applicant organization. The official award document is the Financial Assistance Award that specifies the amount of the Federal funds approved for use in the project, the project and budget period for which support is provided and the terms and conditions of the award. The notice of award signed by the grants management officer is the authorizing document.

Organizations whose applications will not be funded will be notified in writing.

**2. Administrative and National Policy Requirements**

45 CFR part 74, 45 CFR part 98, 45 CFR part 99.

**3. Reporting Requirements**

*Programmatic Reports:* Semi-annually and a final report is due 90 days after the end of the grant period.

*Financial Reports:* Semi-annually and a final report is due 90 days after the end of the grant period.

*Original Reports and one copy should be mailed to:* ACF Grants Officer, Administration on Children, Youth and Families, 330 C Street, SW., Room 2070.

*Special Reporting Requirements:* Annual Aggregate Tribal Program Data Form (ACF-700 form). The form and reporting instructions can be found at: <http://www.acf.dhhs.gov/programs/ccb/policy1/triblist.htm>.

**VII. Agency Contacts****1. Program Office Contacts**

Ginny Gorman, Child Care Bureau, Administration on Children, Youth and Families, 430 C Street, SW., Room 2046, Washington, DC 20447, Telephone 202-401-7260, E-mail: [ggorman@acf.hhs.gov](mailto:ggorman@acf.hhs.gov).

John Coakley, ACF Region IX, 50 United Nations Plaza, Room 450, San Francisco, CA 94102, Telephone 415-

437-8554, E-mail:  
jcoakley@acf.hhs.gov.

## 2. Grants Management Office Contact

William Wilson, Grants Officer,  
Administration on Children and  
Families, Office of Grants  
Management, 330 C Street, SW.,  
Washington, DC 20447, Telephone:  
202-205-8913, E-mail:  
wwilson@acf.hhs.gov.

## VIII. Other Information

The following websites provide child care and related information that may assist an applicant in developing a proposal: Child Care Resources:

Child Care Bureau: <http://www.acf.dhhs.gov/programs/ccb/>.

National Child Care Information Center: <http://nccic.org>.

Tribal Child Care Technical Assistance Center: <http://nccic.org/tribal>.

Dated: April 9, 2004.

**Frank Fuentes,**

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 04-8786 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Children's Bureau; Funding Opportunity: New Start Local Comprehensive Support Services Projects

*Announcement Type:* Competitive Grant-Initial.

*Funding Opportunity Number:* HHS-2004-ACF-ACYF-CB-0013.

*CFDA Number:* 93.551.

*Due Date for Applications:* The due date for receipt of applications is June 18, 2004.

#### I. Funding Opportunity Description

The purposes of Public Law 100-505, the Abandoned Infants Act of 1988 as amended, are to establish a program of local support services projects in order to prevent the abandonment in hospitals of infants and young children, particularly those who have been perinatally exposed to a dangerous drug and those with the human immunodeficiency virus (HIV) or who have been perinatally exposed to the virus; to identify and address the needs of those infants and children who are, or might be, abandoned; to develop a program of comprehensive support services for these infants and young

children and their natural families (see Definitions) that include, but are not limited to, foster family care services, case management services, family support services, parenting skills, in-home support services, counseling services and group residential home services; and to recruit and train health and social services personnel, foster care families, and residential care providers to meet the needs of abandoned children and infants and children who are at risk of abandonment. The legislation also allows for the provision of a technical assistance training program to support the planning, development and operation of the local comprehensive support services projects. The reauthorized legislation allows the Secretary to give priority to applicants located in States that have developed and implemented procedures for expedited termination of parental rights and placement for adoption of infants determined to be abandoned under State law.

#### Definitions

**Abandoned and Abandonment**—The terms “abandoned” and “abandonment,” used with respect to infants and young children, mean that the infants and young children are medically cleared for discharge from acute-care hospital settings, but remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

**Acquired Immune Deficiency Syndrome**—The term “acquired immune deficiency syndrome” includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

**Dangerous Drug**—The term “dangerous drug” means a controlled substance, as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

**Natural Family**—The term “natural family” shall be broadly interpreted to include natural parents, grandparents, family members, guardians, children residing in the household, and individuals residing in the household on a continuing basis who are in a care-giving situation, with respect to infants and young children covered under this Act.

**Projects funded under this program must do the following things:** Projects funded under this announcement must collect descriptive data on characteristics of individuals and families served, types and nature of needs identified and met, the services

provided, measures of client outcomes, child development and well-being, client satisfaction, parenting skills, parent/child interaction, cost benefit, service utilization information, and any other such information as may be required by ACYF. (For additional information on outcome measures, suggested data collection instruments, and specific data characteristics, please contact the National Abandoned Infants Assistance Resource Center's Web site <http://socrates.berkeley.edu/~aiarc/>).

Projects should also collect process and outcome measures data for the project. For examples, applicants should consider a tiered evaluation plan (1) to collect formative evaluation data; and (2) to collect data on outcome measures as the information becomes available. The evaluation plan should address both aspects even though process data may be the only reportable data available for Years I and II. The evaluation component of the application should include methods of collecting descriptive data on the characteristics of the clients served and the services provided. This evaluation should be designed to collect systematic data to answer questions such as the following: What are the characteristics of families who abandon children? What are the service needs of children, mothers, fathers, and families of drug exposed infants? Of HIV-positive infants? What are the barriers to comprehensive case management and to the coordination of service delivery? What changes have been most helpful in improving the delivery of services? What changes/improvements have there been in the child's well being and the child's development? What changes have there been in the family's stability and ability to function? What are the permanency outcomes for children?

Projects must also submit descriptive data on the clients served and the services provided annually to the National Abandoned Infants Assistance Resource Center. Timeframes for the submission of data on outcome measures will be negotiated within six months after grant award.

Projects must also comply with ACYF/CB requirements for a third party evaluation of the project. In order to evaluate the competence of the third party evaluator and to assure that the evaluation methodology and design are appropriate, the third party evaluator must write the evaluation section of the application. This means that the evaluator must be selected as soon as possible after an applicant has decided to compete for a demonstration project. In selecting an evaluator, applicants are reminded that it is a regulatory

requirement to encourage maximum free and open competition, using the applicant's own procurement policies and procedures. The application must indicate whether the third party evaluator was competitively selected, or whether the applicant is proposing a sole source contract for the evaluator. Sole source procurements must be fully justified in the application.

Projects must commit no less than five percent of the total approved project cost for the evaluation component for years I and II. For example, a \$450,000 grant award with a \$50,000 match should commit no less than \$25,000 annually to the evaluation component for years I and II. Applicants are strongly encouraged to increase the commitment to 10% for year III and IV, that is, a total of \$50,000 annually to the evaluation effort.

## II. Award Information

*Funding Instrument Type:* Grant.  
*Anticipated Total Priority Area Funding:* The anticipated total for all awards under this funding announcement in FY 2004 is \$2.7 million.

*Anticipated Number of Awards:* It is anticipated that 3 to 6 projects will be funded.

*Ceiling on Amount of Individual Awards:* The maximum Federal share of the project is \$450,000 in the first budget period. An application received that exceeds that amount will be considered "non-responsive" and be returned to the applicant without further review.

*Floor of Individual Award Amounts:* None.

*Average Anticipated Award Amount:* \$450,000 per budget period.

*Project Periods for Awards:* The projects will be awarded for a project period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

*Available Funds:* Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds. The size of the actual awards will vary. In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later

competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competitions.

## III. Eligibility Information

### 1. Eligible Applicants

State governments  
County governments  
City or township governments  
State controlled institutions of higher education  
Native American tribal governments (Federally recognized)  
Native American tribal organizations (other than Federally recognized tribal governments)  
Non-profits having a 501(c)(3) status with the IRS, other than institutions of higher education  
Private institutions of higher education  
Faith-based and Community-based Organizations

*Additional Information on Eligibility:* Applicants in jurisdictions in which there currently does not exist a program funded under the Abandoned Infants Assistance Program will be considered under this funding opportunity. Agencies and organizations that have previously received funding under the AIA Program but are not currently grantees may submit a proposal under this funding opportunity. Applicants from localities in which projects are currently operating will not be considered, as the purpose of this funding opportunity is to establish local comprehensive support services projects in new localities. Exceptions to this may be considered for large metropolitan areas, that is, cities with a population over 1,000,000.

Proof of non-profit status is any one of the following:

(a) A reference to the applicant organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in the IRS code.

(b) A copy of a currently valid IRS tax exemption certificate.

(c) A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a non-profit status and that none of the net earnings accrue to any private shareholders or individuals.

(d) A certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status.

(e) Any of the items in the subparagraphs immediately above for a

State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate.

Applications that exceed the \$450,000 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

### 2. Cost Sharing or Matching

The grantee must provide at least 10 percent of the total approved cost of the project. The total approved cost is the sum of the Federal share and the non-Federal share. Therefore, a project requesting \$450,000 per budget period must include a match of at least \$50,000 per budget period.

Applicants should provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

The following example shows how to calculate the required 10% match amount for a \$450,000 grant:

\$450,000 (Federal share)  
Divided by \$.90 (100%-10%)  
Equals 500,000 (total project cost including match)  
Minus 450,000 (federal share)  
Equals 50,000 (required 10% match)

The non-federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

### 3. Other

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal (<http://www.Grants.gov>). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the

dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

#### IV. Application and Submission Information

##### 1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE, Washington, DC 20002-2132; Telephone: (866) 796-1591.

##### 2. Content and Form of Application Submission

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the <http://www.Grants.gov> apply site. If you use Grants.gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov.

- Electronic submission is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
- You will not receive additional point value because you submit a grant application in paper format.
- You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.
- Your application must comply with any page limitation requirements described in this program announcement.
- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
- We may request that you provide original signatures on forms at a later date.

- You may access the electronic application for this program on <http://www.Grants.gov>.

- You must search for the downloadable application package by the CFDA number.

Each application must contain the following items in the order listed:

—Application for Federal Assistance (Standard Form 424). Follow the instructions below and those that accompany the form.

In Item 5 of Form 424, put DUNS number in "Organizational DUNS:" box.

In Item 5 of Form 424, include name, phone number, and, if available, email and fax numbers of the contact person.

In Item 8 of Form 424, check 'New.'

In Item 10 of Form 424, clearly identify the Catalog of Federal Domestic Assistance (CFDA) program title and number for the program for which funds are being requested as stated in this funding opportunity announcement.

In Item 11 of Form 424, identify the single funding opportunity the application addresses.

In Item 12 of Form 424, identify the specific geographic area to be served.

In Item 14 of Form 424, identify Congressional districts of both the applicant and project.

—Budget Information Non-Construction Programs (Form 424A) and Budget Justification.

Follow the instructions provided and those in the Uniform Project Description. Note that Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants.

Applicants have the option of omitting from application copies (not originals) specific salary rates or amounts for individuals specified in the application budget. The copies may include summary salary information.

—Certifications/Assurances. Applicants requesting financial assistance for nonconstruction projects must file the Standard Form 424B, 'Assurances: Non-Construction Programs.' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement

shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification regarding environmental tobacco smoke. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

If applicable, applicants must include a completed SPOC certification (Single Point of Contact) with the date of the SPOC contact entered in line 16, page 1 of the Form 424.

By signing the "Signature of Authorized Representative" on the SF 424, the applicant is providing a certification and need not mail assurances for completing the following grant and cooperative agreement requirements:

The applicant will have the project fully functioning within 90 days of the notification of the grant award.

The applicant will submit all required semi-annual and final Financial Status Reports (SF269) and Program Performance Reports in a timely manner, in hard-copy and electronic formats (preferably MS WORD and PDF) as negotiated with the Federal Project Officer.

The applicant will allocate sufficient funds in the budget to provide for the project director and the evaluator to attend an annual three-day grantees' meeting in Washington, DC and an early kick off meeting to be held within the first six months of the project (first year only) in Washington, DC. Attendance at these meetings is a grant requirement.

The applicant will participate if the Children's Bureau chooses to do a national evaluation or a technical assistance contract that relates to this funding opportunity.

The Office for Human Research Protections of the U.S. Department of Health and Human Services provides website information and policy guidance on the Federal regulations pertaining to protection of human subjects (45 CFR 46), informed consent, informed consent checklists, confidentiality of personal identification information, data collection procedures, and internal review boards: <http://ohrp.osoph.s.dhhs.gov/polasur.htm>.

If applicable, applicants must include a completed Form 310, Protection of Human Subjects.

In implementing their projects, grantees are expected to comply with all applicable administrative regulations regarding extent or types of costs. Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

—Project Abstract/Summary (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the

Form 424, identify the competitive grant funding opportunity and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the Form 424. The summary description should not exceed 300 words.

Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

—Project Description for Evaluation.

Applicants should organize their project description according to the Evaluation Criteria described in this funding opportunity announcement providing information that addresses all the components. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

—Proof of non-profit status (if applicable).

—Indirect cost rate agreement. If claiming indirect costs, provide documentation that applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

—Letters of agreement and memoranda of understanding. If applicable, include a letter of commitment or Memorandum of Understanding from each partner organization and/or sub-contractor describing their role, detailing specific tasks to be performed, and expressing commitment to participate if the proposed project is funded.

—Provide letters of support for your program from community-based agencies.

—Provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

—The application limit is 90 pages total including all forms and attachments. Submit one original and two copies.

To be considered for funding, each application must be submitted with the Standard Federal Forms (provided at the end of this announcement or through the electronic links provided) and following the guidance provided. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all forms and attachments, to the Application Receipt Point specified in the section titled Deadline at the beginning of the announcement. The original copy of the application must have original signatures, signed in *black* ink.

The application must be typed, double spaced, printed on only one

side, with at least ½ inch margins on each side and 1 inch at the top and bottom, using standard 12 Point fonts (such as Times Roman or Courier). Pages must be numbered.

Pages over the page limit stated within this funding opportunity announcement will be removed from the application and will not be reviewed. All copies of an application must be submitted in a single package, and a separate package must be submitted for each funding opportunity. The package must be clearly labeled for the specific funding opportunity it is addressing.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review. Each copy must be stapled securely in the upper left corner.

*Tips for Preparing a Competitive Application:* It is essential that applicants read the entire announcement package carefully before preparing an application and include all of the required application forms and attachments. The application must reflect a thorough understanding of the purpose and objectives of the Children's Bureau priority-area initiatives. Reviewers expect applicants to understand the goals of the legislation and the Children's Bureau's interest in each topic. A "responsive application" is one that addresses all of the evaluation criteria in ways that demonstrate this understanding. Applications that are considered to be "unresponsive" generally receive very low scores and are rarely funded.

The Children's Bureau's Web site (<http://www.acf.dhhs.gov/programs/cb>) provides a wide range of information and links to other relevant web sites. Before you begin preparing an application, we suggest that you learn more about the mission and programs of the Children's Bureau by exploring the Web site.

*Organizing Your Application:* The specific evaluation criteria in Section V of this funding announcement will be used to review and evaluate each application. The applicant should address each of these specific evaluation criteria in the project description. It is strongly recommended that applicants

organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

*Project Evaluation Plan:* Project evaluations are very important. If you do not have the in-house capacity to conduct an objective, comprehensive evaluation of the project, then the Children's Bureau advises that you propose contracting with a third-party evaluator specializing in social science or evaluation, or a university or college, to conduct the evaluation. A skilled evaluator can assist you in designing a data collection strategy that is appropriate for the evaluation of your proposed project. Additional assistance may be found in a document titled "Program Manager's Guide to Evaluation." A copy of this document can be accessed at [http://www.acf.hhs.gov/programs/core/pubs\\_reports/prog\\_mgr.html](http://www.acf.hhs.gov/programs/core/pubs_reports/prog_mgr.html) or ordered by contacting the National Clearinghouse on Child Abuse and Neglect Information, 330 C Street, SW., Washington, DC 20447; phone (800) 394-3366; fax (703) 385-3206; e-mail [nccanch@calib.com](mailto:nccanch@calib.com).

*Logic Model:* A logic model is a tool that presents the conceptual framework for a proposed project and explains the linkages among program elements. While there are many versions of the logic model, they generally summarize the logical connections among the needs that are the focus of the project, project goals and objectives, the target population, project inputs (resources), the proposed activities/processes/ outputs directed toward the target population, the expected short- and long-term outcomes the initiative is designed to achieve, and the evaluation plan for measuring the extent to which proposed processes and outcomes actually occur. Information on the development of logic models is available on the Internet at <http://www.uwex.edu/ces/pdandel/> or [http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome\\_logicmdir.html](http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome_logicmdir.html).

*Use of Human Subjects:* If your evaluation plan includes gathering data from or about clients, there are specific procedures that must be followed in order to protect their privacy and ensure the confidentiality of the information about them. Applicants planning to gather such data are asked to describe their plans regarding an Institutional Review Board (IRB) review. For more information about use of human subjects and IRB's you can visit these Web sites: <http://ohrp.osophs.dhhs.gov/>

[irb/irb\\_chapter2.htm#d2](http://ohrp.osophs.dhhs.gov/humansubjects/guidance/ictips.htm) and <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/ictips.htm>.

3. *Submission Dates and Times*

The closing date for receipt of applications is 4:30 PM Eastern Standard Time (EST) on June 18, 2004. Mailed applications received after the closing date will be classified as late.

*Deadline:* Mailed applications shall be considered as meeting an announced deadline if they are received on or before June 18, 2004 at the following address: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at ACYF Operations, The Dixon Group, ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "ATTN: Children's Bureau." Applicants are cautioned that express/overnight

mail services do not always deliver as agreed.

*Late applications:* Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines:* ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

REQUIRED FORMS

What to submit	Required content	Required form or format	When to submit
1. SF424 .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
2. SF424A .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.a. SF424B .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.b. Certification regarding lobbying.	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.c. Disclosure of Lobbying Activities (SF-LLL).	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
4. Project Summary/Abstract	Summary of application request.	See instructions in this funding opportunity announcement.	See application due date.
5. Project Description .....	Responsiveness to evaluation criteria.	See instructions in this funding opportunity announcement.	See application due date.
6. Proof of non-profit status	See above .....	See above .....	See application due date.
7. Indirect cost rate agreement.	See above .....	See above .....	See application due date.
8. Letters of agreement & MOUs.	See above .....	See above .....	See application due date.
9. Letters of support .....	See above .....	See above .....	See application of due date.
10. Non-Federal share letter	See above .....	See above .....	See application due date.
Total application .....	See above .....	Application limit 90 pages total including all forms and attachments. Submit one original and two copies.	See application due date.

Additional Forms

Private-non-profit organizations may submit with their applications the

additional survey located under "Grant Related Documents and Forms" titled

"Survey for Private, Non-Profit Grant Applicants."

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form .....	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	By application due date.

4. *Intergovernmental Review*

State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs", and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities."

Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized

Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a) (2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: <http://www.whitehouse.gov/omb/grants/spoc.html>.

#### 5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs. Construction is not an allowable activity or expenditure under this solicitation.

Applications including residential care services will be considered only if that component is part of and integral to a larger system of services directed toward achieving permanency for the children; and only if the residential services are designed to be transitional (*i.e.*, three to six months and no longer) to a permanent placement. The application may not include the costs of construction or other major structural changes for facilities. (Minor structural

changes may be considered and approved by the Project Officer and Grants Management Office.)

#### 6. Other Submission Requirements

**Submission by Mail:** An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 PM Eastern Standard Time (EST) on or before the closing date. Applications should be mailed to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 18 Q Street, NE., Washington, DC 20002-2132.

**For Hand Delivery:** Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 PM Eastern Standard Time (EST) on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations, The Dixon Group, ATTN: Children's Bureau 118 Q Street, NE., Washington, DC 20002-2132. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

**Electronic Submission:** Please see Section IV. 2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

*The Paperwork Reduction Act of 1995 (Pub. L. 104-13)*

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970-0139 which expires 3/31/2004. 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.

#### Instruction

##### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following

instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

#### 1. Criteria

##### General Instruction for Preparing Full Project Description

##### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

##### Approach

Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any

"collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

#### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/Local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

#### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

#### Personnel

*Description:* Costs of employee salaries and wages.

*Justification:* Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary,

wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

#### Fringe Benefits

*Description:* Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

*Justification:* Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

#### Travel

*Description:* Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

*Justification:* For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

#### Equipment

*Description:* "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000.

*Note:* Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.

*Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy that includes the equipment definition.

#### Supplies

*Description:* Costs of all tangible personal property other than that included under the Equipment category.

*Justification:* Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

#### Contractual

*Description:* Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, etc. Third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

*Justification:* All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and sub recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

*Note:* Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

#### Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

*Justification:* Provide computations, a narrative description and a justification for each cost under this category.

#### Indirect Charges

*Description:* Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

*Justification:* An applicant that will charge indirect costs to the grant must enclose a copy of the current rate



agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

#### *Specific Evaluation Criteria*

The following criteria will be used to review and evaluate each application. The applicant should address each criterion in the project description. The point values (summing up to 100) indicate the maximum numerical weight each criterion will be accorded in the review process.

#### Criterion 1. Objectives and Need for Assistance

In reviewing the objectives and need for assistance, the following factors will be considered: (20 points)

(1) The extent to which the application clearly demonstrates that there is a need for the program (e.g. sharing the results of a thorough assessment of community needs and including letters of support for the proposed program from community-based agencies).

(2) The extent to which the application clearly describes appropriate goals (end results of an effective project) and objectives (measurable steps for reaching these goals) for the proposed project. The extent to which these goals and objectives will effectively address community needs.

(3) The extent to which the application demonstrates a clear understanding of the population to be served by the project, including the needs of the target population. The extent to which the proposed project responds appropriately to needs of this target population. The extent to which the estimated number of infants and families to be served by the project is reasonable and appropriate.

(4) The extent to which the geographic location to be served by the project is clearly defined and justified based on factors such as the key socioeconomic and demographic characteristics of the targeted community as they relate to women of childbearing age, the needs of women and families who are affected by substance abuse and HIV/AIDS, and the current availability of needed services that serve substance-abusing and/or AIDS/HIV-infected women and their families in the community.

(5) The extent to which the application describes significant results or benefits that can be expected for substance-abusing women and/or women with HIV/AIDS and their children, and community-wide results, if any.

(6) The extent to which the program results will benefit national policy and practice, and lead to additional research in this field.

(7) The extent to which this project would improve evidence-based practices to prevent child maltreatment. The extent to which the applicant presents a concise summary of the literature that reflects an understanding of the research on best practices and promising approaches in the field.

#### Criterion 2. Approach

In reviewing the approach, the following factors will be considered: (50 points)

(1) The extent to which the timeline for implementing the proposed project, including major milestones and target dates, is comprehensive and reasonable. The extent to which the proposed plan for managing factors which could speed or hinder project implementation is feasible.

(2) The extent to which the specific services which would be provided under the proposed project are appropriate and are described in detail.

(3) The extent to which the proposed project will accomplish the provision(s) of the legislation as stated in the Background section of this announcement. The extent to which the need for short-term, transitional residential care services for small groups of infants or young children is justified (if these services are provided).

(4) The extent to which the awardee will work effectively with terminally ill parent(s), if present in the program, to make stand-by guardianship or stand-by adoption arrangements for their children to ensure the smooth transition to another caregiver and prevent a possible out-of-home placement.

(5) The extent to which the project will be culturally responsive to the target population.

(6) The extent to which the project will be broad and comprehensive. The extent to which the project will effectively provide the wide range of assistance needed by the target population that could include parenting skills; supportive, therapeutic services; housing and transportation; health care and drug and alcohol treatment. The extent to which the project will effectively provide specialized health care and therapeutic intervention for infants exposed to drugs and AIDS/HIV to assist them in their physical and cognitive development.

(7) The extent to which the logic model for this project demonstrates strong links between proposed inputs and activities and intended short-term and long-term outcomes, and shows how the achievement of these outcomes will be accurately measured.

(8) The extent to which the qualitative and quantitative data the program will collect will accurately measure progress towards the stated results or benefits. The extent to which the evaluation methods and procedures used will accurately determine the degree to which the program has achieved the stated objectives. The extent to which the project will comply with ACYF/CB requirements for a third party evaluation and for collecting and submitting descriptive, process and outcome data as described in this announcement. The extent to which the application provides a sound plan for collecting this data and securing informed consent. The extent to which the plan includes appropriate procedures for an Institutional Review Board (IRB) review, if applicable.

(9) The extent to which the proposed evaluation plan would be likely to yield findings or results about effective strategies, and contribute to and promote evaluation research and evidence-based practices that could be used to guide replication or testing in other settings.

(10) The extent to which the products (if any) that would be developed during the proposed project would provide useful information on strategies utilized and the outcomes achieved that would effectively support evidence-based improvements of practices in the field. The extent to which the schedule for developing these products is reasonable, and the proposed dissemination plan is appropriate in scope and budget. The extent to which the intended audience (e.g., researchers, policymakers, and practitioners) for product dissemination is appropriate to the goals of the

proposed project. The extent to which the project's products would be useful to each of these audiences. The extent to which there is a sound plan for effectively disseminating information, using appropriate mechanisms and forums to convey the information and support replication by other interested agencies.

(1) The extent to which there is a sound plan for continuing this project beyond the period of Federal funding.

#### Criterion 3. Organizational Profiles

In reviewing the organizational profiles, the following factors will be considered: (20 points)

(1) The extent to which the applicant organization and its staff have sufficient experience in successfully providing comprehensive services to substance-abusing women and women who have HIV/AIDS and their infants and/or young children, and in collaborating effectively with community-based agencies. The extent to which the applicant's history and relationship with the targeted community will assist in the effective implementation of the proposed project. The extent to which the applicant organization's capabilities and experience relative to this project, including experience with administration, development, implementation, management, and evaluation of similar projects, will enable them to implement the proposed project effectively.

(2) If the applicant represents a consortium of partner agencies, the extent to which their background and experience with children and families impacted by substance abuse and HIV/AIDS will support the planning and implementation of the proposed project. The extent to which there are letters of commitment from each partner authorizing the applicant to apply on behalf of the consortium and agreeing to participate if the proposal is funded.

(3) The extent to which the proposed project director and key project staff possess sufficient relevant knowledge, experience and capabilities to implement and manage a project of this size, scope and complexity effectively. The extent to which the role, responsibilities and time commitments of each proposed project staff position, including consultants, subcontractors and/or partners, are clearly defined and appropriate to the successful implementation of the proposed project. The extent to which the author of this proposal will be closely involved throughout the implementation of the proposed project.

(4) The extent to which there is a sound management plan for achieving

the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines and milestones for accomplishing project tasks and ensuring quality. The extent to which the plan clearly defines the role and responsibilities of the lead agency. The extent to which the plan clearly describes the effective management and coordination of activities carried out by any partners, subcontractors and consultants (if appropriate). The extent to which there would be a mutually beneficial relationship between the proposed project and other work planned, anticipated or underway with Federal assistance by the applicant.

#### Criterion 4. Budget and Budget Justification

In reviewing the budget and budget justification, the following factors will be considered: (10 points)

(1) The extent to which the costs of the proposed project are reasonable and programmatically justified, in view of the targeted population and community, the activities to be conducted and the expected results and benefits. The extent to which the justification includes appropriate community-specific factors closely related to substance abuse and perinatal exposure to drugs or HIV.

(2) The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.

#### 2. Review and Selection Process

When the Operations Center receives your application it will be screened to confirm that your application was received by the deadline. Federal staff will verify that you are an eligible applicant and that the application contains all the essential elements. Applications received from ineligible organizations and applications received after the deadline will be withdrawn from further consideration.

A panel of at least three reviewers (primarily experts from outside the Federal government) will use the evaluation criteria described in this announcement to evaluate each application. The reviewers will determine the strengths and weaknesses of each application, provide comments about the strengths and weaknesses and give each application a numerical score.

All applications will be reviewed and evaluated using four major criteria: (1) Objectives and need for assistance, (2) approach, (3) organizational profiles,

and (4) budget and budget justification. Each criterion has been assigned a point value. The point values (summing up to 100) indicate the maximum numerical weight each criterion may be given in the review and evaluation process.

Reviewers also are evaluating the project products and materials that you propose. They will be interested in your plans for sustaining your project without Federal funds if the evaluation findings are supportive. Reviewers will be looking to see that the total budget you propose and the way you have apportioned that budget are appropriate and reasonable for the project you have described. Remember that the reviewers only have the information that you give them—it needs to be clear, complete, and concise.

The results of the competitive review are a primary factor in making funding decisions. In addition, Federal staff conducts administrative reviews of the applications and, in light of the results of the competitive review, will recommend applications for funding to the ACYF Commissioner. ACYF reserves the option of discussing applications with other funding sources when this is in the best interest of the Federal government. ACYF may also solicit and consider comments from ACF Regional Office staff in making funding decisions. ACYF may take into consideration the involvement (financial and/or programmatic) of the private sector, national, or State or community foundations; a favorable balance between Federal and non-Federal funds for the proposed project; or the potential for high benefit from low Federal investment. ACYF may elect not to fund any applicants having known management, fiscal, reporting, programmatic, or other problems which make it unlikely that they would be able to provide effective services or effectively complete the proposed activity.

With the results of the peer review and the information from Federal staff, the Commissioner of ACYF makes the final funding decisions. The Commissioner may give special consideration to applications proposing services of special interest to the Government and to achieve geographic distributions of grant awards. Applications of special interest may include, but are not limited to, applications focusing on unserved or inadequately served clients or service areas and programs addressing diverse ethnic populations.

#### 3. Other

*Anticipated Announcement and Award Dates:* Applications will be

reviewed during the Summer 2004. Grant awards will have a start date no later than September 30, 2004.

## VI. Award Administration Information

### 1. Award Notices

Successful applicants will receive a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant or cooperative agreement, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, if applicable, and the total project period for which support is contemplated. The Grants Management Office signs and issues the official award notice.

The Commissioner will notify organizations in writing when their applications will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

### 2. Administrative and National Policy Requirements

45 CFR Part 74 and 45 CFR Part 92

Faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

### 3. Reporting

**Reporting Requirements:** Programmatic Reports and Financial Reports are required semi-annually with final reports due 90 days after the project end date. All required reports will be submitted in a timely manner, in recommended formats (to be provided), and the final report will also be submitted on disk or electronically using a standard word-processing program.

Within 90 days of project end date, the applicant will submit a copy of the final report, the evaluation report, and any program products to the National Clearinghouse on Child Abuse and Neglect, 330 C Street, SW., Washington, DC 20447. This is in addition to the standard requirement that the final program and evaluation report must also be submitted to the Grants Management Specialist and the Federal Project Officer.

## VII. Agency Contacts

### Program Office Contact

Pat Campiglia, 330 C St., SW., Washington, DC 20447, 202-205-8069, [pcampiglia@acf.hhs.gov](mailto:pcampiglia@acf.hhs.gov).

### Grants Management Office Contact

William Wilson, 330 C St., SW., Washington, DC 20447, 202-205-8913, [wwilson@acf.hhs.gov](mailto:wwilson@acf.hhs.gov).

### General

The Dixon Group, ACYF Operations Center, 118 Q Street, NE., Washington, DC 20002-2132, Telephone: (866) 796-1591.

## VIII. Other Information

Additional information about this program and its purpose can be located on the following Web sites: <http://www.acf.hhs.gov/programs/cb/>.

Copies of the following Forms, Assurances, and Certifications are available online at <http://www.acf.hhs.gov/programs/ofs/grants/form.htm>.

Standard Form 424: Application for Federal Assistance

Standard Form 424A: Budget Information

Standard Form 424B: Assurances—Non-Construction Programs

Form LLL: Disclosure of Lobbying Certification Regarding Environmental Tobacco Smoke

Standard Form 310: Protection of Human Subjects

The State Single Point of Contact SPOC listing is available on line at <http://www.whitehouse.gov/omb/grants/spoc.html>.

Dated: April 9, 2004.

Frank Fuentes,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 04-8788 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Grants and Cooperative Agreements; Notice of Availability

#### Federal Agency Contact Name:

Administration for Children and Families, Children's Bureau.

#### Funding Opportunity Title:

Professional Education for Current and Prospective Public Child Welfare Practitioners Leading to the MSW Degree.

**Announcement Type:** Competitive Grant-Initial.

**Funding Opportunity Number:** HHS-2004-ACF-ACYF-CT-0010.

**CFDA Number:** 93.648.

**Due Date for Applications:** The due date for receipt of applications is June 18, 2004.

## I. Funding Opportunity Description

The purpose of this grant program is to provide professional education opportunities leading to an MSW degree to prospective and current public child welfare agency staff.

Traineeships will provide competency-based, child welfare training with a particular emphasis on developing the critical knowledge, values, and skills that are necessary to respond to the complex problems confronting children and families in the child welfare system.

Under section 426(a)(1)(C) of the Social Security Act, Federal grants are made available to public or non-profit institutions of higher learning for special projects for training personnel for work in the field of child welfare including traineeships. Individuals who receive traineeships under these grants must meet the requirements of section 429 of the Act, which specifies the conditions under which these traineeships are awarded. Each individual who receives a stipend with such a traineeship will enter into an agreement with the institution under which the recipient agrees:

(A) To participate in training at a public or private non-profit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

(B) To be employed, after graduating from the education program, in a public or private non-profit child welfare agency for a period of years equivalent to the period of the traineeship;

(C) To furnish to the institution and the Secretary evidence of compliance with subparagraphs A and B; and

(D) To repay the expenses of the education if there is a failure to comply with the agreement.

The educational institutions must provide evidence of compliance with the provisions of section 429 of the Act, including an assurance that they will:

(A) Enter into an agreement with child welfare agencies for on-site training of traineeship recipients;

(B) Permit agency staff employed in the field of child welfare services to apply for traineeships if the traineeships furthers their progress toward the completion of degree requirements; and

(C) Develop and implement a system that tracks the employment record of these recipients for the 3-year period that begins when students complete their study.

Grantees will be expected to:

(A) Focus on curriculum reform involving the development of specific child welfare courses and the inclusion of competency-based child welfare-

oriented course content in the social work curricula;

(B) Increase the numbers of field placements in public child welfare agencies; and

(C) Improve the quality of the supervision of those placements.

Applications must include a letter from appropriate State child welfare agencies, Tribal Organizations, community agencies, academic departments, other disciplines, institutions, etc. committing to coordination with the school/department of social work and indicating intent to participate in the project. This letter of agreement must be signed by the Director of the Child Welfare Agency.

## II. Award Information

*Funding Instrument Type:* Grant.

*Anticipated Total Program Funding:*

The anticipated total for all awards under this funding announcement in FY2004 is \$500,000.

*Anticipated Number of Awards:* It is anticipated that 5 projects will be funded.

*Ceiling on Amount of Individual Awards:* The maximum Federal share is not to exceed \$100,000 for the first 12-month budget period. A traineeship must not exceed \$10,000 per student per budget year. A minimum of 75 percent of the total project funds must be used for traineeships. An application received that exceeds the upper value of the dollar range specified will be considered "non-responsive" and be returned to the applicant without further review.

*Floor of Individual Award Amounts:* None.

*Average Anticipated Award Amount:* \$100,000 per budget period.

*Project Periods for Awards:* The projects will be awarded for a period of 48 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

*Available Funds:* Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds. The size of the actual awards will vary. In cases where more applications are approved for funding than ACF can fund with the money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a

year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competitions.

## III. Eligibility Information

### 1. Eligible Applicants

State controlled institutions of higher education; private institutions of higher education.

#### Additional Information on Eligibility

Applicants must have an accredited social work education program and should have a strong partnership with a public child welfare agency and be prepared to redesign their curriculum to maximize student learning opportunities for work in public child welfare agencies. Previously funded applicants under this funding opportunity may also apply.

Applications that exceed the \$100,000 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

### 2. Cost Sharing or Matching

No matching funds are required for the portion of the budget that pays for traineeships. However, grantees must provide a match to equal at least 25 percent of the total cost of grant activities other than traineeships. The total approved cost of these non-traineeship activities is the sum of the ACYF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through a cash contribution. Therefore, a project requesting \$100,000 in Federal funds (with \$75,000 for traineeships and \$25,000 for non-traineeship activities per budget period) must include a match of at least \$8,333 (25 percent of the total cost for the non-traineeship activities). Applicants should provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

The following example shows how to calculate the required 25 percent match amount for the non-traineeship portion of a \$100,000 grant:

\$100,000 (Federal share) times .25 (% of Federal share allowable for non-traineeship activities) equals \$25,000 (maximum amount allowable for non-traineeship activities) divided by .75 (100%—25%) equals \$33,333 (total non-traineeship activity cost including

match) minus \$25,000 (Federal share) equals \$8,333 (required 25% match)

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent. Funds from this grant cannot be used to match title IV-E training funds.

The non-Federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

### 3. Other

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal ([www.Grants.gov](http://www.Grants.gov)). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

## IV. Application and Submission Information

### 1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc. ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132; telephone: (866) 796-1591.

### 2. Content and Form of Application Submission

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the [www.Grants.gov](http://www.Grants.gov) apply site. If you use Grants.gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the

application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov.

- Electronic submission is voluntary.
  - When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.
  - To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.
  - You will not receive additional point value because you submit a grant application in paper format.
  - You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.
  - Your application must comply with any page limitation requirements described in this program announcement.
  - After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.
  - We may request that you provide original signatures on forms at a later date.
  - You may access the electronic application for this program on [www.Grants.gov](http://www.Grants.gov).
  - You must search for the downloadable application package by the CFDA number.
- Electronic Address Where Applications Will Be Accepted:*  
[www.Grants.gov](http://www.Grants.gov).
- Address Where Hard Copy Applications Will Be Accepted:* ACYF Operations Center, c/o the Dixon Group, Inc., 118 Q Street, NE., Washington, DC 20002-2132.
- Each application must contain the following items in the order listed:
- Application for Federal Assistance (Standard Form 424).* Follow the instructions below and those that accompany the form.
- In Item 5 of Form 424, put DUNS number in "Organizational DUNS:" box.
- In Item 5 of Form 424, include name, phone number, and, if available, e-mail and fax numbers of the contact person.
- In Item 8 of Form 424, check 'New.'
- In Item 10 of Form 424, clearly identify the Catalog of Federal Domestic

Assistance (CFDA) program title and number for the program for which funds are being requested as stated in this funding opportunity announcement.

In Item 11 of Form 424, identify the single funding opportunity the application addresses.

In Item 12 of Form 424, identify the specific geographic area to be served.

In Item 14 of Form 424, identify Congressional districts of both the applicant and project.

—*Budget Information Non-Construction Programs (Form 424A) and Budget Justification.*

Follow the instructions provided and those in the Uniform Project Description. Note that Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants.

—*Certifications/Assurances.*

Applicants requesting financial assistance for nonconstruction projects must file the Standard Form 424B, 'Assurances: Non-Construction Programs.' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification regarding environmental tobacco smoke. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

If applicable, applicants must include a completed SPOC certification (Single Point of Contact) with the date of the SPOC contact entered in line 16, page 1 of the Form 424.

By signing the "Signature of Authorized Representative" on the SF 424, the applicant is providing a certification and need not mail assurances for completing the following grant and cooperative agreement requirements:

Participate in any evaluation or technical assistance effort supported by ACYF;

Submit all required semi-annual and final Financial Status Reports (SF269)

and Program Performance Reports in a timely manner, in hard-copy and electronic formats (preferably MS WORD and PDF) as negotiated with the Federal Project Officer; and

Allocate sufficient funds in the budget to provide for the project director and a representative of the State child welfare agency to attend an annual 3-day grantees' meeting in Washington, DC. (Attendance at these meetings is a grant requirement.) In addition, new grantees should allocate sufficient funds to provide for the project director and a representative of the State child welfare agency to attend an early kick-off meeting to be held within the first three months of the project (first year only) in Washington, DC. (Attendance at this early kick-off meeting is a grant requirement for new grantees, but not for current or previous grantees under this funding opportunity.)

The Office for Human Research Protections of the U.S. Department of Health and Human Services provides Web site information and policy guidance on the Federal regulations pertaining to protection of human subjects (45 CFR part 46), informed consent, informed consent checklists, confidentiality of personal identification information, data collection procedures, and internal review boards: <http://ohrp.osophs.dhhs.gov/polasur.htm>.

If applicable, applicants must include a completed Form 310, Protection of Human Subjects.

In implementing their projects, grantees are expected to comply with all applicable administrative regulations regarding extent or types of costs. Applicable DHHS regulations can be found in 45 CFR part 74 or 92.

—*Project Abstract/Summary* (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the Form 424, identify the competitive grant funding opportunity and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the Form 424. The summary description should not exceed 300 words.

Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

—*Project Description for Evaluation.* Applicants should organize their project description according to the Evaluation Criteria described in this funding opportunity announcement providing information that addresses all the components.

—*Indirect cost rate agreement.* If claiming indirect costs, provide

documentation that applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

—*Letters of agreement and memoranda of understanding.* If applicable, include a letter of commitment or Memorandum of Understanding from each partner and/or sub-contractor describing their role, detailing specific tasks to be performed, and expressing commitment to participate if the proposed project is funded.

—Provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

—The application limit is 45 pages total including all forms and attachments. Submit one original and two copies.

To be considered for funding, each application must be submitted with the Standard Federal Forms (provided at the end of this announcement or through the electronic links provided) and following the guidance provided. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all forms and attachments, to the Application Receipt Point specified in the section titled "Deadline" at the beginning of the announcement. The original copy of the application must have original signatures, signed in *black ink*.

The application must be typed, double spaced, printed on only one side, with at least 1/2 inch margins on each side and 1 inch at the top and bottom, using standard 12-point fonts (such as Times Roman or Courier). Pages must be numbered.

Pages over the page limit stated within this funding opportunity announcement will be removed from the application and will not be reviewed. All copies of an application must be submitted in a single package, and a separate package must be submitted for each funding opportunity. The package must be clearly labeled for the specific funding opportunity it is addressing.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple,

or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review. Each copy must be stapled securely in the upper left corner.

*Tips for Preparing a Competitive Application:* It is essential that applicants read the entire announcement package carefully before preparing an application and include all of the required application forms and attachments. The application must reflect a thorough understanding of the purpose and objectives of the Children's Bureau Child Welfare Training initiatives. Reviewers expect applicants to understand the goals of the legislation and the Children's Bureau's interest in each topic. A "responsive application" is one that addresses all of the evaluation criteria in ways that demonstrate this understanding. Applications that are considered to be "unresponsive" generally receive very low scores and are rarely funded.

The Children's Bureau's Web site (<http://www.acf.dhhs.gov/programs/cb>) provides a wide range of information and links to other relevant Web sites. Before you begin preparing an application, we suggest that you learn more about the mission and programs of the Children's Bureau by exploring the Web site.

*Organizing Your Application:* The specific evaluation criteria in Section V of this funding announcement will be used to review and evaluate each application. The applicant should address each of these specific evaluation criteria in the project description. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

*Project Evaluation Plan:* Project evaluations are very important. If you do not have the in-house capacity to conduct an objective, comprehensive evaluation of the project, then the Children's Bureau advises that you propose contracting with a third-party evaluator specializing in social science or evaluation, or a university or college, to conduct the evaluation. A skilled evaluator can assist you in designing a data collection strategy that is appropriate for the evaluation of your proposed project. Additional assistance may be found in a document titled "Program Manager's Guide to Evaluation." A copy of this document

can be accessed at [http://www.acf.hhs.gov/programs/core/pubs\\_reports/prog\\_mgr.html](http://www.acf.hhs.gov/programs/core/pubs_reports/prog_mgr.html) or ordered by contacting the National Clearinghouse on Child Abuse and Neglect Information, 330 C Street, SW., Washington, DC 20447; phone (800) 394-3366; fax (703) 385-3206; e-mail [nccanch@calib.com](mailto:nccanch@calib.com).

*Logic Model:* A logic model is a tool that presents the conceptual framework for a proposed project and explains the linkages among program elements. While there are many versions of the logic model, they generally summarize the logical connections among the needs that are the focus of the project, project goals and objectives, the target population, project inputs (resources), the proposed activities/processes/outputs directed toward the target population, the expected short- and long-term outcomes the initiative is designed to achieve, and the evaluation plan for measuring the extent to which proposed processes and outcomes actually occur. Information on the development of logic models is available on the Internet at <http://www.uwex.edu/ces/pdande> or [http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome\\_logicmdir.html](http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome_logicmdir.html).

*Use of Human Subjects:* If your evaluation plan includes gathering data from or about clients, there are specific procedures which must be followed in order to protect their privacy and ensure the confidentiality of the information about them. Applicants planning to gather such data are asked to describe their plans regarding an Institutional Review Board (IRB) review. For more information about use of human subjects and IRB's you can visit these Web sites: [http://ohrp.osophs.dhhs.gov/irb/irb\\_chapter2.htm#d2](http://ohrp.osophs.dhhs.gov/irb/irb_chapter2.htm#d2) and <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/ictips.htm>.

### 3. Submission Dates and Times

The closing date for receipt of applications is June 18, 2004. Mailed applications received after the closing date will be classified as late.

*Deadline:* Mailed applications shall be considered as meeting an announced deadline if they are received on or before June 18, 2004, at the following address: ACYF Operations Center, c/o The Dixon Group Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between

the hours of 8 a.m. and 4:30 p.m., e.s.t., at ACYF Operations, the Dixon Group, ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "ATTN: Children's Bureau." Applicants

are cautioned that express/overnight mail services do not always deliver as agreed.

*Late applications:* Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

*Extension of deadlines:* ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mail service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

REQUIRED FORMS

What to submit	Required content	Required form or format	When to submit
1. SF424	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
2. SF424A	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.a. SF424B	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.b. Certification regarding lobbying	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.c. Disclosure of Lobbying Activities (SF-LLL)	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
4. Project Summary/Abstract	Summary of application request.	See instructions in this funding announcement.	See application due date.
5. Project Description	Responsiveness to evaluation criteria.	See instructions in this funding announcement.	See application due date.
6. Indirect cost rate agreement	See above	See above	See application due date.
7. Letters of agreement and MOUs	See above	See above	See application due date.
8. Non-Federal share letter	See above	See above	See application due date.
Total application	See above	Application limit 45 pages total including all forms and attachments. Submit one original and two copies.	See application due date.

Additional Forms

Private-non-profit organizations may submit with their applications the

additional survey located under "Grant Related Documents and Forms" titled

"Survey for Private, Non-Profit Grant Applicants."

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applicants.	Per required form	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	By application due date.

4. Intergovernmental Review

State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs", and 45 CFR part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects

administered by federally-recognized Indian tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the

Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a) (2), a SPOC has 60 days from the application deadline to

comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: <http://www.whitehouse.gov/omb/grants/spoc.html>.

#### 5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this solicitation.

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent. Funds from this grant cannot be used to match title IV-E training funds.

#### 6. Other Submission Requirements

**Submission by Mail:** An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications should be mailed to: ACYF Operations Center, c/o the Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

**For Hand Delivery:** Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 p.m. eastern standard time (e.s.t.) on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations, the Dixon Group, ATTN: Children's Bureau 118 Q Street, NE., Washington, DC 20002-2132. It is strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants

are cautioned that express/overnight mail services do not always deliver as agreed.

**Electronic Submission:** Please see Section IV. 2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

*The Paperwork Reduction Act of 1995 (Pub. L. 104-13)*

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970-0139 which expires 3/31/2004. 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.

#### Instruction

##### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

##### 1. Criteria

##### *General Instruction for Preparing Full Project Description*

##### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be

outside the scope of the program announcement.

#### Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

#### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS code, or by providing a copy of the currently valid



IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

#### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

#### Personnel

*Description:* Costs of employee salaries and wages.

*Justification:* Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

#### Fringe Benefits

*Description:* Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

*Justification:* Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

#### Travel

*Description:* Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

*Justification:* For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

#### Equipment

*Description:* "Equipment" means an article of nonexpendable, tangible personal property having a useful life of

more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000. (**Note:** Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

*Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

#### Supplies

*Description:* Costs of all tangible personal property other than that included under the Equipment category.

*Justification:* Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

#### Contractual

*Description:* Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

*Justification:* All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

**Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

#### Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

*Justification:* Provide computations, a narrative description and a justification for each cost under this category.

#### Indirect Charges

*Description:* Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

*Justification:* An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

#### Specific Evaluation Criteria

The following criteria will be used to review and evaluate each application. The applicant should address each criterion in the project description. The point values (summing up to 100) indicate the maximum numerical weight each criterion will be accorded in the review process.

#### Criterion 1. Objectives and Need for Assistance

In reviewing the objectives and need for assistance, the following factors will be considered (20 points):

(1) The extent to which the proposed project's goals and objectives will meet the training needs of public child welfare agency staff.

(2) The extent to which this project would enhance social work education's ability to prepare students effectively for public child welfare agency practice, encourage their entry into the child welfare profession and increase the number of workers with MSW (Masters of Social Work) degrees.

(3) The extent to which the application demonstrates a clear understanding of the characteristics of the proposed student populations and their particular training needs.

(4) The extent to which the proposed project would produce significant results and benefits. The extent to which these results and benefits are clearly linked to the proposed project's stated objectives.

(5) The extent to which the application describes specific, measurable outcomes that are expected as a result of the proposed training of current and prospective public child welfare agency staff in this project.

(6) The extent to which lessons that would be learned from the proposed project would improve child welfare practice.

#### Criterion 2. Approach

In reviewing the approach, the following factors will be considered (50 points):

(1) The extent to which the application demonstrates a thorough understanding of the challenges related to providing training that supports and enhances public/tribal child welfare agency staff capabilities to achieve child welfare outcomes.

(2) The extent to which the application provides a clear plan for the development and implementation of an MSW level child welfare curriculum in field placements. The extent to which this curriculum effectively addresses the training needs of the public child welfare agency staff.

(3) The extent to which the types of field experiences, including supervision, would help students receiving traineeships to develop the competencies necessary to work in public/tribal child welfare agencies.

(4) The extent to which the proposed curriculum would build on, expand and strengthen existing curriculum approaches/models. The extent to

which any necessary changes would be made to the existing curriculum for the inclusion of competency-based, child welfare-oriented, course content designed to enable graduates to function in public child welfare agencies.

(5) The extent to which this project would be strengthened through coordination with and building on past and/or current collaboration and existing partnerships between the applicant and public child welfare agencies.

(6) The extent to which there will be an effective administrative and organizational interface between the applicant and the appropriate State child welfare agencies, tribal organizations, community agencies, academic departments, other disciplines, institutions, etc. The extent to which the letters of commitment from these partner organizations meet the criteria described in "Section I. Funding Opportunity Description."

(7) The extent to which the application explains who the trainees would be; how many are expected to be trained over the life of the project; what the process would be for selection and recruitment of trainees; and the specific strategies which would be implemented for recruiting minority trainees.

(8) The extent to which the project evaluation would measure the achievement of project objectives and the project's general impact on competency-based curriculum development, student acquisition of competencies and effectiveness of program services.

(9) The extent to which there is a strong plan for dissemination of the curriculum and project evaluation findings.

#### Criterion 3. Organizational Profiles

In reviewing the organizational profiles, the following factors will be considered (20 points):

(1) The extent to which the application evidences sufficient experience and expertise in training public child welfare staff; in developing child welfare curricula; in collaboration with child welfare agencies on training initiatives; and in administration, development, implementation, management, and evaluation of similar projects. The extent to which each participating organization (including partners and/or subcontractors) possesses the organizational capability to fulfill their assigned roles and functions effectively (if the application involves partnering and/or subcontracting with other agencies/organizations).

(2) The extent to which the proposed project director and key project staff possess sufficient relevant knowledge, experience and capabilities to implement and manage a project of this size, scope and complexity effectively (e.g., resume). The extent to which the role, responsibilities and time commitments of each proposed project staff position, including consultants, subcontractors and/or partners, are clearly defined and appropriate to the successful implementation of the proposed project. The extent to which the author of this proposal will be involved throughout the implementation of the proposed project.

(3) The extent to which there is a sound management plan for achieving the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines and milestones for accomplishing project tasks and ensuring quality. The extent to which the plan clearly describes the effective management and coordination of activities carried out by any partners, subcontractors and consultants (if appropriate). The extent to which there would be a mutually beneficial relationship between the proposed project and other work planned, anticipated or underway with Federal assistance by the applicant.

#### Criterion 4. Budget and Budget Justification

In reviewing the budget and budget justification, the following factors will be considered (10 points):

(1) The extent to which the costs of the proposed project are reasonable, in view of the activities to be conducted and expected results and benefits.

(2) The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.

#### 2. Review and Selection Process

When the Operations Center receives your application it will be screened to confirm that your application was received by the deadline. Federal staff will verify that you are an eligible applicant and that the application contains all the essential elements. Applications received from ineligible organizations and applications received after the deadline will be withdrawn from further consideration.

A panel of at least three reviewers (primarily experts from outside the Federal government) will use the evaluation criteria described in this

announcement to evaluate each application. The reviewers will determine the strengths and weaknesses of each application, provide comments about the strengths and weaknesses and give each application a numerical score.

All applications will be reviewed and evaluated using four major criteria: (1) Objectives and need for assistance, (2) approach, (3) organizational profiles, and (4) budget and budget justification. Each criterion has been assigned a point value. The point values (summing up to 100) indicate the maximum numerical weight each criterion may be given in the review and evaluation process.

Reviewers also are evaluating the project products and materials that you propose. They will be interested in your plans for sustaining your project without Federal funds if the evaluation findings are supportive. Reviewers will be looking to see that the total budget you propose and the way you have apportioned that budget are appropriate and reasonable for the project you have described. Remember that the reviewers only have the information that you give them—it needs to be clear, complete, and concise.

The results of the competitive review are a primary factor in making funding decisions. In addition, Federal staff conducts administrative reviews of the applications and, in light of the results of the competitive review, will recommend applications for funding to the ACYF Commissioner. ACYF reserves the option of discussing applications with other funding sources when this is in the best interest of the Federal government. ACYF may also solicit and consider comments from ACF Regional Office staff in making funding decisions. ACYF may take into consideration the involvement (financial and/or programmatic) of the private sector, national, or State or community foundations; a favorable balance between Federal and non-Federal funds for the proposed project; or the potential for high benefit from low Federal investment. ACYF may elect not to fund any applicants having known management, fiscal, reporting, programmatic, or other problems which make it unlikely that they would be able to provide effective services or effectively complete the proposed activity.

With the results of the peer review and the information from Federal staff, the Commissioner of ACYF makes the final funding decisions. The Commissioner may give special consideration to applications proposing services of special interest to the Government and to achieve geographic distributions of grant awards.

Applications of special interest may include, but are not limited to, applications focusing on unserved or inadequately served clients or service areas; and programs addressing diverse ethnic populations.

### 3. Other

*Anticipated Announcement and Award Dates:* Applications will be reviewed during the Summer 2004. Grant awards will have a start date no later than September 30, 2004.

## VI. Award Administration Information

### 1. Award Notices

Successful applicants will receive a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant or cooperative agreement, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, if applicable, and the total project period for which support is contemplated. The Grants Management Officer signs and issues the award notice.

The Commissioner will notify organizations in writing when their applications will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

### 2. Administrative and National Policy Requirements

45 CFR Part 74 and 45 CFR Part 92

Faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

### 3. Reporting

*Reporting Requirements:* Programmatic Reports and Financial Reports are required semi-annually with final reports due 90 days after project end. All required reports will be submitted in a timely manner, in recommended formats (to be provided), and the final report will also be submitted on disk or electronically using a standard word-processing program.

Within 90 days of project end date, the applicant will submit a copy of the final report, the evaluation report, and any program products to the National Clearinghouse on Child Abuse and Neglect, 330 C Street, SW., Washington, DC 20447. This is in addition to the standard requirement that the final program and evaluation report must also be submitted to the Grants Management

Specialist and the Federal Project Officer.

## VII. Agency Contacts

*Program Office Contact:* Marva Benjamin, 330 C St., SW., Washington, DC 20447; 202-205-8405, [mbenjamin@acf.hhs.gov](mailto:mbenjamin@acf.hhs.gov).

*Grants Management Office Contact:* William Wilson, 330 C St., SW., Washington, DC 20447; 202-205-8913, [wwilson@acf.hhs.gov](mailto:wwilson@acf.hhs.gov).

*General:* The Dixon Group, ACYF Operations Center, 118 Q Street, NE., Washington, DC 20002-2132; telephone: (866) 796-1591.

## VIII. Other Information

Additional information about this program and its purpose can be located on the following Web site: <http://www.acf.hhs.gov/programs/cb/>.

Copies of the following Forms, Assurances, and Certifications are available online at <http://www.acf.hhs.gov/programs/ofs/grants/form.htm>.

Standard Form 424: Application for Federal Assistance;

Standard Form 424A: Budget Information;

Standard Form 424B: Assurances—Non-Construction Programs;

Form LLL: Disclosure of Lobbying; Certification Regarding Environmental Tobacco Smoke;

Standard Form 310: Protection of Human Subjects.

The State Single Point of Contact SPOC listing is available online at <http://www.whitehouse.gov/omb/grants/spoc.html>.

Dated: April 9, 2004.

**Frank Fuentes,**

*Deputy Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 04-8785 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Grants and Cooperative Agreements; Notice of Availability

**AGENCY:** Administration for Children and Families, Children's Bureau, HHS.

*Funding Opportunity Title:* Professional Education for Current and Prospective Public Child Welfare Practitioners Leading to the Bachelor of Social Work (BSW) Degree.

*Announcement Type:* Competitive Grant-Initial.

*Funding Opportunity Number:* HHS-2004-ACF-ACYF-CT-0007.

*CFDA Number:* 93.648.

*Due Date for Applications:* The due date for receipt of applications is June 18, 2004.

### I. Funding Opportunity Description

The purpose of this grant program is to provide professional education opportunities leading to a BSW degree to prospective and current public child welfare agency staff. Traineeships will provide competency-based child welfare training with a particular emphasis on developing the critical knowledge, values, and skills that are necessary to respond to the complex problems confronting children and families in the child welfare system.

Under section 426(a)(1)(C) of the Social Security Act, Federal grants are made available to public or non-profit institutions of higher learning for special projects for training personnel for work in the field of child welfare including traineeships. Individuals who receive traineeships under these grants must meet the requirements of section 429 of the Act, which specifies the conditions under which these traineeships are awarded. Each individual who receives a stipend with such a traineeship will enter into an agreement with the institution under which the recipient agrees:

(A) to participate in training at a public or private non-profit child welfare agency on a regular basis (as determined by the Secretary) for the period of the traineeship;

(B) to be employed, after graduating from the education program, in a public or private non-profit child welfare agency for a period of years equivalent to the period of the traineeship;

(C) to furnish to the institution and the Secretary evidence of compliance with subparagraphs A and B; and

(D) to repay the expenses of the education if there is a failure to comply with the agreement.

The educational institutions must provide evidence of compliance with the provisions of section 429 of the Act, including an assurance that they will:

(A) enter into an agreement with child welfare agencies for on-site training of traineeship recipients;

(B) permit agency staff employed in the field of child welfare services to apply for traineeships if the traineeships furthers their progress toward the completion of degree requirements; and

(C) develop and implement a system that tracks the employment record of these recipients for the 3-year period that begins when students complete their study.

Grantees will be expected to:

(A) Focus on curriculum reform involving the development of specific child welfare courses and the inclusion of competency-based child welfare-oriented course content in the social work curricula;

(B) Increase the numbers of field placements in public child welfare agencies; and

(C) Improve the quality of the supervision of those placements.

Applications must include a letter from appropriate State child welfare agencies, Tribal Organizations, community agencies, academic departments, other disciplines, institutions, etc. committing to coordination with the school/department of social work and indicating intent to participate in the project. This letter of agreement must be signed by the Director of the Child Welfare Agency.

### II. Award Information

*Funding Instrument Type:* Grant.

*Anticipated Total Program Funding:* The anticipated total for all awards under this funding announcement in FY2004 is \$500,000.

*Anticipated Number of Awards:* It is anticipated that 5 projects will be funded.

*Ceiling on Amount of Individual Awards:* The maximum Federal share is not to exceed \$100,000 for the first 12-month budget period. A traineeship must not exceed \$10,000 per student per budget year. A minimum of 75 percent of the total project funds must be used for traineeships. An application received that exceeds the upper value of the dollar range specified will be considered "non-responsive" and be returned to the applicant without further review.

*Floor of Individual Award Amounts:* None.

*Average Anticipated Award Amount:* \$100,000 per budget period.

*Project Periods for Awards:* The projects will be awarded for a period of 60 months. The initial grant award will be for a 12-month budget period. The award of continuation funding beyond each 12-month budget period will be subject to the availability of funds, satisfactory progress on the part of the grantee, and a determination that continued funding would be in the best interest of the government.

*Available Funds* Applicants should note that grants to be awarded under this program announcement are subject to the availability of funds. The size of the actual awards will vary. In cases where more applications are approved for funding than ACF can fund with the

money available, the Grants Officer shall fund applications in their order of approval until funds run out. In this case, ACF has the option of carrying over the approved applications up to a year for funding consideration in a later competition of the same program. These applications need not be reviewed and scored again if the program's evaluation criteria have not changed. However, they must then be placed in rank order along with other applications in later competitions.

### III. Eligibility Information

#### 1. Eligible Applicants

State controlled institutions of higher education.

Private institutions of higher education.

*Other Eligibility Criteria:* Applicants must have an accredited social work education program and should have a strong partnership with a public child welfare agency and be prepared to redesign their curriculum to maximize student learning opportunities for work in public child welfare agencies. Previously funded applicants under this funding opportunity will not be precluded from receiving a grant.

Applications that exceed the \$100,000 ceiling will be considered non-responsive and will not be eligible for funding under this announcement.

#### 2. Cost Sharing or Matching

No matching funds are required for the portion of the budget that pays for traineeships. However, grantees must provide a match to equal at least 25 percent of the total cost of grant activities other than traineeships. The total approved cost of these non-traineeship activities is the sum of the ACYF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through a cash contribution. Therefore, a project requesting \$100,000 in Federal funds (with \$75,000 for traineeships and \$25,000 for non-traineeship activities per budget period) must include a match of at least \$8,333 (25 percent of the total cost for the non-traineeship activities). Applicants should provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

The following example shows how to calculate the required 25 percent match amount for the non-traineeship portion of a \$100,000 grant:

\$100,000 (Federal share) times .25 (% of Federal share allowable for non-traineeship activities) equals \$25,000

(maximum amount allowable for non-traineeship activities) divided by .75 (100% - 25%) equals \$33,333 (total non-traineeship activity cost including match) minus \$25,000 (Federal share) equals \$8,333 (required 25% match)

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent (Grants Administration Manual, HHS Chapter 6-160). Funds from this grant cannot be used to match title IV-E training funds.

The non-federal share may be cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. If approved for funding, grantees will be held accountable for the commitment of non-Federal resources and failure to provide the required amount will result in a disallowance of unmatched Federal funds.

### 3. Other

On June 27, 2003, the Office of Management and Budget published in the **Federal Register** a new Federal policy applicable to all Federal grant applicants. The policy requires all Federal grant applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements on or after October 1, 2003. The DUNS number will be required whether an applicant is submitting a paper application or using the government-wide electronic portal ([www.Grants.gov](http://www.Grants.gov)). A DUNS number will be required for every application for a new award or renewal/continuation of an award, including applications or plans under formula, entitlement and block grant programs, submitted on or after October 1, 2003.

Please ensure that your organization has a DUNS number. You may acquire a DUNS number at no cost by calling the dedicated toll-free DUNS number request line on 1-866-705-5711 or you may request a number on-line at <http://www.dnb.com>.

## IV. Application and Submission Information

### 1. Address To Request Application Package

ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street, NE, Washington, DC 20002-2132, Telephone: (866) 796-1591.

### 2. Content and Form of Application Submission

You may submit your application to us either in electronic or paper format. To submit an application electronically, please use the <http://www.Grants.gov>

apply site. If you use Grants.gov you will be able to download a copy of the application package, complete it off-line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to us.

Please note the following if you plan to submit your application electronically via Grants.gov.

- Electronic submission is voluntary.
- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation. We strongly recommend that you do not wait until the application deadline date to begin the application process through Grants.gov.

- To use Grants.gov, you, as the applicant, must have a DUNS Number and register in the Central Contractor Registry (CCR). You should allow a minimum of five days to complete the CCR registration.

- You will not receive additional point value because you submit a grant application in paper format.

- You may submit all documents electronically, including all information typically included on the SF424 and all necessary assurances and certifications.

- Your application must comply with any page limitation requirements described in this program announcement.

- After you electronically submit your application, you will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number. The Administration for Children and Families will retrieve your application from Grants.gov.

- We may request that you provide original signatures on forms at a later date.

- You may access the electronic application for this program on <http://www.Grants.gov>.

- You must search for the downloadable application package by the CFDA number.

*Electronic Address Where Applications Will Be Accepted:* Grants.gov.

*Address Where Hard Copy Applications Will Be Accepted:* ACYF Operations Center, c/o The Dixon Group, Inc., 118 Q Street NE, Washington, DC 20002-2132.

Each application must contain the following items in the order listed:

- Application for Federal Assistance (Standard Form 424). Follow the instructions below and those that accompany the form.

In Item 5 of Form 424, put DUNS number in "Organizational DUNS:" box.

In Item 5 of Form 424, include name, phone number, and, if available, email and fax numbers of the contact person.

In Item 8 of Form 424, check 'New.'

In Item 10 of Form 424, clearly identify the Catalog of Federal Domestic Assistance (CFDA) program title and number for the program for which funds are being requested as stated at the end of this funding opportunity announcement.

In Item 11 of Form 424, identify the single funding opportunity the application addresses.

In Item 12 of Form 424, identify the specific geographic area to be served.

In Item 14 of Form 424, identify Congressional districts of both the applicant and project.

—Budget Information Non-Construction Programs (Form 424A) and Budget Justification.

Follow the instructions provided and those in the Uniform Project Description. Note that Federal funds provided to States and services or other resources purchased with Federal funds may not be used to match project grants.

Applicants have the option of omitting from application copies (not originals) specific salary rates or amounts for individuals specified in the application budget. The copies may include summary salary information.

—Certifications/Assurances.

Applicants requesting financial assistance for nonconstruction projects must file the Standard Form 424B, 'Assurances: Non-Construction Programs.' Applicants must sign and return the Standard Form 424B with their applications. Applicants must provide a certification regarding lobbying when applying for an award in excess of \$100,000. Applicants must sign and return the certification with their applications.

Applicants must disclose lobbying activities on the Standard Form LLL when applying for an award in excess of \$100,000. Applicants who have used non-Federal funds for lobbying activities in connection with receiving assistance under this announcement shall complete a disclosure form to report lobbying. Applicants must sign and return the disclosure form, if applicable, with their applications.

Applicants must make the appropriate certification regarding environmental tobacco smoke. By signing and submitting the application, the applicant is providing the certification and need not mail back the certification with the applications.

If applicable, applicants must include a completed SPOC certification (Single Point of Contact) with the date of the

SPOC contact entered in line 16, page 1 of the Form 424.

By signing the "Signature of Authorized Representative" on the SF 424, the applicant is providing a certification and need not mail assurances for completing the following grant and cooperative agreement requirements:

Participation in any evaluation or technical assistance effort supported by ACYF;

Submission of all required semi-annual and final Financial Status Reports (SF269) and Program Performance Reports in a timely manner, in hard-copy and electronic formats (preferably MS WORD and PDF) as negotiated with the Federal Project Officer; and allocation of sufficient funds in the budget to provide for the project director and a representative of the State child welfare agency to attend an annual 3-day grantees' meeting in Washington, DC (Attendance at these meetings is a grant requirement.) In addition, new grantees should allocate sufficient funds to provide for the project director and a representative of the State child welfare agency to attend an early kick-off meeting to be held within the first three months of the project (first year only) in Washington, DC (Attendance at this early kick-off meeting is a grant requirement for new grantees, but not for current or previous grantees under this funding opportunity.)

The Office for Human Research Protections of the U.S. Department of Health and Human Services provides website information and policy guidance on the Federal regulations pertaining to protection of human subjects (45 CFR 46), informed consent, informed consent checklists, confidentiality of personal identification information, data collection procedures, and internal review boards: <http://ohrp.osophhs.dhhs.gov/polasur.htm>.

If applicable, applicants must include a completed Form 310, Protection of Human Subjects.

In implementing their projects, grantees are expected to comply with all applicable administrative regulations regarding extent or types of costs. Applicable DHHS regulations can be found in 45 CFR Part 74 or 92.

—Project Abstract/Summary (one page maximum). Clearly mark this page with the applicant name as shown on item 5 of the Form 424, identify the competitive grant funding opportunity and the title of the proposed project as shown in item 11 and the service area as shown in item 12 of the Form 424. The summary description should not exceed 300 words.

Care should be taken to produce an abstract/summary that accurately and concisely reflects the proposed project. It should describe the objectives of the project, the approach to be used and the results or benefits expected.

—Project Description for Evaluation. Applicants should organize their project description according to the Evaluation Criteria described in this funding opportunity announcement providing information that addresses all the components.

—Indirect cost rate agreement. If claiming indirect costs, provide documentation that applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

—Letters of agreement and memoranda of understanding. If applicable, include a letter of commitment or Memorandum of Understanding from each partner and/or sub-contractor describing their role, detailing specific tasks to be performed, and expressing commitment to participate if the proposed project is funded.

—Provide a letter of commitment verifying the actual amount of the non-Federal share of project costs.

—The application limit is 45 pages total including all forms and attachments. Submit one original and two copies.

To be considered for funding, each application must be submitted with the Standard Federal Forms (provided at the end of this announcement or through the electronic links provided) and following the guidance provided. The application must be signed by an individual authorized to act for the applicant agency and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

To be considered for funding, each applicant must submit one signed original and two additional copies of the application, including all forms and attachments, to the Application Receipt Point specified in the section titles Deadline at the beginning of the announcement. The original copy of the application must have original signatures, signed in black ink.

The application must be typed, double spaced, printed on only one side, with at least 1/2 inch margins on each side and 1 inch at the top and bottom, using standard 12 Point fonts (such as Times Roman or Courier). Pages must be numbered.

Pages over the page limit stated within this funding opportunity announcement will be removed from

the application and will not be reviewed. All copies of an application must be submitted in a single package, and a separate package must be submitted for each funding opportunity. The package must be clearly labeled for the specific funding opportunity it is addressing.

Because each application will be duplicated, do not use or include separate covers, binders, clips, tabs, plastic inserts, maps, brochures, or any other items that cannot be processed easily on a photocopy machine with an automatic feed. Do not bind, clip, staple, or fasten in any way separate subsections of the application, including supporting documentation. Applicants are advised that the copies of the application submitted, not the original, will be reproduced by the Federal government for review. Each copy must be stapled securely in the upper left corner.

*Tips for Preparing a Competitive Application:* It is essential that applicants read the entire announcement package carefully before preparing an application and include all of the required application forms and attachments. The application must reflect a thorough understanding of the purpose and objectives of the Children's Bureau Child Welfare Training initiatives. Reviewers expect applicants to understand the goals of the legislation and the Children's Bureau's interest in each topic. A "responsive application" is one that addresses all of the evaluation criteria in ways that demonstrate this understanding. Applications that are considered to be "unresponsive" generally receive very low scores and are rarely funded.

The Children's Bureau's Web site (<http://www.acf.dhhs.gov/programs/cb>) provides a wide range of information and links to other relevant Web sites. Before you begin preparing an application, we suggest that you learn more about the mission and programs of the Children's Bureau by exploring the Web site.

*Organizing Your Application:* The specific evaluation criteria in Section V of this funding announcement will be used to review and evaluate each application. The applicant should address each of these specific evaluation criteria in the project description. It is strongly recommended that applicants organize their proposals in the same sequence and using the same headings as these criteria, so that reviewers can readily find information that directly addresses each of the specific review criteria.

*Project Evaluation Plan:* Project evaluations are very important. If you

do not have the in-house capacity to conduct an objective, comprehensive evaluation of the project, then the Children's Bureau advises that you propose contracting with a third-party evaluator specializing in social science or evaluation, or a university or college, to conduct the evaluation. A skilled evaluator can assist you in designing a data collection strategy that is appropriate for the evaluation of your proposed project. Additional assistance may be found in a document titled "Program Manager's Guide to Evaluation." A copy of this document can be accessed at [http://www.acf.hhs.gov/programs/core/pubs\\_reports/prog\\_mgr.html](http://www.acf.hhs.gov/programs/core/pubs_reports/prog_mgr.html) or ordered by contacting the National Clearinghouse on Child Abuse and Neglect Information, 330 C Street, SW., Washington, DC 20447; phone (800) 394-3366; fax (703) 385-3206; e-mail [nccanch@calib.com](mailto:nccanch@calib.com).

**Logic Model:** A logic model is a tool that presents the conceptual framework for a proposed project and explains the linkages among program elements. While there are many versions of the logic model, they generally summarize the logical connections among the needs that are the focus of the project, project goals and objectives, the target population, project inputs (resources), the proposed activities/processes/outputs directed toward the target population, the expected short- and

long-term outcomes the initiative is designed to achieve, and the evaluation plan for measuring the extent to which proposed processes and outcomes actually occur. Information on the development of logic models is available on the Internet at <http://www.uwex.edu/ces/pdande/> or [http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome\\_logicmdir.html](http://www.extension.iastate.edu/cyfar/capbuilding/outcome/outcome_logicmdir.html).

**Use of Human Subjects:** If your evaluation plan includes gathering data from or about clients, there are specific procedures which must be followed in order to protect their privacy and ensure the confidentiality of the information about them. Applicants planning to gather such data are asked to describe their plans regarding an Institutional Review Board (IRB) review. For more information about use of human subjects and IRB's you can visit these Web sites: [http://ohrp.osophs.dhhs.gov/irb/irb\\_chapter2.htm#d2](http://ohrp.osophs.dhhs.gov/irb/irb_chapter2.htm#d2) and <http://ohrp.osophs.dhhs.gov/humansubjects/guidance/ictips.htm>.

### 3. Submission Dates and Times

The closing date for receipt of applications is 4:30 PM Eastern Standard Time (EST) on June 18, 2004. Mailed applications received after the closing date will be classified as late.

**Deadline:** Mailed applications shall be considered as meeting an announced deadline if they are received on or before June 18, 2004 at following

address: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m., EST, at ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132, between Monday and Friday (excluding Federal holidays). This address must appear on the envelope/package containing the application with the note "ATTN: Children's Bureau." Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

**Late applications:** Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

**Extension of deadlines:** ACF may extend application deadlines when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there are widespread disruptions of mails service. Determinations to extend or waive deadline requirements rest with the Chief Grants Management Officer.

### REQUIRED FORMS

What to submit	Required content	Required form or format	When to submit
1. SF424 .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
2. SF424A .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.a. SF424B .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.b. Certification regarding lobbying .....	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
3.c. Disclosure of Lobbying Activities (SF-LLL).	Per required form .....	May be found at <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	See application due date.
4. Project Summary/Abstract .....	Summary of application request.	See instructions in this funding announcement.	See application due date.
5. Project Description .....	Responsiveness to evaluation criteria.	See instructions in this funding announcement.	See application due date.
6. Indirect cost rate agreement .....	See above .....	See above .....	See application due date.
7. Letters of agreement & MOUs .....	See above .....	See above .....	See application due date.
8. Non-Federal share letter .....	See above .....	See above .....	See application due date.
Total application .....	See above .....	Application limit 45 pages total including all forms and attachments. Submit one original and two copies.	See application due date.

Private-non-profit organizations may submit with their applications the

additional survey located under "Grant Related Documents and Forms" titled

"Survey for Private, Non-Profit Grant Applicants."

## ADDITIONAL FORMS

What to submit	Required content	Required form or format	When to submit
Survey for Private, Non-Profit Grant Applications.	Per required form .....	May be found on <a href="http://www.acf.hhs.gov/programs/ofs/grants/form.htm">http://www.acf.hhs.gov/programs/ofs/grants/form.htm</a> .	By application due date.

#### 4. Intergovernmental Review

##### State Single Point of Contact (SPOC)

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs", and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of October 2003, of the most recent SPOC list, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by federally-recognized Indian Tribes need take no action in regard to E.O. 12372: Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington and Wyoming.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility requirements of the program are still eligible to apply for a grant even if a State, Territory, Commonwealth, etc. does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a) (2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations.

Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Washington, DC 20447.

The official list, including addresses, of the jurisdictions elected to participate in E.O. 12372 can be found on the following URL: <http://www.whitehouse.gov/omb/grants/spoc.html>.

#### 5. Funding Restrictions

Grant awards will not allow reimbursement of pre-award costs.

Construction is not an allowable activity or expenditure under this solicitation.

Because this is a training grant, indirect costs for these projects shall not exceed 8 percent. Funds from this grant cannot be used to match title IV-E training funds.

#### 6. Other Submission Requirements

**Submission by Mail:** An applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 PM Eastern Standard Time (EST) on or before the closing date. Applications should be mailed to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau, 118 Q Street, NE., Washington, DC 20002-2132.

**For Hand Delivery:** Applicant must provide an original application with all attachments, signed by an authorized representative and two copies. The application must be received at the address below by 4:30 PM Eastern Standard Time on or before the closing date. Applications that are hand delivered will be accepted between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Applications may be delivered to: ACYF Operations Center, c/o The Dixon Group, Inc., ATTN: Children's Bureau 118 Q Street, NE., Washington, DC 20002-2132. It is

strongly recommended that applicants obtain documentation that the application was hand delivered on or before the closing date. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

**Electronic Submission:** Please see Section IV. 2. Content and Form of Application Submission, for guidelines and requirements when submitting applications electronically.

#### V. Application Review Information

##### The Paperwork Reduction Act of 1995 (Pub. L. 104-13)

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information. The project description is approved under OMB control number 0970-0139 which expires 3/31/2004. 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.

##### Instruction

##### Introduction

Applicants required to submit a full project description shall prepare the project description statement in accordance with the following instructions and the specified evaluation criteria. The instructions give a broad overview of what your project description should include while the evaluation criteria expands and clarifies more program-specific information that is needed.

##### 1. Criteria

##### General Instruction for Preparing Full Project Description

##### Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any



relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

#### Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of activities accomplished. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any "collection of information that is conducted or sponsored by ACF."

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

#### Organizational Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-

profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission.

The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

#### Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF-424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

#### Personnel

*Description:* Costs of employee salaries and wages.

*Justification:* Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

#### Fringe Benefits

*Description:* Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

*Justification:* Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

#### Travel

*Description:* Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

*Justification:* For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem,

mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

#### Equipment

*Description:* "Equipment" means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

*Justification:* For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

#### Supplies

*Description:* Costs of all tangible personal property other than that included under the Equipment category.

*Justification:* Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

#### Contractual

*Description:* Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

*Justification:* All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are

required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

**Note:** Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

#### Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

**Justification:** Provide computations, a narrative description and a justification for each cost under this category.

#### Indirect Charges

**Description:** Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

**Justification:** An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that

the applicant is accepting a lower rate than allowed.

#### Criterion 1. Objectives and Need for Assistance

In reviewing the objectives and need for assistance, the following factors will be considered: (20 points)

(1) The extent to which the proposed project's goals and objectives will meet the training needs of public child welfare agency staff.

(2) The extent to which this project would enhance social work education's ability to prepare students effectively for public child welfare agency practice, encourage their entry into the child welfare profession and increase the number of workers with BSW (Bachelor of Social Work) degrees.

(3) The extent to which the application demonstrates a clear understanding of the characteristics of the proposed student populations and their particular training needs.

(4) The extent to which the proposed project would produce significant results and benefits. The extent to which these results and benefits are clearly linked to the proposed project's stated objectives.

(5) The extent to which the application describes specific, measurable outcomes that are expected as a result of the proposed training of current and prospective public child welfare agency staff in this project.

(6) The extent to which lessons that would be learned from the proposed project would improve child welfare practice.

#### Criterion 2. Approach

In reviewing the approach, the following factors will be considered: (50 points)

(1) The extent to which the application evidences a thorough understanding of the challenges related to providing training that supports and enhances public/Tribal child welfare agency staff capabilities to achieve child welfare outcomes.

(2) The extent to which the application includes a clear plan for the development and implementation of a BSW level child welfare curriculum in field placements. The extent to which this curriculum effectively addresses the training needs of the public child welfare agency staff.

(3) The extent to which the types of field experiences, including supervision, would help students receiving traineeships to develop the competencies necessary to work in public/Tribal child welfare agencies.

(4) The extent to which the proposed curriculum would build on, expand and

strengthen existing curriculum approaches/models. The extent to which any necessary changes would be made to the existing curriculum for the inclusion of competency-based, child welfare-oriented, course content designed to enable graduates to function in public child welfare agencies.

(5) The extent to which this project would be strengthened through coordination with and building on past and/or current collaboration and existing partnerships between the applicant and public child welfare agencies.

(6) The extent to which there will be an effective administrative and organizational interface between the applicant and the appropriate State child welfare agencies, Tribal Organizations, community agencies, academic departments, other disciplines, institutions, etc. The extent to which the letters of commitment from these partner organizations meet the criteria described in Section I. Funding Opportunity Description.

(7) The extent to which the application explains who the trainees would be; how many are expected to be trained over the life of the project; what the process would be for selection and recruitment of trainees; and the specific strategies which would be implemented for recruiting minority trainees.

(8) The extent to which the project evaluation would measure the achievement of project objectives and the project's general impact on competency-based curriculum development, student acquisition of competencies and effectiveness of program services.

(9) The extent to which there is a strong plan for dissemination of the curriculum and project evaluation findings.

#### Criterion 3. Organizational Profiles

In reviewing the organizational profiles, the following factors will be considered: (20 points)

(1) The extent to which the application demonstrates that the applicant has sufficient experience and expertise in training public child welfare staff; in developing child welfare curricula; in collaboration with child welfare agencies on training initiatives; and in administration, development, implementation, management, and evaluation of similar projects. The extent to which each participating organization (including partners and/or subcontractors) possesses the organizational capability to fulfill their assigned roles and functions effectively (if the application involves partnering and/or

subcontracting with other agencies/ organizations).

(2) The extent to which the proposed project director and key project staff possess sufficient relevant knowledge, experience and capabilities to implement and manage a project of this size, scope and complexity effectively (e.g. resume). The extent to which the role, responsibilities and time commitments of each proposed project staff position, including consultants, subcontractors and/or partners, are clearly defined and appropriate to the successful implementation of the proposed project. The extent to which the author of this proposal will be involved throughout the implementation of the proposed project.

(3) The extent to which there is a sound management plan for achieving the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines and milestones for accomplishing project tasks and ensuring quality. The extent to which the plan clearly describes the effective management and coordination of activities carried out by any partners, subcontractors and consultants (if appropriate). The extent to which there would be a mutually beneficial relationship between the proposed project and other work planned, anticipated or underway with Federal assistance by the applicant.

#### Criterion 4. Budget and Budget Justification

In reviewing the budget and budget justification, the following factors will be considered: (10 points)

(1) The extent to which the costs of the proposed project are reasonable, in view of the activities to be conducted and expected results and benefits.

(2) The extent to which the applicant's fiscal controls and accounting procedures would ensure prudent use, proper and timely disbursement and accurate accounting of funds received under this program announcement.

#### 2. Review and Selection Process

When the Operations Center receives your application it will be screened to confirm that your application was received by the deadline. Federal staff will verify that you are an eligible applicant and that the application contains all the essential elements. Applications received from ineligible organizations and applications received after the deadline will be withdrawn from further consideration.

A panel of at least three reviewers (primarily experts from outside the

Federal government) will use the evaluation criteria described in this announcement to evaluate each application. The reviewers will determine the strengths and weaknesses of each application, provide comments about the strengths and weaknesses and give each application a numerical score.

All applications will be reviewed and evaluated using four major criteria: (1) objectives and need for assistance, (2) approach, (3) organizational profiles, and (4) budget and budget justification. Each criterion has been assigned a point value. The point values (summing up to 100) indicate the maximum numerical weight each criterion may be given in the review and evaluation process.

Reviewers also are evaluating the project products and materials that you propose. They will be interested in your plans for sustaining your project without Federal funds if the evaluation findings are supportive. Reviewers will be looking to see that the total budget you propose and the way you have apportioned that budget are appropriate and reasonable for the project you have described. Remember that the reviewers only have the information that you give them—it needs to be clear, complete, and concise.

The results of the competitive review are a primary factor in making funding decisions. In addition, Federal staff conducts administrative reviews of the applications and, in light of the results of the competitive review, will recommend applications for funding to the ACYF Commissioner. ACYF reserves the option of discussing applications with other funding sources when this is in the best interest of the Federal government. ACYF may also solicit and consider comments from ACF Regional Office staff in making funding decisions. ACYF may take into consideration the involvement (financial and/or programmatic) of the private sector, national, or State or community foundations; a favorable balance between Federal and non-Federal funds for the proposed project; or the potential for high benefit from low Federal investment. ACYF may elect not to fund any applicants having known management, fiscal, reporting, programmatic, or other problems which make it unlikely that they would be able to provide effective services or effectively complete the proposed activity.

With the results of the peer review and the information from Federal staff, the Commissioner of ACYF makes the final funding decisions. The Commissioner may give special consideration to applications proposing services of special interest to the

Government and to achieve geographic distributions of grant awards.

Applications of special interest may include, but are not limited to, applications focusing on unserved or inadequately served clients or service areas; and programs addressing diverse ethnic populations.

3. *Anticipated Announcement and Award Dates:* Applications will be reviewed during the Summer 2004. Grant awards will have a start date no later than September 30, 2004.

## VI. Award Administration Information

### 1. Award Notices

Successful applicants will receive a Financial Assistance Award which will set forth the amount of funds granted, the terms and conditions of the grant or cooperative agreement, the effective date of the grant, the budget period for which initial support will be given, the non-Federal share to be provided, if applicable, and the total project period for which support is contemplated. The Grants Management Officer signs and issues the award notice.

The Commissioner will notify organizations in writing when their applications will not be funded. Every effort will be made to notify all unsuccessful applicants as soon as possible after final decisions are made.

### 2. Administrative and National Policy Requirements

45 CFR Part 74 and 45 CFR Part 92

Faith-based organizations that receive funding may not use Federal financial assistance, including funds, to meet any cost-sharing requirements or to support inherently religious activities, such as worship, religious instruction, or prayer.

### 3. Reporting

*Reporting Requirements:* Programmatic Reports and Financial Reports are required semi-annually with final reports due 90 days after the project end date. All required reports will be submitted in a timely manner, in recommended formats (to be provided), and the final report will also be submitted on disk or electronically using a standard word-processing program.

Within 90 days of project end date, the applicant will submit a copy of the final report, the evaluation report, and any program products to the National Clearinghouse on Child Abuse and Neglect, 330 C Street, SW, Washington, DC 20447. This is in addition to the standard requirement that the final program and evaluation report must also be submitted to the Grants Management

Specialist and the Federal Project Officer.

#### VII. Agency Contacts

##### Program Office Contact

Marva Benjamin, 330 C St. SW., Washington, DC 20447, 202-205-8405, [mberjamin@acf.hhs.gov](mailto:mberjamin@acf.hhs.gov).

##### Grants Management Office Contact

William Wilson, 330 C St SW., Washington, DC 20447, 202-205-8913, [wwilson@acf.hhs.gov](mailto:wwilson@acf.hhs.gov).

##### General

The Dixon Group, ACYF Operations Center, 118 Q Street, NE., Washington, DC 20002-2132, Telephone: (866) 796-1591.

#### VIII. Other Information

Additional information about this program and its purpose can be located on the following Web sites: <http://www.acf.hhs.gov/programs/cb/>.

Copies of the following Forms, Assurances, and Certifications are available online at <http://www.acf.hhs.gov/programs/ofgs/grants/form.htm>.

Standard Form 424: Application for Federal Assistance

Standard Form 424A: Budget Information

Standard Form 424B: Assurances—Non-Construction Programs

Form LLL: Disclosure of Lobbying Certification Regarding

Environmental Tobacco Smoke

Standard Form 310: Protection of Human Subjects

The State Single Point of Contact SPOC listing is available on line at <http://www.whitehouse.gov/omb/grants/spoc.html>.

Dated: April 9, 2004.

**Frank Fuentes,**

*Deputy Commissioner, Administration on Children, Youth and Families.*

[FR Doc. 04-8781 Filed 4-16-04; 8:45 am]

BILLING CODE 4184-01-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Anti-Infective Drugs Advisory Committee; Notice of Meeting

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

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

**Name of Committee:** Anti-Infective Drugs Advisory Committee.

**General Function of the Committee:** To provide advice and recommendations to the agency on FDA's regulatory issues.

**Date and Time:** The meeting will be held on May 10, 2004, from 8:30 a.m. to 5:30 p.m.

**Location:** Center for Drug Evaluation and Research Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

**Contact Person:** Tara P. Turner, Center for Drug Evaluation and Research (HFD-21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301-827-7001, e-mail: [TurnerT@cder.fda.gov](mailto:TurnerT@cder.fda.gov), or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512530. Please call the Information Line for up-to-date information on this meeting.

**Agenda:** The committee will discuss new drug application (NDA) 21-678, gatifloxacin (proposed tradename, TEQUIN) for oral suspension, Bristol-Myers Squibb, studied in the treatment of recurrent bacterial otitis media and treatment failures of acute bacterial otitis media in pediatric patients.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 30, 2004. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 30, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Tara Turner at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 9, 2004.

**Peter J. Pitts,**

*Associate Commissioner for External Relations.*

[FR Doc. 04-8719 Filed 4-16-04; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxo Herbicides and Contaminants (Ranch Hand Advisory Committee); Notice of Meeting

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

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

**Name of Committee:** Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxo Herbicides and Contaminants (Ranch Hand Advisory Committee).

**General Function of the Committee:** To advise the Secretary and the Assistant Secretary for Health concerning its oversight of the conduct of the Ranch Hand study by the U.S. Air Force and to provide scientific oversight of the Department of Veterans Affairs Army Chemical Corps Vietnam Veterans Health Study and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the committee is desirable.

**Date and Time:** The meeting will be held on April 30, 2004, from 8 a.m. to 4:30 p.m.

**Location:** The meeting will be held at the Food and Drug Administration, 5630 Fishers Lane, rm. 1066, Rockville, MD 20857.

**Contact Person:** Leonard Schechtman, National Center for Toxicological Research, Food and Drug Administration, 5600 Fishers Lane, rm. 16-85, Rockville, MD 20857, 301-827-6696, or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512560. Please call the Information Line for up-to-date information on this meeting.

**Agenda:** The Air Force will provide the following items: (1) Summary of the meeting on long-term studies, (2) proposal for future use of biological samples, (3) reviews of Chapter 1

(Introduction), Chapter 2 (Dioxin Assay/Appendix A), Chapter 3 (Questionnaire Methodology), Chapter 4 (Physical Examination/Appendix B), Chapter 6 (Quality Control/Appendix D), and Chapter 9 (General Health/Appendix F1), and Chapter 17 (Renal/Appendix F9) of the special study relating to the possible long-term health affects of phenoxy herbicides and contaminants.

**Procedure:** Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 23, 2004. Oral presentations from the public will be scheduled on April 30, 2004, between approximately 1:30 p.m. to 2:30 p.m. Time allotted for each presentation may be limited.

Those desiring to make formal oral presentations should notify the contact person before April 19, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Leonard Schechtman at least 7 days in advance of the meeting.

FDA regrets that it was unable to publish this notice 15 days prior to the April 30, 2004, Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee) meeting. Because the agency believes there is some urgency to bring these issues to public discussion and qualified members of the Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee) meeting were available at this time, the Commissioner of Food and Drugs concluded that it was in the public interest to hold this meeting even if there was not sufficient time for the customary 15-day public notice.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 12, 2004.

**Peter J. Pitts,**

*Associate Commissioner for External Relations.*

[FR Doc. 04-8720 Filed 4-16-04; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

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

**ACTION:** Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

**Name of Committee:** Vaccines and Related Biological Products Advisory Committee.

**General Function of the Committee:** To provide advice and recommendations to the agency on FDA's regulatory issues.

**Date and Time:** The meeting will be held via teleconference on May 6, 2004, from 1:30 p.m. to 3:30 p.m.

**Location:** National Institute of Health (NIH) Campus, Food and Drug Administration Bldg. 29B, Conference Room C, 8800 Rockville Pike, Bethesda, MD. This meeting will be held by teleconference. The public is welcome to attend the meeting at the above location. A speakerphone will be provided at the specified location for public participation in this meeting. Important information about transportation and directions to the NIH campus, parking, and security procedures is available on the Internet at <http://www.nih.gov/about/visitor/index.htm>. Visitors must show two forms of identification such as a Federal employee badge, driver's license, passport, green card, etc. If you are planning to drive to and park on the NIH campus, you must enter at the South Drive entrance of the campus which is located on Wisconsin Ave. (the medical center metro entrance), and allow extra time for vehicle inspection. Detailed information about security procedures is located at <http://www.nih.gov/about/visitorssecurity.htm>. Due to the limited available parking, visitors are encouraged to use public transportation.

**Contact Person:** Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM-71),

1401 Rockville Pike, Rockville, MD 20852, 301-827-0314 or FDA Advisory Committee Information Line, 1-800-741-8138 (301-443-0572 in the Washington, DC area), code 3014512391. Please call the Information Line for up-to-date information on this meeting.

**Agenda:** The committee will hear an overview on the Laboratory of DNA Viruses, Division of Viral Products, Office of Vaccines Research and Review, Center for Biologics and Research (CBER), and in closed session will discuss the report from the laboratory site visit of March 4, 2004.

**Procedure:** On May 6, 2004, from 1:30 p.m. to 3 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by April 29, 2004. Oral presentations from the public will be scheduled between approximately 2 p.m. to 3 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before April 30, 2004, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

**Closed Committee Deliberations:** On May 6, 2004, from 3 p.m. to 3:30 p.m. the meeting will be closed to permit discussion where disclosure would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)). The committee will discuss a review of internal research programs in the Office of Vaccines Research and Review, Division of Viral Products, CBER.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: April 9, 2004.

Peter J. Pitts,

Associate Commissioner for External Relations.

[FR Doc. 04-8721 Filed 4-16-04; 8:45 am]

BILLING CODE 4160-01-S

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Indian Health Service

#### Proposed Information Collection: Request for Public Comment: 60-Day Notice

**AGENCY:** Indian Health Service, HHS.

**ACTION:** Request for public comment: 60-day proposed collection; IHS Urban Indian Health Program common reporting requirements.

**SUMMARY:** The Indian Health Service, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation

program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Indian Health Service (IHS) is providing a 60-day advance opportunity for public comment on a proposed extension of current information collection activity to be submitted to the Office of Management and Budget for review.

#### Proposed Collection

**Title:** 09-17-0007, "IHS Urban Indian Health Program Common Reporting Requirements".

#### Type of Information Collection

**Request:** Revision of a currently approved collection.

**Form Number:** Reporting formats contained in the Indian Health Service Urban Indian Health Program Common Reporting Requirements Instruction Manual.

#### Need and Use of Information

**Collection:** American Indian/Alaska Native (AI/AN) urban health organizations contracting with the IHS provide the information collected. The information is collected annually and is used to monitor contractor performance, prepare budget reports, allocate resources, and evaluate the urban health contract program.

**Affected Public:** Businesses or other for-profit organizations, individuals, not-for-profit institutions, and State, local, or tribal government.

**Type of Respondents:** Health care providers.

The table below summarizes the annual burden hour for this collection.

ESTIMATED BURDEN RESPONSE TABLE

Data collection instruments	Estimated number of respondents	Responses per respondent	Annual number of responses	Average burden hr per response <sup>1</sup>	Total annual burden hrs
Face Sheet .....	34	1	34	0.50 (30 mins) .....	17.0
Table 1 .....	34	1	34	2.00 (120 mins) .....	68.0
Table 2 .....	34	1	34	0.75 (45 mins) .....	25.5
Table 3 .....	34	1	34	2.25 (135 mins) .....	76.5
Table 3A .....	34	1	34	1.05 (65 mins) .....	36.0
Table 3B .....	34	1	34	0.25 (15 mins) .....	8.5
Table 3C .....	34	1	34	0.33 (20 mins) .....	11.0
Table 3D .....	34	1	34	1.25 (75 mins) .....	42.5
Table 4 .....	(2)	1	(2)	0.50 (30 mins) .....	17.0
Table 5 .....	34	1	34	2.00 (120 mins) .....	68.0
Table 6 .....	34	1	34	2.00 (120 mins) .....	68.0
Table 7 .....	34	1	34	1.00 (60 mins) .....	34.0
Table 8 .....	34	1	34	1.25 (75 mins) .....	42.5
<b>Total .....</b>	<b>480</b>	<b>14</b>	<b>480</b>	<b>15 13 (910 mins) .....</b>	<b>514.5</b>

<sup>1</sup> For ease of understanding, burden hours are also provided in actual minutes.

<sup>2</sup> Excludes urban Indian health projects with no medical component.

There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

**Request for Comments:** Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collection in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e)

ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Send Comments and Requests for Information:** Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, and send requests for more information on the proposed collection or to obtain a copy of the data collection instrument(s) and

instructions to: Ms. Christine Ingersoll, IHS Reports Clearance Office, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852-1601, call non-toll free (301) 443-5938, send via facsimile to (301) 443-2316, or send your e-mail requests, comments, and return address to: [cingerso@hqe.ihs.gov](mailto:cingerso@hqe.ihs.gov).

For Further Information directly pertaining to the proposed data reporting formats contained in the Indian Health Service Urban Indian Health Programs Common Reporting Requirements Instruction Manual and/or the process for handling such formats, please contact Karen Boyle, Reyes Building, Suite 200, 801

Thompson Avenue, Rockville, MD 20852-1627, Telephone (301) 443-4680.

**Comment Due Date:** Your comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: April 12, 2004.

**Charles W. Grim,**  
Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 04-8717 Filed 4-16-04; 8:45 am]

BILLING CODE 4160-16-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory Neurological Disorders and Stroke Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** National Advisory Neurological Disorders and Stroke Council, Infrastructure, Neuroinformatics and Computational Neuroscience Subcommittee.

**Date:** May 26, 2004.

**Time:** 8 p.m. to 10 p.m.

**Agenda:** To discuss research mechanisms and infrastructure needs.

**Place:** Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

**Contact Person:** Robert Baughman, MD, Associate Director for Technology Development, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2137, MSC 9527, Bethesda, MD 20892-9527. (301) 496-1779.

**Name of Committee:** National Advisory Neurological Disorders and Stroke Council, Clinical Trials Subcommittee.

**Date:** May 27, 2004.

**Open:** 8 a.m. to 8:30 a.m.

**Agenda:** To discuss clinical trials policy.

**Place:** National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

**Closed:** 8:30 a.m. to 10 a.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

**Contact Person:** John Marler, MD, Associate Director for Clinical Trials, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2216, Bethesda, MD 20892. (301) 496-9135, [jm137i@nih.gov](mailto:jm137i@nih.gov).

**Name of Committee:** National Advisory Neurological Disorders and Stroke Council, Training and Career Development Subcommittee.

**Date:** May 27, 2004.

**Time:** 8 a.m. to 10 a.m.

**Agenda:** To discuss the training programs of the Institute.

**Place:** National Institutes of Health, Building 31, 31 Center Drive, Room 8A2B, Bethesda, MD 20892.

**Contact Person:** Margaret Jacobs, Acting Training and Special Programs Officer, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2154 MSC 9527, Bethesda, MD 20892-9527, 301-496-4188, [mj22o@nih.gov](mailto:mj22o@nih.gov).

**Name of Committee:** National Advisory Neurological Disorders and Stroke Council.

**Date:** May 27-28, 2004.

**Open:** May 27, 2004, 10:30 a.m. to 5 p.m.

**Agenda:** Report by the Director, NINDS; Report by the Acting Director, Division of Extramural Research and other administrative and program developments.

**Place:** National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

**Closed:** May 28, 2004, 8 a.m. to 11 a.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6, Bethesda, MD 20892.

**Contact Person:** Alan L. Willard, PhD, Acting Director, Division of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892-9531, (301) 496-9248.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: [www.ninds.nih.gov](http://www.ninds.nih.gov), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: April 12, 2004.

**LaVerne Y. Stringfield,**  
Director, Office of Federal Advisory Committee Policy.

[FR Doc. 04-8736 Filed 4-16-04; 8:45am]

BILLING CODE 4140-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

**Name of Committee:** National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Exploratory/Developmental Applications (R21s).

**Date:** May 10, 2004.

**Time:** 10 a.m. to 1 p.m.

**Agenda:** To review and evaluate grant applications.

**Place:** National Institutes of Health, Wilco Building, 6000 Executive Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

**Contact Person:** Aftab A. Ansari, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, 6701 Democracy Plaza, Bethesda, MD 20892, (301) 594-4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 12, 2004.  
**LaVerne Y. Stringfield,**  
*Director, Office of Federal Advisory  
 Committee Policy.*  
 [FR Doc. 04-8737 Filed 4-16-04; 8:45 am]  
 BILLING CODE 4140-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Patient-Oriented Career Development Awards (K23s).

*Date:* April 30, 2004.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, One Democracy Plaza, Suite 800, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Glen H Nuckolls, PhD, Scientific Review Administrator, National Institutes of Health, National Institute of Arthritis, Musculoskeletal, and Skin Diseases, 6701 Democracy Boulevard, Bldg. 1, Ste 800, Bethesda, MD 20892, 301-594-4974, [nuckollg@mail.nih.gov](mailto:nuckollg@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel, Review of Loan Repayment Program Applications (LRPs).

*Date:* May 2, 2004.

*Time:* 8 a.m. to 11 p.m.

*Place:* National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892.

*Contact Person:* Yan Z Wang, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal, and Skin Diseases, 6701 Democracy

Boulevard, Suite 820, Bethesda, MD 20892, 301-594-4957, [wangy1@mail.nih.gov](mailto:wangy1@mail.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 2, 2004.

**LaVerne y. Stringfield,**  
*Director, Office of Federal Advisory  
 Committee Policy.*

[FR Doc. 04-8738 Filed 4-16-04; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Institute of Neurological Disorders and Stroke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Epilepsy Models RFA.

*Date:* April 22, 2004.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

*Contact Person:* Alan L. Willard, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892-9529, (301) 496-5390, [willarda@ninds.nih.gov](mailto:willarda@ninds.nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Prevention of Secondary Stroke.

*Date:* April 22, 2004.

*Time:* 12 p.m. to 6 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.  
*Contact Person:* Katherine Woodbury, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892-9529, (301) 496-5980, [kw47o@nih.gov](mailto:kw47o@nih.gov).

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* National Institute of Neurological Disorders and Stroke Special Emphasis Panel, Drug Discovery.

*Date:* April 23, 2004.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Embassy Suites Chevy Chase, 4300 Military Road NW., Washington, DC 20015.

*Contact Person:* W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892-9529, (301) 496-4056.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: April 12, 2004.

**LaVerne Y. Stringfield,**  
*Director, Office of Federal Advisory  
 Committee Policy.*

[FR Doc. 04-8739 Filed 4-16-04; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(b)(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly



unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, SEP to Review AIDS Small Business Innovative Research Application.

*Date:* April 27, 2004.

*Time:* 12 p.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

*Contact Person:* Kenneth A. Roebuck, PhD, Scientific Review Administrator, Center for Scientific Review, National Cancer Institute, 6701 Rockledge Drive, Room 5214, MSC 7852, Bethesda, MD 20892, (301) 435-1166, roebuckk@csr.nih.gov.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Review of Grant Application from BSPH.

*Date:* April 28, 2004.

*Time:* 11 p.m. to 1 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

*Contact Person:* Ranga V. Srinivas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 435-1167, srinivar@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel, Proton Based Radiotherapy.

*Date:* April 29, 2004.

*Time:* 5 p.m. to 7 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call.)

*Contact Person:* Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, (301) 435-1179, riverase@csr.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS).

*Dated:* April 12, 2004.

**LaVerne Y. Stringfield,**  
*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04-8740 Filed 4-16-04; 8:45 am]

BILLING CODE 4140-01-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Substance Abuse and Mental Health Services Administration**

**Agency Information Collection Activities: Submission for OMB Review; Comment Request**

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (301) 443-7978.

*Community Mental Health Services Block Grant Application Guidance and Instructions, FY 2005-2007 (OMB No. 0930-0168, Revision)*—Sections 1911 through 1920 of the Public Health Service Act (42 U.S.C. 300x through 300x-9) provide for annual allotments to assist States to establish or expand an organized, community-based system of care for adults with serious mental

illness and children with serious emotional disturbances. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary of the Department of Health and Human Services.

For the Federal fiscal years 2005-2007 Community Mental Health Services Block Grant application cycles, SAMHSA will provide States with revised application guidance and instructions. Proposed revisions to the previously approved application include: (1) additional introductory text on the history and goals of Federal mental health funding and an orientation to the transition to Performance Partnerships Grants, (2) changes in the format of the plan, and (3) the introduction of 10 performance indicators as SAMHSA/CMHS Core Performance Indicators. Four of the ten (10) indicators are expected to be reported in the FY 2005 State plan. These indicators can be derived from the basic and developmental tables in the Uniform Reporting System (URS). If States are unable to collect and report the data for any of the tables from which the core indicators are constructed, the State Level Data Reporting Capacity Checklist should be completed. However, States are encouraged to complete and include in the plan all indicators that can be constructed from available data in the URS Tables. States will have three years to develop capacity to report on all of the performance indicators. CMHS anticipates that reporting the Core Performance Indicators will increase the State's burden by 15 hours per State. The following table summarizes the annual burden for the revised application.

Part of application	No. of respondents	Responses/ respondent	Burden/ response (hrs.)	Total burden hours
Plan—(Parts B and C):				
1 year .....	33	1	190	6,270
2 year .....	12	1	160	1,920
3 year .....	14	1	120	1,680
Implementation Report (Part D) .....	59	1	85	5,015
Data Tables (Part E) .....	59	1	40	2,360
Copy Plan and Report having more than 120 pages in length .....	10	2	1	20
<b>Total .....</b>	<b>59</b>	<b>1</b>	<b>.....</b>	<b>17,265</b>

Written comments and recommendations concerning the proposed information collection should be sent by May 19, 2004, to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office

Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: (202) 395-6974.

*Dated:* April 13, 2004.

**Anna Marsh,**  
*Executive Officer, SAMHSA.*

[FR Doc. 04-8758 Filed 4-16-04; 8:45 am]

BILLING CODE 4162-20-P

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

[USCG-2004-17572]

#### Collection of Information Under Review by Office of Management and Budget (OMB): OMB Control Number 1625-NEW [Formerly 2115-0009]

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

**SUMMARY:** The United States Coast Guard (USCG) invites the general public and other Federal agencies to comment on a proposed collection for 1625-NEW, Standard Numbering System for Undocumented Vessels. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104-13, 44 U.S.C. chapter 35), USCG has submitted the proposed collection to the Office of Management and Budget (OMB) for review and emergency clearance.

**DATES:** Comments must reach the Coast Guard on or before June 18, 2004.

**ADDRESSES:** To make sure that your comments and related material do not enter the docket [USCG-2004-17572] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington, DC 20590-0001.

*Caution:* Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the other means described below.

(2) By delivery 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. The telephone number is (202) 366-9329.

(3) By fax to the Docket Management Facility at (202) 493-2251.

(4) Electronically through the Web site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at 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. You may also find this docket on the Internet at <http://dms.dot.gov>.

Copies of the complete ICR are available through this docket on the Internet at <http://dms.dot.gov>, and also from Commandant (CG-611), U.S. Coast Guard Headquarters, room 6106 (Attn: Mr. Arthur Requina), 2100 Second Street SW., Washington, DC 20593-0001. The telephone number is (202) 267-2326.

**FOR FURTHER INFORMATION CONTACT:** Mr. Arthur Requina, Office of Information Management, (202) 267-2326, for questions on these documents; or Ms. Andrea M. Jenkins, Program Manager, Docket Operations, (202) 366-0271, for questions on the docket.

#### SUPPLEMENTARY INFORMATION:

##### Public Participation and Request for Comments

We encourage you to participate in this request for comments by submitting comments and related materials. We will post all comments received, without change, to <http://dms.dot.gov>, and they will include any personal information you have provided. We have an agreement with Department of Transportation (DOT) to use the Docket Management Facility. Please see the paragraph on DOT's "Privacy Act" below.

*Submitting comments:* If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG-2004-17572], indicate the specific section of this document to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

*Viewing comments and documents:* To view comments, as well as documents mentioned in this notice as being available in the docket, go to <http://dms.dot.gov> at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL-401 on the Plaza level of the Nassif

Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

*Privacy Act:* Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the *Federal Register* published on April 11, 2000 (65 FR 19477), or you may visit <http://dms.dot.gov>.

#### Information Collection Requests

1. *Title:* Standard Numbering System for Undocumented Vessels.

*OMB Control Number:* 1625-NEW.

*Summary:* The Standard Numbering System collects information on undocumented vessels and vessel owners operating on waters subject to the jurisdiction of the United States. Federal, State, and local law enforcement agencies use information from the system for enforcement of boating laws or theft and fraud investigations. Since the September 11, 2001 terrorist attacks on the United States, the need has increased for identification of undocumented vessels to meet port security and other missions to safeguard the homeland.

*Need:* Subsection 12301(a) of Title 46, United States Code, requires undocumented vessels equipped with propulsion machinery of any kind to be numbered in the State where the vessel is principally operated. In 46 U.S.C. 12302(a), Congress authorized the Secretary to prescribe, by regulation, a Standard Numbering System (SNS). The Secretary shall approve a State numbering system if that system is consistent with the SNS. The Secretary has delegated his authority under 46 U.S.C. 12301 and 12302 to Commandant of the U.S. Coast Guard. DHS Delegation No. 0170.1. The regulations requiring the numbering of undocumented vessels are in 33 CFR part 173, and regulations establishing the SNS for States to voluntarily carry out this function are contained in part 174.

In States that do not have an approved system, the Federal Government (U.S. Coast Guard) must administer the vessel numbering system. Currently, all 56 States and Territories have approved numbering systems. The approximate number of undocumented vessels registered by the States in 2002 was nearly 13 million.

The SNS collects information on undocumented vessels and vessel owners. States submit reports annually to the Coast Guard on the number, size,

construction, etc., of vessels they have numbered. That information is used by the Coast Guard in (1) publication of an annual "Boating Statistics" report required by 46 U.S.C. 6102(b), and (2) for allocation of Federal funds to assist States in carrying out the Recreational Boating Safety (RBS) Program established by 46 U.S.C. chapter 131.

On a daily basis or as warranted, Federal, State, and local law enforcement personnel use SNS information from the States' numbering systems for enforcement of boating laws or theft and fraud investigations. In addition, when encountering a vessel suspected of illegal activity, information from the SNS increases officer safety by assisting boarding officers in determining how best to approach a vessel. Since, the September 11, 2001 terrorist attacks on the United States, the need has increased for identification of undocumented vessels and their owners for port security and other missions to safeguard the homeland, although the statutory requirement for numbering of vessels dates back to 1918.

**Respondents:** Owners of all undocumented vessels propelled by machinery are required by Federal law to apply for a number from the issuing authority of the State in which the vessel is to be principally operated. In addition, States may require other vessels, such as sailboats or even canoes and kayaks, to be numbered. "Owners" may include individuals or households, non-profit organizations, and small businesses (e.g., liveries that offer recreational vessels for rental by the public) or other for-profit organizations.

**Frequency:** On occasion.

**Burden Estimates:** The estimated burden is 15,507 hours a year.

Dated: April 14, 2004.

Clifford I Pearson,  
RADM, Assistant Commandant for C4 and  
Information Technology.  
[FR Doc. 04-8857 Filed 4-15-04; 10:42 am]  
BILLING CODE 4910-15-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-050-1430-ER]

#### Notice of Availability of the Draft Supplemental Environmental Impact Statement for the Flood Control Master Plan, Clark County Regional Flood Control District, NV

**AGENCY:** Bureau of Land Management, Interior.

**Cooperating Agency:** U.S. Army Corps of Engineers, Sacramento District.

**ACTION:** Notice of Availability of the Draft Supplemental Environmental Impact Statement (Draft SEIS) for the Flood Control Master Plan, Clark County Regional Flood Control District (CCRFCD).

**SUMMARY:** Pursuant to the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, the Bureau of Land Management (BLM) has prepared a Draft SEIS of the Final Environmental Impact Statement for the Flood Control Master Plan, Clark County Regional Flood Control District, approved June 4, 1991, by record of Decision. This Draft SEIS was prepared to describe the potential environmental effects of construction and operation of flood control facilities encompassing private and public lands within in the Las Vegas Valley and Boulder City by the Clark County Regional Flood Control District for the next ten-year period.

Due to changes in Federal regulations, regional growth, flooding history, and CCRFCD project changes and objectives that have occurred since 1991, this Draft SEIS was also prepared for the CCRFCD's Master Plan to update the 1991 FEIS. This document will also assess impacts associated with the implementation of the Master Plan and subsequent updates.

**DATES:** Written comments on the Draft SEIS will be accepted for 60 days following the date of publication of the Notice of Availability by the Environmental Protection Agency in the **Federal Register**. Future meetings or hearings and any other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, and/or mailings.

**ADDRESSES:** You may submit comments by any of the following methods:

- **Web Site:** [www.blm.nv.gov](http://www.blm.nv.gov).
- **E-mail:** [agarcia@nv.blm.gov](mailto:agarcia@nv.blm.gov).
- **Fax:** (702) 515-5010.
- **Mail:** Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, NV 89130-2301.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their

entirety. Copies of the Draft Supplemental Environmental Impact Statement for the Flood Control Master Plan, Clark County Regional Flood Control District are available in the Las Vegas Field Office at the above address.

**FOR FURTHER INFORMATION CONTACT:** For further information and/or to have your name added to our mailing list, contact Adrian A. Garcia, BLM, Las Vegas Field Office, telephone (702) 515-5089; email [agarcia@nv.blm.gov](mailto:agarcia@nv.blm.gov), or Jeff Steinmitz at (702) 515-5097; e-mail [jsteinme@nv.blm.gov](mailto:jsteinme@nv.blm.gov).

**SUPPLEMENTARY INFORMATION:** The changing needs and interests of the public and the growth within the Las Vegas Valley necessitates a revision to the Flood Control Master Plan FEIS. Preliminary issues and management concerns have been identified by BLM and CCRFCD, their consultant, and other agencies, and represent the BLM's current information on existing issues and management concerns. The major issue themes that will be addressed in the Draft SEIS include: Impacts to surface water hydrology and water quality; protection of federally-listed species, State-listed species, and BLM sensitive species; minimizing impacts to air quality; minimizing visibility impacts; balancing conflicting and compatible land uses; protection of cultural and paleontological resources; cumulative impacts of the project; and the creation of a new project-specific analysis procedure for future flood control facilities.

Dated: April 13, 2004.

Sharon DiPinto,  
Assistant Field Manager, Division of Lands.  
[FR Doc. 04-8760 Filed 4-16-04; 8:45 am]  
BILLING CODE 4310-HC-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[OR-038-1220-AL 042H; G 04-0152]

#### Meeting Notice for the National Historic Oregon Trail Interpretive Center (NHOTIC) Advisory Board

**AGENCY:** Bureau of Land Management (BLM), Vale District, Interior.

**SUMMARY:** The National Historic Oregon Trail Interpretive Center Advisory Board will hold a meeting to discuss reports from the Standing Committees (Economic Development, Visitation, Education and Community Liaison), a roundtable to allow members to introduce new issues to the board, and other matters as may reasonably come before the Board. The entire meeting is open to the public. For a copy of the

information to be distributed to the Board members, please submit a written request to the Vale District Office 10 days prior to the meeting.

**DATES:** The meeting will be held on Thursday, June 3, 2004, from 8 a.m. to 12 p.m. (Pacific time, p.t.). Public comment is scheduled for 10 a.m. to 10:15 a.m. Pacific time (p.t.).

**ADDRESSES:** The meeting will be held in the Library at the Best Western Sunridge Inn (541-523-6444), One Sunridge Way in Baker City, OR.

**FOR FURTHER INFORMATION CONTACT:** Peggy Diegan, Management Assistant/Webmaster, Vale District Office, 100 Oregon Street, Vale, OR 97918, (541) 473-3144, or e-mail [Peggy\\_Diegan@or.blm.gov](mailto:Peggy_Diegan@or.blm.gov).

Dated: April 12, 2004.

**David R. Henderson,**  
District Manager.

[FR Doc. 04-8759 Filed 4-16-04; 8:45 am]

BILLING CODE 4310-33-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[AZ-956-02-1420-BJ]

#### Notice of Filing of Plats of Survey

April 5, 2004.

1. The plats of survey of the following described land were officially filed in the Arizona State Office, Phoenix, Arizona, on the dates indicated:

A plat representing the dependent resurvey of a portion of the subdivisional lines and the metes-and-bounds surveys in sections 8 and 9, Township 10 North, Range 3 East, of the Gila and Salt River Meridian, Arizona, accepted January 22, 2004 and officially filed January 29, 2004.

This plat was prepared at the request of the Bureau of Land Management.

A plat representing the dependent resurvey of portions of the east, west and north boundaries and a portion of the subdivisional lines, the subdivision of certain sections and metes-and-bounds surveys in sections 20 and 25, Township 11 North, Range 3 East of the Gila and Salt River Meridian, Arizona, accepted January 23, 2004 and officially filed January 29, 2004.

**This plat was prepared at the request of the Bureau of Land Management.**

A plat representing the dependent resurvey of a portion of the north boundary and the metes-and-bounds survey of tract 37, in partially surveyed Township 11 North, Range 11 East of the Gila and Salt River Meridian,

Arizona, accepted February 19, 2004 and officially filed February 25, 2004.

This plat was prepared at the request of the United States Forest Service.

A plat representing the dependent resurvey of the south and east boundaries, a portion of the subdivisional lines and a portion of the boundary of Management District No. 6, Hopi Indian Reservation and the survey of a portion of the subdivisional lines, Township 27 North, Range 19 East of the Gila and Salt River Meridian, Arizona, accepted March 23, 2004 and officially filed March 31, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Regional Office.

A plat representing the survey of the Eighth Standard Parallel North, (south boundary), the east, west and north boundaries, and the subdivisional lines, Township 33 North, Range 19 East of the Gila and Salt River Meridian, Arizona, accepted March 10, 2004 and officially filed March 22, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the dependent resurvey of a portion of the Fifth Guide Meridian East (east boundary), the south and west boundaries, a portion of the north boundary and a portion of the subdivisional lines, Township 26 North, Range 20 East of the Gila and Salt River Meridian, Arizona, accepted March 23, 2004 and officially filed March 31, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Western Regional Office.

A plat representing the survey of the south and north boundaries, and the subdivisional lines, Township 31 North, Range 21 East of the Gila and Salt River Meridian, Arizona, accepted March 10, 2004 and officially filed March 22, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the survey of the Fifth Guide Meridian East, (west boundary), and the subdivisional lines, Township 32 North, Range 21 East of the Gila and Salt River Meridian, Arizona, accepted March 10, 2004 and officially filed March 22, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the dependent resurvey of the Sixth Standard Parallel North, (south boundary), Township 25 North, Range 22 East of the Gila and Salt River Meridian, Arizona, accepted March 10, 2004 and officially filed March 22, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the survey of the south, east and north boundaries, and the subdivisional lines, Township 31 North, Range 23 East of the Gila and Salt River Meridian, Arizona, accepted January 20, 2004 and officially filed January 23, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the survey of the south and north boundaries, and the subdivisional lines, Township 31 North, Range 24 East of the Gila and Salt River Meridian, Arizona, accepted February 10, 2004 and officially filed February 19, 2004.

This plat was prepared at the request of the Bureau of Indian Affairs, Navajo Regional Office.

A plat representing the dependent resurvey of a portion of the south and west boundaries and a portion of the subdivisional lines and the subdivision of sections 6, 17, and 20, Townships 13 South, Range 10 East of the Gila and Salt River Meridian, Arizona, accepted February 9, 2004 and officially filed February 13, 2004.

This plat was prepared at the request of the Bureau of Land Management.

A plat representing the dependent resurvey of a portion of the Fort Huachuca Military Reservation boundary and a portion of the subdivisional lines, Township 21 South, Range 20 East of the Gila and Salt River Meridian, Arizona, accepted February 6, 2004 and officially filed February 12, 2004.

This plat was prepared at the request of the Department of the Army.

2. All inquiries relation to these lands should be sent to the Arizona State Office, Bureau of Land Management, 222 N. Central Avenue, PO Box 1552, Phoenix, Arizona 85001-1552.

**Kenny D. Ravnikar,**

*Chief Cadastral Surveyor of Arizona.*

[FR Doc. 04-8776 Filed 4-16-04; 8:45 am]

BILLING CODE 4310-32-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Reclamation

#### Yakima River Basin Conservation Advisory Group Reestablishment

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice of charter reestablishment.

**SUMMARY:** This notice is published in accordance with section 9(a)(2) of the

Federal Advisory Committee Act of 1972 (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is reestablishing the charter for the Yakima River Basin Conservation Advisory Group (CAG). The purpose of the CAG is to provide recommendations to the Secretary of the Interior and the State of Washington on the structure and implementation of the Yakima River Basin Water Conservation Program. In consultation with the State, the Yakama Nation, Yakima River basin irrigators, and other interested and related parties, six members and a facilitator are appointed to serve on the CAG.

The basin conservation program is structured to provide economic incentives with cooperative Federal, State, and local funding to stimulate the identification and implementation of structural and nonstructural cost-effective water conservation measures in the Yakima River basin. Improvements in the efficiency of water delivery and use will result in improved streamflows for fish and wildlife and improve the reliability of water supplies for irrigation.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jim Esget, Manager, Yakima River Basin Water Enhancement Program, telephone (509) 575-5848, extension 267.

#### Certification

I hereby certify that reestablishment of the Yakima River Basin Conservation Advisory Group is in the public interest in connection with the performance of duties imposed on the Department of the Interior.

Gale A. Norton,

Secretary of the Interior.

[FR Doc. 04-8745 Filed 4-16-04; 8:45 am]

BILLING CODE 4310-MN-M

#### INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1034-1035 (Final)]

#### In the Matter of Certain Color Television Receivers From China and Malaysia; Notice of Commission Determination Not To Conduct a Portion of the Hearing in Camera

**AGENCY:** International Trade Commission.

**ACTION:** Commission determination not to close any part of the hearing to the public.

**SUMMARY:** The Commission has determined to deny the request of

several producers and importers of certain color television receivers from China and Malaysia ("respondents") to conduct a portion of its hearing in the above-captioned investigations scheduled for April 15, 2004, *in camera*. See Commission rules 201.13 and 201.36(b)(4) (19 CFR 201.13 and 201.36(b)(4)).

#### FOR FURTHER INFORMATION CONTACT:

Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission, telephone 202-205-3087. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Commission's TDD terminal on 202-205-1810.

**SUPPLEMENTARY INFORMATION:** The Commission believes it should conduct its business in public in all but the most unusual circumstances. The Commission has determined that, in light of the nature of these proceedings, it will be able to assess adequately all arguments raised by respondents without resorting to the extraordinary measure of an *in camera* hearing. Accordingly, the Commission has determined that the public interest would be best served by a hearing that is entirely open to the public. See 19 CFR 201.36(c)(1).

**Authority:** This notice is provided pursuant to Commission Rule 201.35(b) (19 CFR 201.35(b)).

Issued: April 13, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

Secretary to the Commission.

[FR Doc. 04-8742 Filed 4-16-04; 8:45 am]

BILLING CODE 7020-02-P

#### INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA-1039-1040 (Final)]

#### Certain Wax and Wax/Resin Thermal Transfer Ribbons From France and Japan Determinations

On the basis of the record<sup>1</sup> developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of

<sup>1</sup> The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

imports from France and Japan of certain wax and wax/resin thermal transfer ribbons, provided for in heading 3702 and subheadings 3921.90.40, 9612.10.90, 3204.90, 3506.99, 3919.90, 3920.62, 3920.99, and 3926.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (Commerce) to be sold in the United States at less than fair value (LTFV).<sup>2</sup>

#### Background

The Commission instituted these investigations effective May 30, 2003, following receipt of a petition filed with the Commission and Commerce by International Imaging Materials, Inc. (IIMAK), Amherst, NY. The final phase of these investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain wax and wax/resin thermal transfer ribbons from France and Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 8, 2004 (69 FR 1302). The hearing was held in Washington, DC, on March 9, 2004, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 19, 2004. The views of the Commission are contained in USITC Publication 3683 (April 2004), entitled *Certain Wax and Wax/Resin Thermal Transfer Ribbons from France and Japan: Investigations Nos. 731-TA-1039-1040 (Final)*.

Issued: April 13, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

Secretary to the Commission.

[FR Doc. 04-8741 Filed 4-16-04; 8:45 am]

BILLING CODE 7020-02-P

<sup>2</sup> On April 6, 2004, the Commission terminated its investigation with regard to Korea (Inv. No. 731-TA-1041) as a result of Commerce's final negative determination of LTFV sales of subject imports from Korea (69 FR 17645, April 5, 2004).

**DEPARTMENT OF JUSTICE****Parole Commission****Record of Vote of Meeting Closure  
(Pub. L. 94-409) (5 U.S.C. 552b)**

I, Edward F. Reilly, Jr., Chairman of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11 a.m. on Tuesday, April 13, 2004, at the U.S. Parole Commission, 5550 Friendship Boulevard, 4th Floor, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide two petitions for reconsideration pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Edward F. Reilly, Jr., John R. Simpson, and Cranston J. Mitchell.

*In witness whereof*, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: April 13, 2004.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 04-8873 Filed 4-15-04; 10:25 am]

BILLING CODE 4410-01-M

**DEPARTMENT OF LABOR****Employment and Training  
Administration****Workforce Investment Act of 1998  
(WIA); Notice of Incentive Funding  
Availability for Program Year (PY) 2002  
Performance**

**AGENCY:** Employment and Training Administration (ETA), Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, in collaboration with the Department of Education, announces that 23 states are eligible to apply for Workforce Investment Act (WIA) (Pub. L. 105-220, 29 U.S.C. 2801 *et seq.*) incentive awards under the WIA Regulations.

**DATES:** The 23 eligible states must submit their applications for incentive funding to the Department of Labor by June 3, 2004.

**ADDRESSES:** Submit applications to the Employment and Training Administration, Performance and Results Office, 200 Constitution Avenue, NW., Room N-5306, Washington, DC 20210, Attention: Karen Staha, 202-693-2917 (phone), 202-693-3991 (fax), e-mail: [Staha.Karen@dol.gov](mailto:Staha.Karen@dol.gov). Please be advised that mail delivery in the Washington, DC, area has been inconsistent because of concerns about anthrax contamination. States are encouraged to submit applications via e-mail.

**FOR FURTHER INFORMATION CONTACT:** The Performance and Results Office: Karen Staha (phone: 202-693-2917 or e-mail: [Staha.Karen@dol.gov](mailto:Staha.Karen@dol.gov)). (This is not a toll-free number.) Information may also be found at the Web site: <http://www.doleta.gov/usworkforce/>.

**SUPPLEMENTARY INFORMATION:** 23 states (see list below) have qualified to receive a share of the \$24.4 million available for incentive grant awards under WIA section 503. These funds are available to the states through June 30, 2006, to support innovative workforce development and education activities that are authorized under title I (Workforce Investment Systems) or title II (the Adult Education and Family Literacy Act (AEFLA)) of WIA, or under the Perkins Act (Pub. L. 105-332, 20 U.S.C. 2301 *et seq.*). In order to qualify for a grant award, a state must have exceeded performance levels, agreed to by the Secretaries, Governor, and State Education Officer, for outcomes in WIA title I, adult education (AEFLA), and vocational education (Perkins Act) programs. The goals included placement after training, retention in employment, and improvement in literacy levels, among other measures. After review of the performance data submitted by states to the Department of Labor and to the Department of Education, each Department determined which states would qualify for incentives for its program(s). (See below for a list of the states that qualified under all three Acts.) These lists of eligible states were compared, and states that qualified under all three programs are eligible to receive an incentive grant award. The amount that each state is eligible to receive was determined by the Department of Labor and the Department of Education and is based on WIA section 503(c) (20 U.S.C. 9273(c)), and is proportional to the total funding received by these states for the three Acts.

The states eligible to apply for incentive grant awards, and the amounts they are eligible to receive, are listed below:

State	Amount of award
1. Alabama .....	\$ 809,399
2. Colorado .....	750,000
3. Florida .....	1,855,967
4. Georgia .....	971,730
5. Iowa .....	750,000
6. Illinois .....	3,000,000
7. Kentucky .....	750,000
8. Louisiana .....	1,082,170
9. Maryland .....	750,000
10. Michigan .....	1,368,484
11. Minnesota .....	750,000
12. Missouri .....	750,000
13. Mississippi .....	750,000
14. Montana .....	750,000
15. North Carolina .....	1,061,154
16. North Dakota .....	750,000
17. Nebraska .....	750,000
18. New Hampshire .....	750,000
19. Oklahoma .....	750,000
20. Oregon .....	750,000
21. South Dakota .....	750,000
22. Tennessee .....	811,127
23. Texas .....	3,000,000

These eligible states must submit their applications for incentive funding to the Department of Labor by June 3, 2004. As set forth in the provisions of WIA section 503(b)(2) (20 U.S.C. 9273(b)(2)), 20 CFR 666.220(b) and Training and Employment Guidance Letter (TEGL) No. 20-01, Change 2, Application Process for Workforce Investment Act (WIA) Section 503 Incentive Grants, Program Year 2002 Performance, which is available at <http://www.doleta.gov/usworkforce/>, the application must include assurances that:

A. The legislature of the state was consulted with respect to the development of the application.

B. The application was approved by the Governor, the eligible agency for adult education (as defined in section 203(4) of WIA (20 U.S.C. 9202(4))), and the state agency responsible for vocational and technical education programs (as defined in section 3(9) of Perkins III (20 U.S.C. 2302(9))).

C. The state and the eligible agency, as appropriate, exceeded the state adjusted levels of performance for WIA title I, the state adjusted levels of performance for the AEFLA, and the performance levels established for Perkins Act programs.

In addition, states are requested to provide a description of the planned use of incentive grants as part of the application process, to ensure that the state's planned activities are innovative and are otherwise authorized under the WIA title I, the AEFLA, and/or the Perkins Act as amended, as required by WIA section 503(a). TEGL No. 20-01, Change 2 provides the specific application process that states must follow to apply for these funds.

The applications may take the form of a letter from the Governor, or designee, to the Assistant Secretary of Labor, Emily Stover DeRocco, Attention: Karen Staha, 200 Constitution Avenue, NW., Room N-5306, Washington, DC 20210.

In order to expedite the application process, states are encouraged to submit their applications electronically to Karen Staha at [Staha.Karen@dol.gov](mailto:Staha.Karen@dol.gov). The states will receive their incentive awards by June 30, 2004.

Signed at Washington, DC, this 12th day of April, 2004.

**Emily Stover DeRocco,**

*Assistant Secretary for Employment and Training.*

PY2002 PERFORMANCE QUALIFIES STATE FOR INCENTIVES

State	WIA (title I)	AEFLA (adult education)	Perkins Act (vocational edu- cation)	WIA title I; AEFLA; Perkins Act
1. Alaska			X	
2. Alabama	X	X	X	X
3. Arkansas		X	X	
4. Arizona	X		X	
5. California		X	X	
6. Colorado	X	X	X	X
7. Connecticut		X	X	
8. District of Columbia		X	X	
9. Delaware		X	X	
10. Florida	X	X	X	X
11. Georgia	X	X	X	X
12. Hawaii		X	X	
13. Iowa	X	X	X	X
14. Idaho	X		X	
15. Illinois	X	X	X	X
16. Indiana		X	X	
17. Kansas		X	X	
18. Kentucky	X	X	X	X
19. Louisiana	X	X	X	X
20. Massachusetts		X	X	
21. Maryland	X	X	X	X
22. Maine		X	X	
23. Michigan	X	X	X	X
24. Minnesota	X	X	X	X
25. Missouri	X	X	X	X
26. Mississippi	X	X	X	X
27. Montana	X	X	X	X
28. North Carolina	X	X	X	X
29. North Dakota	X	X	X	X
30. Nebraska	X	X	X	X
31. New Hampshire	X	X	X	X
32. New Jersey		X	X	
33. New Mexico		X	X	
34. Nevada		X	X	
35. New York		X	X	
36. Ohio		X	X	
37. Oklahoma	X	X	X	X
38. Oregon	X	X	X	X
39. Pennsylvania		X	X	
40. Puerto Rico	X	X		
41. Rhode Island		X		
42. South Carolina		X		
43. South Dakota	X	X	X	X
44. Tennessee	X	X	X	X
45. Texas	X	X	X	X
46. Utah			X	
47. Virginia		X	X	
48. Vermont		X	X	
49. Washington		X		
50. Wisconsin		X	X	
51. West Virginia		X	X	
52. Wyoming			X	

[FR Doc. 04-8747 Filed 4-16-04; 8:45 am]

BILLING CODE 4510-30-P

## NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

### Records Schedules; Availability and Request for Comments

**AGENCY:** National Archives and Records Administration (NARA).

**ACTION:** Notice of availability of proposed records schedules; request for comments.

**SUMMARY:** The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

**DATES:** Requests for copies must be received in writing on or before June 3, 2004. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

**ADDRESSES:** You may request a copy of any records schedule identified in this notice by contacting the Life Cycle Management Division (NWML) using one of the following means: *Mail:* NARA (NWML), 8601 Adelphi Road, College Park, MD 20740-6001. *E-mail:* records.mgt@nara.gov. *FAX:* 301-837-3698.

Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

**FOR FURTHER INFORMATION CONTACT:** Paul M. Wester, Jr., Director, Life Cycle Management Division (NWML), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. Telephone: 301-837-3120. E-mail: records.mgt@nara.gov.

**SUPPLEMENTARY INFORMATION:** Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

### Schedules Pending

1. Department of Agriculture, Risk Management Agency (N1-258-03-1, 5 items, 5 temporary items). Routine investigative and audit case files and complaints that do not result in an investigation. Electronic copies of records created using electronic mail and word processing are included. The agency will notify NARA of any case files that may warrant permanent retention, and they will be appraised on a case-by-case basis.

2. Department of the Army, Agency-wide (N1-AU-03-23, 6 items, 6 temporary items). Claims case files and other records relating to claims, including inputs, outputs, master files, and documentation associated with an electronic tracking system. This schedule also authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

3. Department of Homeland Security, Information Analysis and Infrastructure Protection Directorate (N1-563-04-9, 3 items, 3 temporary items). Voluntary submissions of Critical Infrastructure Information in all media and formats received by the agency which do not meet the requirements for protection contained in Section 214 of the Homeland Security Act of 2002. Also included are electronic copies of records created using electronic mail and word processing. Notice of this schedule was previously published in the March 18, 2004, *Federal Register*. It has been republished since the earlier version did not include electronic mail and word processing copies.

4. Department of Homeland Security, Data Management Improvement Act Task Force (N1-563-04-10, 16 items, 4 temporary items). Administrative meeting files and site visit photographs. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of such records as annual reports to Congress, press materials, correspondence, meeting files (open and closed), briefing materials, files on workshops, Executive Director briefing files, and site visit files.

5. Department of Justice, Federal Bureau of Investigation (N1-65-03-2, 3 items, 3 temporary items). Audio, video, or other electronic recordings created in the course of investigations and intelligence operations.

6. Department of State, Bureau of Administration (N1-59-03-10, 45 items, 42 temporary items). Paper and electronic records of the Office of General Services Management relating



to such administrative functions as room reservations, motor vehicle fleet management, receptionist and labrber services, audiovisual services, video production, and authentication services. Also included are electronic copies of documents created using word processing and electronic mail. Proposed for permanent retention are master files of audio-visual materials (videos, photographs, and negatives) and related finding aids.

7. Environmental Protection Agency, Agency-wide (N1-412-04-1, 3 items, 3 temporary items). Records relating to the agency's child care assistance program, including correspondence, pay statements, applications, and related forms. Also included are electronic copies of records created using electronic e-mail and word processing.

8. Environmental Protection Agency, Office of the Inspector General (N1-412-04-2, 4 items, 4 temporary items). Records relating to the Inspector General's Operations and Reporting System, an electronic system used for tracking information pertaining to audits, evaluations, investigations, special reports, and general assignments.

9. Environmental Protection Agency, Agency-wide (N1-412-04-4, 6 items, 6 temporary items). Records relating to the development of regulations and the collection of public comments for non-rulemaking actions, including paper and electronic copies of regulatory and general dockets, and the software, documentation, and electronic mail identification and verification data associated with the E-DOCKET electronic system, an on-line public review and comment system pertaining to dockets. Also included are electronic copies of records created using electronic e-mail and word processing.

10. Environmental Protection Agency, Agency-wide (N1-412-04-5, 2 items, 1 temporary item). Electronic copies of records created using electronic mail and word processing relating to the development of environmental policies and programs. Recordkeeping copies of these files, which include correspondence, briefing books, issue papers, reports, and directives, are proposed for permanent retention.

11. Small Business Administration, Office of Hearings and Appeals (N1-309-04-2, 8 items, 8 temporary items). Case files and a related electronic tracking system accumulated in connection with administrative proceedings. Also included are Small Business Regulatory Enforcement Fairness Act comments and electronic copies of documents created using electronic mail and word processing.

Dated: April 8, 2004.

Michael J. Kurtz,  
Assistant Archivist for Records Services—  
Washington, DC.

[FR Doc. 04-8777 Filed 4-16-04; 8:45 am]

BILLING CODE 7515-01-P

## NUCLEAR REGULATORY COMMISSION

### Report on the Independent Verification of the Mitigating Systems Performance Index (MSPI) Results for the Pilot Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Nuclear Regulatory Commission is announcing the availability of the draft document entitled: "Report on the Independent Verification of the Mitigating Systems Performance Index (MSPI) Results for the Pilot Plants," dated February 2004 for review and comment by external stakeholders. Interested individuals may obtain a copy of this document from ADAMS Accession ML040550036 via the public web site, or from the person identified under the caption: **FOR FURTHER INFORMATION CONTACT.**

**DATES:** Submit comments by June 15, 2004. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Submit comments to: Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m. Federal workdays.

The draft document and certain other documents related to this action, including comments received, may be examined in the NRC Public Document Room, 11555 Rockville Pike, Rockville, Maryland.

**FOR FURTHER INFORMATION CONTACT:** Donald A. Dube, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-5472, e-mail: dad3@nrc.gov.

**SUPPLEMENTARY INFORMATION:** The Reactor Oversight Process (ROP) was created four years ago to improve the NRC's regulatory oversight of licensee operation of commercial nuclear power plants. It is intended to better risk-inform agency actions and bring more

objectivity to the regulatory process. The ROP is consistent with the goals of the Commission's Probabilistic Risk Assessment (PRA) Policy Statement and the NRC's Strategic Plan (NUREG-1614), which include increased use of the PRA technology in " \* \* \* regulatory matters to the extent supported by the state-of-the-art in PRA methods and data and in a manner that complements the NRC's deterministic approach and supports the NRC's traditional defense-in-depth philosophy." The ROP is reflective of the NRC's efforts to better risk-inform its core processes.

SECY-99-007 and 99-007A, "Recommendations for Reactor Oversight Process Improvements," described the ROP. The ROP was implemented in April 2000 following a six-month pilot program conducted in 1999. The results of this pilot program were described in SECY-00-0049, "Results of the Revised Reactor Oversight Process Pilot Program." A fundamental aspect of the ROP is the use of both performance indicators and inspection findings to determine whether the objectives of the ROP's cornerstones of safety are being met on a plant-specific basis.

In light of the movement toward more risk-informed and performance-based oversight, draft Risk-Based Performance Indicators (RBPI) were developed to (1) address specific areas in the current ROP that were identified in SECY-00-0049 as possible enhancements and (2) potentially support any future development of performance indicators using improved risk analysis tools. NUREG-1753, "Risk-Based Performance Indicators: Results of Phase 1 Development," discussed the technical feasibility of using available risk models and data to enhance the NRC's ability to monitor plant-specific safety performance of reactors in a risk-informed and performance-based manner. This development activity was designed to fit into the ROP concept for indicators, thresholds, and performance monitoring while continuing to move the NRC's programs forward in accordance with the PRA Policy Statement and the goals of the Strategic Plan.

The Mitigating Systems Performance Index (MSPI) builds upon the insights and findings developed in the RBPI Program as discussed in NUREG-1753. The MSPI is described in "NRC Regulatory Issue Summary 2002-14, Supplement 1 Proposed Changes to the Safety System Unavailability Performance Indicators," Attachments 1 and 2, draft NEI 99-02, Rev. 0, "Regulatory Assessment Performance

Indicator Guideline," Section 2.2 "Mitigating Systems Performance Index" and Appendix F "Methodologies for Computing the Unavailability Index, the Unreliability Index, and Determining Performance Index Validity".

The MSPI was developed as a potential replacement for the Safety System Unavailability (SSU) performance indicator. The purpose of the MSPI is to "monitor the performance of selected systems based on their ability to perform risk-significant functions \* \* \*". The NRC's Office of Nuclear Regulatory Research developed the MSPI to address several specific problems with the currently used performance indicators including: the use of fault exposure hours in the SSU, the omission of unreliability elements in the indicator, the use of mostly one-size-fits-all performance thresholds irrespective of risk-significance of the system, and the cascading of support system failures onto mitigating system unavailability. A twelve-month pilot program on the MSPI consisting of twenty nuclear power plant units was initiated in September of 2002. For the first six months, licensees submitted system and component performance data, and exercised the MSPI algorithm. Over the second six months of the pilot, the NRC staff worked to fully assess the results as well as to identify technical issues and to provide recommendations for their resolution. Numerous meetings involving both internal and external stakeholders have been held to discuss developmental details of the MSPI. The MSPI was extensively tested, evaluated, and reviewed during the pilot plant trial and evaluation period. Although the NRC staff recently announced that use of the MSPI in the ROP, as piloted, would not be pursued further, the subject draft report is being made available to document the results of the NRC evaluation of technical issues and detailed proposed changes to the MSPI methodology. The report can be found as ADAMS Accession #ML040550036 via the NRC public Web site at <http://www.nrc.gov>. A briefing on the results of the MSPI pilot before the Advisory Committee on Reactor Safeguards Subcommittee on Reliability and PRA, and Plant Operations, is currently scheduled for April 14, 2004 from 8 a.m. to 11 a.m. at NRC Headquarters in T2B3 of Two White Flint, Rockville, MD. Separately, the Office of Nuclear Reactor Regulation intends to document the concerns with the piloted MSPI and conduct a public meeting to solicit further stakeholder input regarding the MSPI. Information regarding this public meeting will be provided at a later date.

At this time, we are interested in comments regarding all aspects of the subject report, particularly the following areas:

- Fundamental mathematical formulation of the MSPI.
- Recommended improvements to the originally formulated MSPI methodology per draft revision to NEI 99-02.
- Overall technical findings and results of the MSPI pilot, including validity of MSPI outcomes.

Dated at Rockville, Maryland, this 7th day of April, 2004.

For the Nuclear Regulatory Commission.

**Charles E. Ader,**

*Director, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 04-8749 Filed 4-16-04; 8:45 am]

BILLING CODE 7590-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

*Extension:* Rule 17a-12; SEC File No. 270-442; OMB Control No. 3235-0498.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

### Rule 17a-12, Reporting Requirements for OTC Derivatives Dealers

Rule 17a-12 under the Securities Exchange Act of 1934 requires OTC derivatives dealers to file quarterly Financial and Operational Combined Uniform Single Reports ("FOCUS" reports) on Part IIB of Form X-17A-5,<sup>1</sup> the basic document for reporting the financial and operational condition of OTC derivatives dealers. Rule 17a-12 also requires that OTC derivatives dealers annually file audited financial statements. The reports required under Rule 17a-12 provide the Commission with information used to monitor the operations of OTC derivatives dealers and to enforce their compliance with the Commission's rules. These reports also enable the Commission to review

<sup>1</sup> Form X-17A-5 (17 CFR 249.617).

the business activities of OTC derivatives dealers and to anticipate, where possible, how these dealers may be affected by significant economic events.

The staff estimates that the average amount of time necessary to prepare and file the information required by Rule 17a-12 is 180 hours per OTC derivatives dealer annually: an average of twenty hours preparing each of four quarterly reports and an additional 100 hours on the annual audit. Three entities are presently registered as OTC derivatives dealers and the staff estimates that three additional OTC derivatives dealers may become registered within the next three years. Thus the total burden is estimated to be 1,080 hours annually for six OTC derivatives dealers.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within thirty days of this notice.

Dated: April 12, 2004.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 04-8730 Filed 4-16-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

**FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT:** See the issue of Friday, April 16, 2004.

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING:** Wednesday, April 20, 2004, at 2 p.m.

**CHANGE IN THE MEETING:** Additional item. The following item has been added to the closed meeting of Wednesday, April 20, 2004: An adjudicatory matter.

Commissioner Atkins, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further

information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: April 14, 2004.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04-8856 Filed 4-14-04; 4:12 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To be published on April 16, 2004].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE AND TIME OF PREVIOUSLY ANNOUNCED MEETING: Tuesday, April 20, 2004, at 2 p.m.

CHANGE IN THE MEETING: Time change.

The Closed Meeting scheduled for Tuesday, April 20, 2004, at 2 p.m. has been changed to Tuesday, April 20, 2004, at 10:30 a.m.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact the Office of the Secretary at (202) 942-7070.

Dated: April 15, 2004.

Jonathan G. Katz,

Secretary.

[FR Doc. 04-8962 Filed 4-15-04; 3:51 pm]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49544A; File No. PCAOB-2004-03]

### Public Company Accounting Oversight Board; Notice of Filing of Proposed Rule on Auditing Standard No. 2, An Audit of Internal Control Over Financial Reporting Performed in Conjunction With an Audit of Financial Statements; Correction

April 13, 2004.

#### Correction

On April 8, 2004, the Securities and Exchange Commission issued Release No. 34-49544 to solicit comments on the Public Company Accounting Oversight Board's Proposed Rule on Auditing Standard No. 2, *An Audit of Internal Control Over Financial*

*Reporting Performed in Conjunction with an Audit of Financial Statements*. The last sentence in Section IV of this release incorrectly indicates a 21-day comment period instead of a 30-day comment period for the proposed rule.

Accordingly, the last sentence under the section heading "IV. Solicitation of Comments" should be revised to read "All comments should be submitted on or before May 17, 2004."

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04-8731 Filed 4-16-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-49557; File No. SR-ISE-2004-11]

### Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the International Securities Exchange, Inc. To Amend Its Schedule of Fees To Adopt a \$.10 Per Contract Surcharge for Certain Transactions in Options on Exchange Traded Funds Based on the S&P SmallCap 600 Index and the S&P MidCap 400 Index

April 12, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on April 5, 2004, the International Securities Exchange, Inc. ("ISE" 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. The proposed rule change has been filed by the ISE as establishing or changing a due, fee, or other charge, pursuant to Section 19(b)(3)(A)(ii)<sup>3</sup> of the Act and Rule 19b-4(f)(2)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to adopt a \$.10 per contract surcharge for certain transactions in options on exchange traded funds based on the S&P

SmallCap 600 Index and the S&P MidCap 400 Index. The text of the proposed rule change is available at the ISE 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, the ISE 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 ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

##### A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

###### 1. Purpose

The Exchange is proposing to amend its Schedule of Fees to adopt a \$.10 per contract surcharge for certain transactions in options on exchange traded funds based on the S&P SmallCap 600 Index and the S&P MidCap 400 Index. The Exchange's Schedule of Fees currently has in place a surcharge fee item that calls for a \$.10 per contract fee for transactions in certain licensed products. That surcharge fee item excludes Public Customer Orders.<sup>5</sup> The Exchange recently licensed the right to list options on exchange traded funds based on the S&P SmallCap 600 Index and the S&P MidCap 400 Index. In order to defray the licensing costs associated with listing these two new products, the Exchange is proposing to add these two new products to the surcharge fee item. The Exchange believes that charging participants who trade in options on these products is the most equitable means of recovering the costs of the license. The Exchange proposes to exclude Public Customer Orders from this surcharge fee, because the Exchange believes that competitive pressures in the industry have resulted in the waiver of all transaction fees for customers. Accordingly, this surcharge fee will be charged only with respect to non-Public Customer Orders.

<sup>5</sup> Public Customer Order is defined in Exchange Rule 100(a)(33) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(32) as a person that is not a broker or dealer in securities.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>4</sup> 17 CFR 240.19b-4(f)(2).

## 2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the provisions of Section 6(b) of the Act,<sup>6</sup> in general, and Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among Exchange members.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change does not impose any burden on competition that is 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

The Exchange has not solicited, and does not intend to solicit comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act<sup>8</sup> and Rule 19b-4(f)(2)<sup>9</sup> thereunder, because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609. Comments may also be submitted electronically at the following e-mail address: [rule-comments@sec.gov](mailto:rule-comments@sec.gov). All comment letters should refer to File No. SR-ISE-2004-11. This file number should be included on the subject line

if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to File No. SR-ISE-2004-11 and should be submitted by May 10, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>10</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. 04-8774 Filed 4-16-04; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P019]

#### State of Maine (Amendment #1)

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective April 9, 2004, the above numbered declaration is hereby amended to include Sagadahoc County for Public Assistance in the State of Maine as a disaster area due to damages caused by severe storms, flooding, snow melt and ice jams occurring on December 10, 2003 and continuing through December 31, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is April 5, 2004.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. E4-870 Filed 4-16-04; 8:45 am]

BILLING CODE 8025-01-P

<sup>10</sup> 17 CFR 200.30-3(a)(12).

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #P030]

#### Federated States of Micronesia

As a result of the President's major disaster declaration for Public Assistance on April 10, 2004, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that the State of Yap within the Federated States of Micronesia constitutes a disaster area due to damages caused by Typhoon Sudal occurring on April 8, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on June 9, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 419004, Sacramento, CA 95841-9004.

The interest rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations Without Credit Available Elsewhere .....	2.900
Non-Profit Organizations With Credit Available Elsewhere .....	4.875

The number assigned to this disaster for physical damage is P03008.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: April 12, 2004.

**Herbert L. Mitchell,**  
*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-8728 Filed 4-16-04; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### Public Federal Regulatory Enforcement Fairness Roundtable; Region V Regulatory Fairness Board

The Small Business Administration Region V Regulatory Fairness Board and the SBA Office of the National Ombudsman will hold a Public Roundtable on Tuesday, April 27, 2004 at 8 a.m. at the American Family Insurance, National Headquarters, Building A (Auditorium), 6000 American Parkway, Madison, WI 53738-0001, to provide small business owners and representatives of trade associations with an opportunity to share information concerning the

<sup>6</sup> 15 U.S.C. 78f(b).

<sup>7</sup> 15 U.S.C. 78f(b)(4).

<sup>8</sup> 15 U.S.C. 78(s)(b)(3)(A)(ii).

<sup>9</sup> 17 CFR 240.19b-4(f)(2).

federal regulatory enforcement and compliance environment.

Anyone wishing to attend or to make a presentation must contact Becky Freund in writing or by fax, in order to be put on the agenda. Becky Freund, Economic Development Specialist, SBA Madison District Office, 740 Regent Street, Suite 100, Madison, WI 53715, phone (608) 441-5519, fax (202) 481-0411, e-mail: [becky.freund@sba.gov](mailto:becky.freund@sba.gov).

For more information, see our Web site at <http://www.sba.gov/ombudsman>.

Dated: April 13, 2004.

Peter Sorum,

Senior Advisor, Office of the National Ombudsman.

[FR Doc. 04-8729 Filed 4-16-04; 8:45 am]

BILLING CODE 8025-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Advisory Circular (AC) 91-63C, Temporary Flight Restrictions (TFRs)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of issuance of Advisory Circular 91-63C.

**SUMMARY:** This action announces the issuance of Advisory Circular (AC) 91-63C, "Temporary Flight Restrictions (TFRs)." This AC has been revised to include information regarding each type of regulatory TFR that may be issued by the FAA. Like all ACs, this revised AC is not regulatory but provides guidance and policies regarding the intent and application of these TFRs. This AC cancels AC 19-63B.

**DATES:** Advisory Circular 91-63C was issued by the Director of System Operations and Safety, on March 29, 2004, and will be effective on May 20, 2004.

**How To Obtain Copies:** A paper copy of AC-91-63C may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Office, DOT Warehouse, SVC-121.23, Ardmore East Business Center, 3341Q 75th Avenue, Landover, MD 20785, telephone 301-322-4779, or by faxing your request to the warehouse at 301-386-5394. The AC will also be available on the Internet at <http://www.faa.gov/ats/ata/ai/index.html>.

Issued in Washington, DC, on March 31, 2004.

Sabra Kaulia,

Director of System Operations and Safety.

[FR Doc. 04-8505 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice Concerning the Use of Passenger Facility Charge Revenue for Debt Service on Non Eligible Airport-Related Projects

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

**SUMMARY:** Section 122 of the Vision 100—Century of Aviation Reauthorization Act, (Pub. L. 108-176, December 12, 2003) reauthorizing the Federal Aviation Administration (FAA) provides the Secretary of Transportation discretion to allow Passenger Facility Charge (PFC) revenue to be used for making payments for debt service, on debt incurred to carry out a project that is not an eligible airport-related project when a determination is made that such use is necessary due to the financial need of the airport. This notice describes how this new position will be implemented administratively.

**DATES:** This notice becomes effective on April 19, 2004.

**ADDRESSES:** This is an informational notice only and comments are not being solicited at this time.

#### FOR FURTHER INFORMATION CONTACT:

Barry Molar, Manager, Airports Financial Assistance Division (APP-500), Room 620, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8827; or Sheryl Scarborough, Financial Analysis and Passenger Facility Charge Branch (APP-510), Room 619, Airports Financial Assistance Division, Office of Airport Planning and Programming, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8825.

**SUPPLEMENTARY INFORMATION:** The Aviation Safety and Capacity Expansion Act of 1990, codified under 49 USC 40117, created the PFC program on November 5, 1990. Under the PFC statute, the FAA may authorize a public agency to impose a PFC of \$1, \$2, \$3, \$4, or \$4.50 for each enplaned passenger at those commercial service airports that the public agency controls. The public agency can then use this PFC revenue to finance FAA-approved eligible airport-related projects. The FAA's regulations that govern the PFC program are located in 14 CFR part 158 and became effective on June 28, 1991.

To impose a PFC, use PFC revenue or amend an approved PFC, a public agency operating an airport must apply for FAA approval by following the application process set forth in Part 158. These rules do not differ depending on the size of the airport, the type of project or whether the FAA has previously reviewed the projects details.

On December 12, 2003, President Bush signed the Vision 100—Century of Aviation Reauthorization Act (Pub. L. 108-176) (Vision 100) into law. Section 122 of Vision 100 includes a provision that allows PFC revenue to be used for making payments for debt service on debt incurred to carry out a project that is not an eligible airport-related project when the Secretary of Transportation determines that such use is necessary due to the financial need of the airport. By delegation from the Secretary of Transportation, the FAA has responsibility to administer the PFC program in its entirety.

The statutory provision provides:

SEC. 122. USE OF FEES TO PAY DEBT SERVICE.

Section 40117(b) is further amended by adding at the end of the following: "(6) DEBT SERVICE FOR CERTAIN PROJECTS.—In addition to the uses specified in paragraphs (1) and (4), the Secretary may authorize a passenger facility fee imposed under paragraph (1) and (4) to be used for making payments for debt service on indebtedness incurred to carry out at the airport a project that is not an eligible airport-related project if the Secretary determines that such use is necessary due to the financial need of the airport."

In implementing Section 122, the FAA will process applications for funding in the same manner as traditional PFC applications. The application process will include careful review of the financial need of the individual public agency applicant. The FAA is electing to use the existing process because a determination of need is best handled on a case-by-case basis, focusing on the particular financial situation of the individual public agency submitting the PFC application. This process develops a record appropriate for the FAA to make the determination under Section 122 as to whether funding is necessary due to the financial need of the airport.

All PFC applications are developed and submitted under the guidance offered in 14 CFR 158.25. Public agencies are well acquainted with the information required for inclusion in the PFC application, including documentation of the required consultation process with air carriers. Once the application and supporting attachments have been submitted to the

FAA, the Administrator renders a determination that the PFC application is substantially complete or not substantially complete. Following the initial determination for completeness and notification to the public agency, the FAA publishes a notice in the **Federal Register** advising the public of the application and inviting comment. At that time the public agency must make the application, notice and other documents relevant to the application available for inspection upon request, and may publish notice in a newspaper of general circulation in the area where the airport is located. After review of the application and public comments, the Administrator issues a final decision approving or disapproving the application in whole or in part, not later than 120 days from receipt of the application by the FAA Airports office.

Where an application requires a determination of need under Section 122 of Vision 100, a public agency needs to present a thorough financial analysis in accordance with 14 CFR 158.25(b) and (c). If an airport has developed a financial prospectus that would demonstrate its financial need or a financial recovery plan that identifies all available resources, it is encouraged to submit these documents with the application.

The public agency may wish to include the following types of information as indicators of its financial need in its PFC application:

- Evidence of a change in passenger enplanements for a carrier;
  - Documentation of negative actions taken on the public agency's bond rating;
  - Discussion of the inability of the public agency to meet bond payments and associated requirements;
  - Discussion of alternative sources of revenue available to the public agency such as grant funds, state funds, concession revenue, and revenue from other carriers serving the airport.
  - In the case of concession and carrier revenue, discuss the impact of any necessary increases to the rate base or landing fees as a result of the loss of revenue from a change in economic circumstances, for example, the bankruptcy or financial troubles of a carrier;
  - Discussion of actions taken by the public agency to reduce its costs such as operational changes, personnel actions, or capital project deferment;
  - Any other information the public agency believes will document the financial hardship of the airport.
- All information submitted by the public agency through the PFC application process will be considered

by the FAA in making a final agency decision. This final agency decision will include a discussion of the financial needs of the public agency under Section 122 of the Vision 100 Act.

Issued in Washington, DC, on April 9, 2004.

**Robert Yatzek,**

*Acting Director, Office of Airport Planning and Programming.*

[FR Doc. 04-8818 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Notice of Availability of Draft Environmental Impact Statement (DEIS), Notice of Public Comment Period and Schedule of Public Workshop/Hearing for Master Plan Development Including Runway Safety Area Enhancement/Extension of Runway 12-30 and Other Improvements at Gary/Chicago International Airport located in Gary, IN

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of availability, notice of comment period, notice of public workshop/hearing.

**SUMMARY:** The Federal Aviation Administration (FAA) is issuing this notice to advise the public that a Draft Environmental Impact Statement (DEIS)—Master Plan Development Including Runway Safety Area Enhancement/Extension of Runway 12-30 and Other Improvements, Gary/Chicago International Airport, has been prepared and is available for public review and comment. Written requests for the DEIS and written comments on the DEIS can be submitted to the individual listed in the section **FOR FURTHER INFORMATION CONTACT**. A public workshop/hearing will be held on May 25, 2004. The public comment period will commence on April 16, 2004 and will close on June 11, 2004.

**Public Comment and A Workshop/Hearing:** The start of the public comment period on the DEIS will be April 16, 2004 and will end on June 11, 2004 (which includes the Council on Environmental Quality's required 45-day public comment period from April 23, 2004 to June 7, 2004). A Public Workshop/Hearing will be held on May 25, 2004. Public comments will begin at 3 p.m. (CDST). The Public Workshop/Hearing will last till 7 p.m. (CDST). The location for the public workshop/hearing is the Terminal Building at the

Gary/Chicago International Airport, 6001 Industrial Highway, Gary, Indiana. Copies of the DEIS may be viewed during regular business hours at the following locations:

1. Gary/Chicago International Airport, 6001 West Industrial Highway, Gary, Indiana 46406.
2. Chicago Airports District Office, Room 312, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.
3. Gary Public Library, 220 West 5th Avenue, Gary, Indiana 46402.
4. Hammond Public Library, 564 State Street, Hammond, Indiana 46320.
5. East Chicago Main Library, 2401 East Columbus Drive, East Chicago, Indiana 46312.
6. IU Northwest Library, 3400 Broadway, Gary, Indiana 46408.
7. Lake County Main Library, 1919 West 81st Avenue, Merrillville, Indiana 46410-5382.
8. Purdue Calumet Library, 2200 169th Street, Hammond, Indiana 46323-2094.

#### FOR FURTHER INFORMATION CONTACT:

Prescott C. Snyder, Airports Environmental Program Manager, Federal Aviation Administration, Airports Division, Room 315, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. Snyder can be contacted at (847) 294-7538 (voice), (847) 294-7036 (facsimile) or by e-mail at [9-AGL-GYY-EIS-Project@faa.gov](mailto:9-AGL-GYY-EIS-Project@faa.gov).

**SUPPLEMENTARY INFORMATION:** At the request of the Gary/Chicago Airport Authority, the FAA is preparing an Environmental Impact Statement. The review will address specific improvements at the Gary/Chicago International Airport as identified during the 2001 Airport Master Plan process and the 2003 Railroad Relocation Study, and shown on the 2004 Airport Layout Plan. The following improvements have been grouped into four categories and are identifying as ripe for review and decision: (1) Improvements associated with the existing Runway 12-30, the primary air carrier runway at the airport, relocate the E.J. & E. Railroad, acquire land northwest of the airport to allow for modifications to the runway safety area, relocate the airside perimeter roadway (including providing a southwest access roadway), relocate the Runway 12-30 navids, improve the Runway Safety Area for Runway 12, relocate the Runway 12 threshold to remove prior displacement, and acquire land southeast of the airport, located within or immediately adjacent to the runway protection zone; (2) Extension of Runway 12-30, (1356 feet), relocate the

Runway 12-30 nav aids, extend parallel taxiway A to the new end of Runway 12, construct deicing hold pads on Taxiway A at Runway 12 and Runway 30, and develop two high-speed exit taxiways; (3) Expansion of the existing passenger terminal to accommodate projected demands; and (4) analysis of sites adjacent to the extended runway for potential aviation related development, including a future new passenger terminal and air cargo area.

The purpose and need for these improvements is reviewed in the DEIS. All reasonable alternatives will be considered including the no-action alternative.

Comments from interested parties on the DEIS are encouraged and may be presented verbally at a public workshop/hearing or may be submitted in writing to the FAA at the address listed in the section entitled **FOR FURTHER INFORMATION CONTACT**. The comment period will close on June 11, 2004.

Issued in Des Plaines, Illinois, on April 9, 2004.

**Philip M. Smithmeyer,**

Manager, Chicago Airports District Office, FAA, Great Lakes Region.

[FR Doc. 04-8823 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Change Notice for RTCA Program Management Committee

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Program Management Committee meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

**DATES:** The meeting will be held April 29, 2004 starting at 9 a.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 850, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The revised agenda will include:

- April 29:

- Opening Session (Welcome and Introductory remarks, Review/Approve Summary of Previous Meeting)

- Publication Consideration/Approval.

- Final Draft, Revised DO-267, *Minimum Aviation System Performance Standards (MASPS) for Flight Information Service—Broadcast (FIS-B) Data Link*, RTCA Paper No. 050-04/PMC-315, prepared by SC-195.

- Final Draft, *Safety and Performance Requirements Standard for Air Traffic Data Link Services in Continental Airspace (Continental SPR Standard)*, RTCA Paper No. 051-04/PMC-316, prepared by SC-189.

- Discussion:

- Special Committee 147, Traffic Alert and Collision Avoidance (TCAS)

- Discuss/Approve Revised Terms of Reference

- Discuss/Approve Committee Leadership

- Special Committee 186, Automatic Dependent Surveillance-Broadcast

- Discuss/Approve Terms of Reference

- Special Committee 201, Aeronautical Operational Control (AOC) Message Hazard Mitigation (AMHM)

- Discuss/Approve Committee Leadership

- Special Committee Chairman's Report

- Action Item Review:

- Review/Status—All open auction items

- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 31, 2004.

**Robert Zoldos,**

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 04-8819 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### RTCA Special Committee 172: Future Air-Ground Communications in the Very High Frequency (VHF) Aeronautical Data Band (118-137 MHz)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 172 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 172: Future Air-Ground Communications in the VHF Aeronautical Data Band (118-137 MHz).

**DATES:** The meeting will be held May 4-5, 2004 from 9 a.m. to 5 p.m.

**ADDRESSES:** The meeting will be held at National Business Aviation Association, 1200 18th Street, NW., Suite 400, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, SW., Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. appendix 2), notice is hereby given for a Special Committee 172 meeting. The agenda will include:

- May 4:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review of Agenda, Review Summary of Previous Meeting)
  - Convene Working Group-2
  - Draft DO-224B, *Signed-in-Space Minimum Aviation System Performance Standard (MASPS) for Advanced VHF Digital Data Communications Including Compatibility With Digital Voice Status* and proposed changes working papers.
  - Traceability Data Base, Standard and Recommended Practices (SARPS) to draft DO-224B
  - Cross-reference DO-271B changes to draft DO-224B
- May 5:
  - Reconvene WG-2 as necessary, per above
  - Convene Working Group-3
  - RF Susceptibility Exclusion Band
  - ED-23B/DO-186A
  - Reconvene Plenary
  - Review relevant activities
  - International Civil Aviation Organization (ICAO) Aeronautical Mobile Communications Panel Work
  - NEXCOM activities
  - EUROCAE WG-47 status and issues
  - Others as appropriate

- Future work for SC-172
- Closing Plenary Session (Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 8, 2004.

Robert Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 04-8824 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### RTCA Special Committee 189/ EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 189/EUROCAE Working Group 53 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 189/EUROCAE Working Group 53: Air Traffic Services (ATS) Safety and Interoperability Requirements.

**DATES:** The meeting will be held May 3-7, 2004 starting at 9 am.

**ADDRESSES:** The meeting will be held at ARINC, Inc. 14980 2551 Riva Road, Annapolis, MD 21401; Tel: 410-266-4000.

**FOR FURTHER INFORMATION CONTACT:** (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>; (2) ARINC, Inc. Contact, Vic J. Nagowski; telephone 410-266-4229; fax 602-436-5575; e-mail [VJN@arinc.com](mailto:VJN@arinc.com).

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix 2), notice is hereby given for a Special Committee 189/EUROCAE Working Group 53 meeting. The agenda will include:

- May 3:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/

Approval of Meeting Agenda, Review/ Approval of Meeting Minutes)

- Sub-group and related reports; SC-189/WG-53 co-chairs progress report and review of work program

- May 4-6:
- Sub-group Meetings
- Review and resolve comments on PU-24 V3.0, Oceanic Safety and Performance Requirements Standards
- Prepare Revisions to DO-264/ED-78A

- Review and Resolve Comments on Revisions to INTEROP Standards

- May 7:
- Closing Plenary Session (Welcome and Introductory Remarks, Review/ Approval of Meeting Agenda)

- Sub-group and related reports; Position papers planned for plenary agreement; SC-189/WG-53 co-chair progress report and wrap-up

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on March 31, 2004.

Robert Zoldos,

FAA System Engineer, RTCA Advisory Committee.

[FR Doc. 04-8820 Filed 4-16-04; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### RTCA Special Committee 202: Portable Electronic Devices

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 202 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

**DATES:** The meeting will be held on May 3-6, 2004 from 9 a.m. to 4:30 p.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L Street, NW., Suite 805, Washington, DC 20036-5133.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036-5133; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., appendix 2), notice is hereby given for a Special Committee 202 meeting. The agenda will include:

- May 3:
  - Opening Plenary Session (Welcome and Introductory Remarks, Review Agenda, Review/Approve previous Common Plenary Summary, Review Open Action Items)
  - Report from Eurocae Working Group WG-58, meeting March 10-11, 2004
  - Report from Consumer Electronic Association (CEA) Discovery Group
  - Update from Regulatory Affairs
  - Overview of comments received on Draft 3.1 of the Phase 1 document and Working Group Allocations
  - Working Groups report out/each working group will cover the following topics:
    - Overview and disposition of comments received on draft document
    - Conclusions and Recommendations for the overall document
    - Coverage of TOR
    - What else remains to be done to complete Phase 1 document
    - Working Group 1 (PEDs characterization, test, and evaluation)
    - Working Group 2 (Aircraft test and analysis)
    - Working Group 3 (Aircraft systems susceptibility)
    - Working Group 4 (Risk assessment, practical application, and final documentation)
    - Human Factors sub-group
    - Process Checklist sub-group
  - May 4:
  - Continue Plenary Session
  - Review open actions on document draft preparation for FRAC
  - Plan for start of Phase 2 if schedule and time permit
  - Working Groups breakout sessions as required
  - May 5:
  - Continue Plenary Session
  - Review open actions on document draft preparation for FRAC
  - Plan for start of Phase 2 if schedule and time permit
  - Working Groups breakout sessions as required
  - Committee consensus on content of draft document
  - Consensus on Conclusions and Recommendations
  - Forward to RTCA with SC-202 recommendation to release for Final Review and Comment
  - Closing Session (Other Business, Date and Place of Next Meeting, Closing Remarks, Adjourn)
- Attendance is open to the interested public but limited to space availability.



With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 7, 2004.

**Robert Zoldos,**

*FAA System Engineer, RTCA Advisory Committee.*

[FR Doc. 04-8821 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### **RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of RTCA Special Committee 147 meeting.

**SUMMARY:** The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 147: Minimum Operational Performance Standards for Traffic Alert and Collision Avoidance Systems Airborne Equipment.

**DATES:** The meeting will be held May 11-13, 2004 starting at 9 a.m.

**ADDRESSES:** The meeting will be held at RTCA, Inc., 1828 L St., NW., Suite 805, Washington, DC 20036.

**FOR FURTHER INFORMATION CONTACT:** RTCA Secretariat, 1828 L St., NW., Washington, DC 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 147 meeting. The agenda will include:

- May 11:
  - Opening Session (Welcome and Introductory Remarks, Review/Approve Summary of Previous Meeting, Review of Open Action Items)
  - Special Committee 147 Revised Terms of Reference
  - Working Group Structure
  - FAA Perspectives and Objectives
  - Operational Role of Traffic Alert and Collision Avoidance System

(TCAS/Airborne Collision Avoidance System (ACAS)

- Relationship of TCAS of Aircraft Surveillance Applications (ASA)/Airborne Separation Assistance Systems (ASAS)/Automatic Dependent Surveillance-Broadcast (ADS-B)

- Operations and Surveillance Working Group Activities

- May 12:

- Requirements Working Group (RWG) Activities

- Cockpit Display of Traffic Information (CDTI); SC-186 Developing Minimum Operational Performance Standards (MOPS)

- FAA/SC-147 Knowledge Services Network (KSN)

- May 13:

- Working Group Breakout/Organizational Meeting

- Closing Session (Future Actions/Activities, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on April 2, 2004.

**Robert Zoldos,**

*FAA System Engineer, RTCA Advisory Committee.*

[FR Doc. 04-8822 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### **Environmental Assessment or Environmental Impact Statement: Rutherford County, NC**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental assessment or environmental impact statement will be prepared for a proposed highway project in Rutherford County, North Carolina.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Emily O. Lawton, Operations Engineer, Federal Highway Administration, 310 New Bern Avenue, Suite 410, Raleigh, North Carolina 27601, Telephone: (919) 856-4350.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental assessment (EA) or environmental impact statement (EIS) addressing proposed improvements to the U.S. 221 corridor from U.S. 74 Bypass to SR 1355 (Mountain Creek Road) in Rutherford County. The proposed action would involve the construction of a multi-lane divided, controlled access highway, possibly on new location. The proposed project will be approximately 12.3 miles long depending on the alternative chosen. The proposed facility is considered necessary to reduce congestion, improve safety, and improve travel time for traffic using the U.S. 221 corridor in the vicinity of Rutherfordton. The proposed action is consistent with the thoroughfare plan approved by the towns of Rutherfordton and Spindale, Rutherford County, and the North Carolina Department of Transportation.

Alternatives under consideration include:

1. Do-Nothing
2. Alternative Modes of Transportation
3. Construction on New Alignment
4. Improve existing U.S. 221

Letters describing the proposed action and soliciting comments have been sent to appropriate Federal, State and local agencies. Public information meetings, meetings with local officials, and a public hearing will be held. Information on the time and place of the public information meetings and public hearing will be provided in the local news media. The EA or draft EIS will be available for public and agency review and comment prior to the public hearing.

To ensure the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: April 5, 2004.

**Emily O. Lawton,**

*Operations Engineer, Federal Highway Administration, Raleigh, North Carolina.*

[FR Doc. 04-8619 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-22-M**

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****Proposed Agency Information Collection Activities; Comment Request**

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

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collections and their expected burdens. The *Federal Register* notice with a 60-day comment period soliciting comments on the following collections of information was published on February 17, 2004 (69 FR 7535).

**DATES:** Comments must be submitted on or before May 19, 2004.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Brogan, Office of Planning and Evaluation Division, RRS-21, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 25, Washington, DC 20590 (telephone: (202) 493-6292), or Debra Steward, Office of Information Technology and Productivity Improvement, RAD-20, Federal Railroad Administration, 1120 Vermont Ave., NW., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6139). (These telephone numbers are not toll-free.)

**SUPPLEMENTARY INFORMATION:** The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104-13, section 2, 109 Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501-3520), and its implementing regulations, 5 CFR Part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On February 17, 2004, FRA published a 60-day notice in the *Federal Register* soliciting comment on ICRs that the agency was seeking OMB approval. 69 FR 7535. FRA received no comments after issuing this notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The revised requirements are being submitted for clearance by OMB as required by the PRA.

**Title:** Passenger Train Emergency Preparedness.

**OMB Control Number:** 2130-0545.

**Type of Request:** Extension of a currently approved collection.

**Affected Public:** Railroads.

**Form(s):** None.

**Abstract:** The collection of information is due to the passenger train emergency regulations set forth in 49 CFR Parts 223 and 239 which require railroads to meet minimum Federal standards for the preparation, adoption, and implementation of emergency preparedness plans connected with the operation of passenger trains, including freight railroads hosting operations of rail passenger service. The regulations require luminescent or lighted emergency markings so that passengers and emergency responders can readily determine where the closest and most accessible exit routes are located and how the emergency exit mechanisms are operated. Windows and doors intended for emergency access by responders for extrication of passengers must be marked with retro-reflective material so that emergency responders, particularly in conditions of poor visibility, can easily distinguish them from the less accessible doors and windows. Records of the inspection, maintenance, and repair of emergency windows and door exits, as well as records of operational efficiency tests, will be used to ensure compliance with the regulations.

**Annual Estimated Burden:** 4,595 hours.

**Addressee:** Send comments regarding these information collections to the

Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC, 20503, Attention: FRA Desk Officer.

*Comments are invited on the following:* Whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the *Federal Register*.

**Authority:** 44 U.S.C. 3501-3520.

Issued in Washington, DC, on April 13, 2004.

**Kathy A. Weiner,**

*Director, Office of Information Technology and Support Systems, Federal Railroad Administration.*

[FR Doc. 04-8711 Filed 4-16-04; 8:45 am]

**BILLING CODE 4910-06-P**

**DEPARTMENT OF THE TREASURY****Departmental Offices; Debt Management Advisory Committee Meeting**

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th and Pennsylvania Avenue, NW., Washington, DC, on May 4, 2004 at 10 a.m. of the following debt management advisory committee: Treasury Borrowing Advisory Committee of The Bond Market Association ("Committee").

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Pub. L. 103-202, section 202(c)(1)(B)(31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, 10(d) and vested in me by

Treasury Department Order No. 101-05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Pub. L. 103-202, section 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, section 3.

Although the Treasury's final announcement of financial plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions, financing estimates and technical charts. This briefing will give the press an opportunity to ask questions about financing projections and technical charts. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Tim Bitsberger, Deputy Assistant Secretary, Federal Finance, at (202) 622-2245.

Dated: April 14, 2004.

**Brian C. Roseboro,**

*Assistant Secretary, Financial Markets.*

[FR Doc. 04-8771 Filed 4-16-04; 8:45 am]

BILLING CODE 4810-25-M

## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### Agency Information Collection Activities: Submission for OMB Review; Comment Request

**AGENCY:** Office of the Comptroller of the Currency (OCC), Treasury.

**ACTION:** Notice and request for comment.

**SUMMARY:** The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless the information collection displays a currently valid OMB control number. The OCC is soliciting comment concerning its renewal, without change, of an information collection titled "Disclosure of Financial and Other Information by National Banks—12 CFR 18." The OCC also gives notice that it has sent the information collection to OMB for review and approval.

**DATES:** You should submit your comments to the OCC and the OMB Desk Officer by May 19, 2004.

**ADDRESSES:** You should direct your comments to:

OCC: Communications Division, Office of the Comptroller of the Currency, Public Reference Room, Mailstop 1-5, Attention: 1557-0182, 250 E Street, SW., Washington, DC 20219. You are encouraged to submit your comments by facsimile transmission or electronic mail. Comments may be sent by facsimile transmission to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Reference Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043. Additionally, you may request copies of comments via electronic mail or CD-ROM by contacting the OCC's Public Reference Room at <http://www.foia.pa@occ.treas.gov>.

OMB: Mark Menchik, OMB Desk Officer, Control Number 1557-0182, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503. Alternatively, you may send a comment by facsimile transmission to (202) 395-6974 or by electronic mail to [mnenchik@omb.eop.gov](mailto:mnenchik@omb.eop.gov).

**FOR FURTHER INFORMATION CONTACT:** You can request additional information or a copy of the information collection from John Ference, Acting Clearance Officer, or Camille Dixon, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**SUPPLEMENTARY INFORMATION:** The OCC is proposing to extend OMB approval of the following information collection:

**Title:** Disclosure of Financial and Other Information by National Banks—12 CFR 18.

**OMB Number:** 1557-0182.

**Form Number:** None.

**Abstract:** This submission covers 12 CFR Part 18, an existing regulation, and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

The information collections contained in part 18 are found in 12 CFR 18.4(c) and 18.8. Section 18.4(c) permits a national bank to prepare an optional narrative for inclusion in its annual disclosure statement. Section 18.8 requires that a national bank promptly furnish materials in response to a request.

This disclosure of information is needed to facilitate informed decision making by existing and potential customers and investors by improving public understanding of and confidence in, the financial condition of an individual national bank. Depositors, security holders, and the general public use the information in evaluating the condition of, and deciding whether to do business with, a particular national bank. Disclosure and increased public knowledge complements OCC's efforts to promote the safety and soundness of national banks and the national banking system.

**Type of Review:** Extension, without change, of a currently approved collection.

**Affected Public:** Businesses or other for-profit.

**Estimated Number of Respondents:** 2,150.

**Estimated Total Annual Responses:** 2,150.

*Frequency of Response:* Annual.  
*Estimated Total Annual Burden:* 1,075 hours.

*Comments:* The OCC has a continuing interest in the public's opinion regarding collections of information. All comments will become a matter of public record. The OCC received no comments in response to its initial **Federal Register** notice (69 FR 390; January 5, 2004) regarding renewal of this information collection. Nevertheless, members of the public still are invited to submit comments regarding any aspect of this collection of information. Comments are invited specifically on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the 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 on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 13, 2004.

**Mark Tenhundfeld,**

*Assistant Director, Legislative & Regulatory Activities Division.*

[FR Doc. 04-8746 Filed 4-16-04; 8:45 am]

BILLING CODE 4810-33-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

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

**ACTION:** Notice.

**SUMMARY:** An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted in Las Vegas, Nevada. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

**DATES:** The meeting will be held Friday, May 14, 2004 and Saturday, May 15, 2004.

**FOR FURTHER INFORMATION CONTACT:** Audrey Y. Jenkins at 1-888-912-1227 (toll-free), or 718-488-2085 (non toll-free).

**SUPPLEMENTARY INFORMATION:** Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Friday, May 14, 2004 from 1:30 p.m. to 5:30 p.m. p.t. and Saturday, May 15, 2004 from 8 a.m. to 12 p.m. p.t. in Las Vegas, Nevada at the Flamingo Las Vegas Hotel located at 3555 Las Vegas Blvd. South, Las Vegas, NV 89109-8919. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1-888-912-1227 or (718) 488-2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include: Various IRS issues.

**Note:** Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: April 13, 2004.

**Bernard Coston,**

*Director, Taxpayer Advocacy Panel.*

[FR Doc. 04-8829 Filed 4-16-04; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### Office of Research and Development; Government Owned Invention Available for Licensing and/or Cooperative Research and Development Agreement (CRADA) Collaboration

**AGENCY:** Office of Research and Development, Department of Veterans Affairs.

**ACTION:** Notice of government owned invention available for licensing.

**SUMMARY:** The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend

market coverage for U.S. companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development (12TT), 810 Vermont Avenue, NW., Washington, DC 20420; fax: (202) 254-0473; e-mail at [bob.potts@hq.med.va.gov](mailto:bob.potts@hq.med.va.gov). Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents and published applications may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** The invention available for licensing is: VHA Docket No. 04-032 entitled "SIMPLE (LITAF/PIG7) Mutations Associated with a Human Demyelinating Neuropathy (Charcot-Marie-Tooth Disease Type 1C)".

Dated: April 7, 2004.

**Anthony J. Principi,**

*Secretary, Department of Veterans Affairs.*

[FR Doc. 04-8762 Filed 4-16-04; 8:45 am]

BILLING CODE 8320-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### Office of Research and Development; Government Owned Invention Available for Licensing

**AGENCY:** Office of Research and Development, Department of Veterans Affairs.

**ACTION:** Notice of government owned invention available for licensing.

**SUMMARY:** The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:** Technical and licensing information on the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development (12TT), 810 Vermont Avenue, NW., Washington, DC 20420; fax: (202) 254-0473; e-mail at

*bob.potts@hq.med.va.gov*. Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** The invention available for licensing is: U.S. Patent Application No. 10/644,797 "Serum Macrophage Migration Inhibitory Factor (MIF) as a Marker for Prostate Cancer".

Dated: April 7, 2004.

**Anthony J. Principi,**  
*Secretary, Department of Veterans Affairs.*  
[FR Doc. 04-8763 Filed 4-16-04; 8:45 am]

BILLING CODE 8320-01-P

## DEPARTMENT OF VETERANS AFFAIRS

### Office of Research and Development; Government Owned Invention Available for Licensing

**AGENCY:** Office of Research and Development, Department of Veterans Affairs.

**ACTION:** Notice of government owned invention available for licensing.

**SUMMARY:** The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

**FOR FURTHER INFORMATION CONTACT:**  
Technical and licensing information on

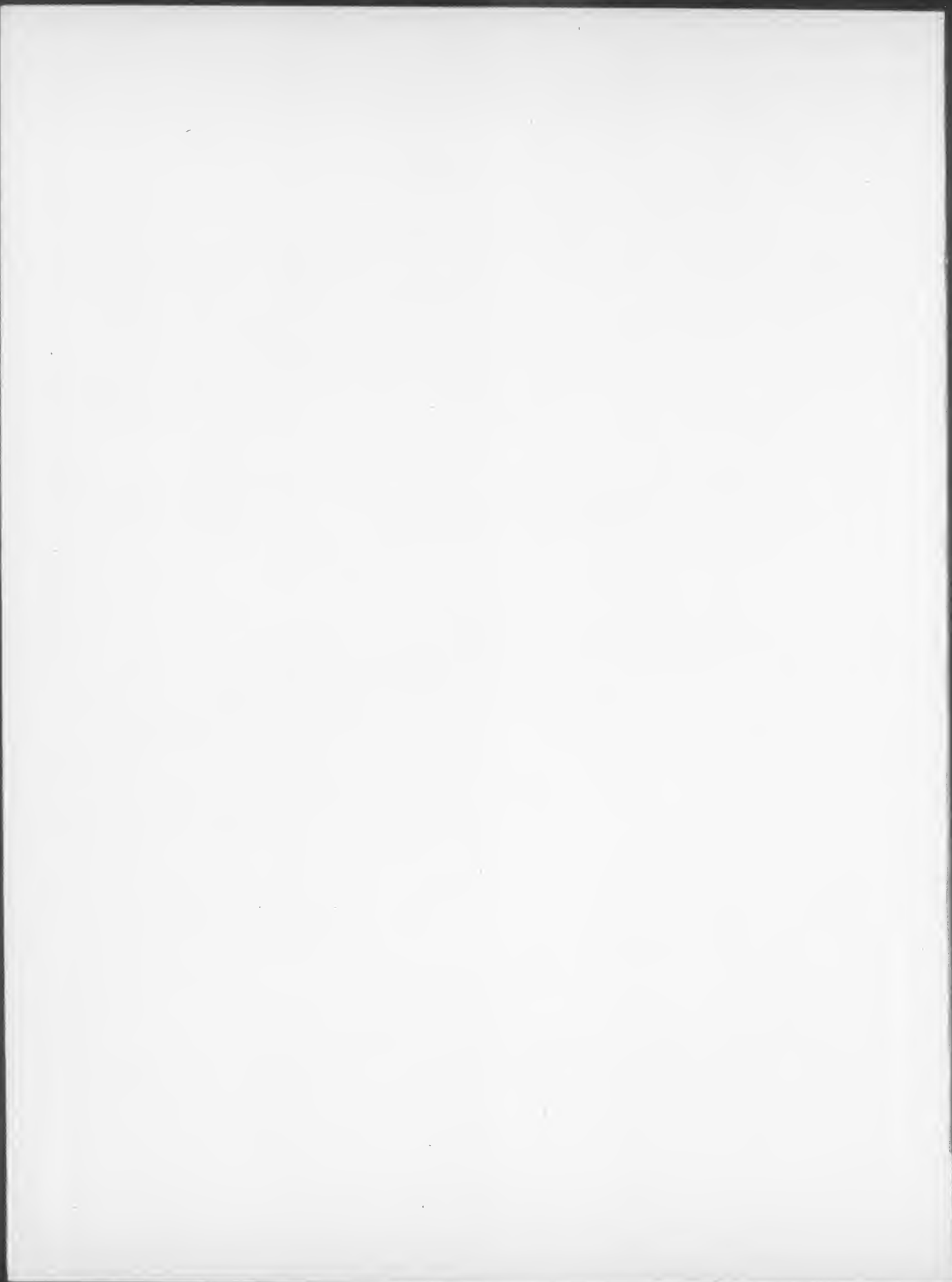
the invention may be obtained by writing to: Robert W. Potts, Department of Veterans Affairs, Director Technology Transfer Program, Office of Research and Development (12TT), 810 Vermont Avenue, NW., Washington, DC 20420; fax: (202) 254-0473; e-mail at *bob.potts@hq.med.va.gov*. Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** The invention available for licensing is: U.S. Provisional Patent Application No. 60/518,304 "Chronic Lymphocytic Leukemia Treatment".

Dated: April 7, 2004.

**Anthony J. Principi,**  
*Secretary, Department of Veterans Affairs.*  
[FR Doc. 04-8764 Filed 4-16-04; 8:45 am]

BILLING CODE 8320-01-P





# Federal Register

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Monday,  
April 19, 2004

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Part II

## Environmental Protection Agency

40 CFR Part 63

National Emission Standards for  
Hazardous Air Pollutants: Surface Coating  
of Plastic Parts and Products; Final Rule

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 63**

[OAR-2002-0074; FRL-7554-4]

RIN 2060-AG57

**National Emission Standards for Hazardous Air Pollutants: Surface Coating of Plastic Parts and Products****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This action promulgates national emission standards for hazardous air pollutants (NESHAP) for plastic parts and products surface coating operations located at major sources of hazardous air pollutants (HAP). The final rule implements section 112(d) of the Clean Air Act (CAA) by requiring these operations to meet HAP emission standards reflecting the application of the maximum achievable control technology (MACT). The final rule will protect air quality and promote the public health by reducing emissions of HAP from facilities in the plastic parts and products surface coating source category. The organic HAP emitted by these operations include methyl ethyl

ketone (MEK), methyl isobutyl ketone (MIBK), toluene, ethylene glycol monobutyl ether (EGBE) and other glycol ethers, and xylenes. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation of the lung, skin, and mucous membranes, and effects on the central nervous system, liver, and heart. In general, these findings have only been shown with concentrations higher than those typically in the ambient air. The final standards are expected to reduce nationwide organic HAP emissions from major sources in this source category by approximately 80 percent.

**DATES:** The final rule is effective April 19, 2004. The incorporation by reference of certain publications listed in the final rule is approved by the Director of the Federal Register as of April 19, 2004.

**ADDRESSES:** *Docket.* Docket ID No. OAR-2002-0074 (formerly Docket No. A-99-12) is located at the EPA Docket Center, EPA West (6102T), 1301 Constitution Avenue, NW., Room B-102, Washington, DC 20460.

*Background Information Document.* A background information document (BID) for the promulgated NESHAP may be obtained from the docket; the U.S. EPA Library (C267-01), Research Triangle Park, NC 27711, telephone (919) 541-2777; or from the National Technical

Information Service, 5285 Port Royal Road, Springfield, VA 22161, telephone (703) 487-4650. Refer to "National Emission Standards for Hazardous Air Pollutants (NESHAP): Surface Coating of Plastic Parts and Products-Summary of Public Comments and Responses on Proposed Rule" (EPA-453/R-03-007).

**FOR FURTHER INFORMATION CONTACT:** Ms. Kim Teal, Coatings and Consumer Products Group, Emission Standards Division (C539-03), U.S. EPA, Research Triangle Park, NC 27711; telephone number (919) 541-5580; facsimile number (919) 541-5689; electronic mail address: teal.kim@epa.gov.

**SUPPLEMENTARY INFORMATION:** *Regulated Entities.* The source category definition includes facilities that apply coatings to plastic parts and products. In general, facilities that coat plastic parts and products are covered under the North American Industrial Classification System (NAICS) codes listed in Table 1. However, facilities classified under other NAICS codes may be subject to the final standards if they meet the applicability criteria. Not all facilities classified under the NAICS codes in the following table will be subject to the final standards because some of the classifications cover products outside the scope of the NESHAP for plastic parts and products.

TABLE 1.—CATEGORIES AND ENTITIES POTENTIALLY REGULATED BY THE FINAL RULE

Category	NAICS	Examples of potentially regulated entities
Industrial .....	337214	Office furniture, except wood.
	32614, 32615	Plastic foam products (e.g., pool floats, wrestling mats, life jackets).
	326199	Plastic products not elsewhere classified (e.g., name plates, coin holders, storage boxes, license plate housings, cosmetic caps, cup holders).
	333313	Office machines.
	33422	Radio and television broadcasting and communications equipment (e.g., cellular telephones).
	336211	Motor Vehicle Body Manufacturing.
	336399	Motor vehicle parts and accessories.
	336212	Truck Trailer Manufacturing.
	336213	Motor Home Manufacturing.
	336214	Travel Trailer and Camper Manufacturing.
	336999	Transportation equipment not elsewhere classified (e.g., snowmobile hoods, running boards, tractor body panels, personal watercraft parts).
	339111, 339112	Medical equipment and supplies.
	33992	Sporting and athletic goods.
	33995	Signs and advertising specialties.
339999	Manufacturing industries not elsewhere classified (e.g., bezels, consoles, panels, lenses).	
Federal, State, and Local Governments.		Government owned or operated facilities that perform plastic parts and products surface coating.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your coating operation is regulated by this action, you should examine the applicability criteria in § 63.4481 of the final rule.

*Docket.* The EPA has established an official public docket for this action under Docket ID No. OAR-2002-0074 (formerly docket No. A-99-12). The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the

official docket, the public docket does not include Confidential Business Information or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, EPA West, Room B-102, 1301 Constitution Avenue, NW., Washington, DC 20460.



The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566-1744, and the telephone number for the Docket is (202) 566-1742. A reasonable fee may be charged for copying docket materials.

**Electronic Docket Access.** You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at <http://www.epa.gov/fedrgstr>.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. Once in the system, select "search," then key in the appropriate docket identification number.

**WorldWide Web (WWW).** In addition to being available in the docket, an electronic copy of the final rule will be available on the WWW. Following the Administrator's signature, a copy of the final rule will be posted at <http://www.epa.gov/ttn/oarpg> on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules. The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541-5384.

**Judicial Review.** Under section 307(b)(1) of the CAA, judicial review of the 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 June 18, 2004. Under section 307(d)(7)(B) of the CAA, only an objection to the rule that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

**Outline:** The following outline is provided to aid in reading the preamble to the final rule:

- I. Background
  - A. What is the Source of Authority for Development of NESHAP?
  - B. What Criteria are Used in the Development of NESHAP?
  - C. What are the Primary Sources of Emissions and what are the Emissions?
  - D. What are the Health Effects Associated with Organic HAP Emissions from the Surface Coating of Plastic Parts and Products?
- II. Summary of the Final Rule
  - A. What Source Categories and Subcategories are Affected by the Final Rule?
  - B. What is the Relationship to Other Rules?
  - C. What is the Affected Source?
  - D. What are the Emission Limits, Operating Limits, and Other Standards?
  - E. What are the Testing and Initial Compliance Requirements?
  - F. What are the Continuous Compliance Provisions?
  - G. What are the Notification, Recordkeeping, and Reporting Requirements?
- III. What are the Significant Changes Since Proposal?
  - A. Applicability
  - B. Scope of Category
  - C. Emission Limits
  - D. Method for Determining HAP Content
  - E. Deviations from Operating Parameters
  - F. New Alternatives to Facilitate Compliance with Multiple Coating NESHAP and Multiple Emission Limits
- IV. What are the Responses to Significant Comments?
  - A. Applicability and Scope of Source Category
  - B. Overlap with Rules for Other Source Categories
  - C. The MACT Floor Approach and Database
  - D. Compliance Options for Meeting the Emission Limits
  - E. Methods for Determining HAP Content of Coatings
  - F. Notification Requirements
  - G. Compliance Requirements for Sources with Add-on Controls
- V. Summary of Environmental, Energy, and Economic Impacts
  - A. What are the Air Impacts?
  - B. What are the Cost Impacts?
  - C. What are the Economic Impacts?
  - D. What are the Non-air Health, Environmental, and Energy Impacts?
- VI. Statutory and Executive Order Reviews
  - A. Executive Order 12866: Regulatory Planning and Review
  - B. Paperwork Reduction Act
  - C. Regulatory Flexibility Act
  - D. Unfunded Mandates Reform Act
  - E. Executive Order 13132: Federalism
  - F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  - G. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
  - H. Executive Order 13211: Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use
  - I. National Technology Transfer and Advancement Act

## J. Congressional Review Act

### I. Background

#### A. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Plastic Parts and Products (Surface Coating) category of major sources was listed on July 16, 1992 (57 FR 31576), under the Surface Coating Processes industry group. Major sources of HAP are those that emit or have the potential to emit considering controls equal to or greater than 9.1 megagrams per year (Mg/yr) (10 tons per year (tpy)) of any one HAP or 22.7 Mg/yr (25 tpy) of any combination of HAP.

#### B. What Criteria Are Used in the Development of NESHAP?

Section 112(c)(2) of the CAA requires that we establish NESHAP for the control of HAP from both new and existing major sources, based upon the criteria set out in section 112(d). The CAA requires the NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable, taking into consideration the cost of achieving the emission reduction, any non-air quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as MACT.

The MACT floor is the minimum control level allowed for NESHAP and is defined under section 112(d)(3) of the CAA. In essence, the MACT floor ensures that the standard is set at a level that assures that all major sources achieve the level of control at least as stringent as that already achieved by the better-controlled and lower-emitting sources in each source category or subcategory. For new sources, the MACT floor cannot be less stringent than the emission control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing the final NESHAP, we considered control options that are more stringent than the MACT floor, taking into account consideration of the cost of achieving the emission reduction, any

non-air quality health and environmental impacts, and energy requirements. In the final rule, EPA is promulgating standards for both existing and new sources consistent with these statutory requirements.

*C. What Are the Primary Sources of Emissions and What Are the Emissions?*

The final NESHAP regulate emissions of organic HAP. Available emission data collected during the development of the final NESHAP show that the primary organic HAP emitted from the surface coating of plastic parts and products operations include MEK, MIBK, toluene, and xylenes. These compounds account for over 85 percent of this category's nationwide organic HAP emissions. Other organic HAP emissions identified include EGBE and other glycol ethers.

The majority of organic HAP emissions from a facility engaged in plastic parts and products surface coating operations can be attributed to the application, drying, and curing of coatings. The remaining emissions are primarily from cleaning operations. In most cases, organic HAP emissions from mixing, storage, and waste handling are relatively small.

The organic HAP emissions associated with coatings (the term "coatings" includes protective and decorative coatings as well as adhesives) occur at several points. Coatings are most often applied either by using a spray gun in a spray booth or by dipping the substrate in a tank containing the coating. In a spray booth, volatile components evaporate from the coating as it is applied to the part and from the overspray. The coated part then passes through an open (flash-off) area where additional volatiles evaporate from the coating. Finally, the coated part passes through a drying/curing oven, or is allowed to air dry, where the remaining volatiles are evaporated.

Organic HAP emissions also occur from the activities undertaken during cleaning operations where solvent is used to remove coating residue or other unwanted materials. Cleaning in this industry includes cleaning of spray guns and transfer lines (e.g., tubing or piping), tanks, and the interior of spray booths. Cleaning also includes applying solvents to manufactured parts prior to coating application and to equipment (e.g., cleaning rollers, pumps, conveyors, etc.).

Mixing and storage are other sources of emissions. Organic HAP emissions can occur from displacement of organic vapor-laden air in containers used to store organic HAP solvents or to mix coatings containing organic HAP solvents. The displacement of vapor-

laden air can occur during the filling of containers and can be caused by changes in temperature or barometric pressure, or by agitation during mixing.

*D. What Are the Health Effects Associated With Organic HAP Emissions From the Surface Coating of Plastic Parts and Products?*

The HAP to be controlled with the final rule are associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (e.g., birth defects and effects on the central nervous system, liver, and heart), and acute health disorders (e.g., irritation of the lung, skin, and mucous membranes, and effects on the central nervous system).

We do not have the type of current detailed data on each of the facilities covered by these emission standards for this source category, and the people living around the facilities, that would be necessary to conduct an analysis to determine the actual population exposures to the organic HAP emitted from these facilities and potential for resultant health effects. Therefore, we do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, the final rule will reduce emissions and subsequent exposures.

**II. Summary of the Final Rule**

*A. What Source Categories and Subcategories Are Affected by the Final Rule?*

The final rule applies to you if you own or operate a plastic parts and products surface coating facility that is a major source, or is located at a major source, or is part of a major source of HAP emissions. We define a plastic parts and products surface coating facility as any facility engaged in the surface coating of any plastic part or product. If application of coating to a substrate occurs, then surface coating also includes associated activities, such as surface preparation, cleaning, mixing, and storage. However, these associated activities do not comprise surface coating if the application of coating does not occur. Coating application with handheld, non-refillable aerosol containers, touch-up markers, marking pens, or the application of paper film or plastic film which may be pre-coated with an adhesive by the manufacturer is not a coating operation for the purposes of the final rule.

You will not be subject to the final rule if your plastic parts and products surface coating facility is located at an

area source. An area source of HAP is any facility that has the potential to emit HAP but is not a major source. You may establish area source status by limiting the source's potential to emit HAP through appropriate mechanisms available through your permitting authority.

The final rule does not apply to surface coating or a coating operation that meets any of the criteria listed below:

- A coating operation conducted at a source where the source uses only coatings, thinners and/or other additives, and cleaning materials that contain no organic HAP, as determined according to the procedures in the final rule.
- Surface coating that occurs at research or laboratory facilities, or is part of janitorial, building, and facility maintenance operations, or that occurs at hobby shops operated for noncommercial purposes.
- Surface coating of plastic performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State) or the National Aeronautics and Space Administration (NASA), or the surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State).
- Surface coating where plastic is extruded onto plastic parts or products to form a coating.
- Surface coating of magnet wire.
- In-mold coating or gel coating operations in manufacturing of reinforced plastic composites that meet the applicability criteria of the Reinforced Plastic Composites Production NESHAP (40 CFR part 63, subpart WWWW, 68 FR 19375, April 21, 2003).
- Surface coating of plastic components of wood furniture that meet the applicability criteria for Wood Furniture Manufacturing NESHAP (40 CFR part 63, subpart JJ).
- Surface coating of plastic components of large appliances that meet the applicability criteria for large appliance surface coating (40 CFR part 63, subpart NNNN).
- Surface coating of plastic components of metal furniture that meet the applicability criteria for Metal Furniture Surface Coating NESHAP (40 CFR part 63, subpart RRRR; 68 FR 28606, May 23, 2003).
- Surface coating of plastic components of wood building products that meet the applicability criteria for Wood Building Products Surface

Coating NESHAP (40 CFR part 63, subpart QQQQ; 68 FR 31746, May 28, 2003).

- Surface coating of plastic components of aerospace vehicles that meet the applicability criteria for Aerospace Manufacturing and Rework NESHAP (40 CFR part 63, subpart GG).

- The application of specialty coatings defined in appendix A to 40 CFR part 63, subpart GG to a plastic aerospace vehicle or component.

- Surface coating of plastic components of ships that meet the applicability criteria for Shipbuilding and Ship Repair NESHAP (40 CFR part 63, subpart II).

- Surface coating of plastic using a web coating process that meets the applicability criteria for Paper and Other Web Coating NESHAP (40 CFR part 63, subpart JJJJ).

- Surface coating of fiberglass boats or parts of fiberglass boats (including, but not limited to, the use of assembly adhesives) where the facility meets the applicability criteria for Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV), except where the surface coating of the boat is a post-mold coating operation performed on personal watercraft or parts of personal watercraft.

- Surface coating of plastic components of automobiles and light-duty trucks that meet the applicability criteria for Automobiles and Light-Duty Trucks Surface Coating NESHAP (40 CFR part 63, subpart IIII (under development)).

If you perform surface coating of plastic parts or products that meet the applicability criteria for both the Automobiles and Light-Duty Trucks NESHAP (40 CFR part 63, subpart IIII (under development)) and these NESHAP, then you may comply with the requirements of the Automobiles and Light-Duty Trucks NESHAP for the surface coating of all your plastic parts used in automobile or light-duty truck manufacturing in lieu of complying with each subpart separately.

The final rule contains four subcategories: general use coating, thermoplastic olefin (TPO) coating, automotive lamp coating, and assembled on-road vehicle coating. The general use subcategory includes all surface coating operations in the plastic parts and products source category that are not included in the other four subcategories. This includes operations that coat a wide variety of substrates, surfaces, and types of plastic parts, as well as more specialized coating scenarios. The TPO subcategory encompasses all materials used in the surface coating of TPO substrates for

automotive applications. The TPO subcategory requires the use of solvents to facilitate proper adhesion of coatings. The automotive lamp subcategory addresses the unique requirements for surface coating of exterior automotive lamps (e.g., headlamps, tail lamps, etc.). Automotive lamps are subject to regulatory requirements established by the National Highway Traffic Safety Administration resulting in the use of specific coatings to achieve required performance specifications. The assembled on-road vehicle subcategory addresses surface coating of fully-assembled vehicles that are physically larger than the other plastic parts and products coated in this source category and that may contain heat-sensitive parts. The large size and presence of heat-sensitive parts make certain lower-HAP technologies, such as heat-cured waterborne coatings, infeasible for assembled on-road vehicles. The assembled on-road vehicle subcategory will affect primarily recreational vehicle manufacture and automobile body refinishing.

Each subcategory consists of all coating operations, including associated surface preparation, equipment cleaning, mixing, storage, and waste handling.

#### *B. What Is the Relationship to Other Rules?*

The new source performance standards (NSPS) that could potentially apply to sources also subject to the final rule are the Standards of Performance for Industrial Surface Coating: Surface Coating of Plastic Parts for Business Machines (40 CFR part 60, subpart TTT). The NSPS apply to facilities that apply coatings to plastic parts for use in business machines if the facility began construction, reconstruction, or modification after January 8, 1986. The pollutants regulated are volatile organic compounds. Because of the differences between the NSPS and the NESHAP, compliance with either rule cannot be deemed compliance with the other. A plastic parts and products surface coating operation that meets the applicability requirements of both the NSPS and the NESHAP must comply with both.

Affected sources that meet the applicability criteria in the final plastic parts and products rule may also meet the applicability criteria of other coating NESHAP. For example, some facilities that coat plastic and metal parts using the same or different coatings, coating application processes, and conveyance equipment, either simultaneously or at alternative times could be subject to both the Plastic Parts and Products

Surface Coating NESHAP and the Miscellaneous Metal Parts and Products Surface Coating NESHAP (40 CFR part 63, subpart MMMM).

In the final rule, we have minimized the burden of complying with multiple surface coating emission limits by offering two alternatives to complying separately with each applicable emission limit. The first alternative allows a facility to have all applicable surface coating operations comply with the emission limit that represents the predominant type of coating activity at that facility. Predominant activity means the coating activity that represents 90 percent or more of the surface coating activities at a facility. For example, if a facility is subject to both the Plastic Parts and Miscellaneous Metal Parts NESHAP and the activities subject to the Miscellaneous Metal Parts NESHAP account for 90 percent or more of the surface coating activity at the facility, then the facility may comply with the emission limitations for miscellaneous metal parts and products for both types of surface coating operations.

The predominant activity alternative may be applied if 90 percent or more of the surface coating is in the general use or TPO coating subcategory; however, this alternative is not available where assembled on-road vehicle, or automotive lamp coating represents the predominant activity. The emission limits for those two subcategories reflect specialized performance requirements and the need for higher-HAP-containing materials. It would not be appropriate to apply emission limits specifically developed for unique performance characteristics to other types of coatings.

You must include all surface coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP and constitute more than 1 percent of total coating activities. Coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP but comprise less than 1 percent of total coating activities need not be included in the determination of predominant activity but they must be included in the compliance calculations.

The second alternative allows a facility to calculate and comply with a facility-specific emission limit for each 12-month rolling average compliance period. The facility would use the relative amount of coating activity subject to each emission limit in each NESHAP to calculate a weighted, or composite, emission limit for that facility. Compliance with that facility-specific emission limit for all surface coating activities included in the

facility-specific emission limit constitutes compliance with the emission limits in the Plastic Parts NESHAP, as well as other applicable NESHAP.

As with the predominant activity alternative, you must include all surface coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP and constitute more than 1 percent of total coating activities. Coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP but comprise less than 1 percent of total coating activities need not be included in the facility-specific emission limit calculation, but they must be included in the compliance calculations.

#### C. What Is the Affected Source?

We define an affected source as a stationary source, a group of stationary

sources, or part of a stationary source to which a specific emission standard applies. The final rule defines the affected source as the collection of all operations associated with the surface coating of plastic parts and products within each of the four subcategories (TPO, automotive lamps, assembled on-road vehicle, and general use). If application to a substrate occurs, these operations include preparation of a coating for application (e.g., mixing with thinners and/or other additives); surface preparation of the plastic parts and products (including the use of a cleaning material to remove dried coating); coating application and flash-off; drying and/or curing of applied coatings; cleaning of equipment used in surface coating; storage of coatings, thinners and/or other additives, and cleaning materials; and handling and conveyance of waste materials from the surface coating operations. The coating

operation does not include the application of coatings using hand-held nonrefillable aerosol containers, touch-up markers, marking pens, or the application of paper film or plastic film that may be pre-coated with an adhesive by the manufacturer.

#### D. What Are the Emission Limits, Operating Limits, and Other Standards?

**Emission Limits.** We are limiting organic HAP emissions from each existing affected source using the emission limits in Table 2 of this preamble. For each new or reconstructed affected source, the final emission limits are given in Table 3 of this preamble. For each of the subcategories, the emission limit is expressed as the mass of organic HAP emissions per mass of coating solids used during each 12-month compliance period.

TABLE 2.—EMISSION LIMITS FOR EXISTING AFFECTED SOURCES

For any affected source applying coating to . . .	The organic HAP emission limit you must meet, in kilograms (kg) organic HAP emitted/kg coating solids used. (Same number applies to lb organic HAP emitted/lb coating solids used)
TPO substrates .....	0.26
Automotive lamps .....	0.45
Assembled on-road vehicles .....	1.34
Other (general use) plastic parts and products .....	0.16

TABLE 3.—EMISSION LIMITS FOR NEW OR RECONSTRUCTED AFFECTED SOURCES

For any affected source applying coating to . . .	The organic HAP emission limit you must meet, in kg organic HAP emitted/kg coating solids used (Same number applies to lb organic HAP emitted/lb coating solids used)
TPO substrates .....	0.22
Automotive lamps .....	0.26
Assembled on-road vehicles .....	1.34
Other (general use) plastic parts and products .....	0.16

You may choose from several compliance options in the final rule to achieve the emission limits. You could comply by applying materials (coatings, thinners and/or other additives, and cleaning materials) that meet the emission limits, either individually or collectively, during each compliance period. You could also use a capture-system and add-on control device to meet the emission limits. You could also comply by using a combination of both approaches.

**Operating Limits.** If you reduce emissions by using a capture system and add-on control device (other than a solvent recovery system for which you conduct a liquid-liquid material balance), the operating limits apply to you. These limits are site-specific parameter limits that you determine during the initial performance test of the system. For capture systems that are not permanent total enclosures, you establish average volumetric flow rates or duct static pressure limits for each

capture device (or enclosure) in each capture system. For capture systems that are permanent total enclosures, you establish limits on average facial velocity or pressure drop across openings in the enclosure.

For thermal oxidizers, you monitor the combustion temperature. For catalytic oxidizers, you monitor the temperature immediately before and after the catalyst bed, or you monitor the temperature before or after the catalyst bed and implement a site-specific

inspection and maintenance plan for the catalytic oxidizer. For regenerative carbon adsorbers for which you do not conduct a liquid-liquid material balance, you monitor the carbon bed temperature and the amount of steam or nitrogen used to desorb the bed. For condensers, you monitor the outlet gas temperature from the condenser. For concentrators, you monitor the temperature of the desorption gas stream and the pressure drop across the concentrator.

The site-specific parameter limits that you establish must reflect operation of the capture system and control devices during a performance test that demonstrates achievement of the emission limits during representative operating conditions.

**Work Practice Standards.** If you use an emission capture system and control device for compliance, you must develop and implement a work practice plan to minimize organic HAP emissions from mixing operations; storage tanks and other containers; and handling operations for coatings, thinners and/or other additives, cleaning materials, and waste materials. If your affected source has an existing documented plan that incorporates steps taken to minimize emissions from the aforementioned sources, you may be able to use your existing plan to satisfy the requirement for a work practice plan.

If you use a capture system and control device for compliance, you are required to develop and operate according to a startup, shutdown, and malfunction plan (SSMP) during periods of startup, shutdown, or malfunction of the capture system and control device.

The NESHAP General Provisions (40 CFR part 63, subpart A) codify certain procedures and criteria for all 40 CFR part 63 NESHAP and apply to you as indicated in the final rule. The General Provisions contain administrative procedures, preconstruction review procedures for new sources, and procedures for conducting compliance-related activities such as notifications, reporting and recordkeeping, performance testing, and monitoring. The final rule refers to individual sections of the General Provisions to emphasize key sections that are relevant. However, unless specifically overridden in the final rule, all of the applicable General Provisions requirements apply to you.

#### *E. What Are the Testing and Initial Compliance Requirements?*

Existing affected sources must be in compliance with the final rule no later

than April 19, 2007. New and reconstructed sources must be in compliance upon initial startup of the affected source or by April 19, 2004, whichever is later. However, affected sources are not required to demonstrate compliance until the end of the initial compliance period when they will have accumulated the necessary records to document the rolling 12-month organic HAP emission rate.

Compliance with the emission limits is based on a rolling 12-month organic HAP emission rate determined each month. Each 12-month period is a compliance period. The initial compliance period, therefore, is the 12-month period beginning on the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period begins on the compliance date and extends through the end of that month plus the following 12 months. In other words, the initial compliance period could be almost 13 months long, but all subsequent compliance periods will be 12 months long. We have defined "month" as a calendar month or a pre-specified period of 28 to 35 days to allow for flexibility at sources where data are based on a business accounting period.

Being "in compliance" means that the owner or operator of the affected source meets the requirements to achieve the final emission limitations during the initial compliance period. However, they will not have accumulated the records for the rolling 12-month organic HAP emission rate until the end of the initial compliance period. At the end of the initial compliance period, the owner or operator uses the data and records generated to determine whether or not the affected source is in compliance with the organic HAP emission limit and other applicable requirements for that period. If the affected source does not meet the applicable limit and other requirements, it is out of compliance for the entire compliance period.

**Emission Limits.** There are three options for complying with the final emission limits, and the testing and initial compliance requirements vary accordingly. You may choose to use one compliance option for the entire affected source, or you may use different compliance options for different coating operations within the affected source. You may also use different compliance options for the same coating operation at different times, different compliance options when different coatings are applied to the same part, or when the same coating is applied to different parts. However, you may not use different compliance options at the

same time on the same coating operation.

**Option 1: Compliant materials.** This option is a pollution prevention option that allows you to easily demonstrate compliance by using low-HAP or non-HAP coatings and other materials. If you use coatings that, based on their organic HAP content, individually meet the kilogram (kg) (lb) organic HAP emitted per kg (lb) coating solids used levels in the applicable emission limits and you use non-HAP thinners and other additives and cleaning materials, this compliance option is available to you. For this option, we have minimized recordkeeping and reporting requirements. You may demonstrate compliance by using manufacturer's formulation data and readily available purchase records to determine the organic HAP content of each coating or other material and the amount of each material used. You do not need to perform any detailed emission rate calculations.

If you demonstrate compliance based on the coatings and other materials used, you demonstrate that the organic HAP content of each coating meets the emission limits for the appropriate subcategory as shown in Tables 2 and 3 of this preamble, and that you used no organic HAP-containing thinners and/or other additives, or cleaning materials. For example, if you are using the compliant materials option and your existing source has TPO coating operations, automotive lamp coating operations, assembled on-road vehicle coating operations, and general use coating operations, you demonstrate that: (1) Each coating used in the TPO coating operation has an organic HAP content no greater than 0.26 kg (0.26 lb) organic HAP emitted per kg (lb) coating solids used; (2) each coating used in the automotive lamp coating operations has an organic HAP content no greater than 0.45 kg (0.45 lb) organic HAP emitted per kg (lb) coating solids used; (3) each coating used in the assembled on-road vehicle coating operations has an organic HAP content no greater than 1.34 kg (1.34 lb) organic HAP emitted per kg (lb) coating solids used; (4) each general use coating has an organic HAP content no greater than 0.16 kg (0.16 lb) organic HAP emitted per kg (lb) coating solids used; and (5) that you used no organic HAP-containing thinners and/or other additives, or cleaning materials. Note that "no organic HAP" is not intended to mean absolute zero. Materials that contain "no organic HAP" means materials that contain organic HAP levels below the levels specified in § 63.4541(a) of the final rule, which are typical Occupational Safety and Health

Administration (OSHA) reporting levels for material safety data sheets. These typical reporting levels only count organic HAP that are present at 0.1 percent or more by mass for OSHA-defined carcinogens and at 1.0 percent or more by mass for other compounds.

To determine the mass of organic HAP in coatings, thinners and/or other additives, and cleaning materials and the mass fraction of coating solids, you may rely on manufacturer's formulation data. You are not required to perform tests or analysis of the material if formulation data are available. Alternatively, you could use results from the test methods listed below. You may also use alternative test methods provided you get EPA approval in accordance with the NESHAP General Provisions, 40 CFR 63.7(f). However, if there is any inconsistency between the test method results (either EPA's or an approved alternative) and manufacturer's data, the test method results prevail for compliance and enforcement purposes, unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

The following test methods are used to determine HAP content. For organic HAP content, use Method 311 of 40 CFR part 63, appendix A. You may also use nonaqueous volatile matter as a surrogate for organic HAP, which includes all organic HAP plus all other organic compounds, excluding water. If you choose this option, use Method 24 of 40 CFR part 60, appendix A. If you are determining HAP content for reactive adhesives (that is, adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere), you may use the alternative to Method 24 that is included in appendix A of the final rule. For determining mass fraction of coating solids, use Method 24.

**Option 2: Compliance based on the emission rate without add-on controls.** This option is a pollution prevention option that allows you to demonstrate compliance based on the organic HAP contained in the mix of coatings, thinners and/or other additives, and cleaning materials you use. This option offers the flexibility to use some individual coatings that do not, by themselves, meet the kg (lb) organic HAP emitted per kg (lb) coating solids used levels in the applicable emission limits if you use other low-HAP or non-HAP coatings such that overall emissions from the affected source over a 12-month period meet the emission limits. You must use this option if you use HAP-containing thinners and/or other additives, and cleaning materials

and do not have add-on controls. You keep track of the mass of organic HAP in each coating, thinner or other additive, and cleaning material, and the amount of each material you use in your affected source each month of the compliance period. You use this information to determine the total mass of organic HAP in all coatings, thinners and/or other additives, and cleaning materials divided by the total mass of coating solids used during the compliance period. You demonstrate that your emission rate (in kg (lb) organic HAP emitted per kg (lb) coating solids used) meets the applicable emission limit. You may use readily available purchase records and manufacturer's formulation data to determine the amount of each coating or other material you used and the organic HAP in each material. The final rule contains equations that show you how to perform the calculations to demonstrate compliance.

If you demonstrate compliance using Option 2, you are required to:

- Determine the quantity of each coating, thinner and/or other additive, and cleaning material used.
- Determine the mass of organic HAP in each coating, thinner and other additive, and cleaning material using the same types of data and methods previously described for Option 1, including the alternative methods for reactive coatings. You may rely on manufacturer's formulation data or you may choose to use test results as described under Option 1.
- Determine the mass fraction of coating solids for each coating using the same types of data or methods described under Option 1. In this option, you may include the solids from powder coatings in the compliance calculations.
- Calculate the total mass of organic HAP in all materials and total mass of coating solids used each month. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.
- Calculate the total mass of organic HAP emissions and total mass of coating solids used for the initial compliance period by adding together all the monthly values for mass of organic HAP and for mass of coating solids used for the 12 months of the initial compliance period.
- Calculate the ratio of the total mass of organic HAP emitted for the materials used to the total mass of coating solids used (kg (lb) organic HAP emitted per kg (lb) of coating solids used) for the initial compliance period.

- Record the calculations and results and include them in your Notification of Compliance Status.

Note that if you choose to use this option for a particular coating operation rather than for all coating operations at the source, you calculate the organic HAP emission rate using just the materials used in that operation. Similarly, if your facility has multiple coating operations using this option (e.g., a TPO coating operation, an automotive lamp coating operation, an assembled on-road vehicle coating operation, and a general use coating operation), you do a separate calculation for each coating operation to show that each coating operation meets its emission limit. If you are complying with a facility-specific emission limit, you include all coating operations that are subject to the facility-specific emission limit in the compliance calculations.

**Option 3: Compliance based on using a capture system and add-on controls device.** This option allows sources to use a capture system and an add-on pollution control device, such as a combustion device or a recovery device, to meet the emission limits. While we believe that, based on typical emission characteristics, most sources will not use control devices, we are providing this option for sources that use control devices. Fewer than 10 percent of the existing sources for which we have data use control devices. Under this option, testing is required to demonstrate the capture system and control device efficiencies. Alternatively, you may conduct a liquid-liquid material balance to demonstrate the amount of organic HAP collected by your recovery device. The final rule provides equations showing you how to use records of materials usage, organic HAP contents of each material, capture and control efficiencies, and coating solids content to calculate your emission rate during the compliance period.

If you demonstrate compliance based on this option, you demonstrate that your emission rate considering controls (in kg (lb) organic HAP emitted per kg (lb) of coating solids used) is less than the applicable emission limit. For a capture system and add-on control device, other than a solvent recovery system for which you conduct a liquid-liquid material balance, your testing and initial compliance requirements are as follows:

- Conduct an initial performance test to determine the capture and control efficiencies of the equipment and to establish operating limits to be achieved on a continuous basis. The performance test must be completed no later than the

compliance date for existing sources and 180 days after the compliance date for new and reconstructed sources.

- Calculate the mass of organic HAP in each coating and other material, and the mass fraction of coating solids for each coating used during each month of the initial compliance period.

- Calculate the total mass of organic HAP in all coatings and other materials, and total mass of coating solids used each month in the controlled operation or group of coating operations. You may subtract from the total mass of organic HAP the amount contained in waste materials you send to a hazardous waste treatment, storage, and disposal facility regulated under 40 CFR part 262, 264, 265, or 266.

- Calculate the organic HAP emissions from the controlled coating operations each month using the capture and control efficiencies determined during the performance test, and the total mass of organic HAP in materials used in controlled coating operations that month.

- Calculate the total mass of organic HAP emissions and total mass of coating solids used for the initial compliance period by adding together all the monthly values for mass of organic HAP emissions and for mass of coating solids for the 12 months in the initial compliance period.

- Calculate the ratio of the total mass of organic HAP emissions to the total mass of coating solids used during the initial compliance period.

- Record the calculations and results and include them in your Notification of Compliance Status.

- Develop and implement a work practice plan to minimize emissions from storage, mixing, and handling of organic HAP-containing materials.

Note that if you choose to use this option for a particular coating operation rather than for the entire affected source, you calculate the organic HAP emission rate using just the materials used in that operation. Similarly, if your facility has multiple coating operations using this option (e.g., a TPO coating operation, an automotive lamp coating operation, an assembled on-road vehicle coating operation, and a general use coating operation), you do a separate calculation for each coating operation to show that each coating operation meets its emission limit. If you are complying with a facility-specific emission limit, you would include all coating operations that are subject to the facility-specific emission limit in the compliance calculations.

If you use a capture system and add-on control device, other than a solvent recovery system for which you conduct

liquid-liquid material balances, you use specified test methods to determine both the efficiency of the capture system and the emission reduction efficiency of the control device. To determine the capture efficiency, you would either verify the presence of a permanent total enclosure using EPA Method 204 of 40 CFR part 51, appendix M (and all materials must be applied and dried within the enclosure); or use one of three protocols in § 63.4565 of the final rule to measure capture efficiency. If you have a permanent total enclosure and all materials are applied and dried within the enclosure and you route all exhaust gases from the enclosure to a control device, you assume 100 percent capture.

To determine the emission reduction efficiency of the control device, you conduct measurements of the inlet and outlet gas streams. The test consists of three runs, each run lasting 1 hour, using the following EPA Methods in 40 CFR part 60, appendix A:

- Method 1 or 1A for selection of the sampling sites.
- Method 2, 2A, 2C, 2D, 2F, or 2G to determine the gas volumetric flow rate.
- Method 3, 3A, or 3B for gas analysis to determine dry molecular weight.
- Method 4 to determine stack moisture.
- Method 25 or 25A to determine organic volatile matter concentration. Alternatively, any other test method or data that have been validated according to the applicable procedures in Method 301 of 40 CFR part 63, appendix A, and approved by the Administrator, could be used.

If you use a solvent recovery system, you could choose to determine the overall control efficiency using a liquid-liquid material balance instead of conducting an initial performance test. If you use the material balance alternative, you are required to measure the amount of all materials used in the controlled coating operations served by the solvent recovery system during each month of the initial compliance period, and to determine the total volatile matter contained in these materials. You also measure the amount of volatile matter recovered by the solvent recovery system during each month of the initial compliance period. Then you compare the amount recovered to the amount used to determine the overall control efficiency each month and apply this efficiency to the total mass of organic HAP in the materials used to determine total organic HAP emissions for the month. You total these 12 monthly organic HAP emission values and divide by the total of the 12 monthly values for coating solids used to calculate the

emission rate for the 12-month initial compliance period. You record the calculations and results and include them in your Notification of Compliance Status.

**Operating Limits.** As mentioned above, you establish operating limits as part of the initial performance test of a capture system and control device, other than a solvent recovery system for which you conduct liquid-liquid material balances. The operating limits are the minimum or maximum (as applicable) values achieved for capture systems and control devices during the most recent performance test, conducted under representative conditions, that demonstrated compliance with the emission limits.

The final rule specifies the parameters to monitor for the types of emission control systems commonly used in the industry. You are required to install, calibrate, maintain, and continuously operate all monitoring equipment according to manufacturer's specifications and ensure that the continuous parameter monitoring systems (CPMS) meet the requirements in § 63.4568 of the final rule. If you use control devices other than those identified in the final rule, you submit the operating parameters to be monitored to the Administrator for approval. The authority to approve the parameters to be monitored is retained by EPA and is not delegated to States.

If you use a thermal or catalytic oxidizer, you continuously monitor the appropriate temperature and record it at least every 15 minutes. For thermal oxidizers, the temperature monitor is placed in the firebox or in the duct immediately downstream of the firebox before any substantial heat exchange occurs. The operating limit is the average temperature measured during the performance test and for each consecutive 3-hour period; the average temperature has to be at or above this limit. For catalytic oxidizers, temperature monitors are placed immediately before and after the catalyst bed. The operating limits are the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed during the performance test. For each 3-hour period, the average temperature and the average temperature difference must be at or above these limits. Alternatively, if you develop and implement an inspection and maintenance plan for the catalytic oxidizer, then you are allowed to monitor only the temperature before the catalyst bed and meet only the temperature operating limit before the

catalyst bed and are not required to monitor the difference across the bed.

If you use a regenerative carbon adsorber and do not conduct liquid-liquid material balances to demonstrate compliance, you monitor the carbon bed temperature after each regeneration and the total amount of steam or nitrogen used to desorb the bed for each regeneration. The operating limits are the carbon bed temperature at the time the carbon bed is returned to service (not to be exceeded) and the amount of steam or nitrogen used for desorption (to be met as a minimum).

If you use a condenser and do not conduct liquid-liquid material balances to demonstrate compliance, you monitor the outlet gas temperature to ensure that the air stream is being cooled to a low enough temperature. The operating limit is the average condenser outlet gas temperature measured during the performance test and for each consecutive 3-hour period, the average temperature must be at or below this limit.

If you use a concentrator, you monitor the temperature of the desorption concentrate stream and the pressure drop across the concentrator. These values must be recorded at least once every 15 minutes. The operating limits must be the 3-hour average temperature (to be met as a minimum) and the 3-hour average pressure drop (to be met as a minimum) measured during the performance test.

For each capture system that is not a permanent total enclosure, you establish operating limits for gas volumetric flow rate or duct static pressure for each enclosure or capture device. The operating limit is the average volumetric flow rate or duct static pressure during the performance test, to be met as a minimum. For each capture system that is a permanent total enclosure, the operating limit requires the average facial velocity of air through all natural draft openings to be at least 200 feet per minute or the pressure drop across the enclosure to be at least 0.007 inches water.

**Work Practices.** If you use a capture system and control device for compliance, you are required to develop and implement on an ongoing basis a work practice plan for minimizing organic HAP emissions from storage, mixing, material handling, and waste handling operations. This plan must include a description of all steps taken to minimize emissions from these sources (e.g., using closed storage containers, practices to minimize emissions during filling and transfer of contents from containers, using spill minimization techniques, placing

solvent-laden cloths in closed containers immediately after use, etc.). You must make the plan available for inspection if the Administrator requests to see it.

If you use a capture system and control device for compliance, you are required to develop and operate according to a SSMP during periods of startup, shutdown, or malfunction of the capture system and control device.

#### F. What Are the Continuous Compliance Provisions?

**Emission Limits.** If you use the compliant materials option (Option 1), you demonstrate continuous compliance if each coating meets the applicable emission limit and you use no organic HAP-containing thinners and/or other additives, or cleaning materials. If you use the emission rate without add-on controls option (Option 2), you demonstrate continuous compliance if, for each 12-month compliance period, the ratio of kg (lb) organic HAP emitted to kg (lb) coating solids used is less than or equal to the applicable emission limit. You follow the same procedures for calculating the organic HAP emitted to coating solids used ratio that you used for the initial compliance period.

For each coating operation on which you use a capture system and control device (Option 3), other than a solvent recovery system for which you conduct a liquid-liquid material balance, you use the continuous parameter monitoring results for the month as part of the determination of the mass of organic HAP emissions. If the monitoring results indicate no deviations from the operating limits and there were no bypasses of the control device, you assume the capture system and control device are achieving the same percent emission reduction efficiency as they did during the most recent performance test in which compliance was demonstrated. You then apply this percent reduction to the total mass of organic HAP in materials used in the controlled coating operations to determine the emissions from those operations during the month. If there were any deviations from the operating limits during the month or any bypasses of the control device, you account for them in the calculation of the monthly emissions by assuming the capture system and control device were achieving zero emission reduction during the periods of deviation, unless you have other data indicating the actual efficiency of the emission capture system and add-on control device, and the use of these data is approved by your permitting authority. Determine

the organic HAP emission rate by dividing the total mass of organic HAP emissions for the 12-month compliance period by the total mass of coating solids used during the 12-month compliance period. Every month, you calculate the emission rate for the previous 12-month period.

For each coating operation on which you use a solvent recovery system and conduct a liquid-liquid material balance each month, you use the liquid-liquid material balance to determine control efficiency. To determine the overall control efficiency, you must measure the amount of all materials used during each month and determine the volatile matter content of these materials. You must also measure the amount of volatile matter recovered by the solvent recovery system during the month, calculate the overall control efficiency, and apply it to the total mass of organic HAP in the materials used to determine total organic HAP emissions each month. Then you determine the 12-month organic HAP emission rate in the same manner described above.

**Operating Limits.** If you use a capture system and control device, the final rule requires you to achieve on a continuous basis the operating limits you establish during the performance test. If the continuous monitoring shows that the capture system and control device are operating outside the range of values established during the performance test, you have deviated from the established operating limits.

If you operate a capture system and control device with bypass lines that could allow emissions to bypass the control device, you demonstrate that captured organic HAP emissions within the affected source are being routed to the control device by monitoring for potential bypass of the control device. You may choose from the following five monitoring procedures:

- Flow control position indicator to provide a record of whether the exhaust stream is directed to the control device.
- Car-seal or lock-and-key valve closures to secure the bypass line valve in the closed position when the control device is operating.
- Valve closure monitoring to ensure any bypass line valve or damper is closed when the control device is operating.
- Automatic shutdown system to stop the coating operation when flow is diverted from the control device.
- Flow direction indicator to provide a record of whether the exhaust stream is flowing toward the control device.

A deviation would occur for any period of time the bypass monitoring



indicates that emissions are not routed to the control device.

**Work Practices.** If you use an emission capture system and control device for compliance, you are required to implement, on an ongoing basis, the work practice plan you developed during the initial compliance period. If you did not develop a plan for reducing organic HAP emissions or you do not implement the plan, this would be a deviation from the work practice standard.

If you use a capture system and control device for compliance, you are required to operate according to your SSMP during periods of startup, shutdown, or malfunction of the capture system and control device.

#### **G. What Are the Notification, Recordkeeping, and Reporting Requirements?**

You are required to comply with the applicable requirements in the NESHP General Provisions, subpart A of 40 CFR part 63, as described in the final rule. The General Provisions notification requirements include: initial notifications, notification of performance test if you are complying using a capture system and control device, notification of compliance status, and additional notifications required for affected sources with continuous monitoring systems. The General Provisions also require certain records and periodic reports.

**Initial Notifications.** If you own or operate an existing affected source, you must send a notification to the EPA Regional Office in the region where your facility is located and to your State agency no later than 1 year after publication of the final rule in the **Federal Register**. For new and reconstructed sources, you must send the notification within 120 days after the date of initial startup or 120 days after publication of the final rule, whichever is later. That report notifies us and your State agency that you have an existing affected source that is subject to the final standards or that you have constructed a new affected source. Thus, it allows you and the permitting authority to plan for compliance activities. You also need to send a notification of planned construction or reconstruction of a source that would be subject to the final rule and apply for approval to construct or reconstruct.

**Notification of Performance Test.** If you demonstrate compliance by using a capture system and control device for which you do not conduct a liquid-liquid material balance, you must conduct a performance test. The performance test is required no later

than the compliance date for an existing affected source. For a new or reconstructed affected source, the performance test is required no later than 180 days after startup or 180 days after **Federal Register** publication of the final rule, whichever is later. You must notify EPA (or the delegated State or local agency) at least 60 calendar days before the performance test is scheduled to begin and submit a report of the performance test results no later than 60 days after the test.

**Notification of Compliance Status.** You must submit a Notification of Compliance Status within 30 days after the end of the initial 12-month compliance period. In the notification, you must certify whether each affected source has complied with the final standards; identify the option(s) you used to demonstrate initial compliance; summarize the data and calculations supporting the compliance demonstration; and provide information on any deviations from the emission limits, operating limits, or other requirements.

If you elect to comply by using a capture system and control device for which you conduct performance tests, you must provide the results of the tests. Your notification must also include the measured range of each monitored parameter, the operating limits established during the performance test, and information showing whether the source has complied with its operating limits during the initial compliance period.

If you are complying with a single emission limit representing the predominant surface coating activity under § 63.4490(c)(1) of the final rule, include all calculations and supporting documentation for the predominant activity determination. If you are complying with a facility-specific emission limit under § 63.4490(c)(2) of the final rule, include the calculation of the facility-specific emission limit and any supporting information.

**Recordkeeping Requirements.** You must keep records of reported information and all other information necessary to document compliance with the final rule for 5 years. As required under the General Provisions, records for the 2 most recent years must be kept on-site or be readily accessible from the site (for example, by a computer network); the other 3 years' records may be kept off-site. Records pertaining to the design and operation of the control and monitoring equipment must be kept for the life of the equipment.

Depending on the compliance option that you choose, you may need to keep records of the following:

- Organic HAP content or volatile organic matter content and coating solids content (for all compliance options).
  - Quantity of the coatings, thinners and/or other additives, and cleaning materials used during each compliance period. If you are using the compliant material option for all coatings at the source, you may maintain purchase records for each material used rather than a record of the volume used.
  - For the emission rate (with or without add-on controls) compliance options, calculations of your emission rate for each 12-month compliance period.
  - All documentation supporting initial notifications and notifications of compliance status.
- If you demonstrate compliance by using a capture system and control device, you must keep records of the following:
- All required measurements, calculations, and supporting documentation needed to demonstrate compliance with the standards.
  - All results of performance tests and parameter monitoring.
  - All information necessary to demonstrate conformance with your plan for minimizing emissions from mixing, storage, and waste handling operations.
  - All information necessary to demonstrate conformance with the affected source's SSMP when the plan procedures are followed.
  - The occurrence and duration of each startup, shutdown, or malfunction of the emission capture system and control device.
  - Actions taken during startup, shutdown, and malfunction that are different from the procedures specified in the affected source's SSMP.

• Each period during which a CPMS is malfunctioning or inoperative (including out-of-control periods). The final rule requires you to collect and keep records according to certain minimum data requirements for the CPMS. Failure to collect and keep the specified minimum data would be a deviation that is separate from any emission limits, operating limits, or work practice standards.

Deviations, as determined from these records, must be recorded and also reported. A deviation is any instance when any requirement or obligation established by the final rule including, but not limited to, the emission limits, operating limits, and work practice standards, is not met.

If you use a capture system and control device to reduce organic HAP emissions, you must make your SSMP

available for inspection if the Administrator requests to see it. The plan stays in your records for the life of the affected source or until the source is no longer subject to the final standards. If you revise the plan, you must keep the previous superseded versions on record for 5 years following the revision.

If you are using the predominant activity or facility-specific emission limit alternative, you must keep the records of the data and calculations needed to determine the predominant activity or to calculate the facility-specific emission limit for your facility.

**Periodic Reports.** Each reporting year is divided into two semiannual reporting periods. If no deviations occur during a semiannual reporting period, you submit a semiannual report stating that the affected source has been in continuous compliance. If deviations occur, you include them in the report as follows:

- Report each deviation from the emission limit.
- Report each deviation from the work practice standards if you use an emission capture system and control device.
- If you use an emission capture system and control device, other than a solvent recovery system for which you conduct liquid-liquid material balances, report each deviation from an operating limit and each time a bypass line diverts emissions from the control device to the atmosphere.

• Report other specific information on the periods of time the deviations occurred.

You also have to include in each semiannual report an identification of the compliance option(s) you used for each affected source and any time periods when you changed to another compliance option.

**Other Reports.** You are required to submit reports for periods of startup, shutdown, or malfunction of the capture system and control device. If the procedures you follow during any startup, shutdown, or malfunction are inconsistent with your SSMP, you report those procedures with your semiannual reports in addition to immediate reports required by 40 CFR 63.10(d)(5)(ii).

### III. What Are the Significant Changes Since Proposal?

#### A. Applicability

We have revised the applicability section to clarify who is subject to the final rule. Specifically, the section includes activities associated with coating operations such as surface preparation, cleaning, mixing, and

storage as long as these activities are associated with coating application at the facility.

We revised the scope of the assembled on-road vehicle subcategory to include the surface coating of fully assembled motor vehicles and trailers, including the coating of any metal substrate on the vehicle. In addition, we amended the assembled on-road vehicle subcategory to include the concurrent coating of parts such as radiator grills that are removed from the fully assembled on-road vehicle to prevent overspray of sensitive systems or equipment and to facilitate full coverage.

We have clarified that when determining whether your facility is below the applicability threshold, you may exclude coatings that meet the definition of non-HAP coating when determining whether you use 378 liters (100 gal) per year, or more, of coatings in the surface coating of plastic parts and products (§ 63.4481(b) of the final rule). Thus, a facility using mostly non-HAP coatings and less than 100 gal per year of HAP-containing coatings will not be subject to the final rule. In addition, we have included a definition of "non-HAP coating" in the final rule.

#### B. Scope of Category

We have clarified the scope of the final rule to exclude surface coating operations using only coatings, thinners and other additives, and cleaning materials that contain no organic HAP. We also excluded surface coating of plastic that is subject to several other NESHAP. In addition, we included a provision that allows sources that meet the applicability criteria of both the final rule and the Automobiles and Light-Duty Trucks NESHAP to comply with the Automobiles and Light-Duty Trucks NESHAP for all their surface coating operations associated with the manufacturing of automobiles or light-duty trucks in lieu of complying with each subpart separately.

#### C. Emission Limits

The emission limits remain as proposed, except for the TPO subcategory. The new source TPO limit increased from 0.17 to 0.22 kg (lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period (see § 63.4490(a)(3)). The existing source TPO limit increased from 0.23 to 0.26 kg (lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period (see § 63.4490(b)(3)). The changes were the result of additional data and information from commenters resulting in revised emission rate

estimates for some sources in the TPO subcategory.

#### D. Method for Determining HAP Content

In the final rule, we have included a method for determining the HAP content for reactive adhesives based on the HAP actually emitted, rather than determining the mass fraction of organic HAP in the coatings using Method 311 or Method 24. Facilities may use the alternative method for reactive adhesives contained in appendix A to the final rule. In addition, we included a provision for reactive adhesives to allow facilities to rely on manufacturer's data that expressly states the organic HAP mass fraction emitted.

#### E. Deviations From Operating Parameters

The proposed rule stated that if your add-on control system deviates from the operating limit specified in Table 1 to subpart PPPP of 40 CFR part 63, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation. We have written the final rule to allow the use of other data to indicate the actual efficiency of the emission capture system and add-on control device, as long as the use of these data is approved by the respective permitting authority.

#### F. New Alternatives To Facilitate Compliance With Multiple Coating NESHAP and Multiple Emission Limits

The final rule allows facilities subject to more than one surface coating emission limit to comply with each applicable emission limit separately or to adopt one of two alternatives. The first alternative allows all coating operations to comply with the emission limit representing the predominant surface coating activity at the facility (the predominant activity means the surface coating activity representing 90 percent or more of the total surface coating activity).

The predominant activity approach is also available for sources that are subject to more than one subcategory emission limit. That is, a source may determine which subcategory represents 90 percent or more of the coating activities that take place at the facility, and then have all coating operations at the facility comply with the emission limit that represents the predominant activity.

The second alternative allows a facility to comply with a facility-specific emission limit calculated from the relative amount of coating activity that is subject to individual emission limits. The facility-specific emission limit may

include separate emission limits from one or more applicable NESHAP.

You must include all surface coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP and constitute more than 1 percent of total coating activities. Coating activities that meet the applicability criteria of a subcategory in a surface coating NESHAP but comprise less than 1 percent of total coating activities need not be included in the facility-specific emission limit calculation but they must be included in the compliance calculations.

Another approach that you may use is the equivalency by permit option in 40 CFR part 63, subpart E (§ 63.94). Under this approach, you may design an emissions control program that is suited for your process or plant as long as you can demonstrate that your program will achieve the same emissions reductions as the NESHAP. You must then work with your State, local, or tribal air pollution control agency to submit an equivalency demonstration. This equivalency demonstration will be reviewed by the appropriate EPA Regional Office. The equivalency demonstration is approved as part of the operating permit approval process. For more information, please see the section 112(l) Web site at [http://www.epa.gov/ttn/atw/112\(l\)/112-lpg.html](http://www.epa.gov/ttn/atw/112(l)/112-lpg.html).

#### IV. What Are the Responses to Significant Comments?

For the full set of comment summaries and responses, refer to the BID (National Emission Standards for Hazardous Air Pollutants: Surface Coating of Plastic Parts and Products, August 2003, EPA-453/R-03-007), which contains EPA's responses to each public comment and is available in Docket ID No. OAR-2002-0074 (formerly Docket No. A-99-12).

##### A. Applicability and Scope of Source Category

*Comment:* Several commenters requested that the applicability threshold be increased from 100 gal per year to 250 gal per year to be consistent with the applicability threshold in the miscellaneous metal parts and products rule. One commenter believes uniformity is necessary for facilities subject to both rules. One commenter further requested that use of HAP-free materials should not count toward the applicability threshold level.

Several commenters also requested that coatings used in volumes of less than 50 gal per year (not to exceed a total of 100 gal per year) be exempt from the final rule and noted that a similar exemption is part of the proposed

NESHAP for miscellaneous metal parts and products. Another commenter requested the same exemption, but asked that a total of up to 250 gal per year be eligible because that is the level in the Miscellaneous Metal Parts and Products NESHAP. Another commenter requested that the allowed facility total be 500 gal per year.

*Response:* The applicability threshold of 100 gal or more per year has not been revised, and the final rule does not contain the suggested provision that coatings used in small volumes (less than 50 gal per year, not to exceed 100 gal per year) should be exempt from the emission limits.

The applicability threshold of 100 gal or more per year of coating was selected based on an analysis of the data provided to the EPA through the plastic parts and products industry survey. These data indicate that sources using 100 gal or more per year of plastic part surface coating materials were engaged in surface coating as part of their primary activity and those using less than this amount were not. Moreover, facilities using 100 gal or more per year apply coatings using similar processes and control techniques, making the emission limits and emission reduction requirements relevant to all sources of this size or larger. Since the threshold is based on an analysis of data from the actual facilities that will be subject to the rule, the final rule does not revise the threshold.

In response to comment, we have changed the rule to clearly state that the use of non-HAP materials (as defined in the rule) does not count towards the 100 gal applicability threshold in the final rule. This would avoid a situation where a source would be subject to the final rule even though it was using mostly non-HAP coatings and less than 100 gal per year of HAP-containing coatings. Because the purpose of the final rule is to control HAP, we agree that it is appropriate to consider only HAP-containing coating in determining whether a source meets the applicability threshold.

The final rule does not include the exemption for small volumes of individual coatings (less than 50 gal per year). In determining MACT, EPA included all reported coatings, even those used in small volumes, in the emission rate for each source. Since small volume coatings were included in the emission rate for each source, the emission limits should be achievable for sources that include all coatings in their compliance demonstrations.

*Comment:* One commenter suggested including all lamps that are subject to National Highway and Traffic Safety

Administration regulations for vehicle lamps (49 CFR 571.108) in the headlamp subcategory. The commenter noted that all vehicle exterior lamps must meet the same Federal safety standards and technical requirements for coatings that warranted the separate subcategory for headlamps. The reflective finishes on tail lamps and other lamps, therefore, require the use of the same argon reflective coatings and HAP-containing solvents that are used on headlamps.

*Response:* We agree with the commenter and have revised the scope of the headlamp coating subcategory to include coating operations on all exterior automotive lamps (headlamps, tail lamps, turn signals, brake lights, and side marker lights). To reflect the broader content of this subcategory, we have also changed the name of the subcategory to "automotive lamp coating." This change in the scope of this subcategory, however, has not affected the results of the MACT analysis that are the basis for the emission limits for this subcategory.

##### B. Overlap With Rules for Other Source Categories

###### Department of Defense Coatings

*Comment:* One commenter stated that EPA should establish a separate source category for DoD surface coating operations not covered by the Aerospace or the Shipbuilding and Ship Repair NESHAP (40 CFR part 63, subparts GG and II, respectively) and exempt these coating operations from the final rule for plastic parts. The commenter described the unique material requirements and operating conditions for military coating operations that are different from commercial operations. The commenter claimed that the proposed compliance options would be impractical and extremely costly for DoD facilities because of the complexity of military coating operations, the number of coatings and solvents used, and the number of different items and substrates coated. Many DoD installations (especially those that service or remanufacture artillery, armored vehicles, weapons systems, and support equipment) use thousands of different coatings, and each material is subject to its own military specification.

Because DoD facilities use HAP-containing solvents, the commenter claimed they could not use the proposed compliant materials option. Reformulating solvents or coatings requires extensive field testing before they may be approved for use in tactical field equipment and weapons systems. In addition, updating the coatings for

which there is a military specification requires updating the documentation applicable to military specifications and the documentation for the relevant equipment and weapons systems that adopt those military specifications.

The proposed emission rate option and the add-on controls option are not feasible because they would require DoD to be able to accurately track the amount of coating or cleaning solvent used on each item or substrate. As noted above, DoD installations may use thousands of different coatings on a variety of substrates, including metal, plastic, ceramics, rubber, fabric, wood, and composites.

The commenter requested a separate source category so that emission limits and a regulatory format could be developed that would be most appropriate for military coating needs. The commenter claimed that a separate rule also would ensure that all DoD coatings could comply with emission limits using the same units of measure. The commenter noted that DoD facilities use many of the same high performance coatings on plastic and metal items and substrates, and they could be potentially regulated by both the NESHAP for plastic parts and products and the NESHAP for miscellaneous metal parts and products.

*Response:* After several visits to DoD surface coating operations and meetings with DoD stakeholders, EPA agrees that a separate source category for DoD surface coating operations is warranted. One factor that we considered in this decision is the unique military specifications for coatings used on tactical and other military equipment. Further data collection and analysis are required to determine what emission limits are achievable for these coating operations. Another factor that we considered is the issue that military facilities may use thousands of different coatings, and that the types of equipment that are coated and the types of coatings used in a given time period are unpredictable and often influenced by world events. Further analysis is needed to determine what emission limit formats, compliance demonstration, and recordkeeping requirements are practical for this type of situation. Another consideration was the high probability that these sources would be subject to multiple NESHAP.

The EPA will be developing separate NESHAP for "Defense Land Systems and Miscellaneous Equipment" surface coating operations. Those NESHAP will include operations that do not meet the applicability criteria of the Aerospace NESHAP or the Shipbuilding and Ship Repair NESHAP. The comments

pertaining to the format of the standards and appropriate compliance options will be taken into consideration in the development of those NESHAP.

#### Exclusion of Activities Subject to Other Surface Coating NESHAP

*Comment:* One commenter requested that surface coating of plastic subject to the Paper and Other Web Coating NESHAP (40 CFR part 63, subpart JJJJ) be included in the list of coating operations that are exempt from the final rule.

*Response:* The final rule specifically exempts the surface coating of plastic web substrates. The EPA agrees that the coating of plastic web substrates that is already subject to the Paper and Other Web Coating NESHAP should not be subject to additional regulation under the final rule. This change will clarify the applicability of both NESHAP.

*Comment:* One commenter strongly recommended that one rule, either the final rule or 40 CFR part 63, subpart MMMM, apply to all assembled on-road vehicles. According to the commenter, motor home manufacturers offer customers numerous options that determine the surfaces of each vehicle. The commenter claimed that a substrate tracking program would need to be broken down to individual work orders to meet the requirements for calculating and demonstrating compliance with both subparts.

*Response:* The EPA agrees with the commenter. Both the final rule and 40 CFR part 63, subpart MMMM state that the surface coating of all assembled on-road vehicles, including the coating of any metal substrate on the assembled vehicle, will be subject to only the emission limits of the assembled on-road vehicle subcategory in the final rule. This is consistent with the data and methodology used to set the MACT emission limit for the assembled on-road vehicle subcategory. A separate assembled on-road vehicle subcategory was established because of the large size of assembled on-road vehicles and the fact that assembled vehicles frequently contain heat-sensitive parts that prevent the use of curing ovens and various low-HAP coating technologies. However, the coating of metal parts prior to the assembly of the vehicle, such as a motor home chassis, will still be subject to 40 CFR part 63, subpart MMMM. Likewise, the surface coating of plastic parts prior to the final assembly of the motor home will be subject to either the general use, automotive lamp, or TPO emission limit in the final rule, as appropriate for the type of coating operation.

*Comment:* One commenter requested that EPA clarify that the Aerospace

NESHAP (40 CFR part 63, subpart GG), rather than the Plastic Parts NESHAP, cover parts necessary for the proper functioning of aircraft. Another commenter requested the final rule clarify that all aerospace coating, cleaning, and depainting activities are subject to the Aerospace NESHAP and exempt from subpart PPPP. The commenter stated that the proposal preamble indicated that coating activity exempted from the Aerospace NESHAP would be subject to the NESHAP. The commenter argued that the Aerospace NESHAP found that MACT controls were not warranted for certain aerospace surface coating operations and that regulating these operations under the final rule would be an unexplained change in policy. Another commenter maintained that EPA has not demonstrated that the aerospace rework industry can cost-effectively achieve the general use emission limit. The commenter noted that many coatings for plastic surfaces and parts associated with the interior of aircraft must meet Federal Aviation Administration or Original Equipment Manufacturer specifications.

Another commenter suggested that the final rule include an alternative compliance option for facilities subject to the final NESHAP under development for the surface coating of automobiles and light-duty trucks that also coat plastic parts that would not be subject to the Automobiles and Light-Duty Trucks NESHAP. The commenter noted that some automobile and light-duty truck facilities will be subject to the final rule for plastic parts coating, the NESHAP for the surface coating of automobiles and light-duty trucks, and the Miscellaneous Metal Parts and Products NESHAP. The commenter suggested that a source be allowed to comply with the final NESHAP for automobiles and light-duty trucks for all coating operations if the principle activity is the surface coating of automobiles and light-duty truck bodies. The commenter noted that the plastic and metal parts coating operations are often integrated with the body coating operations, since all three coating operations may share common coating supplies, application equipment, cleaning solvents, and emission controls. The shared equipment and materials could make tracking separate compliance for each NESHAP overly burdensome and would reduce the certainty of compliance.

One commenter requested that EPA clarify that shipbuilding or ship repair surface coating operations are subject to only the Shipbuilding and Ship Repair NESHAP (40 CFR part 63, subpart II).

The commenter noted that the Shipbuilding and Ship Repair NESHAP covers only paints and thinners, and does not cover caulks, sealants, and adhesives. Since the plastic parts rule covers all coating materials, the commenter was concerned that it would cover those materials that were not specifically addressed by the Shipbuilding and Ship Repair NESHAP and will make shipbuilding and ship repair sources subject to multiple NESHAP.

*Response:* We agree with the commenter that coating operations that are addressed in the Aerospace NESHAP, and for which EPA determined that MACT controls were not needed, are not intended to be regulated under the Plastic Parts and Products NESHAP. To clarify this intent, the final plastic parts rule includes a provision that specifies that the final rule does not apply to coatings that meet the applicability criteria for the Aerospace NESHAP (40 CFR part 63, subpart GG). In addition, the final rule excludes the application of specialty coatings, as defined in appendix A to subpart GG, to metal parts of aerospace vehicles or components.

The coating of plastic parts that would not meet the applicability of the Aerospace NESHAP or that would not require any of the specialty coatings defined in appendix A to 40 CFR part 63, subpart GG would be subject to the plastic parts final rule. Information provided during the comment period indicates that any plastic coating activities would comprise less than 5 percent of total coating activities at an aerospace facility. Consequently, the facility could elect to comply with the predominant activity compliance alternative to reduce its recordkeeping and reporting burden.

We agree that the final rule for the surface coating of plastic parts is not intended to apply to coating operations that meet the applicability criteria of the Shipbuilding and Ship Repair NESHAP. Although the Shipbuilding and Ship Repair NESHAP did not establish emission limits for sealants, caulks, and adhesives used in shipbuilding or ship repair, such types of coatings used for shipbuilding or ship repair operations are more appropriately addressed under the Shipbuilding and Ship Repair NESHAP. The review of the Shipbuilding and Ship Repair NESHAP, required by section 112(d)(6) of the CAA, is an appropriate mechanism for evaluating whether emission limits are needed for sealants, caulks, and adhesives used in shipbuilding or ship repair.

For sources that will be subject to the final Automobiles and Light-Duty Trucks NESHAP, the final plastic parts and products rule includes a provision to mitigate the overlap at these facilities. For these plastic part surface coating operations, a facility has the option to comply with the requirements of the final Automobiles and Light-Duty Trucks NESHAP as long as the plastic parts are for use in automobiles or light-duty trucks.

**Complying With the Rule Representing the Majority of the Substrate (Plastic or Metal) on Pre-Assembled Parts**

*Comment:* Several commenters supported this option in the proposed rule. However, one commenter requested that this option be revised to include facilities that coat both metal and plastic components separately, as well as those that coat multi-substrate parts. The commenter noted that this would prevent a source from having to track the amount of coating applied to individual parts in a coating operation when a source coats separate plastic and metal parts and preassembled parts that contain plastic and metal on the same line.

Several other commenters did not support the proposed option. One commenter claimed that the proposed rule is unclear and overly burdensome for facilities that coat both metal and plastic parts (which may not be pre-assembled) and that this compliance option would help few, if any, facilities. One commenter noted that because the same cleaning solvents are used for multiple substrates and coating operations, it would be extremely difficult to determine the quantity used for plastic parts and products versus other substrates. Another commenter noted that the relative amount of plastic and metal coated at a facility could change over time and a facility could potentially fluctuate between applicable NESHAP.

*Response:* We recognize and appreciate some of the problems that were identified with this approach by the commenters. Although some commenters supported this approach, it is not included in the final rule. The final rule instead offers more practical compliance approaches, including a predominant activity and a facility-specific emission limit alternative, as described in this preamble.

**Comply With the Most Stringent NESHAP**

*Comment:* Several commenters supported this provision. One commenter agreed that complying with only one NESHAP would prevent

excessive monitoring, recordkeeping, and reporting. One commenter suggested that this option would require less recordkeeping than tracking and determining which substrate represents the greatest coating activity.

However, several commenters stated that different units of measure (e.g., lb organic HAP per lb solids versus lb organic HAP per gal solids) make it difficult to determine which surface coating NESHAP among several is more stringent. Additionally, one commenter noted that case-by-case demonstrations of relative stringency based on total estimated annual emissions are difficult because of the different standards and units of measure in the various NESHAP. One commenter noted that when different NESHAP have different methods of compliance demonstration, sources must track and allocate material usage differently for different parts. Cleaning solvents in particular are a problem, since some NESHAP emission limits include cleaning solvents while others impose work practices instead.

One commenter noted that the rule as proposed places the burden on the source to determine the most stringent limit, and that the different units used for different surface coating rules may cause a source to mistakenly fall out of compliance through miscalculation or misunderstanding.

Several commenters suggested options so that sources would not have to determine which rule is most stringent on a case-by-case basis. Some commenters suggested that the relative stringency of different NESHAP should be stated in each rulemaking so that facilities subject to more than one NESHAP do not need to perform a case-by-case determination of which applicable rule is most stringent. Another commenter suggested that the different surface coating rules contain factors or equations so a source could convert emission limits from one unit to another (e.g., lb organic HAP/lb solids to lb organic HAP/gal solids).

One commenter recommended that EPA allow facilities subject to both the Plastic Parts and Products NESHAP and the Miscellaneous Metal Parts and Products NESHAP the option of complying with the standards of their choice since both NESHAP will significantly reduce organic HAP emissions.

*Response:* Through clarification of the applicability provisions of the final rule, as described in this preamble, we have significantly reduced the potential for sources to be subject to multiple surface coating NESHAP. However, we recognize that some sources may be subject to both the final rule and the

miscellaneous metal parts rule, and possibly other NESHAP. We agree with the commenters who argued that demonstrating compliance with the most stringent NESHAP is complicated by the fact that it is hard to determine which NESHAP is most stringent because of differences in units, the affected source targeted (e.g., whether cleaning is included in the emission limits), and compliance periods. Therefore, the option of complying with the most stringent NESHAP is not included in the final rule. Instead, the final rule provides the predominant activity and facility-specific emission limit compliance alternatives, as described in this preamble.

#### Predominant Activity Compliance Option

*Comment:* Several commenters supported the predominant activity compliance option. One of the commenters preferred the "predominant activity" compliance option only if it is based on estimates of surface area coated. The commenter provided as an example a truck manufacturing facility that could estimate the total surface area coated by using truck part design information for each truck and tracking the number of trucks manufactured each year.

Several commenters recommended that the predominant activity demonstration be made only at the time a source applies for or renews its operating permit under title V or when the source becomes subject to regulations applicable to new source review or prevention of significant deterioration. The commenters noted that a "one-time" or periodic demonstration would reduce the recordkeeping burden and avoid the potential for some facilities to fluctuate back and forth between two applicable NESHAP if predominant activity was tracked over a short time frame.

*Response:* The final rule provides two alternatives for reducing the burden associated with complying with more than one coating NESHAP or with more than one subcategory emission limit. The first alternative allows a facility to identify its predominant type of coating activity and comply with the NESHAP or the subcategory emission limit that applies to that activity for all coating operations. The predominant activity is defined as the activity that represents 90 percent or more of the surface coating that occurs at a facility. The second alternative allows a facility to calculate and comply with a facility-specific emission limit.

We have analyzed the relative differences in emission limits that are

included in the predominant activity compliance option, as it would apply to the NESHAP for plastic parts and products and the NESHAP for miscellaneous metal parts and products. We have determined, for certain subcategories, that the environmental benefit of complying with the emission limit for the predominant activity is essentially equivalent to complying separately with each emission limit. For subcategories where the environmental benefit would not be substantially equivalent to complying with each standard separately, the predominant activity alternative is not provided. The predominant activity alternative does not apply to coating operations that are subject to the assembled on-road vehicle or automotive lamp emission limits in the final rule. These emission limits reflect the need for specialized performance requirements that can currently be accomplished only with materials that contain substantially higher HAP than materials used at other types of coating operations. It would be inappropriate to allow coating operations that can be performed with lower-HAP materials to comply with substantially higher-HAP emission limits than would otherwise be applicable.

Under the predominant activity alternative, if all coating operations comply with the emission limit applicable to the predominant activity, the facility will be considered in compliance with the emission limits otherwise applicable to the minority surface coating operations (i.e., those that amount to less than 10 percent of the coating activity).

The predominant activity determination could be based on representative coating data from the prior 1 to 5 years of operation for existing sources, or it could be based on reliable projections for future operations. For new sources, the determination would be based on projections of coating activity for the next 1 to 5 years or other period that is believed to represent future coating operations.

We believe the most appropriate basis for the predominant activity determination is the percentage of coating solids that is applied to parts subject to different emission limits. A facility would not need to measure the amount of coating solids used on different parts and products to determine the relative amount of coating activity subject to different emission limits. Instead, a facility could use other reliable and verifiable information including, but not limited to, product design, volume of coatings used, or the

number of different parts and products coated during a representative period as long as it is approved by the permitting authority.

#### Create a Subcategory for Overlap Sources or Job Shops

*Comment:* One commenter suggested that developing subcategories for facilities subject to multiple NESHAP would not be feasible because EPA might need to create several subcategories to address different combinations of NESHAP. Another commenter stated that a subcategory for mixed coating operations could not be considered as an option without a proposed numerical emission limit. The same commenter claimed that emission limits for this option can not be developed based on the current MACT database.

*Response:* We agree with the commenters that this option is not feasible for several reasons. First, as stated in the proposal preamble (67 FR 72280, December 4, 2002), this option may not afford as much operating flexibility as other options being considered. Second, we did not have sufficient data to develop emission limits since most sources responding to the plastic parts and miscellaneous metal parts industry surveys tended to provide only data relevant to those surveys and the surveys were completed by sources that were more or less dedicated to one substrate or another. As a result, we did not have representative or accurate data from those sources most likely to be subject to this type of emission limit. Finally, as one commenter alluded to, even if useful data became available, an emission limit for these "job shop" sources would need to be proposed for public comment.

#### Expand the Definition of the Source Category and Subcategories To Include Incidental Surface Coating Operations

*Comment:* One commenter stated that an approach for "incidental" surface coating operations, would not be useful for sources such as truck manufacturers because neither plastic nor metal coating is incidental to their operations. Another commenter claimed that the incidental surface coating operations option may provide some relief.

*Response:* The final rule does not expand the definition of the plastic parts and products or miscellaneous metal parts and products source categories or subcategories to include incidental surface coating operations. However, as described previously, under the predominant activity compliance alternative in the final rule,

a source may comply with the emission limit that represents 90 percent or more of the coating activity at a source. For both the predominant activity and facility-specific emission limit alternatives, you may exclude coating activities that meet the applicability criteria of other surface coating NESHAP as long as these coating activities do not constitute more than 1 percent of total coating activities. Although these incidental coating activities can be excluded from the emission limit calculation or predominant activity determination, the coating activities must be included in the facility-wide compliance calculation.

#### Comments on the Proposal To Establish a Multi-Component Emission Limit

*Comment:* One commenter disagreed with EPA's suggestion of setting a multi-component emission limit for several reasons. The commenter did not think it would reduce recordkeeping because in both cases (separate compliance and a multi-component emission limit) a source would have to track the amount of each coating applied to each substrate in each subcategory. The commenter also contended that this approach would likely increase emissions compared to compliance with the individual limits, but did not provide any supporting explanation. The commenter was also concerned that some facilities could operate out of compliance if the emission limit does not accurately reflect the mix of substrates that they coat. Finally, the commenter believed that this option would amount to emissions averaging across subcategory boundaries and would contradict CAA section 112(d)(3), which mandates that standards for a subcategory cannot be less stringent than the MACT floor for the subcategory.

Several other commenters, however, supported this approach. One commenter argued that restricting emission averaging among coating operations discourages innovative and environmentally beneficial approaches to low-HAP coatings. The commenter argued that allowing averaging would promote more cost-effective regulation of HAP emissions while achieving an overall environmental benefit. The

commenter also argued that the same flexible approach should be incorporated for meeting the requirements of multiple NESHAP at the same facility, as well as meeting multiple emission limits within a single NESHAP.

One commenter supported the idea of a source subject to two or more subcategory limits (e.g., TPO and general use) to calculate a source-specific multi-component emission limit based on the relative amount of coating solids used on each plastic substrate. However, the commenter recommended that EPA not require a facility to calculate the limit each month and instead be allowed to calculate it annually or when renewing its permit.

While not commenting directly on this option, many commenters also expressed concern that many sources coat both plastic and metal parts, often using the same coatings and cleaning solvents. According to these commenters, requiring a facility to demonstrate compliance with separate emission limits in two or more surface coating NESHAP would be difficult and burdensome. These comments have been summarized earlier in this section.

*Response:* Through clarification of the applicability provisions of the final rule, as described in this preamble, we have significantly reduced the potential for sources to be subject to multiple surface coating NESHAP. In addition, EPA is providing in the final rule, the opportunity for a source to determine and comply with a facility-specific weighted emission limit for all coating operations that take place at the source. The emission limit would be weighted according to the relative amount of coatings used that would be subject to separate emission limits. This alternative emission limit may include applicable emission limits from two or more NESHAP.

In calculating the facility-specific emission limit, the basis for the weighting of the individual emission limits must be the mass of coating solids used in each subcategory. The mass coating solids used in the different coating operations may be calculated by a variety of methods, as long as it is accepted by the permitting authority. For example, in some cases a facility that uses the same coating for plastic

and metal parts may be able to use the design specifications of the parts coated and the numbers of each type of part coated to calculate the weight of coating solids used for metal and plastic surfaces subject to the individual emission limits. In other situations, actual records of coating usage for each operation may be needed to provide a valid calculation.

In calculating a facility-specific emission limit for operations subject to NESHAP with emission limits in different formats, you will need to convert emission limits to the same format. To do so, you must use a default value for solids density of 12.5 lbs solids per gal solids (1.50 kg solids/liter solids) to convert emission limits in the Miscellaneous Metal Parts and Products NESHAP that are in "HAP per volume solids" to the "HAP per mass solids" units of the Plastic Parts and Products NESHAP. This default value was calculated from the weighted-average solids density of coatings in the metal parts survey database and represents the average solids density of metal parts coatings.

The following example illustrates how the facility-specific emission limit may be used. Assume a facility has three coating operations subject to the following emission limits:

- Plastic parts general use (0.16 lb organic HAP/lb solids);
- Plastic parts TPO (0.26 lb HAP/lb solids); and
- Miscellaneous metal parts general use (2.6 lb organic HAP/gal solids).

The three coating operations used the following pounds of coating solids in the 12 months of the compliance period:

- Plastic parts general use: 30,000 lbs;
- Plastic parts TPO: 30,000 lbs; and
- Miscellaneous metal parts general use: 40,000 lbs.

First, the miscellaneous metal parts general use emission limit must be converted to lb organic HAP/lb solids units as in the plastic parts rule. For this example, we will use the default solids density of 12.5 lb solids per gal solids:

$$\frac{2.6 \text{ lb HAP}}{\text{gal solids}} \times \frac{1 \text{ gal solids}}{12.5 \text{ lb solids}} = \frac{0.21 \text{ lb HAP}}{\text{gal solids}}$$

Next, the facility-specific emission limit is calculated using Equation 1 in § 63.4490 of the final rule:

$$\frac{(0.16) (30,000) + (0.26) (30,000) + (0.21) (40,000)}{(30,000 + 30,000 + 40,000)} = \frac{0.21 \text{ lb HAP}}{\text{lb solids}}$$

If all coating operations comply with an emission limit of 0.21 lb organic

HAP/lb solids and with the other compliance provisions of the final rule,

the facility will be in compliance with the final rule for that compliance

period. The calculation must be repeated for each 12-month compliance period. In this example, compliance will also constitute compliance with the Miscellaneous Metal Parts and Products NESHAP for the metal parts coating operations. The facility may use either the compliant materials option, the emission rate without add-on controls option, or the emission rate with add-on controls option to demonstrate compliance with the facility-specific emission limit.

This approach is consistent with the CAA because the emission limits from which the facility-specific emission limit would be calculated are based on the MACT emission limits for each applicable coating operation. We believe that overall emissions would be essentially the same as if each coating operation were complying separately with each applicable emission limit. The facility-specific emission limit needs to be calculated each month of the 12 month compliance period because of the wide differences in the various emission limits available for inclusion. A relatively small change in the mix of coating operations conducted during a compliance period may have a significant effect on the weighted emission limit. Thus, it would not be appropriate for a facility to establish and maintain a fixed facility-specific emission limit based on historical data or long term projections.

In the final rule, the facility-specific emission limit and predominant activity alternatives provide sources with comprehensive and flexible approaches that will reduce the recordkeeping associated with sources that coat multiple substrates and whose workload could fluctuate over time. These alternatives reduce the likelihood of overlap among multiple surface coating NESHAP.

#### *C. The MACT Floor Approach and Database*

*Comment:* Several commenters requested that the rule be revised to either exempt solvent blends from HAP limits or change the MACT floors to reflect the default HAP contents. One commenter noted that when sources provided EPA with coating data they were not aware that solvent blends contained HAP, and therefore did not report any HAP content in these materials. Therefore, according to the commenters, using the default HAP contents in the rule, as proposed, to determine compliance is not consistent with the MACT floor. Other commenters requested that EPA verify that the manner in which solvent blends were accounted for in the database is

consistent with the default HAP fractions in Tables 3 and 4 of this preamble.

*Response:* When we analyzed the data provided to us in establishing the MACT floor for the general use, automotive lamp, and TPO subcategories, we accounted for the HAP in solvent blends, consistent with Tables 3 and 4 of this preamble. Therefore, no adjustments to the proposed limits are necessary to account for the HAP in solvent blends.

For the assembled on-road vehicle subcategory, the proposed limits are based on data provided to EPA that, according to the commenters, did not account for the HAP in solvent blends. We have reviewed more detailed HAP data from EPA surveys for sources in this subcategory. Based on these data, the HAP from solvent blends accounts for only about 0.1 percent of all HAP emitted from the coating operations at these sources. Therefore, we believe that no adjustment in the emission limit for the assembled on-road vehicle subcategory is needed to account for the HAP in solvent blends that will be included in the compliance calculations.

*Comment:* Several commenters provided additional data that resulted in revised emission rates for some of the MACT floor facilities in the TPO subcategory. Two commenters expressed concern that the MACT floor database could contain errors that were still undetected. The commenters were also concerned that some coating materials could not be accurately linked to specific subcategories at several sources that had coating operations in more than one subcategory. The commenters recommended adding a 20-percent correction factor to the proposed emission limits to account for potential errors that had not yet been identified and to account for materials that were not linked to specific subcategory coating operations.

Two commenters also questioned EPA's assumptions about capture efficiency and the approach for dividing HAP emissions among the spray booth, flash-off, and curing ovens for those facilities that did not supply specific information when estimating emission rates for sources with add-on controls. The commenters questioned whether EPA should have assumed 100 percent capture efficiency for total enclosures when data for some sources indicated only about 65 percent capture efficiency. The commenters also argued that the majority of emissions (about 80 percent) occur in the spray booth and that it is inappropriate to divide emissions evenly among the spray

booth, flash-off area, and the oven and drying area. Both commenters stated that these estimates affect the estimated HAP emissions from the floor facilities.

One commenter requested that EPA modify the emission limits for TPO because the proposed limits are not practically achievable for solventborne systems, or the final rule should include a predominant activity option for TPO surface coating sources that are also subject to the automobile and light-duty truck NESHAP. The commenter argued that because the floor facilities for existing sources in the TPO category include both waterborne and solventborne technologies, solventborne facilities are faced with disadvantages in meeting the standards. The commenter stated that problems arise because it is not economically feasible to convert to waterborne coatings and waterborne coatings do not meet all customer needs. The commenter also noted that some operations could not meet the emission limit even with add-on controls. The commenter noted that in the proposal preamble, EPA concluded that waterborne coatings and add-on controls were not feasible as options more stringent than the MACT floor for existing TPO surface coating operations.

*Response:* We have evaluated the additional data provided on the sources in the TPO subcategory and have corrected the emission rates for these sources where appropriate, and recalculated the MACT floor (the average emission rate of the best-performing five sources for existing sources). The final emission limits reflect those changes, and are higher than the proposed emission limits for new and existing sources. In addition, the data and analysis for each of the MACT floor facilities for each subcategory were checked against the original survey response for each facility and no other corrections were identified that would warrant additional changes to the limits. Since we have adopted the specific data corrections noted by the commenters and have confirmed the other data used in establishing the emission limits for each subcategory, we see no need to increase the limits by 20 percent as suggested by the commenters.

We disagree with the commenter that the TPO emission limits should be revised to exclude sources using waterborne coatings or add-on controls. The commenter provided no data or information that would indicate that these sources should be put into a separate subcategory or subject to a separate emission limit from those that are using solventborne coatings. The products being coated by the lower-emitting "MACT floor" facilities are



similar to those being coated by the rest of the sources in the subcategory. Therefore, these sources need to be included in the MACT analysis for TPO coating and the emission limit for existing TPO sources can be no less stringent than the average emission limit of the five best controlled sources. Existing facilities have the flexibility to meet these limits in a variety of ways, including use of waterborne coatings, use of other low-HAP coating or cleaning materials, add-on controls, or a combination of these. In addition, the final rule includes a compliance alternative for sources subject to the Automobile and Light-Duty Truck NESHAP where compliance with that NESHAP for all plastic part coating operations constitutes compliance with this rule. Also, the final rule includes a predominant activity compliance alternative suggested by commenters as an alternative for TPO sources that are located at sources that are also subject to other surface coating NESHAP, and also includes the facility-specific emission limit alternative. These three alternatives that were not included in the proposed rule will increase the compliance flexibility for sources that are potentially subject to the TPO emission limit.

*Comment:* One commenter requested the final rule move marine engine plastic part coatings from the general use category to either a separate category or a category that more accurately reflects performance and durability requirements for marine engine parts. Another commenter believes that the general use emission limits are more stringent than the miscellaneous metal parts emission limits and believes the plastic parts rule will be difficult and expensive to meet. The commenter noted that coating of the large plastic cover on a stern drive or inboard marine engine enhances the appearance of the engine and protects it in a harsh marine environment.

Another commenter stated that it is not technically feasible for coatings used on personal water craft (PWC) to meet the emission limits from the general use category. The commenter believes PWC coatings need a separate category that more accurately reflects PWC's performance and durability requirements. The PWC are consumer products and the product is judged by its ability to maintain appearance in a harsh marine environment. In this respect, the coating serves as a protective coating for the fiberglass laminate of the PWC hull and deck. The commenter argued that compliant coatings and alternative coating technology, such as electro-deposition

coating and powder coating, are not acceptable because they do not have a high-quality finish for high-visibility products. To resolve this issue, one commenter requested the general use emission limits be harmonized and suggested that PWC could meet a limit based on combined compliance with the plastic parts and miscellaneous metal parts general use emission limits. The commenter indicated that compliance would be facilitated if they could offset higher emissions from the plastic part coating operations.

*Response:* The commenters did not provide data to support the claim that the coatings used on PWC or marine engine covers could not meet the proposed emission limits, or to support the development of alternative emission limits. Therefore, the final rule does not contain a separate category or emission limit for PWC or marine engine cover coating operations. However, a source coating both metal and plastic parts will be allowed to calculate a facility-specific emission limit based on the relative amount of coating performed on each substrate. This approach will allow facilities that coat PWC or engine covers more flexibility in complying with the limits for their plastic part surface coating operations.

#### *D. Compliance Options for Meeting the Emission Limits*

*Comment:* One commenter stated that the emission rate without add-on controls option allows sources to take credit for HAP included in materials recycled off-site and argued that sources that recycle on-site should receive the same credit. Language in §§ 63.4541, 63.4551, and 63.4561(a) led the commenter to expect that sources with add-on control also receive credit for recycled coatings, thinners, or cleaning materials in the compliance calculations and that EPA should clarify this in the final rule. Another commenter also questioned whether sources that recycle materials off-site need to determine the HAP content of the materials received back from the recycler. The commenter noted that sources that recycle on-site do not need to determine the HAP content of the recycled material.

*Response:* In the compliance calculations in both the emission rate without add-on controls option and the emission rate with add-on controls option, you only need to include the HAP and solids from those materials that are actually consumed in a coating operation for which you are calculating the emission rate. If the unused portion of a material is recovered on-site and used in a second (different) coating operation for which you are separately

calculating the emission rate, you do not need to include the amount of HAP and solids contained in the recovered material in the emission rate calculation for the first coating operation. However, you do need to include the HAP and solids from the recovered material in the second coating operation for which you are calculating the emission rate.

If you are calculating a single facility-wide emission rate for all coating operations, you do not need to account for materials that are recovered in one operation and used in another on-site operation. Instead, you would only need to account for materials that are actually consumed by the whole facility. For example, you would use the assumption that all HAP in the purchased coating materials are emitted on-site (either during their first use or during re-use on site). If you send HAP-containing materials off-site for recycling or disposal, such that a portion of the HAP is not emitted on-site, you can subtract this from the facility-wide emission calculation.

If you recycle materials on-site, you do not need to determine the HAP content of the materials after recycling for use in compliance calculations. Similarly, we have clarified the final rule to specify that if you send materials off-site for recycling, you do not need to determine the HAP content after recycling if you have documentation from the recycler that the material you received back is the exact same material you sent to the recycler. The purpose of the requirements is to show that the recycled materials are not inadvertently amounting to a net increase in HAP emissions from the source.

#### *E. Methods for Determining HAP Content of Coatings*

*Comment:* Two commenters stated that if a facility uses Material Safety Data Sheets to demonstrate compliance, a facility should be allowed to use the average of a reported range for an ingredient in determining compliance. This would avoid a facility having to determine the actual composition and would be consistent with toxics release inventory reporting, according to the commenter. A requirement to use the upper limit of a range would lead to a gross overstatement of the HAP content of materials, according to the commenter. Another commenter argued that to reduce the recordkeeping burden of calculating HAP emissions from hundreds of paints, the HAP emissions for groups of coating materials that are covered in a single Material Safety Data Sheet (such as, paints that differ only in color) should be calculated based on the average composition of the group

normalized to a total of 100 percent. The level for each HAP component should be based on the midpoint between the high and low end of the range shown on the Material Safety Data Sheets.

*Response:* If a range of HAP is presented, it is up to the user to determine the appropriate value that best represents the actual HAP content. The final rule does not specify whether you must use the upper limit of a range or whether you may use the average or mid-point of a range. It is important to remember, however, that in the event of any inconsistency between formulation data, such as that found on Material Safety Data Sheets, and Method 311 analyses, the Method 311 data will be used in any compliance determinations.

*Comment:* Several commenters stated that the final rule should allow sources or materials suppliers to use alternatives to EPA Method 24 to determine the amount of HAP that is actually emitted from reactive coatings as they are used. The proposed rule and associated test methods (specifically EPA Method 24) assumed that all HAP contained in coatings or additives are emitted. However, in reactive coatings, some of the HAP species react with other ingredients in the coating to form solids and are not emitted to the atmosphere. Therefore, the amount of HAP emitted can be significantly less than the amount of HAP present in the liquid coating.

*Response:* An alternative method for determining the fraction of HAP emitted from reactive coatings has been included as an appendix to the final rule. Sources using reactive coatings may use this method for demonstrating compliance based on the HAP actually emitted, rather than using Method 311, Method 24, or composition data.

#### F. Notification Requirements

*Comment:* Two commenters stated that § 63.4510 should be revised to exempt sources from the requirement to submit an initial notification if they have already submitted a CAA section 112(j) Part 1 Application to States regarding the Plastic Parts and Products Surface Coating NESHAP.

*Response:* Sources that have submitted a CAA section 112(j) Part 1 Application to their State permitting agency are still required to submit an initial notification as required by § 63.4510. The General Provisions specified in 40 CFR part 63, subpart A, apply to all NESHAP source categories in part 63. Under § 63.9(b) of subpart A, the owner or operator of a facility subject to a NESHAP for a given source category must submit an initial, written notification to the EPA within the

applicable time period identifying the facility and the specific NESHAP subpart to which the facility is subject. In this case, the owner or operator of a facility with plastic parts and products surface coating operations subject to the NESHAP is required to prepare and submit an initial notification. Section 112(j) of the CAA requires owners and operators of major sources within a source category to apply for a title V permit should the EPA fail to promulgate emission standards for that source category by the date specified in the regulatory schedule established through section 112(e) of the CAA. The application requirements are specified under 40 CFR part 63, subpart B. Although the subpart B application requirements include some of the same information required for the subpart A initial notification (e.g., facility name, address, brief description of source), the two documents serve different administrative purposes under the NESHAP program. Therefore, it is not appropriate to provide an exemption as requested by the commenter and the final rule requires all sources subject to the rule to submit an initial notification.

#### G. Compliance Requirements for Sources With Add-on Controls

*Comment:* Several commenters stated that the compliance calculations in § 63.4561(h) should not use an assumption of zero-efficiency when deviations occur. According to the commenter, this approach is burdensome and penalizes facilities for minor parameter reporting problems, such as temperature read-out malfunctions. The commenter suggested that a facility should be allowed to rebut the presumed zero-efficiency with other available data, such as fuel consumption or manual temperature recordings.

*Response:* If a source has manually collected parameter data indicating that an emission capture system or control device was operating normally during a parameter monitoring system malfunction, these data could be used to demonstrate compliance with the operating limits and the source would not have to assume zero-percent efficiency.

If a source has data indicating the actual performance of an add-on emission capture system and control device (e.g., data from previous tests measuring percent capture at reduced flow rates or percent destruction efficiency at reduced thermal oxidizer temperatures) during a deviation from operating limits, then the source may use the actual performance in determining compliance, provided that these data were collected during

performance tests meeting the applicable requirements for performance tests specified in § 63.7 of the General Provisions. The final rule has been revised to clarify that the actual performance of the add-on control system during a deviation may be used provided the performance testing criteria have been met. The final rule does not allow a source to otherwise estimate the efficiency of a capture system or control device during a deviation because this would provide no assurance of the quality of the data used in the compliance calculation.

#### V. Summary of Environmental, Energy, and Economic Impacts

For the purpose of assessing potential cost and emission reduction impacts, we assumed that all existing sources would convert to liquid coatings, thinners and/or other additives with lower-HAP content than presently used and would convert to lower-HAP or no-HAP cleaning materials rather than using add-on control devices, except for those already using add-on control devices. We assumed that new sources would use low-HAP coatings and non-HAP cleaning materials.

##### A. What Are the Air Impacts?

The 1997 nationwide baseline organic HAP emissions for the 202 major source plastic parts and products surface coating facilities of which EPA is aware are estimated to be 9,820 tpy. Implementation of the final emission limitations would reduce these emissions by approximately 80 percent to 2260 tpy. In addition, the emission limitations will not result in any significant secondary air impacts. We expect that the majority of facilities will switch to lower- or non-organic-HAP-containing materials to comply with the standards, rather than installing add-on control devices. Thus, increases in electricity consumption (which could lead to increases in emissions of nitrogen oxides, sulfur dioxide, carbon monoxide, and carbon dioxide from electric utilities) will be minimal.

##### B. What Are the Cost Impacts?

The total capital cost (including monitoring costs) for existing sources is estimated to be approximately \$804,000. The nationwide annual cost (including monitoring, recordkeeping, and reporting costs) for existing sources is approximately \$10.7 million per year. Costs for new sources are based on an estimate of six new sources being constructed within 5 years after promulgation of the final standards. The total capital cost (including monitoring costs) for new sources is \$28,000. The

total annual cost (including monitoring, recordkeeping, and reporting costs) for new sources is estimated to be approximately \$194,000 per year.

Cost estimates are based on information available to the Administrator and presented in the economic analysis of the final rule. The costs are calculated assuming that the majority of sources would comply by using lower-HAP-containing or non-HAP coatings and cleaning materials because such materials are generally available and becoming more widely available each year. We assumed that facilities presently equipped with add-on controls would continue to operate those control devices and capture systems and would perform the required performance tests and parameter monitoring.

During development of the proposed emission limitations, limited information was available on the costs associated with the switch to low-HAP or non-HAP coatings and cleaning materials. At proposal, we specifically requested comment on the assumptions and methodology used to determine these costs (67 FR 72295, December 4, 2002), including detailed information on the coatings and cleaning materials (and associated costs) currently being used and the coatings and cleaning materials (and associated costs) that would be used to comply with the proposed emission limitations, as well as the basis for the cost information. We received no detailed information on these cost elements in the public comments. Therefore, we have not changed the cost estimates since proposal.

#### C. What Are the Economic Impacts?

We prepared an economic impact analysis (EIA) to provide an estimate of the impacts the proposed rule would have on the plastic parts and products surface coating industry, consumers, and society. Economic impacts were calculated on a facility-specific basis, as well as on a market segment basis (e.g., automobile manufacturing, sporting goods, electronics equipment, etc.). Economic impact indicators examined included price, output, and employment impacts. None of the changes made since proposal have resulted in changes in costs, so the EIA prepared for the proposed rule has not been updated for the final rule.

The EIA showed that the expected price increase for affected plastic parts and products would be less than 0.1 percent as a result of the final standards. Therefore, we do not expect any adverse impact to occur for those industries that produce or consume plastic parts and

products such as home appliances, computer hardware producers, motor vehicle manufacturers, and recreational vehicle manufacturers.

The distribution of costs across plastic parts and products production facilities is slanted toward the lower impact levels with many facilities incurring costs related only to annually recurring monitoring, reporting, and recordkeeping activities. The EIA indicates that these regulatory costs are expected to represent about 0.25 percent of the value of coating services, which should not cause producers to cease or significantly alter their current operations. Hence, no firms or facilities are expected to be at risk of closure because of the final rule. For more information, consult Docket ID No. OAR-2002-0074 (formerly Docket No. A-99-12).

#### D. What Are the Non-Air Health, Environmental, and Energy Impacts?

Based on information from the industry survey responses, we found no indication that the use of lower-HAP or non-HAP content coatings, thinners and other additives, and cleaning materials at existing sources would result in any increase or decrease in non-air health, environmental, and energy impacts. There would be no change in the utility requirements associated with the use of these materials, so there would be no change in the amount of energy consumed as a result of the material conversion. Because new sources are expected to comply with the final rule through the use of lower-HAP or non-HAP coating technologies rather than add-on control devices, there would be no significant change in energy usage.

We estimate that the emission limitations will have a minimal impact on water quality because only a few facilities are expected to comply by making process modifications or by using add-on control devices that would generate wastewater. However, because many lower-HAP and non-HAP materials are waterborne, an increase in wastewater generation from cleaning activities may result. Although additional wastewater may be generated by facilities switching to waterborne coatings, the amount of wastewater generated by these facilities is not expected to increase significantly. We also estimate that the emission limitations will result in a decrease in the amount of both solid and hazardous waste from facilities, as the majority of facilities will be using lower-organic-HAP-containing materials which will result in a decrease in the amount of waste materials that will have to be disposed of as hazardous. In addition,

we expect that the majority of facilities will comply by using low-HAP or non-HAP materials rather than add-on control devices. Thus, there will be little or no increase in energy usage caused by the operation of add-on controls.

#### VI. Statutory and Executive Order Reviews

##### A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is "significant" and therefore subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Executive Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligation of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that the final rule is a "significant regulatory action," due to its potential impact on small businesses. The Small Business Administration (SBA) was specifically interested in how the final rule would address the potential for sources to be subject to multiple coating NESHAP. As such, this action was submitted to OMB for review. Changes made in response to OMB suggestions or recommendations will be documented in the public record.

##### B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* The information collection requirements are not enforceable until OMB approves them.

The information requirements are based on notification, recordkeeping, and reporting requirements in the General Provisions (40 CFR part 63, subpart A), which are mandatory for all

operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to EPA policies set forth in 40 CFR part 2, subpart B.

The final rule requires maintaining records of all coatings, thinners and/or other additives, and cleaning materials data and calculations used to determine compliance. This information includes the amount (kg) used during each 12-month compliance period, mass fraction of organic HAP, density, and mass fraction of coating solids.

If an add-on control device is used, records must be kept of the capture efficiency of the capture system, destruction or removal efficiency of the add-on control device, and the monitored operating parameters. In addition, records must be kept of each calculation of the affected sourcewide emissions for each 12-month compliance period and all data, calculations, test results, and other supporting information used to determine this value.

The monitoring, recordkeeping, and reporting burden in the third year after the effective date of the promulgated rule is estimated to be 119,000 labor hours at a cost of \$5.4 million for new and existing sources. This estimate includes the cost of determining and recording organic HAP content, solids content, and density, as needed, of the regulated materials, and developing a system for determining and recording the amount of each material used and performing the calculations needed for demonstrating compliance. Additionally, for affected sources with existing or newly-installed add-on control systems, the costs also include a one-time performance test and report (with repeat tests where needed) of the add-on control device, one-time purchase and installation of a CPMS, one-time submission of a SSMP with semiannual reports for any event when the procedures in the plan were not followed, semiannual compliance status reports, and recordkeeping. Total capital/startup costs associated with the monitoring requirements over the 3-year period of the information collection request (ICR) are estimated at \$133,000, with operation and maintenance costs of \$655 per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a

Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the *Federal Register* to display the OMB control number for the approved information collection requirements contained in the final rule.

#### C. Regulatory Flexibility Act

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with the final rule.

For purposes of assessing the impact of the final rule on small entities, small entity is defined as: (1) A small business according to SBA size standards by NAICS code ranging from 100 to 1,000 employees or less than \$5 million in annual sales; (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; or (3) a small organization that is any not-for-profit enterprise that is independently operated and is not dominant in its field. It should be noted that companies affected by the final rule and the small business definition applied to each industry by NAICS code is that listed in the SBA size standards (13 CFR part 121).

After considering the economic impacts of the final rule on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. We have determined that 67 of the 130 firms, or 51 percent of the total, affected by the final rule may be small entities. While the number of small firms appears to be a large proportion of the total number of affected firms, the small firms experience 21 percent of the total national compliance cost of \$11 million (1997 \$). Of the 67 affected small firms,

three firms are estimated to have compliance costs that exceed 1 percent of their revenues. The maximum impact on any affected small entity is a compliance cost of 1.8 percent of its sales. Finally, there is a difference between the median compliance cost-to-sales estimates for the affected small and large firms (0.08 percent compared to 0.01 percent for the large firms, and 0.03 percent across all affected firms).

Although the final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has worked aggressively to minimize the impact of the final rule on small entities. We solicited input from small entities during the data-gathering phase of the rulemaking. We are promulgating compliance options that give small entities flexibility in choosing the most cost-effective and least burdensome alternative for their operation. For example, a facility could purchase and use lower-or non-HAP coatings, thinners, and cleaning materials (*i.e.*, pollution prevention) that meet the final rule rather than being required to purchase add-on control systems. The lower-or non-HAP option can be demonstrated with minimum burden by using already-maintained purchase and usage records. No testing of materials would be required as the facility owner could show that their coatings meet the emission limits by providing formulation data supplied by the manufacturer.

We are also providing one option that allows compliance demonstrations to be conducted on a rolling 12-month basis, meaning that the facility would each month calculate a 12-month organic HAP emission rate for the previous 12 months to determine compliance. This will give affected small entities extra flexibility in complying with the emission limits since small entities are more likely to use lower monthly volumes and/or a limited number of materials. Furthermore, we are promulgating the minimum monitoring, recordkeeping, and reporting requirements needed for enforcement and compliance assurance.

#### D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result

in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any 1 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.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of \$100 million or more to State, local, and tribal governments, in the aggregate, or to the private sector in any 1 year. The maximum total annual cost of the final rule for any 1 year has been estimated to be about \$11 million. Thus, the final rule is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them. Therefore, the final rule is not subject to the requirements of Section 203 of the UMRA.

#### *E. Executive Order 13132: Federalism*

Executive Order 13132 (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" are

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."

The 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. Pursuant to the terms of Executive Order 13132, it has been determined that the final rule does not have "federalism implications" because it does not meet the necessary criteria. Thus, Executive Order 13132 does not apply to the final rule.

#### *F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." The final rule does not have tribal implications, as specified in Executive Order 13175. The EPA is not aware of tribal governments that own or operate plastic parts and products surface coating facilities. Thus, Executive Order 13175 does not apply to the final rule.

#### *G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks*

Executive Order 13045 (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, EPA 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.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Executive Order has the potential to influence the regulation. The final rule is not subject to Executive Order 13045

because it does not establish environmental standards based on an assessment of health or safety risks.

#### *H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

The final rule is not subject to Executive Order 13211 (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, we have concluded that the final rule is not likely to have any adverse energy effects. The vast majority of affected sources are expected to comply with the final rule through pollution prevention rather than add on controls, and therefore, there would be, at most, a nominal impact on energy usage.

#### *I. National Technology Transfer and Advancement Act*

As noted in the proposed rule, section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113; § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

The final rule involves technical standards. The EPA cites the following standards in the final rule: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 24, 25, 25A, 204, 204A-F, 311, and an alternative method to determine weight volatile matter content and weight solids content for reactive adhesives. Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods/performance specifications. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 204, 204A through 204F, 311, and an alternative method to determine weight volatile matter content and weight solids content for reactive adhesives. The search and review results have been documented and are placed in Docket ID No. OAR-2002-0074 (formerly Docket No. A-99-12).

Six VCS: ASTM D1475-90, ASTM D2369-95, ASTM D3792-91, ASTM D4017-96a, ASTM D4457-85 (Reapproved 1991), and ASTM D5403-93 are already incorporated by reference

(IBR) in EPA Method 24. In addition, we are separately specifying the use of ASTM D1475-98, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products," for measuring the density of each coating, thinner and/or additive, and cleaning material. Five VCS: ASTM D1979-91, ASTM D3432-89, ASTM D4747-87, ASTM D4827-93, and ASTM PS9-94 are IBR in EPA Method 311.

In addition to the VCS EPA uses in the final rule, the search for emissions measurement procedures identified 14 other VCS. The EPA determined that 11 of these 14 VCS identified for measuring emissions of the HAP or surrogates subject to emission standards in the final rule are impractical alternatives to EPA test methods for the purposes of the final rule. Therefore, EPA does not intend to adopt the VCS for this purpose.

Three of the 14 VCS identified in this search were not available at the time the review was conducted for the purposes of the final rule because they are under development by a VCS body: ASME/BSR MFC 13M, "Flow Measurement by Velocity Traverse," for EPA Method 2 (and possibly 1); ASME/BSR MFC 12M, "Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters," for EPA Method 2; and ISO/CD 17895, "Paints and Varnishes—Determination of the Volatile Organic Compound Content of Water-based Emulsion Paints," for EPA Method 24.

The EPA requested comment on the compliance demonstration requirements in the proposed rule and specifically invited the public to identify potentially-applicable VCS. We received several comments suggesting the use of an alternative method to Method 24 for measuring emissions from reactive adhesives. This alternative method has been included in appendix A to the final rule. No other comments were received with respect to potentially applicable VCS.

Sections 63.4541, 63.4551, 63.4561, 63.4565, 63.4566, and appendix A of the final standards list the EPA testing methods and performance specifications included in the final standards. Under 40 CFR 63.7(f) and 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

#### 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. The EPA will submit a report containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the final 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). The rule will be effective April 19, 2004.

#### List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 29, 2003.

Marianne Lamont Horinko,  
Acting Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

#### PART 63—[AMENDED]

■ 1. The authority citation for part 63 continues to read as follows:

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

#### Subpart A—[AMENDED]

■ 2. Section 63.14 is amended by revising paragraph (b)(26) and adding a new paragraph (b)(34) to read as follows:

#### § 63.14 Incorporations by reference.

\* \* \* \* \*

(b) \* \* \*

(26) ASTM D1475-98, Standard Test Method for Density of Liquid Coatings, Inks, and Related Products, IBR approved for §§ 63.3941(b)(4), 63.3941(c), 63.3951(c), 63.4141(b)(3), 63.4141(c), and 63.4551(c).

\* \* \* \* \*

(34) E145-94 (Reapproved 2001), Standard Specification for Gravity-Convection and Forced-Ventilation Ovens, IBR approved for § 63.4581, Appendix A.

\* \* \* \* \*

■ 3. Part 63 is amended by adding subpart PPPP to read as follows:

#### Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

Sec.

#### What This Subpart Covers

- 63.4480 What is the purpose of this subpart?  
63.4481 Am I subject to this subpart?  
63.4482 What parts of my plant does this subpart cover?  
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#### Emission Limitations

- 63.4490 What emission limits must I meet?  
63.4491 What are my options for meeting the emission limits?  
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#### General Compliance Requirements

- 63.4500 What are my general requirements for complying with this subpart?  
63.4501 What parts of the General Provisions apply to me?

#### Notifications, Reports, and Records

- 63.4510 What notifications must I submit?  
63.4520 What reports must I submit?  
63.4530 What records must I keep?  
63.4531 In what form and for how long must I keep my records?

#### Compliance Requirements for the Compliant Material Option

- 63.4540 By what date must I conduct the initial compliance demonstration?  
63.4541 How do I demonstrate initial compliance with the emission limitations?  
63.4542 How do I demonstrate continuous compliance with the emission limitations?

#### Compliance Requirements for the Emission Rate Without Add-On Controls Option

- 63.4550 By what date must I conduct the initial compliance demonstration?  
63.4551 How do I demonstrate initial compliance with the emission limitations?  
63.4552 How do I demonstrate continuous compliance with the emission limitations?

#### Compliance Requirements for the Emission Rate With Add-On Controls Option

- 63.4560 By what date must I conduct performance tests and other initial compliance demonstrations?  
63.4561 How do I demonstrate initial compliance?  
63.4562 [Reserved]  
63.4563 How do I demonstrate continuous compliance with the emission limitations?  
63.4564 What are the general requirements for performance tests?  
63.4565 How do I determine the emission capture system efficiency?  
63.4566 How do I determine the add-on control device emission destruction or removal efficiency?

- 63.4567 How do I establish the emission capture system and add-on control device operating limits during the performance test?
- 63.4568 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?

#### Other Requirements and Information

- 63.4580 Who implements and enforces this subpart?
- 63.4581 What definitions apply to this subpart?

#### Tables to Subpart PPPP of Part 63

- Table 1 to Subpart PPPP of Part 63—Operating Limits if Using the Emission Rate with Add-on Controls Option
- Table 2 to Subpart PPPP of Part 63—Applicability of General Provisions to Subpart PPPP of Part 63
- Table 3 to Subpart PPPP of Part 63—Default Organic HAP Mass Fraction for Solvents and Solvent Blends
- Table 4 to Subpart PPPP of Part 63—Default Organic HAP Mass Fraction for Petroleum Solvent Groups

#### Appendix A to Subpart PPPP of Part 63—Determination of Weight Volatile Matter Content and Weight Solids Content of Reactive Adhesives

#### Subpart PPPP—National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products

##### What This Subpart Covers

##### § 63.4480 What is the purpose of this subpart?

This subpart establishes national emission standards for hazardous air pollutants (NESHAP) for plastic parts and products surface coating facilities. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations.

##### § 63.4481 Am I subject to this subpart?

(a) Plastic parts and products include, but are not limited to, plastic components of the following types of products as well as the products themselves: Motor vehicle parts and accessories for automobiles, trucks, recreational vehicles; sporting and recreational goods; toys; business machines; laboratory and medical equipment; and household and other consumer products. Except as provided in paragraph (c) of this section, the source category to which this subpart applies is the surface coating of any plastic parts or products, as described in paragraph (a)(1) of this section, and it includes the subcategories listed in paragraphs (a)(2) through (5) of this section.

(1) Surface coating is the application of coating to a substrate using, for

example, spray guns or dip tanks. When application of coating to a substrate occurs, then surface coating also includes associated activities, such as surface preparation, cleaning, mixing, and storage. However, these activities do not comprise surface coating if they are not directly related to the application of the coating. Coating application with handheld, non-refillable aerosol containers, touch-up markers, marking pens, or the application of paper film or plastic film which may be pre-coated with an adhesive by the manufacturer are not coating operations for the purposes of this subpart.

(2) The general use coating subcategory includes all surface coating operations that are not automotive lamp coating operations, thermoplastic olefin (TPO) coating operations, or assembled on-road vehicle coating operations.

(3) The automotive lamp coating subcategory includes the surface coating of plastic components of the body of an exterior automotive lamp including, but not limited to, headlamps, tail lamps, turn signals, and marker (clearance) lamps; typical coatings used are reflective argent coatings and clear topcoats. This subcategory does not include the coating of interior automotive lamps, such as dome lamps and instrument panel lamps.

(4) The TPO coating subcategory includes the surface coating of TPO substrates; typical coatings used are adhesion promoters, color coatings, clear coatings and topcoats. The coating of TPO substrates on fully assembled on-road vehicles is not included in the TPO coating subcategory.

(5) The assembled on-road vehicle coating subcategory includes surface coating of fully assembled motor vehicles and trailers intended for on-road use, including, but not limited to: automobiles, light-duty trucks, heavy duty trucks, and busses that have been repaired after a collision or otherwise repainted; fleet delivery trucks; and motor homes and other recreational vehicles (including camping trailers and fifth wheels). This subcategory also includes the incidental coating of parts, such as radiator grilles, that are removed from the fully assembled on-road vehicle to facilitate concurrent coating of all parts associated with the vehicle. The assembled on-road vehicle coating subcategory does not include the surface coating of plastic parts prior to their attachment to an on-road vehicle on an original equipment manufacturer's (OEM) assembly line. The assembled on-road vehicle coating subcategory also does not include the use of adhesives, sealants, and caulks used in assembling

on-road vehicles. Body fillers used to correct small surface defects and rubbing compounds used to remove surface scratches are not considered coatings subject to this subpart.

(b) You are subject to this subpart if you own or operate a new, reconstructed, or existing affected source, as defined in § 63.4482, that uses 378 liters (100 gallons (gal)) per year, or more, of coatings that contain hazardous air pollutants (HAP) in the surface coating of plastic parts and products defined in paragraph (a) of this section; and that is a major source, is located at a major source, or is part of a major source of emissions of HAP. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (Mg) (10 tons) or more per year or any combination of HAP at a rate of 22.68 Mg (25 tons) or more per year. You do not need to include coatings that meet the definition of non-HAP coating contained in § 63.4581 in determining whether you use 378 liters (100 gallons) per year, or more, of coatings in the surface coating of plastic parts and products.

(c) This subpart does not apply to surface coating or a coating operation that meets any of the criteria of paragraphs (c)(1) through (16) of this section.

(1) A coating operation conducted at a facility where the facility uses only coatings, thinners and other additives, and cleaning materials that contain no organic HAP, as determined according to § 63.3941(a).

(2) Surface coating operations that occur at research or laboratory facilities, or is part of janitorial, building, and facility maintenance operations, or that occur at hobby shops that are operated for noncommercial purposes.

(3) The surface coating of plastic parts and products performed on-site at installations owned or operated by the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State) or the National Aeronautics and Space Administration, or the surface coating of military munitions manufactured by or for the Armed Forces of the United States (including the Coast Guard and the National Guard of any such State).

(4) Surface coating where plastic is extruded onto plastic parts or products to form a coating.

(5) Surface coating of magnet wire.

(6) In-mold coating operations or gel coating operations in the manufacture of reinforced plastic composite parts that

meet the applicability criteria for reinforced plastics composites production (subpart WWWW of this part).

(7) Surface coating of plastic components of wood furniture that meet the applicability criteria for wood furniture manufacturing (subpart JJ of this part).

(8) Surface coating of plastic components of large appliances that meet the applicability criteria for large appliance surface coating (subpart NNNN of this part).

(9) Surface coating of plastic components of metal furniture that meet the applicability criteria for metal furniture surface coating (subpart RRRR of this part).

(10) Surface coating of plastic components of wood building products that meet the applicability criteria for wood building products surface coating (subpart QQQQ of this part).

(11) Surface coating of plastic components of aerospace vehicles that meet the applicability criteria for aerospace manufacturing and rework (40 CFR part 63, subpart GG).

(12) Surface coating of plastic parts intended for use in an aerospace vehicle or component using specialty coatings as defined in appendix A to subpart GG of this part.

(13) Surface coating of plastic components of ships that meet the applicability criteria for shipbuilding and ship repair (subpart II of this part).

(14) Surface coating of plastic using a web coating process that meets the applicability criteria for paper and other web coating (subpart JJJJ of this part).

(15) Surface coating of fiberglass boats or parts of fiberglass boats (including, but not limited to, the use of assembly adhesives) where the facility meets the applicability criteria for boat manufacturing (subpart VVVV of this part), except where the surface coating of the boat is a post-mold coating operation performed on personal watercraft or parts of personal watercraft. This subpart does apply to post-mold coating operations performed on personal watercraft and parts of personal watercraft.

(16) [Reserved]

(d) [Reserved]

(e) If you own or operate an affected source that meets the applicability criteria of this subpart and at the same facility you also perform surface coating that meets the applicability criteria of any other final surface coating NESHAP in this part, you may choose to comply as specified in paragraph (e)(1), (2), or (3) of this section.

(1) You may have each surface coating operation that meets the applicability

criteria of a separate NESHAP comply with that NESHAP separately.

(2) You may comply with the emission limitation representing the predominant surface coating activity at your facility, as determined according to paragraphs (e)(2)(i) and (ii) of this section. However, you may not establish assembled on-road vehicle and automotive lamp coating operations as the predominant activity.

(i) If a surface coating operation accounts for 90 percent or more of the surface coating activity at your facility (that is, the predominant activity), then compliance with the emission limitations of the predominant activity for all surface coating operations constitutes compliance with these and other applicable surface coating NESHAP. In determining predominant activity, you must include coating activities that meet the applicability criteria of other surface coating NESHAP and constitute more than 1 percent of total coating activities at your facility. Coating activities that meet the applicability criteria of other surface coating NESHAP but comprise less than 1 percent of coating activities need not be included in the determination of predominant activity but must be included in the compliance calculation.

(ii) You must use kilogram (kg) (pound (lb)) of solids used as a measure of relative surface coating activity over a representative period of operation. You may estimate the relative mass of coating solids used from parameters other than coating consumption and mass solids content (e.g., design specifications for the parts or products coated and the number of items produced). The determination of predominant activity must accurately reflect current and projected coating operations and must be verifiable through appropriate documentation. The use of parameters other than coating consumption and mass solids content must be approved by the Administrator. You may use data for any reasonable time period of at least 1 year in determining the relative amount of coating activity, as long as they represent the way the source will continue to operate in the future and are approved by the Administrator. You must determine the predominant activity at your facility and submit the results of that determination with the initial notification required by § 63.4510(b). You must also determine predominant activity annually and include the determination in the next semi-annual compliance report required by § 63.4520(a).

(3) You may comply with a facility-specific emission limit calculated from

the relative amount of coating activity that is subject to each emission limit. If you elect to comply using the facility-specific emission limit alternative, then compliance with the facility-specific emission limit and the emission limitations in this subpart for all surface coating operations constitutes compliance with this and other applicable surface coating NESHAP. The procedures for calculating the facility-specific emission limit are specified in § 63.4490. In calculating a facility-specific emission limit, you must include coating activities that meet the applicability criteria of other surface coating NESHAP and constitute more than 1 percent of total coating activities at your facility. Coating activities that meet the applicability criteria of other surface coating NESHAP but comprise less than 1 percent of total coating activities need not be included in the calculation of the facility-specific emission limit but must be included in the compliance calculations.

**§ 63.4482 What parts of my plant does this subpart cover?**

(a) This subpart applies to each new, reconstructed, and existing affected source within each of the four subcategories listed in § 63.4481(a).

(b) The affected source is the collection of all of the items listed in paragraphs (b)(1) through (4) of this section that are used for surface coating of plastic parts and products within each subcategory.

(1) All coating operations as defined in § 63.4581;

(2) All storage containers and mixing vessels in which coatings, thinners and/or other additives, and cleaning materials are stored or mixed;

(3) All manual and automated equipment and containers used for conveying coatings, thinners and/or other additives, and cleaning materials; and

(4) All storage containers and all manual and automated equipment and containers used for conveying waste materials generated by a coating operation.

(c) An affected source is a new source if it meets the criteria in paragraph (c)(1) of this section and the criteria in either paragraph (c)(2) or (3) of this section.

(1) You commenced the construction of the source after December 4, 2002 by installing new coating equipment.

(2) The new coating equipment is used to coat plastic parts and products at a source where no plastic parts surface coating was previously performed.

(3) The new coating equipment is used to perform plastic parts and



products coating in a subcategory that was not previously performed.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

**§ 63.4483 When do I have to comply with this subpart?**

The date by which you must comply with this subpart is called the compliance date. The compliance date for each type of affected source is specified in paragraphs (a) through (c) of this section. The compliance date begins the initial compliance period during which you conduct the initial compliance demonstration described in §§ 63.4540, 63.4550, and 63.4560.

(a) For a new or reconstructed affected source, the compliance date is the applicable date in paragraph (a)(1) or (2) of this section:

(1) If the initial startup of your new or reconstructed affected source is before April 19, 2004, the compliance date is April 19, 2004.

(2) If the initial startup of your new or reconstructed affected source occurs after April 19, 2004, the compliance date is the date of initial startup of your affected source.

(b) For an existing affected source, the compliance date is the date 3 years after April 19, 2004.

(c) For an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP emissions, the compliance date is specified in paragraphs (c)(1) and (2) of this section.

(1) For any portion of the source that becomes a new or reconstructed affected source subject to this subpart, the compliance date is the date of initial startup of the affected source or April 19, 2004, whichever is later.

(2) For any portion of the source that becomes an existing affected source subject to this subpart, the compliance date is the date 1 year after the area source becomes a major source or 3 years after April 19, 2004, whichever is later.

(d) You must meet the notification requirements in § 63.4510 according to the dates specified in that section and in subpart A of this part. Some of the notifications must be submitted before the compliance dates described in paragraphs (a) through (c) of this section.

**Emission Limitations**

**§ 63.4490 What emission limits must I meet?**

(a) For a new or reconstructed affected source, you must limit organic HAP

emissions to the atmosphere from the affected source to the applicable limit specified in paragraphs (a)(1) through (4) of this section, except as specified in paragraph (c) of this section, determined according to the requirements in § 63.4541, § 63.4551, or § 63.4561.

(1) For each new general use coating affected source, limit organic HAP emissions to no more than 0.16 kg (0.16 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(2) For each new automotive lamp coating affected source, limit organic HAP emissions to no more than 0.26 kg (0.26 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(3) For each new TPO coating affected source, limit organic HAP emissions to no more than 0.22 kg (0.22 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(4) For each new assembled on-road vehicle coating affected source, limit organic HAP emissions to no more than 1.34 kg (1.34 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(b) For an existing affected source, you must limit organic HAP emissions to the atmosphere from the affected source to the applicable limit specified in paragraphs (b)(1) through (4) of this section, except as specified in paragraph (c) of this section, determined according to the requirements in § 63.4541, § 63.4551, or § 63.4561.

(1) For each existing general use coating affected source, limit organic HAP emissions to no more than 0.16 kg (0.16 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(2) For each existing automotive lamp coating affected source, limit organic HAP emissions to no more than 0.45 kg (0.45 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(3) For each existing TPO coating affected source, limit organic HAP emissions to no more than 0.26 kg (0.26 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(4) For each existing assembled on-road vehicle coating affected source, limit organic HAP emissions to no more than 1.34 kg (1.34 lb) organic HAP emitted per kg (lb) coating solids used during each 12-month compliance period.

(c) If your facility's surface coating operations meet the applicability criteria of more than one of the subcategory emission limits specified in

paragraphs (a) or (b) of this section, you may comply separately with each subcategory emission limit or comply using one of the alternatives in paragraph (c)(1) or (2) of this section.

(1) If the general use or TPO surface coating operations subject to only one of the emission limits specified in paragraphs (a)(1), (a)(3), (b)(1), or (b)(3) of this section account for 90 percent or more of the surface coating activity at your facility (*i.e.*, it is the predominant activity at your facility), then compliance with that emission limitation for all surface coating operations constitutes compliance with the other applicable emission limitations. You must use kg (lb) of solids used as a measure of relative surface coating activity over a representative period of operation. You may estimate the relative mass of coating solids used from parameters other than coating consumption and mass solids content (*e.g.*, design specifications for the parts or products coated and the number of items produced). The determination of predominant activity must accurately reflect current and projected coating operations and must be verifiable through appropriate documentation. The use of parameters other than coating consumption and mass solids content must be approved by the Administrator. You may use data for any reasonable time period of at least 1 year in determining the relative amount of coating activity, as long as they represent the way the source will continue to operate in the future and are approved by the Administrator. You must determine the predominant activity at your facility and submit the results of that determination with the initial notification required by § 63.4510(b). Additionally, you must determine the facility's predominant activity annually and include the determination in the next semi-annual compliance report required by § 63.4520(a).

(2) You may calculate and comply with a facility-specific emission limit as described in paragraphs (c)(2)(i) through (iii) of this section. If you elect to comply using the facility-specific emission limit alternative, then compliance with the facility-specific emission limit and the emission limitations in this subpart for all surface coating operations constitutes compliance with this and other applicable surface coating NESHAP. In calculating a facility-specific emission limit, you must include coating activities that meet the applicability criteria of the other subcategories and constitute more than 1 percent of total

coating activities. Coating activities that meet the applicability criteria of other surface coating NESHAP but comprise less than 1 percent of coating activities need not be included in the determination of predominant activity

but must be included in the compliance calculation.

(i) You are required to calculate the facility-specific emission limit for your facility when you submit the notification of compliance status required in § 63.4510(c), and on a

monthly basis afterward using the coating data for the relevant 12-month compliance period.

(ii) Use Equation 1 of this section to calculate the facility-specific emission limit for your surface coating operations for each 12-month compliance period.

$$\text{Facility-Specific Emission Limit} = \frac{\sum_{i=1}^n (\text{Limit}_i)(\text{Solids}_i)}{\sum_{i=1}^n (\text{Solids}_i)} \quad (\text{Eq. 1})$$

Where:

Facility-specific emission limit =

Facility-specific emission limit for each 12-month compliance period, kg (lb) organic HAP per kg (lb) coating solids used.

Limit<sub>i</sub> = The new source or existing source emission limit applicable to coating operation, *i*, included in the facility-specific emission limit, converted to kg (lb) organic HAP per kg (lb) coating solids used, if the emission limit is not already in those units. All emission limits included in the facility-specific emission limit must be in the same units.

Solids<sub>i</sub> = The kg (lb) of solids used in coating operation, *i*, in the 12-month compliance period that is subject to emission limit, *i*. You may estimate the mass of coating solids used from parameters other than coating consumption and mass solids content (e.g., design specifications for the parts or products coated and the number of items produced). The use of parameters other than coating consumption and mass solids content must be approved by the Administrator.

*n* = The number of different coating operations included in the facility-specific emission limit.

(iii) If you need to convert an emission limit in another surface coating NESHAP from kg (lb) organic HAP per liter (gallon) coating solids used to kg (lb) organic HAP per kg (lb) coating solids used, you must use the default solids density of 1.50 kg solids per liter coating solids (12.5 lb solids per gal solids).

#### § 63.4491 What are my options for meeting the emission limits?

You must include all coatings (as defined in § 63.4581), thinners and/or other additives, and cleaning materials used in the affected source when determining whether the organic HAP

emission rate is equal to or less than the applicable emission limit in § 63.4490. To make this determination, you must use at least one of the three compliance options listed in paragraphs (a) through (c) of this section. You may apply any of the compliance options to an individual coating operation, or to multiple coating operations as a group, or to the entire affected source. You may use different compliance options for different coating operations, or at different times on the same coating operation. You may employ different compliance options when different coatings are applied to the same part, or when the same coating is applied to different parts. However, you may not use different compliance options at the same time on the same coating operation. If you switch between compliance options for any coating operation or group of coating operations, you must document this switch as required by § 63.4530(c), and you must report it in the next semiannual compliance report required in § 63.4520.

(a) *Compliant material option.* Demonstrate that the organic HAP content of each coating used in the coating operation(s) is less than or equal to the applicable emission limit in § 63.4490, and that each thinner and/or other additive, and cleaning material used contains no organic HAP. You must meet all the requirements of §§ 63.4540, 63.4541, and 63.4542 to demonstrate compliance with the applicable emission limit using this option.

(b) *Emission rate without add-on controls option.* Demonstrate that, based on the coatings, thinners and/or other additives, and cleaning materials used in the coating operation(s), the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in § 63.4490, calculated as a rolling 12-month emission rate and determined on a monthly basis. You must meet all the

requirements of §§ 63.4550, 63.4551, and 63.4552 to demonstrate compliance with the emission limit using this option.

(c) *Emission rate with add-on controls option.* Demonstrate that, based on the coatings, thinners and/or other additives, and cleaning materials used in the coating operation(s), and the emissions reductions achieved by emission capture systems and add-on controls, the organic HAP emission rate for the coating operation(s) is less than or equal to the applicable emission limit in § 63.4490, calculated as a rolling 12-month emission rate and determined on a monthly basis. If you use this compliance option, you must also demonstrate that all emission capture systems and add-on control devices for the coating operation(s) meet the operating limits required in § 63.4492, except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j), and that you meet the work practice standards required in § 63.4493. You must meet all the requirements of §§ 63.4560 through 63.4568 to demonstrate compliance with the emission limits, operating limits, and work practice standards using this option.

#### § 63.4492 What operating limits must I meet?

(a) For any coating operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any operating limits.

(b) For any controlled coating operation(s) on which you use the emission rate with add-on controls option, except those for which you use a solvent recovery system and conduct a liquid-liquid material balance according to § 63.4561(j), you must meet the operating limits specified in Table 1 to this subpart. These operating limits apply to the emission capture and control systems on the coating

operation(s) for which you use this option, and you must establish the operating limits during the performance test according to the requirements in § 63.4567. You must meet the operating limits at all times after you establish them.

(c) If you use an add-on control device other than those listed in Table 1 to this subpart, or wish to monitor an alternative parameter and comply with a different operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

**§ 63.4493 What work practice standards must I meet?**

(a) For any coating operation(s) on which you use the compliant material option or the emission rate without add-on controls option, you are not required to meet any work practice standards.

(b) If you use the emission rate with add-on controls option, you must develop and implement a work practice plan to minimize organic HAP emissions from the storage, mixing, and conveying of coatings, thinners and/or other additives, and cleaning materials used in, and waste materials generated by the controlled coating operation(s) for which you use this option; or you must meet an alternative standard as provided in paragraph (c) of this section. The plan must specify practices and procedures to ensure that, at a minimum, the elements specified in paragraphs (b)(1) through (5) of this section are implemented.

(1) All organic-HAP-containing coatings, thinners and/or other additives, cleaning materials, and waste materials must be stored in closed containers.

(2) Spills of organic-HAP-containing coatings, thinners and/or other additives, cleaning materials, and waste materials must be minimized.

(3) Organic-HAP-containing coatings, thinners and/or other additives, cleaning materials, and waste materials must be conveyed from one location to another in closed containers or pipes.

(4) Mixing vessels which contain organic-HAP-containing coatings and other materials must be closed except when adding to, removing, or mixing the contents.

(5) Emissions of organic HAP must be minimized during cleaning of storage, mixing, and conveying equipment.

(c) As provided in § 63.6(g), we, the U.S. Environmental Protection Agency, may choose to grant you permission to use an alternative to the work practice standards in this section.

**General Compliance Requirements**

**§ 63.4500 What are my general requirements for complying with this subpart?**

(a) You must be in compliance with the emission limitations in this subpart as specified in paragraphs (a)(1) and (2) of this section.

(1) Any coating operation(s) for which you use the compliant material option or the emission rate without add-on controls option, as specified in § 63.4491(a) and (b), must be in compliance with the applicable emission limit in § 63.4490 at all times.

(2) Any coating operation(s) for which you use the emission rate with add-on controls option, as specified in § 63.4491(c), must be in compliance with the emission limitations as specified in paragraphs (a)(2)(i) through (iii) of this section.

(i) The coating operation(s) must be in compliance with the applicable emission limit in § 63.4490 at all times except during periods of startup, shutdown, and malfunction.

(ii) The coating operation(s) must be in compliance with the operating limits for emission capture systems and add-on control devices required by § 63.4492 at all times except during periods of startup, shutdown, and malfunction, and except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j).

(iii) The coating operation(s) must be in compliance with the work practice standards in § 63.4493 at all times.

(b) You must always operate and maintain your affected source, including all air pollution control and monitoring equipment you use for purposes of complying with this subpart, according to the provisions in § 63.6(e)(1)(i).

(c) If your affected source uses an emission capture system and add-on control device, you must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3). The plan must address the startup, shutdown, and corrective actions in the event of a malfunction of the emission capture system or the add-on control device. The plan must also address any coating operation equipment that may cause increased emissions or that would affect capture efficiency if the process equipment malfunctions, such as conveyors that move parts among enclosures.

**§ 63.4501 What parts of the General Provisions apply to me?**

Table 2 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

**Notifications, Reports, and Records**

**§ 63.4510 What notifications must I submit?**

(a) *General.* You must submit the notifications in §§ 63.7(b) and (c), 63.8(f)(4), and 63.9(b) through (e) and (h) that apply to you by the dates specified in those sections, except as provided in paragraphs (b) and (c) of this section.

(b) *Initial notification.* You must submit the initial notification required by § 63.9(b) for a new or reconstructed affected source no later than 120 days after initial startup or 120 days after April 19, 2004, whichever is later. For an existing affected source, you must submit the initial notification no later than 1 year after April 19, 2004. If you are using compliance with the Automobiles and Light-Duty Trucks NESHAP (subpart IIII of this part) under § 63.4881(d) to constitute compliance with this subpart for your plastic part coating operations, then you must include a statement to this effect in your initial notification and no other notifications are required under this subpart. If you are complying with another NESHAP that constitutes the predominant activity at your facility under § 63.4481(e)(2) to constitute compliance with this subpart for your plastic coating operations, then you must include a statement to this effect in your initial notification and no other notifications are required under this subpart.

(c) *Notification of compliance status.* You must submit the notification of compliance status required by § 63.9(h) no later than 30 calendar days following the end of the initial compliance period described in § 63.4540, § 63.4550, or § 63.4560 that applies to your affected source. The notification of compliance status must contain the information specified in paragraphs (c)(1) through (11) of this section and in § 63.9(h).

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of the report and beginning and ending dates of the reporting period. The reporting period is the initial compliance period described in § 63.4540, § 63.4550, or § 63.4560 that applies to your affected source.

(4) Identification of the compliance option or options specified in § 63.4491 that you used on each coating operation in the affected source during the initial compliance period.

(5) Statement of whether or not the affected source achieved the emission

limitations for the initial compliance period.

(6) If you had a deviation, include the information in paragraphs (c)(6)(i) and (ii) of this section.

(i) A description and statement of the cause of the deviation.

(ii) If you failed to meet the applicable emission limit in § 63.4490, include all the calculations you used to determine the kg (lb) organic HAP emitted per kg (lb) coating solids used. You do not need to submit information provided by the materials' suppliers or manufacturers, or test reports.

(7) For each of the data items listed in paragraphs (c)(7)(i) through (iv) of this section that is required by the compliance option(s) you used to demonstrate compliance with the emission limit, include an example of how you determined the value, including calculations and supporting data. Supporting data may include a copy of the information provided by the supplier or manufacturer of the example coating or material, or a summary of the results of testing conducted according to § 63.4541(a), (b), or (c). You do not need to submit copies of any test reports.

(i) Mass fraction of organic HAP for one coating, for one thinner and/or other additive, and for one cleaning material.

(ii) Mass fraction of coating solids for one coating.

(iii) Density for one coating, one thinner and/or other additive, and one cleaning material, except that if you use the compliant material option, only the example coating density is required.

(iv) The amount of waste materials and the mass of organic HAP contained in the waste materials for which you are claiming an allowance in Equation 1 of § 63.4551.

(8) The calculation of kg (lb) organic HAP emitted per kg (lb) coating solids used for the compliance option(s) you used, as specified in paragraphs (c)(8)(i) through (iii) of this section.

(i) For the compliant material option, provide an example calculation of the organic HAP content for one coating, using Equation 1 of § 63.4541.

(ii) For the emission rate without add-on controls option, provide the calculation of the total mass of organic HAP emissions for each month; the calculation of the total mass of coating solids used each month; and the calculation of the 12-month organic HAP emission rate using Equations 1 and 1A through 1C, 2, and 3, respectively, of § 63.4551.

(iii) For the emission rate with add-on controls option, provide the calculation of the total mass of organic HAP emissions for the coatings, thinners and/

or other additives, and cleaning materials used each month, using Equations 1 and 1A through 1C of § 63.4551; the calculation of the total mass of coating solids used each month using Equation 2 of § 63.4551; the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices using Equations 1 and 1A through 1D of § 63.4561 and Equations 2, 3, and 3A through 3C of § 63.4561, as applicable; the calculation of the total mass of organic HAP emissions each month using Equation 4 of § 63.4561; and the calculation of the 12-month organic HAP emission rate using Equation 5 of § 63.4561.

(9) For the emission rate with add-on controls option, you must include the information specified in paragraphs (c)(9)(i) through (iv) of this section, except that the requirements in paragraphs (c)(9)(i) through (iii) of this section do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j).

(i) For each emission capture system, a summary of the data and copies of the calculations supporting the determination that the emission capture system is a permanent total enclosure (PTE) or a measurement of the emission capture system efficiency. Include a description of the protocol followed for measuring capture efficiency, summaries of any capture efficiency tests conducted, and any calculations supporting the capture efficiency determination. If you use the data quality objective (DQO) or lower confidence limit (LCL) approach, you must also include the statistical calculations to show you meet the DQO or LCL criteria in appendix A to subpart KK of this part. You do not need to submit complete test reports.

(ii) A summary of the results of each add-on control device performance test. You do not need to submit complete test reports.

(iii) A list of each emission capture system's and add-on control device's operating limits and a summary of the data used to calculate those limits.

(iv) A statement of whether or not you developed and implemented the work practice plan required by § 63.4493.

(10) If you are complying with a single emission limit representing the predominant activity under § 63.4490(c)(1), include the calculations and supporting information used to demonstrate that this emission limit represents the predominant activity as specified in § 63.4490(c)(1).

(11) If you are complying with a facility-specific emission limit under § 63.4490(c)(2), include the calculation

of the facility-specific emission limit and any supporting information as specified in § 63.4490(c)(2).

#### § 63.4520 What reports must I submit?

(a) *Semiannual compliance reports.* You must submit semiannual compliance reports for each affected source according to the requirements of paragraphs (a)(1) through (7) of this section. The semiannual compliance reporting requirements may be satisfied by reports required under other parts of the Clean Air Act (CAA), as specified in paragraph (a)(2) of this section.

(1) *Dates.* Unless the Administrator has approved or agreed to a different schedule for submission of reports under § 63.10(a), you must prepare and submit each semiannual compliance report according to the dates specified in paragraphs (a)(1)(i) through (iv) of this section. Note that the information reported for each of the months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation.

(i) The first semiannual compliance report must cover the first semiannual reporting period which begins the day after the end of the initial compliance period described in § 63.4540, § 63.4550, or § 63.4560 that applies to your affected source and ends on June 30 or December 31, whichever date is the first date following the end of the initial compliance period.

(ii) Each subsequent semiannual compliance report must cover the subsequent semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(iii) Each semiannual compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(iv) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the date specified in paragraph (a)(1)(iii) of this section.

(2) *Inclusion with title V report.* Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or

40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a semiannual compliance report pursuant to this section along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the semiannual compliance report includes all required information concerning deviations from any emission limitation in this subpart, its submission will be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a semiannual compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(3) *General requirements.* The semiannual compliance report must contain the information specified in paragraphs (a)(3)(i) through (vii) of this section, and the information specified in paragraphs (a)(4) through (7) and (c)(1) of this section that is applicable to your affected source.

(i) Company name and address.

(ii) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(iii) Date of report and beginning and ending dates of the reporting period. The reporting period is the 6-month period ending on June 30 or December 31. Note that the information reported for each of the 6 months in the reporting period will be based on the last 12 months of data prior to the date of each monthly calculation.

(iv) Identification of the compliance option or options specified in § 63.4491 that you used on each coating operation during the reporting period. If you switched between compliance options during the reporting period, you must report the beginning and ending dates for each option you used.

(v) If you used the emission rate without add-on controls or the emission rate with add-on controls compliance option (§ 63.4491(b) or (c)), the calculation results for each rolling 12-month organic HAP emission rate during the 6-month reporting period.

(vi) If you used the predominant activity alternative (§ 63.4490(c)(1)), include the annual determination of predominant activity if it was not included in the previous semi-annual compliance report.

(vii) If you used the facility-specific emission limit alternative (§ 63.4490(c)(2)), include the calculation of the facility-specific emission limit for each 12-month compliance period during the 6-month reporting period.

(4) *No deviations.* If there were no deviations from the emission limitations in §§ 63.4490, 63.4492, and 63.4493 that apply to you, the semiannual compliance report must include a statement that there were no deviations from the emission limitations during the reporting period. If you used the emission rate with add-on controls option and there were no periods during which the continuous parameter monitoring systems (CPMS) were out-of-control as specified in § 63.8(c)(7), the semiannual compliance report must include a statement that there were no periods during which the CPMS were out-of-control during the reporting period.

(5) *Deviations: Compliant material option.* If you used the compliant material option and there was a deviation from the applicable organic HAP content requirements in § 63.4490, the semiannual compliance report must contain the information in paragraphs (a)(5)(i) through (iv) of this section.

(i) Identification of each coating used that deviated from the applicable emission limit, and each thinner and/or other additive, and cleaning material used that contained organic HAP, and the dates and time periods each was used.

(ii) The calculation of the organic HAP content (using Equation 1 of § 63.4541) for each coating identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (e.g., information provided by coating suppliers or manufacturers, or test reports).

(iii) The determination of mass fraction of organic HAP for each thinner and/or other additive, and cleaning material identified in paragraph (a)(5)(i) of this section. You do not need to submit background data supporting this calculation (e.g., information provided by material suppliers or manufacturers, or test reports).

(iv) A statement of the cause of each deviation.

(6) *Deviations: Emission rate without add-on controls option.* If you used the emission rate without add-on controls option and there was a deviation from the applicable emission limit in § 63.4490, the semiannual compliance report must contain the information in paragraphs (a)(6)(i) through (iii) of this section.

(i) The beginning and ending dates of each compliance period during which the 12-month organic HAP emission rate exceeded the applicable emission limit in § 63.4490.

(ii) The calculations used to determine the 12-month organic HAP

emission rate for the compliance period in which the deviation occurred. You must submit the calculations for Equations 1, 1A through 1C, 2, and 3 of § 63.4551; and if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4551(e)(4). You do not need to submit background data supporting these calculations (e.g., information provided by materials suppliers or manufacturers, or test reports).

(iii) A statement of the cause of each deviation.

(7) *Deviations: Emission rate with add-on controls option.* If you used the emission rate with add-on controls option and there was a deviation from an emission limitation (including any periods when emissions bypassed the add-on control device and were diverted to the atmosphere), the semiannual compliance report must contain the information in paragraphs (a)(7)(i) through (xiv) of this section. This includes periods of startup, shutdown, and malfunction during which deviations occurred.

(i) The beginning and ending dates of each compliance period during which the 12-month organic HAP emission rate exceeded the applicable emission limit in § 63.4490.

(ii) The calculations used to determine the 12-month organic HAP emission rate for each compliance period in which a deviation occurred. You must provide the calculation of the total mass of organic HAP emissions for the coatings, thinners and/or other additives, and cleaning materials used each month using Equations 1 and 1A through 1C of § 63.4551; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4551(e)(4); the calculation of the total mass of coating solids used each month using Equation 2 of § 63.4551; the calculation of the mass of organic HAP emission reduction each month by emission capture systems and add-on control devices using Equations 1 and 1A through 1D of § 63.4561, and Equations 2, 3, and 3A through 3C of § 63.4561, as applicable; the calculation of the total mass of organic HAP emissions each month using Equation 4 of § 63.4561; and the calculation of the 12-month organic HAP emission rate using Equation 5 of § 63.4561. You do not need to submit the background data supporting these calculations (e.g., information provided by materials suppliers or manufacturers, or test reports).

(iii) The date and time that each malfunction started and stopped.

- (iv) A brief description of the CPMS.
- (v) The date of the latest CPMS certification or audit.
- (vi) The date and time that each CPMS was inoperative, except for zero (low-level) and high-level checks.
- (vii) The date, time, and duration that each CPMS was out-of-control, including the information in § 63.8(c)(8).
- (viii) The date and time period of each deviation from an operating limit in Table 1 to this subpart; date and time period of any bypass of the add-on control device; and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.
- (ix) A summary of the total duration of each deviation from an operating limit in Table 1 to this subpart and each bypass of the add-on control device during the semiannual reporting period, and the total duration as a percent of the total source operating time during that semiannual reporting period.
- (x) A breakdown of the total duration of the deviations from the operating limits in Table 1 of this subpart and bypasses of the add-on control device during the semiannual reporting period into those that were due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.
- (xi) A summary of the total duration of CPMS downtime during the semiannual reporting period and the total duration of CPMS downtime as a percent of the total source operating time during that semiannual reporting period.
- (xii) A description of any changes in the CPMS, coating operation, emission capture system, or add-on control device since the last semiannual reporting period.
- (xiii) For each deviation from the work practice standards, a description of the deviation, the date and time period of the deviation, and the actions you took to correct the deviation.
- (xiv) A statement of the cause of each deviation.
- (b) *Performance test reports.* If you use the emission rate with add-on controls option, you must submit reports of performance test results for emission capture systems and add-on control devices no later than 60 days after completing the tests as specified in § 63.10(d)(2).
- (c) *Startup, shutdown, malfunction reports.* If you used the emission rate with add-on controls option and you had a startup, shutdown, or malfunction during the semiannual reporting period, you must submit the reports specified in paragraphs (c)(1) and (2) of this section.

(1) If your actions were consistent with your startup, shutdown, and malfunction plan, you must include the information specified in § 63.10(d) in the semiannual compliance report required by paragraph (a) of this section.

(2) If your actions were not consistent with your startup, shutdown, and malfunction plan, you must submit an immediate startup, shutdown, and malfunction report as described in paragraphs (c)(2)(i) and (ii) of this section.

(i) You must describe the actions taken during the event in a report delivered by facsimile, telephone, or other means to the Administrator within 2 working days after starting actions that are inconsistent with the plan.

(ii) You must submit a letter to the Administrator within 7 working days after the end of the event, unless you have made alternative arrangements with the Administrator as specified in § 63.10(d)(5)(ii). The letter must contain the information specified in § 63.10(d)(5)(ii).

#### § 63.4530 What records must I keep?

You must collect and keep records of the data and information specified in this section. Failure to collect and keep these records is a deviation from the applicable standard.

(a) A copy of each notification and report that you submitted to comply with this subpart, and the documentation supporting each notification and report. If you are using the predominant activity alternative under § 63.4490(c), you must keep records of the data and calculations used to determine the predominant activity. If you are using the facility-specific emission limit alternative under § 63.4490(c), you must keep records of the data used to calculate the facility-specific emission limit for the initial compliance demonstration. You must also keep records of any data used in each annual predominant activity determination and in the calculation of the facility-specific emission limit for each 12-month compliance period included in the semi-annual compliance reports.

(b) A current copy of information provided by materials suppliers or manufacturers, such as manufacturer's formulation data, or test data used to determine the mass fraction of organic HAP and density for each coating, thinner and/or other additive, and cleaning material, and the mass fraction of coating solids for each coating. If you conducted testing to determine mass fraction of organic HAP, density, or mass fraction of coating solids, you must keep a copy of the complete test

report. If you use information provided to you by the manufacturer or supplier of the material that was based on testing, you must keep the summary sheet of results provided to you by the manufacturer or supplier. You are not required to obtain the test report or other supporting documentation from the manufacturer or supplier.

(c) For each compliance period, the records specified in paragraphs (c)(1) through (4) of this section.

(1) A record of the coating operations on which you used each compliance option and the time periods (beginning and ending dates and times) for each option you used.

(2) For the compliant material option, a record of the calculation of the organic HAP content for each coating, using Equation 1 of § 63.4541.

(3) For the emission rate without add-on controls option, a record of the calculation of the total mass of organic HAP emissions for the coatings, thinners and/or other additives, and cleaning materials used each month using Equations 1, 1A through 1C, and 2 of § 63.4551 and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4551(e)(4); the calculation of the total mass of coating solids used each month using Equation 2 of § 63.4551; and the calculation of each 12-month organic HAP emission rate using Equation 3 of § 63.4551.

(4) For the emission rate with add-on controls option, records of the calculations specified in paragraphs (c)(4)(i) through (v) of this section.

(i) The calculation of the total mass of organic HAP emissions for the coatings, thinners and/or other additives, and cleaning materials used each month using Equations 1 and 1A through 1C of § 63.4551; and, if applicable, the calculation used to determine mass of organic HAP in waste materials according to § 63.4551(e)(4);

(ii) The calculation of the total mass of coating solids used each month using Equation 2 of § 63.4551;

(iii) The calculation of the mass of organic HAP emission reduction by emission capture systems and add-on control devices using Equations 1 and 1A through 1D of § 63.4561 and Equations 2, 3, and 3A through 3C of § 63.4561, as applicable;

(iv) The calculation of each month's organic HAP emission rate using Equation 4 of § 63.4561; and

(v) The calculation of each 12-month organic HAP emission rate using Equation 5 of § 63.4561.

(d) A record of the name and mass of each coating, thinner and/or other additive, and cleaning material used

during each compliance period. If you are using the compliant material option for all coatings at the source, you may maintain purchase records for each material used rather than a record of the mass used.

(e) A record of the mass fraction of organic HAP for each coating, thinner and/or other additive, and cleaning material used during each compliance period.

(f) A record of the mass fraction of coating solids for each coating used during each compliance period.

(g) If you use an allowance in Equation 1 of § 63.4551 for organic HAP contained in waste materials sent to or designated for shipment to a treatment, storage, and disposal facility (TSDF) according to § 63.4551(e)(4), you must keep records of the information specified in paragraphs (g)(1) through (3) of this section.

(1) The name and address of each TSDF to which you sent waste materials for which you use an allowance in Equation 1 of § 63.4551, a statement of which subparts under 40 CFR parts 262, 264, 265, and 266 apply to the facility; and the date of each shipment.

(2) Identification of the coating operations producing waste materials included in each shipment and the month or months in which you used the allowance for these materials in Equation 1 of § 63.4551.

(3) The methodology used in accordance with § 63.4551(e)(4) to determine the total amount of waste materials sent to or the amount collected, stored, and designated for transport to a TSDF each month; and the methodology to determine the mass of organic HAP contained in these waste materials. This must include the sources for all data used in the determination, methods used to generate the data, frequency of testing or monitoring, and supporting calculations and documentation, including the waste manifest for each shipment.

(h) You must keep records of the date, time, and duration of each deviation.

(i) If you use the emission rate with add-on controls option, you must keep the records specified in paragraphs (i)(1) through (8) of this section.

(1) For each deviation, a record of whether the deviation occurred during a period of startup, shutdown, or malfunction.

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) The records required to show continuous compliance with each operating limit specified in Table 1 to this subpart that applies to you.

(4) For each capture system that is a PTE, the data and documentation you used to support a determination that the capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and has a capture efficiency of 100 percent, as specified in § 63.4565(a).

(5) For each capture system that is not a PTE, the data and documentation you used to determine capture efficiency according to the requirements specified in §§ 63.4564 and 63.4565(b) through (e), including the records specified in paragraphs (i)(5)(i) through (iii) of this section that apply to you.

(i) *Records for a liquid-to-uncaptured gas protocol using a temporary total enclosure or building enclosure.* Records of the mass of total volatile hydrocarbon (TVH) as measured by Method 204A or 204F of appendix M to 40 CFR part 51 for each material used in the coating operation, and the total TVH for all materials used during each capture efficiency test run, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run, as measured by Method 204D or 204E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(ii) *Records for a gas-to-gas protocol using a temporary total enclosure or a building enclosure.* Records of the mass of TVH emissions captured by the emission capture system as measured by Method 204B or 204C of appendix M to 40 CFR part 51 at the inlet to the add-on control device, including a copy of the test report. Records of the mass of TVH emissions not captured by the capture system that exited the temporary total enclosure or building enclosure during each capture efficiency test run as measured by Method 204D or 204E of appendix M to 40 CFR part 51, including a copy of the test report. Records documenting that the enclosure used for the capture efficiency test met the criteria in Method 204 of appendix M to 40 CFR part 51 for either a temporary total enclosure or a building enclosure.

(iii) *Records for an alternative protocol.* Records needed to document a capture efficiency determination using an alternative method or protocol as specified in § 63.4565(e), if applicable.

(6) The records specified in paragraphs (i)(6)(i) and (ii) of this

section for each add-on control device organic HAP destruction or removal efficiency determination as specified in § 63.4566.

(i) Records of each add-on control device performance test conducted according to §§ 63.4564 and 63.4566.

(ii) Records of the coating operation conditions during the add-on control device performance test showing that the performance test was conducted under representative operating conditions.

(7) Records of the data and calculations you used to establish the emission capture and add-on control device operating limits as specified in § 63.4567 and to document compliance with the operating limits as specified in Table 1 to this subpart.

(8) A record of the work practice plan required by § 63.4493 and documentation that you are implementing the plan on a continuous basis.

#### **§ 63.4531 In what form and for how long must I keep my records?**

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1). Where appropriate, the records may be maintained as electronic spreadsheets or as a database.

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on-site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record according to § 63.10(b)(1). You may keep the records off-site for the remaining 3 years.

#### **Compliance Requirements for the Compliant Material Option**

##### **§ 63.4540 By what date must I conduct the initial compliance demonstration?**

You must complete the initial compliance demonstration for the initial compliance period according to the requirements in § 63.4541. The initial compliance period begins on the applicable compliance date specified in § 63.4483 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through that month plus the next 12 months. The initial compliance demonstration includes the calculations according to § 63.4541 and supporting documentation showing that during the initial compliance period, you used no coating with an organic

HAP content that exceeded the applicable emission limit in § 63.4490, and that you used no thinners and/or other additives, or cleaning materials that contained organic HAP as determined according to § 63.4541(a).

**§ 63.4541 How do I demonstrate initial compliance with the emission limitations?**

You may use the compliant material option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source. You must use either the emission rate without add-on controls option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the compliant material option, the coating operation or group of coating operations must use no coating with an organic HAP content that exceeds the applicable emission limits in § 63.4490 and must use no thinner and/or other additive, or cleaning material that contains organic HAP as determined according to this section. Any coating operation for which you use the compliant material option is not required to meet the operating limits or work practice standards required in §§ 63.4492 and 63.4493, respectively. You must conduct a separate initial compliance demonstration for each general use coating, TPO coating, automotive lamp coating, and assembled on-road vehicle coating affected source unless you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c). If you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c), you must demonstrate that all coating operations included in the predominant activity determination or calculation of the facility-specific emission limit comply with that limit. You must meet all the requirements of this section. Use the procedures in this section on each coating, thinner and/or other additive, and cleaning material in the condition it is in when it is received from its manufacturer or supplier and prior to any alteration. You do not need to redetermine the organic HAP content of coatings, thinners and/or other additives, and cleaning materials that are reclaimed on-site (or reclaimed off-site if you have documentation showing that you received back the exact same materials that were sent off-site) and reused in the coating operation for which you use the compliant material

option, provided these materials in their condition as received were demonstrated to comply with the compliant material option.

(a) *Determine the mass fraction of organic HAP for each material used.* You must determine the mass fraction of organic HAP for each coating, thinner and/or other additive, and cleaning material used during the compliance period by using one of the options in paragraphs (a)(1) through (5) of this section.

(1) *Method 311 (appendix A to 40 CFR part 63).* You may use Method 311 for determining the mass fraction of organic HAP. Use the procedures specified in paragraphs (a)(1)(i) and (ii) of this section when performing a Method 311 test.

(i) Count each organic HAP that is measured to be present at 0.1 percent by mass or more for Occupational Safety and Health Administration (OSHA)-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is measured to be 0.5 percent of the material by mass, you do not have to count it. Express the mass fraction of each organic HAP you count as a value truncated to four places after the decimal point (e.g., 0.3791).

(ii) Calculate the total mass fraction of organic HAP in the test material by adding up the individual organic HAP mass fractions and truncating the result to three places after the decimal point (e.g., 0.763).

(2) *Method 24 (appendix A to 40 CFR part 60).* For coatings, you may use Method 24 to determine the mass fraction of nonaqueous volatile matter and use that value as a substitute for mass fraction of organic HAP. For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, you may use the alternative method contained in appendix A to this subpart, rather than Method 24. You may use the volatile fraction that is emitted, as measured by the alternative method in appendix A to this subpart, as a substitute for the mass fraction of organic HAP.

(3) *Alternative method.* You may use an alternative test method for determining the mass fraction of organic HAP once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(4) *Information from the supplier or manufacturer of the material.* You may rely on information other than that generated by the test methods specified in paragraphs (a)(1) through (3) of this section, such as manufacturer's

formulation data, if it represents each organic HAP that is present at 0.1 percent by mass or more for OSHA-defined carcinogens as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other compounds. For example, if toluene (not an OSHA carcinogen) is 0.5 percent of the material by mass, you do not have to count it. For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, you may rely on manufacturer's data that expressly states the organic HAP or volatile matter mass fraction emitted. If there is a disagreement between such information and results of a test conducted according to paragraphs (a)(1) through (3) of this section, then the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

(5) *Solvent blends.* Solvent blends may be listed as single components for some materials in data provided by manufacturers or suppliers. Solvent blends may contain organic HAP which must be counted toward the total organic HAP mass fraction of the materials. When test data and manufacturer's data for solvent blends are not available, you may use the default values for the mass fraction of organic HAP in these solvent blends listed in Table 3 or 4 to this subpart. If you use the tables, you must use the values in Table 3 for all solvent blends that match Table 3 entries according to the instructions for Table 3, and you may use Table 4 only if the solvent blends in the materials you use do not match any of the solvent blends in Table 3 and you know only whether the blend is aliphatic or aromatic. However, if the results of a Method 311 (appendix A to 40 CFR part 63) test indicate higher values than those listed on Table 3 or 4 to this subpart, the Method 311 results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

(b) *Determine the mass fraction of coating solids for each coating.* You must determine the mass fraction of coating solids (kg (lb) of coating solids per kg (lb) of coating) for each coating used during the compliance period by a test, by information provided by the supplier or the manufacturer of the material, or by calculation, as specified in paragraphs (b)(1) through (3) of this section.

(1) *Method 24 (appendix A to 40 CFR part 60).* Use Method 24 for determining the mass fraction of coating solids. For reactive adhesives in which some of the



liquid fraction reacts to form solids, you may use the alternative method contained in appendix A to this subpart, rather than Method 24, to determine the mass fraction of coating solids.

(2) *Alternative method.* You may use an alternative test method for determining the solids content of each coating once the Administrator has approved it. You must follow the procedure in § 63.7(f) to submit an alternative test method for approval.

(3) *Information from the supplier or manufacturer of the material.* You may obtain the mass fraction of coating solids for each coating from the supplier or manufacturer. If there is disagreement between such information and the test method results, then the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

(c) *Calculate the organic HAP content of each coating.* Calculate the organic HAP content, kg (lb) organic HAP emitted per kg (lb) coating solids used, of each coating used during the compliance period using Equation 1 of this section:

$$H_c = \frac{W_c}{S_c} \quad (\text{Eq. 1})$$

Where:

$H_c$  = Organic HAP content of the coating, kg (lb) of organic HAP emitted per kg (lb) coating solids used.

$W_c$  = Mass fraction of organic HAP in the coating, kg organic HAP per kg coating, determined according to paragraph (a) of this section.

$S_c$  = Mass fraction of coating solids, kg coating solids per kg coating, determined according to paragraph (b) of this section.

(d) *Compliance demonstration.* The calculated organic HAP content for each coating used during the initial compliance period must be less than or equal to the applicable emission limit in § 63.4490; and each thinner and/or other additive, and cleaning material used during the initial compliance period must contain no organic HAP, determined according to paragraph (a) of this section. You must keep all records required by §§ 63.4530 and 63.4531. As part of the notification of compliance status required in § 63.4510, you must identify the coating operation(s) for which you used the compliant material option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because you used no coatings for which the organic HAP

content exceeded the applicable emission limit in § 63.4490, and you used no thinners and/or other additives, or cleaning materials that contained organic HAP, determined according to the procedures in paragraph (a) of this section.

**§ 63.4542 How do I demonstrate continuous compliance with the emission limitations?**

(a) For each compliance period to demonstrate continuous compliance, you must use no coating for which the organic HAP content (determined using Equation 1 of § 63.4541) exceeds the applicable emission limit in § 63.4490, and use no thinner and/or other additive, or cleaning material that contains organic HAP, determined according to § 63.4541(a). A compliance period consists of 12 months. Each month, after the end of the initial compliance period described in § 63.4540, is the end of a compliance period consisting of that month and the preceding 11 months. If you are complying with a facility-specific emission limit under § 63.4490(c), you must also perform the calculation using Equation 1 in § 63.4490(c)(2) on a monthly basis using the data from the previous 12 months of operation.

(b) If you choose to comply with the emission limitations by using the compliant material option, the use of any coating, thinner and/or other additive, or cleaning material that does not meet the criteria specified in paragraph (a) of this section is a deviation from the emission limitations that must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(5).

(c) As part of each semiannual compliance report required by § 63.4520, you must identify the coating operation(s) for which you used the compliant material option. If there were no deviations from the applicable emission limit in § 63.4490, submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the reporting period because you used no coatings for which the organic HAP content exceeded the applicable emission limit in § 63.4490, and you used no thinner and/or other additive, or cleaning material that contained organic HAP, determined according to § 63.4541(a).

(d) You must maintain records as specified in §§ 63.4530 and 63.4531.

**Compliance Requirements for the Emission Rate Without Add-On Controls Option**

**§ 63.4550 By what date must I conduct the initial compliance demonstration?**

You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4551. The initial compliance period begins on the applicable compliance date specified in § 63.4483 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and mass of coating solids used each month and then calculate an organic HAP emission rate at the end of the initial compliance period. The initial compliance demonstration includes the calculations according to § 63.4551 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in § 63.4490.

**§ 63.4551 How do I demonstrate initial compliance with the emission limitations?**

You may use the emission rate without add-on controls option for any individual coating operation, for any group of coating operations in the affected source, or for all the coating operations in the affected source. You must use either the compliant material option or the emission rate with add-on controls option for any coating operation in the affected source for which you do not use this option. To demonstrate initial compliance using the emission rate without add-on controls option, the coating operation or group of coating operations must meet the applicable emission limit in § 63.4490, but is not required to meet the operating limits or work practice standards in §§ 63.4492 and 63.4493, respectively. You must conduct a separate initial compliance demonstration for each general use, TPO, automotive lamp, and assembled on-road vehicle coating operation unless you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c). If you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c), you must demonstrate that all coating operations included in the predominant activity determination or calculation of the

facility-specific emission limit comply with that limit. You must meet all the requirements of this section. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners and/or other additives, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate with add-on controls option. You do not need to redetermine the mass of organic HAP in coatings, thinners and/or other additives, or cleaning materials that have been reclaimed on-site (or reclaimed off-site if you have documentation showing that you received back the exact same materials that were sent off-site) and reused in the coating operation for which you use the emission rate without add-on controls option. If you use coatings, thinners and/or other additives, or cleaning materials that have been reclaimed on-site, the amount of each used in a month may be reduced by the amount of each that is reclaimed. That is, the amount used may be calculated as the amount consumed to account for materials that are reclaimed.

(a) *Determine the mass fraction of organic HAP for each material.* Determine the mass fraction of organic HAP for each coating, thinner and/or other additive, and cleaning material used during each month according to the requirements in § 63.4541(a).

(b) *Determine the mass fraction of coating solids.* Determine the mass fraction of coating solids (kg (lb) of coating solids per kg (lb) of coating) for each coating used during each month according to the requirements in § 63.4541(b).

(c) *Determine the density of each material.* Determine the density of each liquid coating, thinner and/or other additive, and cleaning material used during each month from test results using ASTM Method D1475-98, "Standard Test Method for Density of Liquid Coatings, Inks, and Related Products" (incorporated by reference, see § 63.14), information from the supplier or manufacturer of the material, or reference sources providing density or specific gravity data for pure materials. If there is disagreement between ASTM Method D1475-98 and other such information sources, the test results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct. If you purchase materials or monitor consumption by weight instead of volume, you do not need to determine material density. Instead, you may use the material weight in place of the

combined terms for density and volume in Equations 1A, 1B, 1C, and 2 of this section.

(d) *Determine the volume of each material used.* Determine the volume (liters) of each coating, thinner and/or other additive, and cleaning material used during each month by measurement or usage records. If you purchase materials or monitor consumption by weight instead of volume, you do not need to determine the volume of each material used. Instead, you may use the material weight in place of the combined terms for density and volume in Equations 1A, 1B, 1C, and 2 of this section.

(e) *Calculate the mass of organic HAP emissions.* The mass of organic HAP emissions is the combined mass of organic HAP contained in all coatings, thinners and/or other additives, and cleaning materials used during each month minus the organic HAP in certain waste materials. Calculate the mass of organic HAP emissions using Equation 1 of this section.

$$H_e = A + B + C - R_w \quad (\text{Eq. 1})$$

Where:

$H_e$  = Total mass of organic HAP emissions during the month, kg.

$A$  = Total mass of organic HAP in the coatings used during the month, kg, as calculated in Equation 1A of this section.

$B$  = Total mass of organic HAP in the thinners and/or other additives used during the month, kg, as calculated in Equation 1B of this section.

$C$  = Total mass of organic HAP in the cleaning materials used during the month, kg, as calculated in Equation 1C of this section.

$R_w$  = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSDF for treatment or disposal during the month, kg, determined according to paragraph (e)(4) of this section. (You may assign a value of zero to  $R_w$  if you do not wish to use this allowance.)

(1) Calculate the kg organic HAP in the coatings used during the month using Equation 1A of this section:

$$A = \sum_{i=1}^m (\text{Vol}_{c,i}) (D_{c,i}) (W_{c,i}) \quad (\text{Eq. 1A})$$

Where:

$A$  = Total mass of organic HAP in the coatings used during the month, kg.

$\text{Vol}_{c,i}$  = Total volume of coating,  $i$ , used during the month, liters.

$D_{c,i}$  = Density of coating,  $i$ , kg coating per liter coating.

$W_{c,i}$  = Mass fraction of organic HAP in coating,  $i$ , kg organic HAP per kg coating. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$m$  = Number of different coatings used during the month.

(2) Calculate the kg of organic HAP in the thinners and/or other additives used during the month using Equation 1B of this section:

$$B = \sum_{j=1}^n (\text{Vol}_{t,j}) (D_{t,j}) (W_{t,j}) \quad (\text{Eq. 1B})$$

Where:

$B$  = Total mass of organic HAP in the thinners and/or other additives used during the month, kg.

$\text{Vol}_{t,j}$  = Total volume of thinner and/or other additive,  $j$ , used during the month, liters.

$D_{t,j}$  = Density of thinner and/or other additive,  $j$ , kg per liter.

$W_{t,j}$  = Mass fraction of organic HAP in thinner and/or other additive,  $j$ , kg organic HAP per kg thinner and/or other additive. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$n$  = Number of different thinners and/or other additives used during the month.

(3) Calculate the kg organic HAP in the cleaning materials used during the month using Equation 1C of this section:

$$C = \sum_{k=1}^p (\text{Vol}_{s,k}) (D_{s,k}) (W_{s,k}) \quad (\text{Eq. 1C})$$

Where:

$C$  = Total mass of organic HAP in the cleaning materials used during the month, kg.

$\text{Vol}_{s,k}$  = Total volume of cleaning material,  $k$ , used during the month, liters.

$D_{s,k}$  = Density of cleaning material,  $k$ , kg per liter.

$W_{s,k}$  = Mass fraction of organic HAP in cleaning material,  $k$ , kg organic HAP per kg material.

$p$  = Number of different cleaning materials used during the month.

(4) If you choose to account for the mass of organic HAP contained in waste materials sent or designated for shipment to a hazardous waste TSDF in Equation 1 of this section, then you must determine the mass according to paragraphs (e)(4)(i) through (iv) of this section.

(i) You may only include waste materials in the determination that are generated by coating operations in the affected source for which you use Equation 1 of this section and that will be treated or disposed of by a facility that is regulated as a TSDF under 40 CFR part 262, 264, 265, or 266. The TSDF may be either off-site or on-site. You may not include organic HAP contained in wastewater.

(ii) You must determine either the amount of the waste materials sent to a TSDF during the month or the amount collected and stored during the month and designated for future transport to a TSDF. Do not include in your determination any waste materials sent to a TSDF during a month if you have already included them in the amount collected and stored during that month or a previous month.

(iii) Determine the total mass of organic HAP contained in the waste materials specified in paragraph (e)(4)(ii) of this section.

(iv) You must document the methodology you use to determine the amount of waste materials and the total mass of organic HAP they contain, as required in § 63.4530(g). If waste manifests include this information, they may be used as part of the documentation of the amount of waste materials and mass of organic HAP contained in them.

(f) Calculate the total mass of coating solids used. Determine the total mass of coating solids used, kg, which is the combined mass of coating solids for all the coatings used during each month, using Equation 2 of this section:

$$M_{st} = \sum_{i=1}^m (\text{Vol}_{c,i}) (D_{c,i}) (M_{s,i}) \quad (\text{Eq. 2})$$

Where:

$M_{st}$  = Total mass of coating solids used during the month, kg.

$\text{Vol}_{c,i}$  = Total volume of coating,  $i$ , used during the month, liters.

$D_{c,i}$  = Density of coating,  $i$ , kgs per liter coating, determined according to § 63.4551(c).

$M_{s,i}$  = Mass fraction of coating solids for coating,  $i$ , kgs solids per kg coating, determined according to § 63.4541(b).

$m$  = Number of coatings used during the month.

(g) Calculate the organic HAP emission rate. Calculate the organic HAP emission rate for the compliance period, kg (lb) organic HAP emitted per kg (lb) coating solids used, using Equation 3 of this section:

$$H_{yr} = \frac{\sum_{y=1}^n H_c}{\sum_{y=1}^n M_{st}} \quad (\text{Eq. 3})$$

Where:

$H_{yr}$  = Average organic HAP emission rate for the compliance period, kg organic HAP emitted per kg coating solids used.

$H_c$  = Total mass of organic HAP emissions from all materials used during month,  $y$ , kg, as calculated by Equation 1 of this section.

$M_{st}$  = Total mass of coating solids used during month,  $y$ , kg, as calculated by Equation 2 of this section.

$y$  = Identifier for months.

$n$  = Number of full or partial months in the compliance period (for the initial compliance period,  $n$  equals 12 if the compliance date falls on the first day of a month; otherwise  $n$  equals 13; for all following compliance periods,  $n$  equals 12).

(h) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period calculated using Equation 3 of this section must be less than or equal to the applicable emission limit for each subcategory in § 63.4490 or the predominant activity or facility-specific emission limit allowed in § 63.4490(c). You must keep all records as required by §§ 63.4530 and 63.4531. As part of the notification of compliance status required by § 63.4510, you must identify the coating operation(s) for which you used the emission rate without add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4490, determined according to the procedures in this section.

#### § 63.4552 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance, the organic HAP emission rate for each compliance period, determined according to § 63.4551(a) through (g), must be less than or equal to the applicable emission limit in § 63.4490. A compliance period consists of 12 months. Each month after the end of the initial compliance period described in § 63.4550 is the end of a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4551(a) through (g) on a monthly basis using data from the previous 12 months of operation. If you are

complying with a facility-specific emission limit under § 63.4490(c), you must also perform the calculation using Equation 1 in § 63.4490(c)(2) on a monthly basis using the data from the previous 12 months of operation.

(b) If the organic HAP emission rate for any 12-month compliance period exceeded the applicable emission limit in § 63.4490, this is a deviation from the emission limitation for that compliance period and must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(6).

(c) As part of each semiannual compliance report required by § 63.4520, you must identify the coating operation(s) for which you used the emission rate without add-on controls option. If there were no deviations from the emission limitations, you must submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4490, determined according to § 63.4551(a) through (g).

(d) You must maintain records as specified in §§ 63.4530 and 63.4531.

#### Compliance Requirements for the Emission Rate With Add-On Controls Option

##### § 63.4560 By what date must I conduct performance tests and other initial compliance demonstrations?

(a) *New and reconstructed affected sources.* For a new or reconstructed affected source, you must meet the requirements of paragraphs (a)(1) through (4) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the applicable compliance date specified in § 63.4483. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j), you must conduct a performance test of each capture system and add-on control device according to §§ 63.4564, 63.4565, and 63.4566 and establish the operating limits required by § 63.4492 no later than 180 days after the applicable compliance date specified in § 63.4483. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4561(j), you must initiate the first material balance no later than the applicable compliance date specified in § 63.4483.

(2) You must develop and begin implementing the work practice plan required by § 63.4493 no later than the compliance date specified in § 63.4483.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4561. The initial compliance period begins on the applicable compliance date specified in § 63.4483 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and mass of coatings solids used each month and then calculate an organic HAP emission rate at the end of the initial compliance period. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4564, 63.4565, and 63.4566; results of liquid-liquid material balances conducted according to § 63.4561(j); calculations according to § 63.4561 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in § 63.4490; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4568; and documentation of whether you developed and implemented the work practice plan required by § 63.4493.

(4) You do not need to comply with the operating limits for the emission capture system and add-on control device required by § 63.4492 until after you have completed the performance tests specified in paragraph (a)(1) of this section. Instead, you must maintain a log detailing the operation and maintenance of the emission capture system, add-on control device, and continuous parameter monitors during the period between the compliance date and the performance test. You must begin complying with the operating limits for your affected source on the date you complete the performance tests specified in paragraph (a)(1) of this section. The requirements in this paragraph (a)(4) do not apply to solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements in § 63.4561(j).

(b) *Existing affected sources.* For an existing affected source, you must meet the requirements of paragraphs (b)(1) through (3) of this section.

(1) All emission capture systems, add-on control devices, and CPMS must be installed and operating no later than the

applicable compliance date specified in § 63.4483. Except for solvent recovery systems for which you conduct liquid-liquid material balances according to § 63.4561(j), you must conduct a performance test of each capture system and add-on control device according to the procedures in §§ 63.4564, 63.4565, and 63.4566 and establish the operating limits required by § 63.4492 no later than the compliance date specified in § 63.4483. For a solvent recovery system for which you conduct liquid-liquid material balances according to § 63.4561(j), you must initiate the first material balance no later than the compliance date specified in § 63.4483.

(2) You must develop and begin implementing the work practice plan required by § 63.4493 no later than the compliance date specified in § 63.4483.

(3) You must complete the initial compliance demonstration for the initial compliance period according to the requirements of § 63.4561. The initial compliance period begins on the applicable compliance date specified in § 63.4483 and ends on the last day of the 12th month following the compliance date. If the compliance date occurs on any day other than the first day of a month, then the initial compliance period extends through the end of that month plus the next 12 months. You must determine the mass of organic HAP emissions and mass of coatings solids used each month and then calculate an organic HAP emission rate at the end of the initial compliance period. The initial compliance demonstration includes the results of emission capture system and add-on control device performance tests conducted according to §§ 63.4564, 63.4565, and 63.4566; results of liquid-liquid material balances conducted according to § 63.4561(j); calculations according to § 63.4561 and supporting documentation showing that during the initial compliance period the organic HAP emission rate was equal to or less than the applicable emission limit in § 63.4490; the operating limits established during the performance tests and the results of the continuous parameter monitoring required by § 63.4568; and documentation of whether you developed and implemented the work practice plan required by § 63.4493.

(c) You are not required to conduct an initial performance test to determine capture efficiency or destruction efficiency of a capture system or control device if you receive approval to use the results of a performance test that has been previously conducted on that capture system or control device. Any such previous tests must meet the

conditions described in paragraphs (c)(1) through (3) of this section.

(1) The previous test must have been conducted using the methods and conditions specified in this subpart.

(2) Either no process or equipment changes must have been made since the previous test was performed, or the owner or operator must be able to demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process or equipment changes.

(3) Either the required operating parameters were established in the previous test or sufficient data were collected in the previous test to establish the required operating parameters.

#### **§ 63.4561 How do I demonstrate initial compliance?**

(a) You may use the emission rate with add-on controls option for any coating operation, for any group of coating operations in the affected source, or for all of the coating operations in the affected source. You may include both controlled and uncontrolled coating operations in a group for which you use this option. You must use either the compliant material option or the emission rate without add-on controls option for any coating operation in the affected source for which you do not use the emission rate with add-on controls option. To demonstrate initial compliance, the coating operation(s) for which you use the emission rate with add-on controls option must meet the applicable emission limitations in §§ 63.4490, 63.4492, and 63.4493. You must conduct a separate initial compliance demonstration for each general use, TPO, automotive lamp, and assembled on-road vehicle coating operation, unless you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c). If you are demonstrating compliance with a predominant activity or facility-specific emission limit as provided in § 63.4490(c), you must demonstrate that all coating operations included in the predominant activity determination or calculation of the facility-specific emission limit comply with that limit. You must meet all the requirements of this section. When calculating the organic HAP emission rate according to this section, do not include any coatings, thinners and/or other additives, or cleaning materials used on coating operations for which you use the compliant material option or the emission rate without add-on controls

option. You do not need to redetermine the mass of organic HAP in coatings, thinners and/or other additives, or cleaning materials that have been reclaimed onsite (or reclaimed off-site if you have documentation showing that you received back the exact same materials that were sent off-site) and reused in the coatings operation(s) for which you use the emission rate with add-on controls option. If you use coatings, thinners and/or other additives, or cleaning materials that have been reclaimed on-site, the amount of each used in a month may be reduced by the amount of each that is reclaimed. That is, the amount used may be calculated as the amount consumed to account for materials that are reclaimed.

(b) *Compliance with operating limits.* Except as provided in § 63.4560(a)(4), and except for solvent recovery systems for which you conduct liquid-liquid material balances according to the requirements of paragraph (j) of this section, you must establish and demonstrate continuous compliance during the initial compliance period with the operating limits required by § 63.4492, using the procedures specified in §§ 63.4567 and 63.4568.

(c) *Compliance with work practice requirements.* You must develop, implement, and document your implementation of the work practice plan required by § 63.4493 during the initial compliance period, as specified in § 63.4530.

(d) *Compliance with emission limits.* You must follow the procedures in paragraphs (e) through (n) of this section to demonstrate compliance with the applicable emission limit in § 63.4490

for each affected source in each subcategory.

(e) *Determine the mass fraction of organic HAP, density, volume used, and mass fraction of coating solids.* Follow the procedures specified in § 63.4551(a) through (d) to determine the mass fraction of organic HAP, density, and volume of each coating, thinner and/or other additive, and cleaning material used during each month; and the mass fraction of coating solids for each coating used during each month.

(f) *Calculate the total mass of organic HAP emissions before add-on controls.* Using Equation 1 of § 63.4551, calculate the total mass of organic HAP emissions before add-on controls from all coatings, thinners and/or other additives, and cleaning materials used during each month in the coating operation or group of coating operations for which you use the emission rate with add-on controls option.

(g) *Calculate the organic HAP emission reduction for each controlled coating operation.* Determine the mass of organic HAP emissions reduced for each controlled coating operation during each month. The emission reduction determination quantifies the total organic HAP emissions that pass through the emission capture system and are destroyed or removed by the add-on control device. Use the procedures in paragraph (h) of this section to calculate the mass of organic HAP emission reduction for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. For each

controlled coating operation using a solvent recovery system for which you conduct a liquid-liquid material balance, use the procedures in paragraph (j) of this section to calculate the organic HAP emission reduction.

(h) *Calculate the organic HAP emission reduction for each controlled coating operation not using liquid-liquid material balance.* Use Equation 1 of this section to calculate the organic HAP emission reduction for each controlled coating operation using an emission capture system and add-on control device other than a solvent recovery system for which you conduct liquid-liquid material balances. The calculation applies the emission capture system efficiency and add-on control device efficiency to the mass of organic HAP contained in the coatings, thinners and/or other additives, and cleaning materials that are used in the coating operation served by the emission capture system and add-on control device during each month. You must assume zero efficiency for the emission capture system and add-on control device for any period of time a deviation specified in § 63.4563(c) or (d) occurs in the controlled coating operation, including a deviation during a period of startup, shutdown, or malfunction, unless you have other data indicating the actual efficiency of the emission capture system and add-on control device and the use of these data is approved by the Administrator. Equation 1 of this section treats the materials used during such a deviation as if they were used on an uncontrolled coating operation for the time period of the deviation.

$$H_C = (A_C + B_C + C_C - R_w - H_{UNC}) \left( \frac{CE}{100} \times \frac{DRE}{100} \right) \quad (\text{Eq. 1})$$

Where:

$H_C$  = Mass of organic HAP emission reduction for the controlled coating operation during the month, kg.

$A_C$  = Total mass of organic HAP in the coatings used in the controlled coating operation during the month, kg, as calculated in Equation 1A of this section.

$B_C$  = Total mass of organic HAP in the thinners and/or other additives used in the controlled coating operation during the month, kg, as calculated in Equation 1B of this section.

$C_C$  = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during

the month, kg, as calculated in Equation 1C of this section.

$R_w$  = Total mass of organic HAP in waste materials sent or designated for shipment to a hazardous waste TSD for treatment or disposal during the compliance period, kg, determined according to § 63.4951(e)(4). (You may assign a value of zero to  $R_w$  if you do not wish to use this allowance.)

$H_{UNC}$  = Total mass of organic HAP in the coatings, thinners and/or other additives, and cleaning materials used during all deviations specified in § 63.4563(c) and (d) that occurred during the month in the controlled coating operation, kg, as calculated in Equation 1D of this section.

$CE$  = Capture efficiency of the emission capture system vented to the add-on control device, percent. Use the test methods and procedures specified in §§ 63.4564 and 63.4565 to measure and record capture efficiency.

$DRE$  = Organic HAP destruction or removal efficiency of the add-on control device, percent. Use the test methods and procedures in §§ 63.4564 and 63.4566 to measure and record the organic HAP destruction or removal efficiency.

(1) Calculate the mass of organic HAP in the coatings used in the controlled coating operation, kg (lb), using Equation 1A of this section:

$$A_C = \sum_{i=1}^m (\text{Vol}_{c,i}) (D_{c,i}) (W_{c,i}) \quad (\text{Eq. 1A})$$

Where:

$A_C$  = Total mass of organic HAP in the coatings used in the controlled coating operation during the month, kg.

$\text{Vol}_{c,i}$  = Total volume of coating, i, used during the month, liters.

$D_{c,i}$  = Density of coating, i, kg per liter.

$W_{c,i}$  = Mass fraction of organic HAP in coating, i, kg per kg. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$m$  = Number of different coatings used.

(2) Calculate the mass of organic HAP in the thinners and/or other additives used in the controlled coating operation, kg (lb), using Equation 1B of this section:

$$B_C = \sum_{j=1}^n (\text{Vol}_{t,j}) (D_{t,j}) (W_{t,j}) \quad (\text{Eq. 1B})$$

Where:

$B_C$  = Total mass of organic HAP in the thinners and/or other additives used in the controlled coating operation during the month, kg.

$\text{Vol}_{t,j}$  = Total volume of thinner and/or other additive, j, used during the month, liters.

$D_{t,j}$  = Density of thinner and/or other additive, j, kg per liter.

$W_{t,j}$  = Mass fraction of organic HAP in thinner and/or other additive, j, kg per kg. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$n$  = Number of different thinners and/or other additives used.

(3) Calculate the mass of organic HAP in the cleaning materials used in the controlled coating operation during the month, kg (lb), using Equation 1C of this section:

$$C_C = \sum_{k=1}^p (\text{Vol}_{s,k}) (D_{s,k}) (W_{s,k}) \quad (\text{Eq. 1C})$$

Where:

$C_C$  = Total mass of organic HAP in the cleaning materials used in the controlled coating operation during the month, kg.

$\text{Vol}_{s,k}$  = Total volume of cleaning material, k, used during the month, liters.

$D_{s,k}$  = Density of cleaning material, k, kg per liter.

$W_{s,k}$  = Mass fraction of organic HAP in cleaning material, k, kg per kg.

$p$  = Number of different cleaning materials used.

(4) Calculate the mass of organic HAP in the coatings, thinners and/or other additives, and cleaning materials used in the controlled coating operation during deviations specified in § 63.4563(c) and (d), using Equation 1D of this section:

$$H_{UNC} = \sum_{h=1}^q (\text{Vol}_h) (D_h) (W_h) \quad (\text{Eq. 1D})$$

Where:

$H_{UNC}$  = Total mass of organic HAP in the coatings, thinners and/or other additives, and cleaning materials used during all deviations specified in § 63.4563(c) and (d) that occurred during the month in the controlled coating operation, kg.

$\text{Vol}_h$  = Total volume of coating, thinner and/or other additive, or cleaning material, h, used in the controlled coating operation during deviations, liters.

$D_h$  = Density of coating, thinner and/or other additives, or cleaning material, h, kg per liter.

$W_h$  = Mass fraction of organic HAP in coating, thinner and/or other additives, or cleaning material, h, kg organic HAP per kg coating. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$q$  = Number of different coatings, thinners and/or other additives, and cleaning materials used.

(i) [Reserved]

(j) Calculate the organic HAP emission reduction for each controlled coating operation using liquid-liquid material balances. For each controlled coating operation using a solvent recovery system for which you conduct liquid-liquid material balances, calculate the organic HAP emission reduction by applying the volatile organic matter collection and recovery efficiency to the mass of organic HAP contained in the coatings, thinners and/or other additives, and cleaning materials that are used in the coating operation controlled by the solvent recovery system during each month. Perform a liquid-liquid material balance for each month as specified in paragraphs (j)(1) through (6) of this

section. Calculate the mass of organic HAP emission reduction by the solvent recovery system as specified in paragraph (j)(7) of this section.

(1) For each solvent recovery system, install, calibrate, maintain, and operate according to the manufacturer's specifications, a device that indicates the cumulative amount of volatile organic matter recovered by the solvent recovery system each month. The device must be initially certified by the manufacturer to be accurate to within  $\pm 2.0$  percent of the mass of volatile organic matter recovered.

(2) For each solvent recovery system, determine the mass of volatile organic matter recovered for the month, based on measurement with the device required in paragraph (j)(1) of this section.

(3) Determine the mass fraction of volatile organic matter for each coating, thinner and/or other additive, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, kg volatile organic matter per kg coating. You may determine the volatile organic matter mass fraction using Method 24 of 40 CFR part 60, appendix A, or an EPA approved alternative method, or you may use information provided by the manufacturer or supplier of the coating. In the event of any inconsistency between information provided by the manufacturer or supplier and the results of Method 24 of 40 CFR part 60, appendix A, or an approved alternative method, the test method results will take precedence unless, after consultation you demonstrate to the satisfaction of the enforcement agency that the formulation data are correct.

(4) Determine the density of each coating, thinner and/or other additive, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, kg per liter, according to § 63.4551(c).

(5) Measure the volume of each coating, thinner and/or other additive, and cleaning material used in the coating operation controlled by the solvent recovery system during the month, liters.

(6) Each month, calculate the solvent recovery system's volatile organic matter collection and recovery efficiency, using Equation 2 of this section:

$$R_v = 100 \frac{M_{VR}}{\sum_{i=1}^m \text{Vol}_i D_i W_{V_{c,i}} + \sum_{j=1}^n \text{Vol}_j D_j W_{V_{t,j}} + \sum_{k=1}^p \text{Vol}_k D_k W_{V_{s,k}}} \quad (\text{Eq. 2})$$

Where:

$R_v$  = Volatile organic matter collection and recovery efficiency of the solvent recovery system during the month, percent.

$M_{VR}$  = Mass of volatile organic matter recovered by the solvent recovery system during the month, kg.

$\text{Vol}_i$  = Volume of coating, i, used in the coating operation controlled by the solvent recovery system during the month, liters.

$D_i$  = Density of coating, i, kg per liter.

$W_{V_{c,i}}$  = Mass fraction of volatile organic matter for coating, i, kg volatile organic matter per kg coating. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$\text{Vol}_j$  = Volume of thinner and/or other additive, j, used in the coating

operation controlled by the solvent recovery system during the month, liters.

$D_j$  = Density of thinner and/or other additive, j, kg per liter.

$W_{V_{t,j}}$  = Mass fraction of volatile organic matter for thinner and/or other additive, j, kg volatile organic matter per kg thinner and/or other additive. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$\text{Vol}_k$  = Volume of cleaning material, k, used in the coating operation controlled by the solvent recovery system during the month, liters.

$D_k$  = Density of cleaning material, k, kg per liter.

$W_{V_{s,k}}$  = Mass fraction of volatile organic matter for cleaning material, k, kg

volatile organic matter per kg cleaning material.

$m$  = Number of different coatings used in the coating operation controlled by the solvent recovery system during the month.

$n$  = Number of different thinners and/or other additives used in the coating operation controlled by the solvent recovery system during the month.

$p$  = Number of different cleaning materials used in the coating operation controlled by the solvent recovery system during the month.

(7) Calculate the mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system during the month, using Equation 3 of this section and according to paragraphs (j)(7)(i) through (iii) of this section:

$$H_{CSR} = (A_{CSR} + B_{CSR} + C_{CSR}) \left( \frac{R_v}{100} \right) \quad (\text{Eq. 3})$$

Where:

$H_{CSR}$  = Mass of organic HAP emission reduction for the coating operation controlled by the solvent recovery system using a liquid-liquid material balance during the month, kg.

$A_{CSR}$  = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3A of this section.

$B_{CSR}$  = Total mass of organic HAP in the thinners and/or other additives used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3B of this section.

$C_{CSR}$  = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system, kg, calculated using Equation 3C of this section.

$R_v$  = Volatile organic matter collection and recovery efficiency of the solvent recovery system, percent, from Equation 2 of this section.

(i) Calculate the mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system, kg, using Equation 3A of this section.

$$A_{CSR} = \sum_{i=1}^m (\text{Vol}_{c,i}) (D_{c,i}) (W_{c,i}) \quad (\text{Eq. 3A})$$

Where:

$A_{CSR}$  = Total mass of organic HAP in the coatings used in the coating operation controlled by the solvent recovery system during the month, kg.

$\text{Vol}_{c,i}$  = Total volume of coating, i, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{c,i}$  = Density of coating, i, kg per liter.

$W_{c,i}$  = Mass fraction of organic HAP in coating, i, kg organic HAP per kg coating. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$m$  = Number of different coatings used.

(ii) Calculate the mass of organic HAP in the thinners and/or other additives used in the coating operation controlled by the solvent recovery system, kg, using Equation 3B of this section:

$$B_{CSR} = \sum_{j=1}^n (\text{Vol}_{t,j}) (D_{t,j}) (W_{t,j}) \quad (\text{Eq. 3B})$$

Where:

$B_{CSR}$  = Total mass of organic HAP in the thinners and/or other additives used in the coating operation controlled by the solvent recovery system during the month, kg.

$\text{Vol}_{t,j}$  = Total volume of thinner and/or other additive, j, used during the month in the coating operation controlled by the solvent recovery system, liters.

$D_{t,j}$  = Density of thinner and/or other additive, j, kg per liter.

$W_{t,j}$  = Mass fraction of organic HAP in thinner and/or other additive, j, kg organic HAP per kg thinner and/or other additive. For reactive adhesives as defined in § 63.4581, use the mass fraction of organic HAP that is emitted as determined using the method in appendix A to this subpart.

$n$  = Number of different thinners and/or other additives used.

(iii) Calculate the mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, kg, using Equation 3C of this section:

$$C_{CSR} = \sum_{k=1}^p (\text{Vol}_{s,k}) (D_{s,k}) (W_{s,k}) \quad (\text{Eq. 3C})$$

Where:

$C_{CSR}$  = Total mass of organic HAP in the cleaning materials used in the coating operation controlled by the solvent recovery system during the month, kg.

$\text{Vol}_{s,k}$  = Total volume of cleaning material, k, used during the month

in the coating operation controlled by the solvent recovery system, liters.

$D_{s,k}$  = Density of cleaning material, k, kg per liter.

$W_{s,k}$  = Mass fraction of organic HAP in cleaning material, k, kg organic HAP per kg cleaning material.

p = Number of different cleaning materials used.

(k) Calculate the total mass of coating solids used. Determine the total mass of

coating solids used, kg, which is the combined mass of coating solids for all the coatings used during each month in the coating operation or group of coating operations for which you use the emission rate with add-on controls option, using Equation 2 of § 63.4551.

(l) Calculate the mass of organic HAP emissions for each month. Determine the mass of organic HAP emissions, kg, during each month, using Equation 4 of this section:

$$H_{HAP} = H_e - \sum_{i=1}^q (H_{C,i}) - \sum_{j=1}^r (H_{CSR,j}) \quad (\text{Eq. 4})$$

Where:

$H_{HAP}$  = Total mass of organic HAP emissions for the month, kg.

$H_e$  = Total mass of organic HAP emissions before add-on controls from all the coatings, thinners and/or other additives, and cleaning materials used during the month, kg, determined according to paragraph (f) of this section.

$H_{C,i}$  = Total mass of organic HAP emission reduction for controlled coating operation, i, not using a liquid-liquid material balance, during the month, kg, from Equation 1 of this section.

$H_{CSR,j}$  = Total mass of organic HAP emission reduction for coating operation, j, controlled by a solvent recovery system using a liquid-liquid material balance, during the month, kg, from Equation 3 of this section.

q = Number of controlled coating operations not controlled by a solvent recovery system using a liquid-liquid material balance.

r = Number of coating operations controlled by a solvent recovery system using a liquid-liquid material balance.

(m) Calculate the organic HAP emission rate for the compliance period. Determine the organic HAP emission rate for the compliance period, kg (lb) of organic HAP emitted per kg (lb) coating solids used, using Equation 5 of this section:

$$H_{\text{annual}} = \frac{\sum_{y=1}^n H_{HAP,y}}{\sum_{y=1}^n M_{st,y}} \quad (\text{Eq. 5})$$

Where:

$H_{\text{annual}}$  = Organic HAP emission rate for the compliance period, kg organic HAP emitted per kg coating solids used.

$H_{HAP,y}$  = Organic HAP emissions for month, y, kg, determined according to Equation 4 of this section.

$M_{st,y}$  = Total mass of coating solids used during month, y, kg, from Equation 2 of § 63.4551.

y = Identifier for months.

n = Number of full or partial months in the compliance period (for the initial compliance period, n equals 12 if the compliance date falls on the first day of a month; otherwise n equals 13; for all following compliance periods, n equals 12).

(n) *Compliance demonstration.* The organic HAP emission rate for the initial compliance period, calculated using Equation 5 of this section, must be less than or equal to the applicable emission limit for each subcategory in § 63.4490 or the predominant activity or facility-specific emission limit allowed in § 63.4490(c). You must keep all records as required by §§ 63.4530 and 63.4531. As part of the notification of compliance status required by § 63.4510, you must identify the coating operation(s) for which you used the emission rate with add-on controls option and submit a statement that the coating operation(s) was (were) in compliance with the emission limitations during the initial compliance period because the organic HAP emission rate was less than or equal to the applicable emission limit in § 63.4490, and you achieved the operating limits required by § 63.4492 and the work practice standards required by § 63.4493.

#### § 63.4562 [Reserved]

#### § 63.4563 How do I demonstrate continuous compliance with the emission limitations?

(a) To demonstrate continuous compliance with the applicable emission limit in § 63.4490, the organic HAP emission rate for each compliance period, determined according to the

procedures in § 63.4561, must be equal to or less than the applicable emission limit in § 63.4490. A compliance period consists of 12 months. Each month after the end of the initial compliance period described in § 63.4560 is the end of a compliance period consisting of that month and the preceding 11 months. You must perform the calculations in § 63.4561 on a monthly basis using data from the previous 12 months of operation. If you are complying with a facility-specific emission limit under § 63.4490(c), you must also perform the calculation using Equation 1 in § 63.4490(c)(2) on a monthly basis using the data from the previous 12 months of operation.

(b) If the organic HAP emission rate for any 12-month compliance period exceeded the applicable emission limit in § 63.4490, this is a deviation from the emission limitation for that compliance period that must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(7).

(c) You must demonstrate continuous compliance with each operating limit required by § 63.4492 that applies to you, as specified in Table 1 to this subpart, when the coating line is in operation.

(1) If an operating parameter is out of the allowed range specified in Table 1 to this subpart, this is a deviation from the operating limit that must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(7).

(2) If an operating parameter deviates from the operating limit specified in Table 1 to this subpart, then you must assume that the emission capture system and add-on control device were achieving zero efficiency during the time period of the deviation, unless you have other data indicating the actual efficiency of the emission capture system and add-on control device and the use of these data is approved by the Administrator.



(d) You must meet the requirements for bypass lines in § 63.4568(b) for controlled coating operations for which you do not conduct liquid-liquid material balances. If any bypass line is opened and emissions are diverted to the atmosphere when the coating operation is running, this is a deviation that must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(7). For the purposes of completing the compliance calculations specified in §§ 63.4561(h), you must treat the materials used during a deviation on a controlled coating operation as if they were used on an uncontrolled coating operation for the time period of the deviation as indicated in Equation 1 of § 63.4561.

(e) You must demonstrate continuous compliance with the work practice standards in § 63.4493. If you did not develop a work practice plan, or you did not implement the plan, or you did not keep the records required by § 63.4530(i)(8), this is a deviation from the work practice standards that must be reported as specified in §§ 63.4510(c)(6) and 63.4520(a)(7).

(f) As part of each semiannual compliance report required in § 63.4520, you must identify the coating operation(s) for which you used the emission rate with add-on controls option. If there were no deviations from the emission limitations, submit a statement that you were in compliance with the emission limitations during the reporting period because the organic HAP emission rate for each compliance period was less than or equal to the applicable emission limit in § 63.4490, and you achieved the operating limits required by § 63.4492 and the work practice standards required by § 63.4493 during each compliance period.

(g) During periods of startup, shutdown, or malfunction of the emission capture system, add-on control device, or coating operation that may affect emission capture or control device efficiency, you must operate in accordance with the startup, shutdown, and malfunction plan required by § 63.4500(c).

(h)-(i) [Reserved]

(j) You must maintain records as specified in §§ 63.4530 and 63.4531.

**§ 63.4564 What are the general requirements for performance tests?**

(a) You must conduct each performance test required by § 63.4560 according to the requirements in § 63.7(e)(1) and under the conditions in this section, unless you obtain a waiver of the performance test according to the provisions in § 63.7(h).

(1) *Representative coating operation operating conditions.* You must conduct the performance test under representative operating conditions for the coating operation. Operations during periods of startup, shutdown, or malfunction and during periods of nonoperation do not constitute representative conditions. You must record the process information that is necessary to document operating conditions during the test and explain why the conditions represent normal operation.

(2) *Representative emission capture system and add-on control device operating conditions.* You must conduct the performance test when the emission capture system and add-on control device are operating at a representative flow rate, and the add-on control device is operating at a representative inlet concentration. You must record information that is necessary to document emission capture system and add-on control device operating conditions during the test and explain why the conditions represent normal operation.

(b) You must conduct each performance test of an emission capture system according to the requirements in § 63.4565. You must conduct each performance test of an add-on control device according to the requirements in § 63.4566.

**§ 63.4565 How do I determine the emission capture system efficiency?**

You must use the procedures and test methods in this section to determine capture efficiency as part of the performance test required by § 63.4560.

(a) *Assuming 100 percent capture efficiency.* You may assume the capture system efficiency is 100 percent if both of the conditions in paragraphs (a)(1) and (2) of this section are met:

(1) The capture system meets the criteria in Method 204 of appendix M to 40 CFR part 51 for a PTE and directs all the exhaust gases from the enclosure to an add-on control device.

(2) All coatings, thinners and/or other additives, and cleaning materials used in the coating operation are applied within the capture system; coating solvent flash-off, curing, and drying occurs within the capture system; and the removal or evaporation of cleaning materials from the surfaces they are applied to occurs within the capture system. For example, this criterion is not met if parts enter the open shop environment when being moved between a spray booth and a curing oven.

(b) *Measuring capture efficiency.* If the capture system does not meet both

of the criteria in paragraphs (a)(1) and (2) of this section, then you must use one of the three protocols described in paragraphs (c), (d), and (e) of this section to measure capture efficiency. The capture efficiency measurements use TVH capture efficiency as a surrogate for organic HAP capture efficiency. For the protocols in paragraphs (c) and (d) of this section, the capture efficiency measurement must consist of three test runs. Each test run must be at least 3 hours duration or the length of a production run, whichever is longer, up to 8 hours. For the purposes of this test, a production run means the time required for a single part to go from the beginning to the end of the production, which includes surface preparation activities and drying and curing time.

(c) *Liquid-to-uncaptured-gas protocol using a temporary total enclosure or building enclosure.* The liquid-to-uncaptured-gas protocol compares the mass of liquid TVH in materials used in the coating operation to the mass of TVH emissions not captured by the emission capture system. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (c)(1) through (6) of this section to measure emission capture system efficiency using the liquid-to-uncaptured-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners and/or other additives, and cleaning materials are applied, and all areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions for routing to an add-on control device, such as the entrance and exit areas of an oven or spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204A or 204F of appendix M to 40 CFR part 51 to determine the mass fraction of TVH liquid input from each coating, thinner and/or other additive, and cleaning material used in the coating operation during each capture efficiency test run. To make the determination, substitute TVH for each occurrence of the term volatile organic compounds (VOC) in the methods.

(3) Use Equation 1 of this section to calculate the total mass of TVH liquid input from all the coatings, thinners and/or other additives, and cleaning

materials used in the coating operation during each capture efficiency test run:

$$TVH_{used} = \sum_{i=1}^n (TVH_i)(Vol_i)(D_i) \quad (\text{Eq. 1})$$

Where:

$TVH_{used}$  = Mass of liquid TVH in materials used in the coating operation during the capture efficiency test run, kg.

$TVH_i$  = Mass fraction of TVH in coating, thinner and/or other additive, or cleaning material,  $i$ , that is used in the coating operation during the capture efficiency test run, kg TVH per kg material.

$Vol_i$  = Total volume of coating, thinner and/or other additive, or cleaning material,  $i$ , used in the coating

operation during the capture efficiency test run, liters.

$D_i$  = Density of coating, thinner and/or other additive, or cleaning material,  $i$ , kg material per liter material.

$n$  = Number of different coatings, thinners and/or other additives, and cleaning materials used in the coating operation during the capture efficiency test run.

(4) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system. They are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute

TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D of appendix M to 40 CFR part 51 if the enclosure is a temporary total enclosure.

(ii) Use Method 204E of appendix M to 40 CFR 51 if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(5) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 2 of this section:

$$CE = \frac{(TVH_{used} - TVH_{uncaptured})}{TVH_{used}} \times 100 \quad (\text{Eq. 2})$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

$TVH_{used}$  = Total mass of TVH liquid input used in the coating operation during the capture efficiency test run, kg.

$TVH_{uncaptured}$  = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(6) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(d) *Gas-to-gas protocol using a temporary total enclosure or a building enclosure.* The gas-to-gas protocol compares the mass of TVH emissions captured by the emission capture system to the mass of TVH emissions not captured. Use a temporary total enclosure or a building enclosure and the procedures in paragraphs (d)(1) through (5) of this section to measure emission capture system efficiency using the gas-to-gas protocol.

(1) Either use a building enclosure or construct an enclosure around the coating operation where coatings, thinners and/or other additives, and cleaning materials are applied, and all

areas where emissions from these applied coatings and materials subsequently occur, such as flash-off, curing, and drying areas. The areas of the coating operation where capture devices collect emissions generated by the coating operation for routing to an add-on control device, such as the entrance and exit areas of an oven or a spray booth, must also be inside the enclosure. The enclosure must meet the applicable definition of a temporary total enclosure or building enclosure in Method 204 of appendix M to 40 CFR part 51.

(2) Use Method 204B or 204C of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions captured by the emission capture system during each capture efficiency test run as measured at the inlet to the add-on control device. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) The sampling points for the Method 204B or 204C measurement must be upstream from the add-on control device and must represent total emissions routed from the capture system and entering the add-on control device.

(ii) If multiple emission streams from the capture system enter the add-on control device without a single common

duct, then the emissions entering the add-on control device must be simultaneously measured in each duct and the total emissions entering the add-on control device must be determined.

(3) Use Method 204D or 204E of appendix M to 40 CFR part 51 to measure the total mass, kg, of TVH emissions that are not captured by the emission capture system; they are measured as they exit the temporary total enclosure or building enclosure during each capture efficiency test run. To make the measurement, substitute TVH for each occurrence of the term VOC in the methods.

(i) Use Method 204D of appendix M to 40 CFR part 51 if the enclosure is a temporary total enclosure.

(ii) Use Method 204E of appendix M to 40 CFR part 51 if the enclosure is a building enclosure. During the capture efficiency measurement, all organic compound emitting operations inside the building enclosure, other than the coating operation for which capture efficiency is being determined, must be shut down, but all fans and blowers must be operating normally.

(4) For each capture efficiency test run, determine the percent capture efficiency of the emission capture system using Equation 3 of this section:

$$CE = \frac{TVH_{captured}}{(TVH_{captured} + TVH_{uncaptured})} \times 100 \quad (\text{Eq. 3})$$

Where:

CE = Capture efficiency of the emission capture system vented to the add-on control device, percent.

TVH<sub>captured</sub> = Total mass of TVH captured by the emission capture system as measured at the inlet to the add-on control device during the emission capture efficiency test run, kg.

TVH<sub>uncaptured</sub> = Total mass of TVH that is not captured by the emission capture system and that exits from the temporary total enclosure or building enclosure during the capture efficiency test run, kg.

(5) Determine the capture efficiency of the emission capture system as the average of the capture efficiencies measured in the three test runs.

(e) *Alternative capture efficiency protocol.* As an alternative to the procedures specified in paragraphs (c) and (d) of this section and subject to the approval of the Administrator, you may determine capture efficiency using any other capture efficiency protocol and test methods that satisfy the criteria of either the DQO or LCL approach as described in appendix A to subpart KK of this part.

**§ 63.4566 How do I determine the add-on control device emission destruction or removal efficiency?**

You must use the procedures and test methods in this section to determine the add-on control device emission destruction or removal efficiency as part of the performance test required by § 63.4560. You must conduct three test runs as specified in § 63.7(e)(3) and each test run must last at least 1 hour.

(a) For all types of add-on control devices, use the test methods specified in paragraphs (a)(1) through (5) of this section.

(1) Use Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select sampling sites and velocity traverse points.

(2) Use Method 2, 2A, 2C, 2D, 2F, or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 3, 3A, or 3B of appendix A to 40 CFR part 60, as appropriate, for gas analysis to determine dry molecular weight.

(4) Use Method 4 of appendix A to 40 CFR part 60, to determine stack gas moisture.

(5) Methods for determining gas volumetric flow rate, dry molecular weight, and stack gas moisture must be performed, as applicable, during each test run.

(b) Measure total gaseous organic mass emissions as carbon at the inlet

and outlet of the add-on control device simultaneously, using either Method 25 or 25A of appendix A to 40 CFR part 60.

(1) Use Method 25 if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be more than 50 parts per million (ppm) at the control device outlet.

(2) Use Method 25A if the add-on control device is an oxidizer and you expect the total gaseous organic concentration as carbon to be 50 ppm or less at the control device outlet.

(3) Use Method 25A if the add-on control device is not an oxidizer.

(c) If two or more add-on control devices are used for the same emission stream, then you must measure emissions at the outlet to the atmosphere of each device. For example, if one add-on control device is a concentrator with an outlet to the atmosphere for the high-volume dilute stream that has been treated by the concentrator, and a second add-on control device is an oxidizer with an outlet to the atmosphere for the low-volume concentrated stream that is treated with the oxidizer, you must measure emissions at the outlet of the oxidizer and the high volume dilute stream outlet of the concentrator.

(d) For each test run, determine the total gaseous organic emissions mass flow rates for the inlet and the outlet of the add-on control device, using Equation 1 of this section. If there is more than one inlet or outlet to the add-on control device, you must calculate the total gaseous organic mass flow rate using Equation 1 of this section for each inlet and each outlet and then total all of the inlet emissions and total all of the outlet emissions:

$$M_f = Q_{sd} C_c (12)(0.0416)(10^{-6}) \quad (\text{Eq. 1})$$

Where:

$M_f$  = Total gaseous organic emissions mass flow rate, kg/per hour (h).

$C_c$  = Concentration of organic compounds as carbon in the vent gas, as determined by Method 25 or Method 25A, parts per million by volume (ppmv), dry basis.

$Q_{sd}$  = Volumetric flow rate of gases entering or exiting the add-on control device, as determined by Method 2, 2A, 2C, 2D, 2F, or 2G, dry standard cubic meters/hour (dscm/h).

0.0416 = Conversion factor for molar volume, kg-moles per cubic meter ( $\text{mol}/\text{m}^3$ ) @ 293 Kelvin (K) and 760 millimeters of mercury (mmHg)).

(e) For each test run, determine the add-on control device organic emissions

destruction or removal efficiency, using Equation 2 of this section:

$$\text{DRE} = \frac{M_{fi} - M_{fo}}{M_{fi}} \times 100 \quad (\text{Eq. 2})$$

Where:

DRE = Organic emissions destruction or removal efficiency of the add-on control device, percent.

$M_{fi}$  = Total gaseous organic emissions mass flow rate at the inlet(s) to the add-on control device, using Equation 1 of this section, kg/h.

$M_{fo}$  = Total gaseous organic emissions mass flow rate at the outlet(s) of the add-on control device, using Equation 1 of this section, kg/h.

(f) Determine the emission destruction or removal efficiency of the add-on control device as the average of the efficiencies determined in the three test runs and calculated in Equation 2 of this section.

**§ 63.4567 How do I establish the emission capture system and add-on control device operating limits during the performance test?**

During the performance test required by § 63.4560 and described in §§ 63.4564, 63.4565, and 63.4566, you must establish the operating limits required by § 63.4492 according to this section, unless you have received approval for alternative monitoring and operating limits under § 63.8(f) as specified in § 63.4492.

(a) *Thermal oxidizers.* If your add-on control device is a thermal oxidizer, establish the operating limits according to paragraphs (a)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the combustion temperature at least once every 15 minutes during each of the three test runs. You must monitor the temperature in the firebox of the thermal oxidizer or immediately downstream of the firebox before any substantial heat exchange occurs.

(2) Use the data collected during the performance test to calculate and record the average combustion temperature maintained during the performance test. This average combustion temperature is the minimum operating limit for your thermal oxidizer.

(b) *Catalytic oxidizers.* If your add-on control device is a catalytic oxidizer, establish the operating limits according to either paragraphs (b)(1) and (2) or paragraphs (b)(3) and (4) of this section.

(1) During the performance test, you must monitor and record the temperature just before the catalyst bed and the temperature difference across the catalyst bed at least once every 15

minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed and the average temperature difference across the catalyst bed maintained during the performance test. These are the minimum operating limits for your catalytic oxidizer.

(3) You must monitor the temperature at the inlet to the catalyst bed and implement a site-specific inspection and maintenance plan for your catalytic oxidizer as specified in paragraph (b)(4) of this section. During the performance test, you must monitor and record the temperature just before the catalyst bed at least once every 15 minutes during each of the three test runs. Use the data collected during the performance test to calculate and record the average temperature just before the catalyst bed during the performance test. This is the minimum operating limit for your catalytic oxidizer.

(4) You must develop and implement an inspection and maintenance plan for your catalytic oxidizer(s) for which you elect to monitor according to paragraph (b)(3) of this section. The plan must address, at a minimum, the elements specified in paragraphs (b)(4)(i) through (iii) of this section.

(i) Annual sampling and analysis of the catalyst activity (i.e., conversion efficiency) following the manufacturer's or catalyst supplier's recommended procedures. If problems are found during the catalyst activity test, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations.

(ii) Monthly external inspection of the catalytic oxidizer system, including the burner assembly and fuel supply lines for problems and, as necessary, adjust the equipment to assure proper air-to-fuel mixtures.

(iii) Annual internal inspection of the catalyst bed to check for channeling, abrasion, and settling. If problems are found during the annual internal inspection of the catalyst, you must replace the catalyst bed or take other corrective action consistent with the manufacturer's recommendations. If the catalyst bed is replaced and is not of like or better kind and quality as the old catalyst then you must conduct a new performance test to determine destruction efficiency according to § 63.4566. If a catalyst bed is replaced and the replacement catalyst is of like or better kind and quality as the old catalyst, then a new performance test to determine destruction efficiency is not required and you may continue to use

the previously established operating limits for that catalytic oxidizer.

(c) *Regenerative carbon adsorbers.* If your add-on control device is a regenerative carbon adsorber, establish the operating limits according to paragraphs (c)(1) and (2) of this section.

(1) You must monitor and record the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle, and the carbon bed temperature after each carbon bed regeneration and cooling cycle for the regeneration cycle either immediately preceding or immediately following the performance test.

(2) The operating limits for your regenerative carbon adsorber are the minimum total desorbing gas mass flow recorded during the regeneration cycle and the maximum carbon bed temperature recorded after the cooling cycle.

(d) *Condensers.* If your add-on control device is a condenser, establish the operating limits according to paragraphs (d)(1) and (2) of this section.

(1) During the performance test, you must monitor and record the condenser outlet (product side) gas temperature at least once every 15 minutes during each of the three test runs.

(2) Use the data collected during the performance test to calculate and record the average condenser outlet (product side) gas temperature maintained during the performance test. This average condenser outlet gas temperature is the maximum operating limit for your condenser.

(e) *Concentrators.* If your add-on control device includes a concentrator, you must establish operating limits for the concentrator according to paragraphs (e)(1) through (4) of this section.

(1) During the performance test, you must monitor and record the desorption concentrate stream gas temperature at least once every 15 minutes during each of the three runs of the performance test.

(2) Use the data collected during the performance test to calculate and record the average temperature. This is the minimum operating limit for the desorption concentrate gas stream temperature.

(3) During the performance test, you must monitor and record the pressure drop of the dilute stream across the concentrator at least once every 15 minutes during each of the three runs of the performance test.

(4) Use the data collected during the performance test to calculate and record the average pressure drop. This is the minimum operating limit for the dilute stream across the concentrator.

(f) *Emission capture systems.* For each capture device that is not part of a PTE that meets the criteria of § 63.4565(a), establish an operating limit for either the gas volumetric flow rate or duct static pressure, as specified in paragraphs (f)(1) and (2) of this section. The operating limit for a PTE is specified in Table 1 to this subpart.

(1) During the capture efficiency determination required by § 63.4560 and described in §§ 63.4564 and 63.4565, you must monitor and record either the gas volumetric flow rate or the duct static pressure for each separate capture device in your emission capture system at least once every 15 minutes during each of the three test runs at a point in the duct between the capture device and the add-on control device inlet.

(2) Calculate and record the average gas volumetric flow rate or duct static pressure for the three test runs for each capture device. This average gas volumetric flow rate or duct static pressure is the minimum operating limit for that specific capture device.

**§ 63.4568 What are the requirements for continuous parameter monitoring system installation, operation, and maintenance?**

(a) *General.* You must install, operate, and maintain each CPMS specified in paragraphs (c), (e), (f), and (g) of this section according to paragraphs (a)(1) through (6) of this section. You must install, operate, and maintain each CPMS specified in paragraphs (b) and (d) of this section according to paragraphs (a)(3) through (5) of this section.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four equally spaced successive cycles of CPMS operation in 1 hour.

(2) You must determine the average of all recorded readings for each successive 3-hour period of the emission capture system and add-on control device operation.

(3) You must record the results of each inspection, calibration, and validation check of the CPMS.

(4) You must maintain the CPMS at all times and have available necessary parts for routine repairs of the monitoring equipment.

(5) You must operate the CPMS and collect emission capture system and add-on control device parameter data at all times that a controlled coating operation is operating, except during monitoring malfunctions, associated repairs, and required quality assurance or control activities (including, if applicable, calibration checks and required zero and span adjustments).

(6) You must not use emission capture system or add-on control device parameter data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities when calculating data averages. You must use all the data collected during all other periods in calculating the data averages for determining compliance with the emission capture system and add-on control device operating limits.

(7) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the CPMS to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions. Any period for which the monitoring system is out-of-control and data are not available for required calculations is a deviation from the monitoring requirements.

(b) *Capture system bypass line.* You must meet the requirements of paragraphs (b)(1) and (2) of this section for each emission capture system that contains bypass lines that could divert emissions away from the add-on control device to the atmosphere.

(1) You must monitor or secure the valve or closure mechanism controlling the bypass line in a nondiverting position in such a way that the valve or closure mechanism cannot be opened without creating a record that the valve was opened. The method used to monitor or secure the valve or closure mechanism must meet one of the requirements specified in paragraphs (b)(1)(i) through (v) of this section.

(i) *Flow control position indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow control position indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. The time of occurrence and flow control position must be recorded, as well as every time the flow direction is changed. The flow control position indicator must be installed at the entrance to any bypass line that could divert the emissions away from the add-on control device to the atmosphere.

(ii) *Car-seal or lock-and-key valve closures.* Secure any bypass line valve in the closed position with a car-seal or a lock-and-key type configuration. You must visually inspect the seal or closure mechanism at least once every month to ensure that the valve is maintained in the closed position, and the emissions are not diverted away from the add-on control device to the atmosphere.

(iii) *Valve closure monitoring.* Ensure that any bypass line valve is in the closed (nondiverting) position through monitoring of valve position at least once every 15 minutes. You must inspect the monitoring system at least once every month to verify that the monitor will indicate valve position.

(iv) *Automatic shutdown system.* Use an automatic shutdown system in which the coating operation is stopped when flow is diverted by the bypass line away from the add-on control device to the atmosphere when the coating operation is running. You must inspect the automatic shutdown system at least once every month to verify that it will detect diversions of flow and shut down the coating operation.

(v) *Flow direction indicator.* Install, calibrate, maintain, and operate according to the manufacturer's specifications a flow direction indicator that takes a reading at least once every 15 minutes and provides a record indicating whether the emissions are directed to the add-on control device or diverted from the add-on control device. Each time the flow direction changes, the next reading of the time of occurrence and flow direction must be recorded. The flow direction indicator must be installed in each bypass line or air makeup supply line that could divert the emissions away from the add-on control device to the atmosphere.

(2) If any bypass line is opened, you must include a description of why the bypass line was opened and the length of time it remained open in the semiannual compliance reports required in § 63.4520.

(c) *Thermal oxidizers and catalytic oxidizers.* If you are using a thermal oxidizer or catalytic oxidizer as an add-on control device (including those used with concentrators or with carbon adsorbers to treat desorbed concentrate streams), you must comply with the requirements in paragraphs (c)(1) through (3) of this section:

(1) For a thermal oxidizer, install a gas temperature monitor in the firebox of the thermal oxidizer or in the duct immediately downstream of the firebox before any substantial heat exchange occurs.

(2) For a catalytic oxidizer, install gas temperature monitors upstream and/or downstream of the catalyst bed as required in § 63.3967(b).

(3) For all thermal oxidizers and catalytic oxidizers, you must meet the requirements in paragraphs (a) and (c)(3)(i) through (v) of this section for each gas temperature monitoring device.

(i) Locate the temperature sensor in a position that provides a representative temperature.

(ii) Use a temperature sensor with a measurement sensitivity of 5 degrees Fahrenheit or 1.0 percent of the temperature value, whichever is larger.

(iii) Before using the sensor for the first time or when relocating or replacing the sensor, perform a validation check by comparing the sensor output to a calibrated temperature measurement device or by comparing the sensor output to a simulated temperature.

(iv) Conduct an accuracy audit every quarter and after every deviation. Accuracy audit methods include comparisons of sensor output to redundant temperature sensors, to calibrated temperature measurement devices, or to temperature simulation devices.

(v) Conduct a visual inspection of each sensor every quarter if redundant temperature sensors are not used.

(d) *Regenerative carbon adsorbers.* If you are using a regenerative carbon adsorber as an add-on control device, you must monitor the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle, the carbon bed temperature after each regeneration and cooling cycle, and comply with paragraphs (a)(3) through (5) and (d)(1) through (3) of this section.

(1) The regeneration desorbing gas mass flow monitor must be an integrating device having a measurement sensitivity of plus or minus 10 percent capable of recording the total regeneration desorbing gas mass flow for each regeneration cycle.

(2) The carbon bed temperature monitor must be capable of recording the temperature within 15 minutes of completing any carbon bed cooling cycle.

(3) For all regenerative carbon adsorbers, you must meet the requirements in paragraphs (c)(3)(i) through (v) of this section for each temperature monitoring device.

(e) *Condensers.* If you are using a condenser, you must monitor the condenser outlet (product side) gas temperature and comply with paragraphs (a) and (e)(1) and (2) of this section.

(1) The temperature monitor must provide a gas temperature record at least once every 15 minutes.

(2) For all condensers, you must meet the requirements in paragraphs (c)(3)(i) through (v) of this section for each temperature monitoring device.

(f) *Concentrators.* If you are using a concentrator, such as a zeolite wheel or rotary carbon bed concentrator, you must comply with the requirements in paragraphs (f)(1) and (2) of this section.

(1) You must install a temperature monitor in the desorption gas stream. The temperature monitor must meet the requirements in paragraphs (a) and (c)(3) of this section.

(2) You must install a device to monitor pressure drop across the zeolite wheel or rotary carbon bed. The pressure monitoring device must meet the requirements in paragraphs (a) and (g)(2) of this section.

(g) *Emission capture systems.* The capture system monitoring system must comply with the applicable requirements in paragraphs (g)(1) and (2) of this section.

(1) For each flow measurement device, you must meet the requirements in paragraphs (a) and (g)(1)(i) through (vii) of this section.

(i) Locate a flow sensor in a position that provides a representative flow measurement in the duct from each capture device in the emission capture system to the add-on control device.

(ii) Use a flow sensor with an accuracy of at least 10 percent of the flow.

(iii) Perform an initial sensor calibration in accordance with the manufacturer's requirements.

(iv) Perform a validation check before initial use or upon relocation or replacement of a sensor. Validation checks include comparison of sensor values with electronic signal simulations or via relative accuracy testing.

(v) Conduct an accuracy audit every quarter and after every deviation. Accuracy audit methods include comparisons of sensor values with electronic signal simulations or via relative accuracy testing.

(vi) Perform leak checks monthly.

(vii) Perform visual inspections of the sensor system quarterly if there is no redundant sensor.

(2) For each pressure drop measurement device, you must comply with the requirements in paragraphs (a) and (g)(2)(i) through (vii) of this section.

(i) Locate the pressure sensor(s) in or as close to a position that provides a representative measurement of the pressure drop across each opening you are monitoring.

(ii) Use a pressure sensor with an accuracy of at least 0.5 inches of water column or 5 percent of the measured value, whichever is larger.

(iii) Perform an initial calibration of the sensor according to the manufacturer's requirements.

(iv) Conduct a validation check before initial operation or upon relocation or replacement of a sensor. Validation checks include comparison of sensor values to calibrated pressure

measurement devices or to pressure simulation using calibrated pressure sources.

(v) Conduct accuracy audits every quarter and after every deviation. Accuracy audits include comparison of sensor values to calibrated pressure measurement devices or to pressure simulation using calibrated pressure sources.

(vi) Perform monthly leak checks on pressure connections. A pressure of at least 1.0 inches of water column to the connection must yield a stable sensor result for at least 15 seconds.

(vii) Perform a visual inspection of the sensor at least monthly if there is no redundant sensor.

#### Other Requirements and Information

##### § 63.4580 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by us, the U.S. Environmental Protection Agency (EPA), or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency (as well as the EPA) has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if implementation and enforcement of this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority of this subpart to a State, local, or tribal agency under subpart E of this part, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the requirements in §§ 63.4481 through 4483 and §§ 63.4490 through 4493.

(2) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

##### § 63.4581 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

*Additive* means a material that is added to a coating after purchase from

a supplier (e.g., catalysts, activators, accelerators).

*Add-on control* means an air pollution control device, such as a thermal oxidizer or carbon adsorber, that reduces pollution in an air stream by destruction or removal before discharge to the atmosphere.

*Adhesive, adhesive coating* means any chemical substance that is applied for the purpose of bonding two surfaces together. Products used on humans and animals, adhesive tape, contact paper, or any other product with an adhesive incorporated onto or in an inert substrate shall not be considered adhesives under this subpart.

*Assembled on-road vehicle coating* means any coating operation in which coating is applied to the surface of some component or surface of a fully assembled motor vehicle or trailer intended for on-road use including, but not limited to, components or surfaces on automobiles and light-duty trucks that have been repaired after a collision or otherwise repainted, fleet delivery trucks, and motor homes and other recreational vehicles (including camping trailers and fifth wheels). Assembled on-road vehicle coating includes the concurrent coating of parts of the assembled on-road vehicle that are painted off-vehicle to protect systems, equipment, or to allow full coverage. Assembled on-road vehicle coating does not include surface coating operations that meet the applicability criteria of the Automobiles and Light-Duty Trucks NESHAP. Assembled on-road vehicle coating also does not include the use of adhesives, sealants, and caulks used in assembling on-road vehicles.

*Automotive lamp coating* means any coating operation in which coating is applied to the surface of some component of the body of an exterior automotive lamp, including the application of reflective argent coatings and clear topcoats. Exterior automotive lamps include head lamps, tail lamps, turn signals, brake lights, and side marker lights. Automotive lamp coating does not include any coating operation performed on an assembled on-road vehicle.

*Capture device* means a hood, enclosure, room, floor sweep, or other means of containing or collecting emissions and directing those emissions into an add-on air pollution control device.

*Capture efficiency or capture system efficiency* means the portion (expressed as a percentage) of the pollutants from an emission source that is delivered to an add-on control device.

**Capture system** means one or more capture devices intended to collect emissions generated by a coating operation in the use of coatings or cleaning materials, both at the point of application and at subsequent points where emissions from the coatings and cleaning materials occur, such as flashoff, drying, or curing. As used in this subpart, multiple capture devices that collect emissions generated by a coating operation are considered a single capture system.

**Cleaning material** means a solvent used to remove contaminants and other materials, such as dirt, grease, oil, and dried or wet coating (e.g., depainting), from a substrate before or after coating application or from equipment associated with a coating operation, such as spray booths, spray guns, racks, tanks, and hangers. Thus, it includes any cleaning material used on substrates or equipment or both.

**Coating** means a material applied to a substrate for decorative, protective, or functional purposes. Such materials include, but are not limited to, paints, sealants, liquid plastic coatings, caulks, inks, adhesives, and maskants. Decorative, protective, or functional materials that consist only of protective oils for metal, acids, bases, or any combination of these substances, or paper film or plastic film which may be pre-coated with an adhesive by the film manufacturer, are not considered coatings for the purposes of this subpart. A liquid plastic coating means a coating made from fine particle-size polyvinyl chloride (PVC) in solution (also referred to as a plastisol).

**Coating operation** means equipment used to apply cleaning materials to a substrate to prepare it for coating application (surface preparation) or to remove dried coating; to apply coating to a substrate (coating application) and to dry or cure the coating after application; or to clean coating operation equipment (equipment cleaning). A single coating operation may include any combination of these types of equipment, but always includes at least the point at which a given quantity of coating or cleaning material is applied to a given part and all subsequent points in the affected source where organic HAP are emitted from the specific quantity of coating or cleaning material on the specific part. There may be multiple coating operations in an affected source. Coating application with handheld, non-refillable aerosol containers, touch-up markers, or marking pens is not a coating operation for the purposes of this subpart.

**Coatings solids** means the nonvolatile portion of the coating that makes up the dry film.

**Continuous parameter monitoring system (CPMS)** means the total equipment that may be required to meet the data acquisition and availability requirements of this subpart, used to sample, condition (if applicable), analyze, and provide a record of coating operation, or capture system, or add-on control device parameters.

**Controlled coating operation** means a coating operation from which some or all of the organic HAP emissions are routed through an emission capture system and add-on control device.

**Deviation** means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including but not limited to, any emission limit or operating limit or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limit, or operating limit, or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

**Emission limitation** means the aggregate of all requirements associated with a compliance option including emission limit, operating limit, work practice standard, etc.

**Enclosure** means a structure that surrounds a source of emissions and captures and directs the emissions to an add-on control device.

**Exempt compound** means a specific compound that is not considered a VOC due to negligible photochemical reactivity. The exempt compounds are listed in 40 CFR 51.100(s).

**Facility maintenance** means the routine repair or renovation (including the surface coating) of the tools, equipment, machinery, and structures that comprise the infrastructure of the affected facility and that are necessary for the facility to function in its intended capacity.

**General use coating** means any coating operation that is not an automotive lamp, TPO, or assembled on-road vehicle coating operation.

**Hobby shop** means any surface coating operation, located at an affected source, that is used exclusively for personal, noncommercial purposes by

the affected source's employees, or assigned personnel.

**Manufacturer's formulation data** means data on a material (such as a coating) that are supplied by the material manufacturer based on knowledge of the ingredients used to manufacture that material, rather than based on testing of the material with the test methods specified in § 63.4541. Manufacturer's formulation data may include, but are not limited to, information on density, organic HAP content, volatile organic matter content, and coating solids content.

**Mass fraction of coating solids** means the ratio of the mass of solids (also known as the mass of nonvolatiles) to the mass of a coating in which it is contained; kg of coating solids per kg of coating.

**Mass fraction of organic HAP** means the ratio of the mass of organic HAP to the mass of a material in which it is contained, expressed as kg of organic HAP per kg of material.

**Month** means a calendar month or a pre-specified period of 28 days to 35 days to allow for flexibility in recordkeeping when data are based on a business accounting period.

**Non-HAP coating** means, for the purposes of this subpart, a coating that contains no more than 0.1 percent by mass of any individual organic HAP that is an OSHA-defined carcinogen as specified in 29 CFR 1910.1200(d)(4) and no more than 1.0 percent by mass for any other individual HAP.

**Organic HAP content** means the mass of organic HAP emitted per mass of coating solids used for a coating calculated using Equation 1 of § 63.4541. The organic HAP content is determined for the coating in the condition it is in when received from its manufacturer or supplier and does not account for any alteration after receipt. For reactive adhesives in which some of the HAP react to form solids and are not emitted to the atmosphere, organic HAP content is the mass of organic HAP that is emitted, rather than the organic HAP content of the coating as it is received.

**Permanent total enclosure (PTE)** means a permanently installed enclosure that meets the criteria of Method 204 of appendix M, 40 CFR part 51, for a PTE and that directs all the exhaust gases from the enclosure to an add-on control device.

**Personal watercraft** means a vessel (boat) which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person or persons sitting, standing, or kneeling on the vessel, rather than in

the conventional manner of sitting or standing inside the vessel.

**Plastic part and product** means any piece or combination of pieces of which at least one has been formed from one or more resins. Such pieces may be solid, porous, flexible or rigid.

**Protective oil** means an organic material that is applied to metal for the purpose of providing lubrication or protection from corrosion without forming a solid film. This definition of protective oil includes, but is not limited to, lubricating oils, evaporative oils (including those that evaporate completely), and extrusion oils.

**Reactive adhesive** means adhesive systems composed, in part, of volatile monomers that react during the adhesive curing reaction, and, as a result, do not evolve from the film during use. These volatile components instead become integral parts of the adhesive through chemical reaction. At least 70 percent of the liquid components of the system, excluding water, react during the process.

**Research or laboratory facility** means a facility whose primary purpose is for research and development of new processes and products, that is conducted under the close supervision of technically trained personnel, and is not engaged in the manufacture of final or intermediate products for commercial

purposes, except in a *de minimis* manner.

**Responsible official** means responsible official as defined in 40 CFR 70.2.

**Startup, initial** means the first time equipment is brought online in a facility.

**Surface preparation** means use of a cleaning material on a portion of or all of a substrate. This includes use of a cleaning material to remove dried coating, which is sometimes called *depainting*.

**Temporary total enclosure** means an enclosure constructed for the purpose of measuring the capture efficiency of pollutants emitted from a given source as defined in Method 204 of appendix M, 40 CFR part 51.

**Thermoplastic olefin (TPO)** means polyolefins (blends of polypropylene, polyethylene and its copolymers). This also includes blends of TPO with polypropylene and polypropylene alloys including, but not limited to, thermoplastic elastomer (TPE), TPE polyurethane (TPU), TPE polyester (TPEE), TPE polyamide (TPAE), and thermoplastic elastomer polyvinyl chloride (TPVC).

**Thermoplastic olefin (TPO) coating** means any coating operation in which the coatings are components of a system of coatings applied to a TPO substrate, including adhesion promoters, primers,

color coatings, clear coatings and topcoats. Thermoplastic olefin coating does not include the coating of TPO substrates on assembled on-road vehicles.

**Thinner** means an organic solvent that is added to a coating after the coating is received from the supplier.

**Total volatile hydrocarbon (TVH)** means the total amount of nonaqueous volatile organic matter determined according to Methods 204 and 204A through 204F of appendix M to 40 CFR part 51 and substituting the term TVH each place in the methods where the term VOC is used. The TVH includes both VOC and non-VOC.

**Uncontrolled coating operation** means a coating operation from which none of the organic HAP emissions are routed through an emission capture system and add-on control device.

**Volatile organic compound (VOC)** means any compound defined as VOC in 40 CFR 51.100(s).

**Wastewater** means water that is generated in a coating operation and is collected, stored, or treated prior to being discarded or discharged.

**Tables to Subpart PPPP of Part 63**

If you are required to comply with operating limits by § 63.4491(c), you must comply with the applicable operating limits in the following table:

**TABLE 1 TO SUBPART PPPP OF PART 63—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION**

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
1. Thermal oxidizer .....	a. The average combustion temperature in any 3-hour period must not fall below the combustion temperature limit established according to § 63.4567(a).	i. Collecting the combustion temperature data according to § 63.4568(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average combustion temperature at or above the temperature limit.
2. Catalytic oxidizer .....	a. The average temperature measured just before the catalyst bed in any 3-hour period must not fall below the limit established according to § 63.4567(b); and either  b. Ensure that the average temperature difference across the catalyst bed in any 3-hour period does not fall below the temperature difference limit established according to § 63.4567(b)(2); or	i. Collecting the temperature data according to § 63.4568(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature before the catalyst bed at or above the temperature limit.  i. Collecting the temperature data according to § 63.4568(c); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature difference at or above the temperature difference limit.



TABLE 1 TO SUBPART PPPP OF PART 63—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

For the following device . . .	You must meet the following operating limit . . .	And you must demonstrate continuous compliance with the operating limit by . . .
	c. Develop and implement an inspection and maintenance plan according to §63.4567(b)(4).	i. Maintaining an up-to-date inspection and maintenance plan, records of annual catalyst activity checks, records of monthly inspections of the oxidizer system, and records of the annual internal inspections of the catalyst bed. If a problem is discovered during a monthly or annual inspection required by §63.4567(b)(4), you must take corrective action as soon as practicable consistent with the manufacturer's recommendations.
3. Regenerative carbon adsorber . . . . .	a. The total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each carbon bed regeneration cycle must not fall below the total regeneration desorbing gas mass flow limit established according to §63.4567(c); and  b. The temperature of the carbon bed, after completing each regeneration and any cooling cycle, must not exceed the carbon bed temperature limit established according to §63.4567(c).	i. Measuring the total regeneration desorbing gas (e.g., steam or nitrogen) mass flow for each regeneration cycle according to §63.4568(d); and ii. Maintaining the total regeneration desorbing gas mass flow at or above the mass flow limit.  i. Measuring the temperature of the carbon bed after completing each regeneration and any cooling cycle according to §63.4568(d); and ii. Operating the carbon beds such that each carbon bed is not returned to service until completing each regeneration and any cooling cycle until the recorded temperature of the carbon bed is at or below the temperature limit.
4. Condenser . . . . .	a. The average condenser outlet (product side) gas temperature in any 3-hour period must not exceed the temperature limit established according to §63.4567(d).	i. Collecting the condenser outlet (product side) gas temperature according to §63.4568(e); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas temperature at the outlet at or below the temperature limit.
5. Concentrators, including zeolite wheels and rotary carbon adsorbers.	a. The average gas temperature of the desorption concentrate stream in any 3-hour period must not fall below the limit established according to §63.4567(e); and  b. The average pressure drop of the dilute stream across the concentrator in any 3-hour period must not fall below the limit established according to §63.4567(e).	i. Collecting the temperature data according to §63.4568(f); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average temperature at or above the temperature limit.  i. Collecting the pressure drop data according to §63.4568(f); ii. Reducing the pressure drop data to 3-hour block averages; and iii. Maintaining the 3-hour average pressure drop at or above the pressure drop limit.
6. Emission capture system that is a PTE according to §63.4565(a).	a. The direction of the air flow at all times must be into the enclosure; and either  b. The average facial velocity of air through all natural draft openings in the enclosure must be at least 200 feet per minute; or  c. The pressure drop across the enclosure must be at least 0.007 inch H <sub>2</sub> O, as established in Method 204 of appendix M to 40 CFR part 51.	i. Collecting the direction of air flow, and either the facial velocity of air through all natural draft openings according to §63.4568(g)(1) or the pressure drop across the enclosure according to §63.4568(g)(2); and ii. Maintaining the facial velocity of air flow through all natural draft openings or the pressure drop at or above the facial velocity limit or pressure drop limit, and maintaining the direction of air flow into the enclosure at all times.  i. See items 6.a.i and 6.a.ii.  i. See items 6.a.i and 6.a.ii.

TABLE 1 TO SUBPART PPPP OF PART 63—OPERATING LIMITS IF USING THE EMISSION RATE WITH ADD-ON CONTROLS OPTION—Continued

For the following device . . . .	You must meet the following operating limit . . . .	And you must demonstrate continuous compliance with the operating limit by . . . .
7. Emission capture system that is not a PTE according to § 63.4565(a).	a. The average gas volumetric flow rate or duct static pressure in each duct between a capture device and add-on control device inlet in any 3-hour period must not fall below the average volumetric flow rate or duct static pressure limit established for that capture device according to § 63.4567(f).	i. Collecting the gas volumetric flow rate or duct static pressure for each capture device according to § 63.4568(g); ii. Reducing the data to 3-hour block averages; and iii. Maintaining the 3-hour average gas volumetric flow rate or duct static pressure for each capture device at or above the gas volumetric flow rate or duct static pressure limit.

You must comply with the applicable General Provisions requirements according to the following table:

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.1(a)(1)–(14) . . . . .	General Applicability . . . . .	Yes.	
§ 63.1(b)(1)–(3) . . . . .	Initial Applicability Determination . . . . .	Yes . . . . .	Applicability to subpart PPPP is also specified in § 63.4481.
§ 63.1(c)(1) . . . . .	Applicability After Standard Established . . . . .	Yes.	
§ 63.1(c)(2)–(3) . . . . .	Applicability of Permit Program for Area Sources.	No . . . . .	Area sources are not subject to subpart PPPP.
§ 63.1(c)(4)–(5) . . . . .	Extensions and Notifications . . . . .	Yes.	
§ 63.1(e) . . . . .	Applicability of Permit Program Before Relevant Standard is Set.	Yes.	
§ 63.2 . . . . .	Definitions . . . . .	Yes . . . . .	Additional definitions are specified in § 63.4581.
§ 63.3(a)–(c) . . . . .	Units and Abbreviations . . . . .	Yes.	
§ 63.4(a)(1)–(5) . . . . .	Prohibited Activities . . . . .	Yes.	
§ 63.4(b)–(c) . . . . .	Circumvention/Severability . . . . .	Yes.	
§ 63.5(a) . . . . .	Construction/Reconstruction . . . . .	Yes.	
§ 63.5(b)(1)–(6) . . . . .	Requirements for Existing, Newly Constructed, and Reconstructed Sources.	Yes.	
§ 63.5(d) . . . . .	Application for Approval of Construction/Reconstruction.	Yes.	
§ 63.5(e) . . . . .	Approval of Construction/Reconstruction . . . . .	Yes.	
§ 63.5(f) . . . . .	Approval of Construction/Reconstruction Based on Prior State Review.	Yes.	
§ 63.6(a) . . . . .	Compliance With Standards and Maintenance Requirements—Applicability.	Yes.	
§ 63.6(b)(1)–(7) . . . . .	Compliance Dates for New and Reconstructed Sources.	Yes . . . . .	Section 63.4483 specifies the compliance dates.
§ 63.6(c)(1)–(5) . . . . .	Compliance Dates for Existing Sources . . . . .	Yes . . . . .	Section 63.4483 specifies the compliance dates.
§ 63.6(e)(1)–(2) . . . . .	Operation and Maintenance . . . . .	Yes.	
§ 63.6(e)(3) . . . . .	Startup, Shutdown, and Malfunction Plan . . . . .	Yes . . . . .	Only sources using an add-on control device to comply with the standard must complete startup, shutdown, and malfunction plans.
§ 63.6(f)(1) . . . . .	Compliance Except During Startup, Shutdown, and Malfunction.	Yes . . . . .	Applies only to sources using an add-on control device to comply with the standard.
§ 63.6(f)(2)–(3) . . . . .	Methods for Determining Compliance . . . . .	Yes.	
§ 63.6(g)(1)–(3) . . . . .	Use of an Alternative Standard . . . . .	Yes.	
§ 63.6(h) . . . . .	Compliance With Opacity/Visible Emission Standards.	No . . . . .	Subpart PPPP does not establish opacity standards and does not require continuous opacity monitoring systems (COMS).
§ 63.6(i)(1)–(16) . . . . .	Extension of Compliance . . . . .	Yes.	
§ 63.6(j) . . . . .	Presidential Compliance Exemption . . . . .	Yes.	
§ 63.7(a)(1) . . . . .	Performance Test Requirements—Applicability.	Yes . . . . .	Applies to all affected sources. Additional requirements for performance testing are specified in §§ 63.4564, 63.4565, and 63.4566.

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63—  
Continued

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.7(a)(2)	Performance Test Requirements—Dates	Yes	Applies only to performance tests for capture system and control device efficiency at sources using these to comply with the standards. Section 63.4560 specifies the schedule for performance test requirements that are earlier than those specified in § 63.7(a)(2).
§ 63.7(a)(3)	Performance Tests Required By the Administrator.	Yes.	
§ 63.7(b)–(e)	Performance Test Requirements—Notification, Quality Assurance, Facilities Necessary for Safe Testing, Conditions During Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.7(f)	Performance Test Requirements—Use Alternative Test Method.	Yes	Applies to all test methods except those of used to determine capture system efficiency.
§ 63.7(g)–(h)	Performance Test Requirements—Data Analysis, Recordkeeping, Reporting, Waiver of Test.	Yes	Applies only to performance tests for capture system and add-on control device efficiency at sources using these to comply with the standards.
§ 63.8(a)(1)–(3)	Monitoring Requirements—Applicability	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standards. Additional requirements for monitoring are specified in § 63.4568.
§ 63.8(a)(4)	Additional Monitoring Requirements	No	Subpart PPPP does not have monitoring requirements for flares.
§ 63.8(b)	Conduct of Monitoring	Yes.	
§ 63.8(c)(1)–(3)	Continuous Monitoring Systems (CMS) Operation and Maintenance.	Yes	Applies only to monitoring of capture system and add-on control device efficiency at sources using these to comply with the standard. Additional requirements for CMS operations and maintenance are specified in § 63.4568.
§ 63.8(c)(4)	CMS	No	Section 63.4568 specifies the requirements for the operation of CMS for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(5)	COMS	No	Subpart PPPP does not have opacity or visible emission standards.
§ 63.8(c)(6)	CMS Requirements	No	Section 63.4568 specifies the requirements for monitoring systems for capture systems and add-on control devices at sources using these to comply.
§ 63.8(c)(7)	CMS Out-of-Control Periods	Yes.	
§ 63.8(c)(8)	CMS Out-of-Control Periods and Reporting	No	Section 63.4520 requires reporting of CMS out-of-control periods.
§ 63.8(d)–(e)	Quality Control Program and CMS Performance Evaluation.	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.8(f)(1)–(5)	Use of an Alternative Monitoring Method	Yes.	
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.8(g)(1)–(5)	Data Reduction	No	Sections 63.4567 and 63.4568 specify monitoring data reduction.
§ 63.9(a)–(d)	Notification Requirements	Yes.	
§ 63.9(e)	Notification of Performance Test	Yes	Applies only to capture system and add-on control device performance tests at sources using these to comply with the standards.
§ 63.9(f)	Notification of Visible Emissions/Opacity Test	No	Subpart PPPP does not have opacity or visible emission standards.
§ 63.9(g)(1)–(3)	Additional Notifications When Using CMS	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.9(h)	Notification of Compliance Status	Yes	Section 63.4510 specifies the dates for submitting the notification of compliance status.
§ 63.9(i)	Adjustment of Submittal Deadlines	Yes.	
§ 63.9(j)	Change in Previous Information	Yes.	

TABLE 2 TO SUBPART PPPP OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPP OF PART 63—Continued

Citation	Subject	Applicable to subpart PPPP	Explanation
§ 63.10(a)	Recordkeeping/Reporting—Applicability and General Information.	Yes.	
§ 63.10(b)(1)	General Recordkeeping Requirements	Yes	Additional requirements are specified in §§ 63.4530 and 63.4531.
§ 63.10(b)(2) (i)–(v)	Recordkeeping Relevant to Startup, Shutdown, and Malfunction Periods and CMS.	Yes	Requirements for startup, shutdown, and malfunction records only apply to add-on control devices used to comply with the standards.
§ 63.10(b)(2) (vi)–(xi)		Yes.	
§ 63.10(b)(2) (xii)	Records	Yes.	
§ 63.10(b)(2) (xiii)		No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.10(b)(2) (xiv)		Yes.	
§ 63.10(b)(3)	Recordkeeping Requirements for Applicability Determinations.	Yes.	
§ 63.10(c)(1)–(6)	Additional Recordkeeping Requirements for Sources with CMS.	Yes.	
§ 63.10(c)(7)–(8)		No	The same records are required in § 63.4520(a)(7).
§ 63.10(c)(9)–(15)		Yes.	
§ 63.10(d)(1)	General Reporting Requirements	Yes	Additional requirements are specified in § 63.4520.
§ 63.10(d)(2)	Report of Performance Test Results	Yes	Additional requirements are specified in § 63.4520(b).
§ 63.10(d)(3)	Reporting Opacity or Visible Emissions Observations.	No	Subpart PPPP does not require opacity or visible emissions observations.
§ 63.10(d)(4)	Progress Reports for Sources With Compliance Extensions.	Yes.	
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports	Yes	Applies only to add-on control devices at sources using these to comply with the standards.
§ 63.10(e)(1)–(2)	Additional CMS Reports	No	Subpart PPPP does not require the use of continuous emissions monitoring systems.
§ 63.10(e)(3)	Excess Emissions/CMS Performance Reports	No	Section 63.4520(b) specifies the contents of periodic compliance reports.
§ 63.10(e)(4)	COMS Data Reports	No	Subpart PPPP does not specify requirements for opacity or COMS.
§ 63.10(f)	Recordkeeping/Reporting Waiver	Yes.	
§ 63.11	Control Device Requirements/Flares	No	Subpart PPPP does not specify use of flares for compliance.
§ 63.12	State Authority and Delegations	Yes.	
§ 63.13	Addresses	Yes.	
§ 63.14	Incorporation by Reference	Yes.	
§ 63.15	Availability of Information/Confidentiality	Yes.	

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data and which match either the solvent blend name or the chemical abstract series

(CAS) number. If a solvent blend matches both the name and CAS number for an entry, that entry's organic HAP mass fraction must be used for that solvent blend. Otherwise, use the organic HAP mass fraction for the entry

matching either the solvent blend name or CAS number, or use the organic HAP mass fraction from table 4 to this subpart if neither the name or CAS number match.

TABLE 3 TO SUBPART PPPP OF PART 63—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
1. Toluene	108–88–3	1.0	Toluene.
2. Xylene(s)	1330–20–7	1.0	Xylenes, ethylbenzene.
3. Hexane	110–54–3	0.5	n-hexane.
4. n-Hexane	110–54–3	1.0	n-hexane.
5. Ethylbenzene	100–41–4	1.0	Ethylbenzene.
6. Aliphatic 140		0	None.
7. Aromatic 100		0.02	1% xylene, 1% cumene.

TABLE 3 TO SUBPART PPPP OF PART 63—DEFAULT ORGANIC HAP MASS FRACTION FOR SOLVENTS AND SOLVENT BLENDS—Continued

Solvent/solvent blend	CAS. No.	Average organic HAP mass fraction	Typical organic HAP, percent by mass
8. Aromatic 150 .....		0.09	Naphthalene.
9. Aromatic naphtha .....	64742-95-6	0.02	1% xylene, 1% cumene.
10. Aromatic solvent .....	64742-94-5	0.1	Naphthalene.
11. Exempt mineral spirits .....	8032-32-4	0	None.
12. Lignoines (VM & P) .....	8032-32-4	0	None.
13. Lactol spirits .....	64742-89-6	0.15	Toluene.
14. Low aromatic white spirit .....	64742-82-1	0	None.
15. Mineral spirits .....	64742-88-7	0.01	Xylenes.
16. Hydrotreated naphtha .....	64742-48-9	0	None.
17. Hydrotreated light distillate .....	64742-47-8	0.001	Toluene.
18. Stoddard solvent .....	8052-41-3	0.01	Xylenes.
19. Super high-flash naphtha .....	64742-95-6	0.05	Xylenes.
20. Varsol® solvent .....	8052-49-3	0.01	0.5% xylenes, 0.5% ethylbenzene.
21. VM & P naphtha .....	64742-89-8	0.06	3% toluene, 3% xylene.
22. Petroleum distillate mixture .....	68477-31-6	0.08	4% naphthalene, 4% biphenyl.

You may use the mass fraction values in the following table for solvent blends for which you do not have test data or manufacturer's formulation data.

TABLE 4 TO SUBPART PPPP OF PART 63—DEFAULT ORGANIC HAP MASS FRACTION FOR PETROLEUM SOLVENT GROUPS<sup>a</sup>

Solvent type	Average organic HAP mass fraction	Typical organic HAP, percent by mass
Aliphatic <sup>b</sup> .....	0.03	1% Xylene, 1% Toluene, and 1% Ethylbenzene.
Aromatic <sup>c</sup> .....	0.06	4% Xylene, 1% Toluene, and 1% Ethylbenzene.

<sup>a</sup> Use this table only if the solvent blend does not match any of the solvent blends in Table 3 to this subpart by either solvent blend name or CAS number and you only know whether the blend is aliphatic or aromatic.

<sup>b</sup> Mineral Spirits 135, Mineral Spirits 150 EC, Naphtha, Mixed Hydrocarbon, Aliphatic Hydrocarbon, Aliphatic Naphtha, Naphthol Spirits, Petroleum Spirits, Petroleum Oil, Petroleum Naphtha, Solvent Naphtha, Solvent Blend.

<sup>c</sup> Medium-flash Naphtha, High-flash Naphtha, Aromatic Naphtha, Light Aromatic Naphtha, Light Aromatic Hydrocarbons, Aromatic Hydrocarbons, Light Aromatic Solvent.

## Appendix A to Subpart PPPP of Part 63—Determination of Weight Volatile Matter Content and Weight Solids Content of Reactive Adhesives

### 1.0 Applicability and Principle

1.1 *Applicability:* This method applies to the determination of weight volatile matter content and weight solids content for most one-part or multiple-part reactive adhesives. Reactive adhesives are composed, in large part, of monomers that react during the adhesive curing reaction, and, as a result, do not volatilize. The monomers become integral parts of the cured adhesive through chemical reaction. At least 70 weight percent of the system, excluding water and non-volatile solids such as fillers, react during the process. This method is not appropriate for cyanoacrylates. For cyanoacrylates, South Coast Air Quality Management District Test Method 316B should be used. This method is not appropriate for one-part moisture cure urethane adhesives or for silicone adhesives. For one-part moisture cure urethane adhesives and for silicone adhesives, EPA Method 24 should be used.

1.2 *Principle:* One-part and multiple-part reactive adhesives undergo a reactive

conversion from liquid to solid during the application and assembly process. Reactive adhesives are applied to a single surface, but then are usually quickly covered with another mating surface to achieve a bonded assembly. The monomers employed in such systems typically react and are converted to non-volatile solids. If left uncovered, as in a Method 24 (ASTM D2369) test, the reaction is inhibited by the presence of oxygen and volatile loss of the reactive components competes more heavily with the cure reaction. If this were to happen under normal use conditions, the adhesives would not provide adequate performance. This method minimizes this undesirable deterioration of the adhesive performance.

### 2.0 Materials and Apparatus

2.1 Aluminum foil, aluminum sheet, non-leaching plastic film or non-leaching plastic sheet, approximately 3 inches by 3 inches. Precondition the foil, film, or sheet for 30 minutes in an oven at 110 ± 5 degrees Celsius and store in a desiccator prior to use. Use tongs or rubber gloves or both to handle the foil, film, or sheet.

2.2 Flat, rigid support panels slightly larger than the foil, film, or sheet.

Polypropylene with a minimum thickness of 1/8 inch is recommended for the support panels. Precondition the support panels for 30 minutes in an oven at 110 ± 5 degrees Celsius and store in a desiccator prior to use. Use tongs or rubber gloves or both to handle the support panels.

2.3 Aluminum spacers, 1/8 inch thick. Precondition the spacers for 30 minutes in an oven at 110 ± 5 degrees Celsius and store in a desiccator prior to use. Use tongs or rubber gloves or both to handle the spacers.

2.4 Forced draft oven, type IIA or IIB as specified in ASTM E145-94 (Reapproved 2001), "Standard Specification for Gravity-Convection and Forced-Ventilation Ovens" (incorporated by reference, see § 63.14).

2.5 Electronic balance capable of weighing to ±0.0001 grams (0.1 mg).

2.6 Flat bottom weight (approximately 3 lbs) or clamps.

### Material and Apparatus Notes

1—The foil, film, or sheet should be thick or rigid enough so that it can be easily handled in the test procedure.

### 3.0 Procedure

3.1 Two procedures are provided. In Procedure A the initial specimen weight is determined by weighing the foil, film, or sheet before and after the specimen is dispensed onto the foil, film, or sheet. In Procedure B the initial specimen weight is determined by weighing the adhesive cartridge (kit) before and after the specimen is dispensed.

3.2 At least four test specimens should be run for each test material. Run the test at room temperature, 74 degrees Fahrenheit (23 degrees Celsius).

#### Procedure A

1. Zero electronic balance.
2. Place 2 pieces of aluminum foil (or aluminum sheet, plastic film, or plastic sheet) on scale.
3. Record weight of aluminum foils. (A).
4. Tare balance.
5. Remove top piece of aluminum foil.
6. Dispense a 10 to 15 gram specimen of premixed adhesive onto bottom piece of aluminum foil. Place second piece of aluminum foil on top of the adhesive specimen to make a sandwich.
7. Record weight of sandwich (specimen and aluminum foils). (B).
8. Remove sandwich from scale, place sandwich between two support panels with aluminum spacers at the edges of the support panels to make a supported sandwich. The spacers provide a standard gap. Take care to mate the edges.
9. Place the supported sandwich on a flat surface.
10. Place the weight on top of the supported sandwich to spread the adhesive specimen to a uniform thickness within the sandwich. Check that no adhesive squeezes out from between the pieces of aluminum foil or through tears in the aluminum foil.
11. Allow to cure 24 hours.
12. Remove the sandwich from between the support panels. Record the weight of the sandwich. This is referred to as the 24 hr weight. (C).
13. Bake sandwich at 110 degrees Celsius for 1 hour.
14. Remove sandwich from the oven, place immediately in a desiccator, and cool to room temperature. Record post bake sandwich weight. (D).

#### Procedure B

1. Zero electronic balance.

2. Place two pieces of aluminum foil (or aluminum sheet, plastic film, or plastic sheet) on scale.

3. Record weight of aluminum foils. (A).
4. Tare balance.
5. Place one support panel on flat surface. Place first piece of aluminum foil on top of this support panel.
6. Record the weight of a pre-mixed sample of adhesive in its container. If dispensing the adhesive from a cartridge (kit), record the weight of the cartridge (kit) plus any dispensing tips. (F).
7. Dispense a 10 to 15 gram specimen of mixed adhesive onto the first piece of aluminum foil. Place second piece of aluminum foil on top of the adhesive specimen to make a sandwich.
8. Record weight of the adhesive container. If dispensing the adhesive from a cartridge (kit), record the weight of the cartridge (kit) plus any dispensing tips. (G).
9. Place the aluminum spacers at the edges of the bottom support panel polypropylene sheet. The spacers provide a standard gap.
10. Place the second support panel on top of the assembly to make a supported sandwich. Take care to mate the edges.
11. Place the supported sandwich on a flat surface.
12. Place the weight on top of the supported sandwich to spread the adhesive specimen to a uniform thickness within the sandwich. Check that no adhesive squeezes out from between the pieces of aluminum foil or through tears in the aluminum foil.
13. Allow to cure 24 hours.
14. Remove the sandwich from between the support panels. Record the weight of the sandwich. This is referred to as the 24 hr weight. (C).
15. Bake sandwich at 110 degrees Celsius for 1 hour.
16. Remove sandwich from the oven, place immediately in a desiccator, and cool to room temperature.
17. Record post-bake sandwich weight. (D).

#### Procedural Notes

1—The support panels may be omitted if the aluminum foil (or aluminum sheet, plastic film, or plastic sheet) will not tear and the adhesive specimen will spread to a uniform thickness within the sandwich when the flat weight is placed directly on top of the sandwich.

2—Clamps may be used instead of a flat bottom weight to spread the adhesive specimen to a uniform thickness within the sandwich.

3—When dispensing from a static mixer, purging is necessary to ensure uniform, homogeneous specimens. The weighing in Procedure B, Step 6 must be performed after any purging.

4—Follow the adhesive manufacturer's directions for mixing and for dispensing from a cartridge (kit).

### 4.0 Calculations

4.1 The total weight loss from curing and baking of each specimen is used to determine the weight percent volatile matter content of that specimen

#### Procedure A

Weight of original specimen (S) = (B) - (A)  
Weight of post-bake specimen (P) = (D) - (A)  
Total Weight Loss (L) = (S) - (P)

#### Procedure B

Weight of original specimen (S) = (F) - (G)  
Weight of post-bake specimen (P) = (D) - (A)  
Total Weight Loss (L) = (S) - (P)

#### Procedure A and Procedure B

Weight Percent Volatile Matter Content

(V) = [(Total weight loss)/(Initial specimen weight)] × 100 = [(L)/(S)] × 100

4.2 The weight volatile matter content of a material is the average of the weight volatile matter content of each specimen of that material. For example, if four specimens of a material were tested, then the weight percent volatile matter content for that material is:

$$V = [V_1 + V_2 + V_3 + V_4]/4$$

Where:

V<sub>i</sub> = the weight percent volatile matter content of specimen i of the material.

4.3 The weight percent solids content of the material is calculated from the weight percent volatile content of the material. Weight Percent Solids Content (N) = 100 - (V)

#### Calculation Notes

1—The weight loss during curing and the weight loss during baking may be calculated separately. These values may be useful for identifying sources of variation in the results obtained for different specimens of the same material.

2—For both Procedure A and Procedure B, the weight loss during curing is (S) - [(C) - (A)] and the weight loss during baking is (C) - (D).

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# Federal Register

Monday,  
April 19, 2004

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## Part III

### Federal Trade Commission

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16 CFR Part 316

Label for E-mail Messages Containing  
Sexually Oriented Material; Final Rule

## FEDERAL TRADE COMMISSION

## 16 CFR Part 316

RIN 3084-AA96

## Label for Email Messages Containing Sexually Oriented Material

AGENCY: Federal Trade Commission.

ACTION: Final rule.

**SUMMARY:** In this document, the Federal Trade Commission ("FTC" or "Commission") issues its Final Rule pursuant to the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act" or "the Act").<sup>1</sup> Section 7704(d) of the Act requires the Commission, within 120 days of the date of the enactment of the CAN-SPAM Act, to prescribe a mark to be included in commercial electronic mail ("email") that contains sexually oriented materials.

**EFFECTIVE DATE:** The Rule will become effective on May 19, 2004.

**ADDRESSES:** Requests for copies of the Rule and the Statement of Basis and Purpose should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Copies of these documents are also available at the Commission's Web site, <http://www.ftc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jonathan Kraden, (202) 326-3257, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580.

**SUPPLEMENTARY INFORMATION:** The Rule implements the requirements of the CAN-SPAM Act by requiring that any person who initiates, to a protected computer, the transmission of a commercial email that includes sexually oriented material must: (1) Exclude sexually oriented materials from the subject heading and include in the subject heading of that email the mark "SEXUALLY-EXPLICIT:"; and (2) provide that the matter in the email message that is initially viewable when the message is opened include only certain specified information, not including any sexually oriented materials. The Rule also exempts situations where a recipient has given his or her prior consent to receipt of a sexually oriented message; clarifies that certain terms taken from the Act and appearing in the Rule have the definitions prescribed by particular referenced sections of the Act; and

<sup>1</sup> Pub. L. 108-187 (codified at 15 U.S.C. 7701 et seq.).

includes a severability provision that provides that if any portion of the Rule is found invalid, the remaining portions will survive.

## Statement of Basis and Purpose

## I. Introduction

As expressly set forth in Section 7701(a)(5) of the CAN-SPAM Act, Congress found that "some commercial email contains material that many recipients may consider vulgar or pornographic in nature,"<sup>2</sup> and this finding, in part, prompted passage of this legislation. Congress' finding reflects the serious concern of large segments of the population regarding the sexually explicit material that is often included in email messages. A recent survey of computer users found that "when asked to identify the type of content that bothers [email] users most \* \* \* pornography exceeds all others, by nearly four times more than any runner-up."<sup>3</sup>

To combat this problem, Congress included Section 7704(d) in the CAN-SPAM Act. This section of the Act directs the FTC to prescribe "clearly identifiable marks or notices to be included in or associated with commercial electronic mail that contains sexually oriented material, in order to inform the recipient of that fact and to facilitate filtering of such electronic mail."<sup>4</sup> The Act also requires that any person who initiates a commercial email that contains sexually oriented material: (1) Include the mark prescribed by the Commission in the "subject heading for the electronic mail message;"<sup>5</sup> and (2) include only the following information in the initially viewable matter of the message: (i) The Commission's prescribed mark;<sup>6</sup> (ii) identifier, opt-out and physical address information;<sup>7</sup> and (iii) instructions on how to access the sexually oriented material.<sup>8</sup>

Pursuant to its mandate under section 7704(d) of the Act and its authority under section 7711(a) of the Act,<sup>9</sup> and

<sup>2</sup> 15 U.S.C. 7701(a)(5).

<sup>3</sup> Deborah Fallows, *Spain: How It Is Hurting Email And Degrading Life On The Internet*, Pew Internet & American Life Project, October 22, 2003 available at [www.pewinternet.org/reports/toc.asp?Report=102](http://www.pewinternet.org/reports/toc.asp?Report=102). ("Among the types of spam that are out there, users were most bothered by pornography (53%), followed by pitches for products and services (14%), and investment deals and financial offers (11%).") (emphasis in original).

<sup>4</sup> 15 U.S.C. 7704(d)(3).

<sup>5</sup> 15 U.S.C. 7704(d)(1)(A).

<sup>6</sup> 15 U.S.C. 7704(d)(1)(B)(i).

<sup>7</sup> 15 U.S.C. 7704(d)(1)(B)(ii) referencing section 7704(a)(5) of the Act.

<sup>8</sup> 15 U.S.C. 7704(d)(1)(B)(iii).

<sup>9</sup> Section 7711(a) of the Act grants the Commission broad rulemaking authority. The

after extensive consultation with the Department of Justice, the Commission published a Notice of Proposed Rulemaking ("NPR") in the Federal Register on January 29, 2004.<sup>10</sup> The NPR sought comment on a number of issues, including: The effectiveness of the Rule in aiding recipients to recognize, and computers to filter, e-mails that contain sexually oriented materials; any technical considerations that would affect the implementation of the Rule; other marks that would be more effective in achieving the objectives of the Act; and the effect of the Rule on business entities, including small business entities.

In response to the NPR, the Commission received eighty-nine (89) comments from a wide array of interested parties. The commenters included private individuals, technologists, public interest organizations, and representatives of state and federal agencies. Based upon the entire record in this proceeding, the Final Rule adopted by the Commission is similar to the Proposed Rule. However, the Final Rule contains some important changes from the Proposed Rule. These modifications are based upon the recommendations of commenters and careful consideration of relevant First Amendment case law.

The comments received in response to the NPR addressed three broad topics. First, many commenters emphasized their distress at the problem the Proposed Rule is designed to remedy, and generally expressed support for the Commission's proposal. The comments from individuals overwhelmingly supported the requirement that sexually oriented e-mail messages be labeled.<sup>11</sup> A typical commenter stated "[p]lease, please, please do something to protect us and our children from the junk" and wrote that she receives more than one hundred (100) pornographic spam a day that "disguise what the content of the e-mail is about" so that "when you open it, [you are] bombarded with nude photos of people having intercourse."<sup>12</sup>

Individual commenters favored the proposed requirements for a number of reasons. Several believed that labeling will help protect children from exposure to objectionable materials.<sup>13</sup>

pertinent portion of Section 7711(a) states that "the Commission may issue regulations to implement the provisions of this Act." 15 U.S.C. 7711(a).

<sup>10</sup> 69 FR 4263 (Jan. 29, 2004).

<sup>11</sup> A list of the comments and the names used to identify each commenter is attached hereto as Appendix A. References to comments are cited by the commenter's name followed by the appropriate page designation.

<sup>12</sup> Halliwell.

<sup>13</sup> See, e.g., Gregg ("Not only do these sexually oriented e-mail not identify their content, and seek



Others welcomed the opportunity to have some control over their e-mail.<sup>14</sup> Several commenters expressed frustration that, despite their repeated efforts, they are unable to block and filter these messages.<sup>15</sup> In addition, commenters agreed that the Commission's proposed mark ("SEXUALLY-EXPLICIT-CONTENT:") in the subject line of an e-mail message would effectively alert them that an e-mail contains sexually oriented materials. Ultimately, the consensus of the great majority of commenters can be summed up by one comment: "Anything you can do to limit porn spam would be so gratefully appreciated by my entire household. I've had to close e-mail accounts because they completely choke out normal mail."<sup>16</sup>

The second broad topic addressed by commenters is the First Amendment implications of the Proposed Rule. The Commission's assessment of the various First Amendment arguments advanced has direct bearing on the ultimate form of the Final Rule. Discussion of First Amendment concerns precedes the section-by-section analysis of the Rule. The third broad topic touched on by a number of commenters related to technical aspects of the Commission's proposal, such as the character set to be used for the mark, placement of the mark, and implementation of an "initially viewable" area that is free of sexually oriented materials. These comments will be discussed in the section-by-section analysis, which follows the discussion of First Amendment concerns, immediately below.

to fool the recipient with false information about forwards and returns, but they contain words which my children find appealing. My children are just reaching the age where they are starting to e-mail their friends, and I would like to be able to protect them as best I can from inappropriate and offensive material." See also Lieberg.

<sup>14</sup> See, e.g., Bordeaux "will give the general public some control over what they read \* \* \* Nowhere else in society am I basically forced to look at content I don't desire to see. Pornography magazines at least have covers, satellite broadcasts have subscriptions and controls, but the inbox has had very little ability to actually give control over such content." See also Cooper; Wandasoup; and Manion.

<sup>15</sup> See, e.g., Kautz ("I have built special rules into my e-mail messaging, activated spam blockers and done whatever I could to block these unwelcome messages, only to have them sneak through anyway. I even changed my high speed Internet access provider hoping to avoid such disgusting material. Nothing helps."). See also Potts ("On a daily basis I go through 5 different e-mail accounts deleting [adult content] e-mails. Two of those mail accounts are for my 12 and 13 year old daughters. Even with spam filters it does not catch a vast majority of these e-mails. It is very frustrating \* \* \*").

<sup>16</sup> Sunlemming.

## II. First Amendment Concerns

The Commission received a comment from the Center for Democracy and Technology ("CDT") questioning the constitutionality of the Rule under the First Amendment.<sup>17</sup> CDT cites no cases and provides no systematic analysis to support its assertion that the Rule is fatally flawed "because of the burdens the proposed label will place on senders of constitutionally protected e-mail."<sup>18</sup>

CDT first argues that the Rule does not directly advance a substantial governmental interest,<sup>19</sup> because it will "address only spam originating in the United States," and because the Rule "will likely not be enforceable against off shore spammers."<sup>20</sup> However, CDT's assertion is incorrect. Spammers operating from abroad but targeting United States residents are, in fact, subject to the requirements of the Rule and are subject to law enforcement actions in the United States for any violations of the Rule. Under the CAN-SPAM Act, a violation of the Rule is enforceable as if it were an unfair or deceptive act or practice under the FTC Act.<sup>21</sup> The FTC Act has often been used to obtain relief from foreign defendants.<sup>22</sup> Thus, where foreign spammers aim their campaigns at residents of the United States (and constitutional "minimum contact" requirements for jurisdictional purposes are met), such spammers are subject to legal action under the Rule in the United States.

CDT also argues that the Rule is unconstitutional because domestic spammers will not comply with it.<sup>23</sup> The constitutionality of the Rule can not

<sup>17</sup> CDT at 1 (stating, in answer to the Commission's question about potential conflict with other laws, "there is indeed a very important federal rule that conflicts with the proposed labeling requirement, namely the First Amendment to the Constitution.").

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* This is one of the elements of *Central Hudson Gas & Elec. v. Pub. Serv. Comm'n of N.Y.*, 447 U.S. 557 (1980).

<sup>20</sup> *Id.*

<sup>21</sup> 15 U.S.C. 7706(a), (d).

<sup>22</sup> See, e.g., *FTC v. Domain Registry of America, Inc.*, No. 03-CV-10075 (S.D.N.Y. 2003); *FTC v. 1268957 Ontario Inc. et al.*, No. 01-CV-0423 (N.D. Ga. 2001); *FTC v. Growth Plus Int'l Marketing, Inc.*, No. 00-CV-7886 (N.D. Ill. 2000); *FTC v. Verity Int'l, Ltd.*, 124 F. Supp. 2d 193 (S.D.N.Y. 2000); *FTC v. Carlos Pereira et al.*, No. 99-1367-A (E.D. Va. 1999); *FTC v. The Tracker Carp. of America*, No. 97-CV-2654-JEC (N.D. Ga. 1998); *FTC v. 9013-0980 Quebec Inc.*, No. 1:96CV-1567 (N.D. Ohio 1996); and *FTC v. Ideal Credit Referral Servs. Ltd.*, C96-0874R (W.D. Wash. 1996). See also, *FTC v. BTV Industries et al.*, No. CV-S-02-0437-LRH (D. Nev. 2002); *FTC v. Benoit (a.k.a. One or More Unknown Parties)*, No. 3:99 CV 181 (W.D.N.C. 1999).

<sup>23</sup> CDT at 1 (noting that "domestic spammers are notoriously elusive and not distinguished by their compliance with the law.").

rest on the belief that the Rule will not be obeyed. The Commission does not believe that, simply because the government may not be able to stop sexually explicit spam, it must sit idly by as its citizens are exposed to objectionable materials that are being forced into their homes. The First Amendment does not require that the government "make progress on every front before it can make progress on any front."<sup>24</sup> As the Supreme Court noted in *Edge Broadcasting Co.*, "[w]ithin the bounds of the general protection provided by the Constitution to commercial speech, [the Court] allow[s] room for legislative judgments."<sup>25</sup> CDT also argues that the Rule offends the First Amendment because it will "prevent senders of lawful material from reaching willing recipients" because "it is designed to promote filtering by the ISPs and takes control away from the end user. Ideally, mechanisms to reduce spam should be modeled on a user empowerment approach, wherein the user, taking advantage of filtering software on her computer, is the ultimate arbiter of what content she receives."<sup>26</sup>

The Commission believes this argument cannot bear close scrutiny. The fact that the prescribed mark may facilitate filtering does not necessarily cede to Internet Service Providers ("ISPs") the choice of whether to receive e-mail messages containing sexually explicit material. Rather, such filtering promotes opportunity for greater consumer choice. The marketplace is remarkably flexible, and one would expect that, if consumers desire choice, some ISPs would offer their subscribers individual choice in the matter of filtering, or that some ISPs would provide filtering to all subscribers while others would cater to individuals who want to receive sexually explicit e-mail messages without filtering. Simply because the mark facilitates filtering does not mean that filtering will be ubiquitous, or that consumers will not be able to exercise individual choice in the matter of receiving sexually explicit commercial e-mail messages.

Finally, CDT argues that the Rule is unconstitutional because it would serve as a "prohibition against including lawful sexually oriented material directly in a commercial e-mail." The Final Rule, however, does not prohibit or suppress any speech. The Rule does not prevent senders of sexually explicit e-mail from sending their messages or

<sup>24</sup> *United States v. Edge Broad. Co.*, 509 U.S. 418, 434 (1993).

<sup>25</sup> *Id.*

<sup>26</sup> CDT at 2.

selling their products. Nor does it prevent or encumber a willing recipient from receiving these messages. The Rule merely directs where and how materials may be presented in a manner that is easily accessible to all who wish to view these materials, yet unobtrusive to those who prefer not to receive them. The Rule does not place the e-mail recipient who wishes to view such materials at any disadvantage as compared to the e-mail recipient who does not wish to view them. Each person is only a mouse click away from his or her desired result. To that extent, the Rule facilitates commercial speech, by helping to ensure that people are willing recipients of the e-mail messages that are being sent. The Commission respectfully disagrees with the CDT and believes that the Final Rule is a constitutionally permissible regulation of commercial speech.

The CAN-SPAM Act applies only to commercial email messages.<sup>27</sup> In *Central Hudson Gas & Electric Corp. v. Public Service Commission of New York*, the Supreme Court established the applicable analytical framework for determining the constitutionality of a regulation of commercial speech that is not misleading and does not otherwise involve illegal activity.<sup>28</sup> Under that framework, the regulation: (1) Must serve a substantial governmental interest; (2) must directly advance this interest; and (3) is not more extensive

than necessary to serve the government's interests<sup>29</sup>—that is, there must be “a ‘fit’ between the legislative ends and the means chosen to accomplish those ends \* \* \* a fit that is not necessarily perfect, but reasonable \* \* \* that employs not necessarily the least restrictive means but \* \* \* a means narrowly tailored to achieve the desired objective.”<sup>30</sup>

The Final Rule serves to advance two substantial government interests: (1) protecting the privacy right of individuals to be free from unwanted and unwelcome commercial intrusions into their homes, and (2) supporting parental supervision of the materials to which their children are exposed.

The government has a substantial interest in protecting the privacy of individuals in their homes. In *Rowan v. Post Office Dept.*, the Supreme Court upheld a federal statute empowering a homeowner to bar mailings from specific senders by notifying the Postmaster General that he/she wished to receive no further mailings from that sender.<sup>31</sup> The Court stated:

We therefore categorically reject the argument that a vendor has a right under the constitution or otherwise to send unwanted material into the home of another. If this prohibition operates to impede the flow of even valid ideas, the answer is that no one has a right to press even “good” ideas on an unwilling recipient. That we are often “captives” outside the sanctuary of the home and subject to objectionable speech and other sound does not mean we must be captives everywhere. The asserted right of a mailer, we repeat, stops at the outer boundary of every person's domain \* \* \*. To hold less would tend to license a form of trespass and would make hardly more sense than to say that a radio or television viewer may not twist the dial to cut off an offensive or boring communication and thus bar its entering his home. Nothing in the Constitution compels us to listen to or view any unwanted communication, whatever its merit; we see no basis for according the printed word or pictures a different or more preferred status because they are sent by mail. The ancient concept that “a man's home is his castle” into which “not even the king may enter” has lost none of its vitality, and none of the recognized exceptions includes any right to communicate offensively with another.<sup>32</sup>

The special protection extended to an individual's home was again stressed by the Supreme Court in *Frisby v. Schultz*, noting that “the State's interest in protecting the well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized

society.”<sup>33</sup> “Individuals are not required to welcome unwanted speech into their own homes and the government may protect this freedom.”<sup>34</sup>

The Rule also advances the government's interest in supporting parental supervision over the materials to which children are exposed.<sup>35</sup> In upholding a state statute that prohibited sales to minors of material not defined as obscene for adults, the Supreme Court stated in *Ginsberg v. New York* that the government's interest in the “well-being of its youth” and in supporting “parents' claim to authority in their own household” justified the regulation of otherwise protected expression.<sup>36</sup>

The comments the Commission received in response to the NPR demonstrate that sexually explicit email messages encroach upon individuals' right to privacy in their own homes.<sup>37</sup> Furthermore, it is axiomatic, and confirmed by the record, that a substantial number of people find unwanted sexually oriented email to be offensive and, given the opportunity, would shield minors from exposure to such materials.<sup>38</sup> By requiring the

<sup>33</sup> 487 U.S. 474, 484 (1988) (quoting *Corey v. Brown*, 447 U.S. 455, 471 (1980)). See also *Mainstream Mktg. Servs. v. FTC*, 2004 U.S. App. LEXIS 2564, citing *Frisby*.

<sup>34</sup> *Frisby* at 485.

<sup>35</sup> See S. Rep. No. 102, 108th Cong., 1st Sess. at 6 (2003) (demonstrating Congress' concern that: “[u]nsuspecting children who simply open emails with seemingly benign subject lines may be either affronted with pornographic images in the email message itself, or automatically and instantly taken \* \* \* to an adult web page exhibiting sexually explicit images.”). See also *id.* at 7 (noting that spam with pornographic content or links to websites with pornographic content, are also common and place “additional burdens on parents to constantly monitor their children's email (even when they are already using an ISP's “parental controls”). In addition, when called to speak about CAN-SPAM, several Senators specifically referred to the government's interest in supporting parental supervision over the materials to which children are exposed. See 149 Cong. Rec. S13,025 (daily ed. Oct. 22, 2003) (statement by Senator Schumer: “[I]f parents can control what their kids watch on TV, they should be able to control what their children are exposed to on the Internet.”). See also *id.* at 13036 (statement by Senator Enzi that the Act “takes an important step in protecting Internet and email users, especially minors, from receiving sexually explicit, offensive and unwanted content in their emails.”).

<sup>36</sup> 390 U.S. 629 (1968).

<sup>37</sup> See, e.g., Bordeaux; Manion; Roth; Gannon.

<sup>38</sup> See, e.g., Potts; Giddens; Andre; Gregg. See also, National Consumers League (citing an online survey about spam conducted in late 2003 by the Trans Atlantic Consumer Dialogue (“TACD”), a coalition of 65 consumer organizations from the United States and European Union countries, that “92 percent of the U.S. respondents said that unsolicited commercial emails characterized as “adult/porn” were the most objectionable or upsetting to receive \* \* \*.” *Report of TACD's Online Survey on Spam*, Oct.–Dec. 2003, available at <http://www.tacd.org/docs/?id=225>).

<sup>27</sup> The Final Rule applies only to the initiation of a “commercial email message,” which is defined in the Act as “any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service.” See 15 U.S.C. 7702(2)(a) (emphasis supplied). The Act mandates that the Commission conduct notice and comment rulemaking for the purpose of “defining the relevant criteria to facilitate the determination of the primary purpose of an electronic mail message.” See 15 U.S.C. 7702(2)(c). Accordingly, the Commission has recently published an Advanced Notice of Proposed Rulemaking on this issue. Pending completion of this proceeding, the interpretation of “commercial email message” looks to the core notion of commercial speech as developed in applicable case law: commercial speech is “speech that proposes a commercial transaction.” *Board of Trustees of State Univ. of N.Y. v. Fox*, 492 U.S. 469, 480 (1989) (emphasis in original). See also *Virginia Pharmacy Bd. v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 762 (quoting *Pittsburgh Press Co. v. Human Relations Comm'n*, 413 U.S. 376, 385 (1973)); *Boiger v. Youngs Drug Prods. Corp.*, 463 U.S. 60, 66 (1983).

<sup>28</sup> 447 U.S. 557 (1980). For purposes of this analysis only, the Commission assumes that the content of the emails in question are at worst indecent and therefore constitutionally protected under the First Amendment. This assumption is based on the fact that the definition of sexually oriented materials under the Act covers speech that may be merely indecent (which is protected speech under the First Amendment) and not necessarily obscene (which is not protected speech under the First Amendment). See *Soble Communications v. FCC*, 492 U.S. 115, 126 (1989).

<sup>29</sup> *Central Hudson* at 566.

<sup>30</sup> *Board of Trustees* at 480.

<sup>31</sup> 397 U.S. 728 (1970).

<sup>32</sup> *Id.*, at 737–38 (internal citations omitted).

prescribed mark in the subject line and in the immediately viewable area of the email message, the Rule will aid email recipients to filter or delete this material without viewing it, thus advancing these legitimate government interests. In addition, the Rule's requirement for including the opt-out and other disclosures in the initially viewable area will enable unwilling recipients to avoid future exposure to such email messages. Finally, the requirement to exclude sexually oriented materials from the subject line of an email message, and to include only certain information in the "initially viewable" portion of an email message helps shield individuals and children from exposure to depictions of graphic sexual materials.

A reasonable fit exists between the requirements of the Final Rule and the government's interests if the Rule directly advances those interests and is narrowly tailored.<sup>39</sup> In this context, the "narrowly tailored" standard does not require that the government employ the least restrictive means to protect the substantial interests mentioned above. All that is required is a proportional response.<sup>40</sup>

The Commission believes that the requirements of the Final Rule are narrowly tailored to fit the interests at stake. The Rule does not forbid or suppress any speech. In fact, the Rule expressly allows senders to include instructions in the email's "initially viewable" area on how to access the sexually explicit material. Further narrow tailoring of the Rule's impact has been achieved through the "prior consent" exclusion in § 316.1(b). This provision places outside the Rule's scope of coverage any email message sent with the recipient's prior affirmative consent to receive the sender's sexually oriented messages. Thus, the Rule covers no more email messages than necessary to achieve its purpose, and merely restricts the place and manner where sexually explicit content included in commercial emails may be presented. In this way, the Rule permits sexually explicit email messages while protecting potentially unwilling recipients from unwelcome speech invading their own homes.

In addition, the Commission has further narrowed the length of the prescribed mark to encroach as little as possible on space available for senders' messages, consistent with achieving the Rule's purposes. As originally proposed, the Rule required that commercial email messages that contain sexually oriented

materials include the phrase "SEXUALLY-EXPLICIT-CONTENT:" in the subject heading of the email message.<sup>41</sup> Commenters noted that no technical limitations on the length of an email's subject line constrain the extent of the prescribed mark.<sup>42</sup> Yet, several commenters noted that when placed in the subject line of an email message, a mark may push some or all of the sender's subject line message beyond the area that is readable by an email recipient.<sup>43</sup>

The Commission is concerned that the prescribed mark be narrowly tailored so that no more speech is affected than is necessary to advance the privacy and parental supervision interests that prompted Congress to pass Section 5(d) and, accordingly, the Commission to adopt this Rule. The Commission has determined that a shorter mark likely can achieve the desired purpose as well, or nearly as well, as the longer mark proposed initially. Thus, the Commission has shortened the mark in the Final Rule to the phrase "SEXUALLY-EXPLICIT:". <sup>44</sup> This shorter phrase will provide senders with more room for their own messages while still effectively advancing the government's interests and accurately describing the materials in question.<sup>45</sup>

Similarly, the prohibition on sexually oriented materials in the subject heading and in the "initially viewable" area, the "electronic brown paper wrapper,"<sup>46</sup> is narrowly tailored to

directly advance the government's interests without completely banning the inclusion of such materials. The Rule does not prohibit the inclusion of sexually explicit materials in an email message, it merely restricts the manner in which they can be displayed.

Placement of the prescribed mark in the subject line of a sexually oriented email should aid recipients in the filtering of unwanted sexually oriented emails. Nevertheless, not all email recipients have equal access to filtering programs. Moreover, filtering programs are not foolproof. The record confirms that, despite efforts to filter, sexually oriented emails often find their way into an email recipient's inbox.<sup>47</sup> Thus, without a prohibition against sexually oriented materials in the subject heading of an email message, the Rule would be much less effective in that email recipients could be routinely confronted with materials that are not filtered out and that they find offensive or objectionable. Similarly, without a prohibition against sexually oriented materials in the "initially viewable" area of an email message, the Rule would be much less effective at insuring that email recipients are not unwittingly and unwillingly subjected to offensive or objectionable materials in email messages that appear in the preview pane of their email program or are mistakenly opened, notwithstanding inclusion of the mark in the subject line.

In addition, prohibiting sexually oriented materials from the subject line promotes a range of consumer choice, rather than forcing consumers into a rigid "all or none" regime. As one commenter noted "[i]t may not be appropriate to assume that a recipient's willingness to view one sexually oriented message is tantamount to a willingness to view all sexually oriented messages—even within sexually oriented material there are degrees and differences in taste."<sup>48</sup> By the same token, a consumer may not wish, through filtering or the use of an ISP that offers filtering, to forego receipt of all email messages with sexually explicit content as the price he or she must pay to avoid a smaller subcategory of such messages that he or she finds objectionable. Prohibiting sexually oriented materials from the subject heading of an email message preserves the recipient's ability to make his or her viewing choice, on a message-by-message basis, based on the content of the subject line, without exposing that person to sexually explicit content that he or she may find offensive. The email

<sup>41</sup> The original mark proposed by the Commission comprises twenty-seven (27) characters, including the dashes between the three words and the colon (:), and the space following the phrase.

<sup>42</sup> See, e.g., ICC at 2 (stating "[t]here is no technical reason that [they] can identify why the Proposed Mark cannot be included in the subject line of emails that contain sexually explicit material."). See also Moore at 6.

<sup>43</sup> See, e.g., Moore at 1-3, 6 (Although "there are no technical reasons why the Proposed Mark cannot be transmitted in the Subject line of email messages," the length of the proposed mark may be "undesirable" because computer programs and devices which display email messages impose practical limits on the portion of the subject line that is displayed to an email recipient.) See also Hinckley ("[W]ith a prefix that long, having anything readable in the subject line of a list of emails is going to be difficult").

<sup>44</sup> The phrase "SEXUALLY-EXPLICIT" comprises seventeen (17) characters, including the dash between the two words. The colon (:), and the space following the phrase are the 18th and 19th characters.

<sup>45</sup> By dropping the word "content" from the proposed mark, and reducing the size of the mark from twenty-seven to nineteen characters, the Commission has more narrowly tailored the mark, providing a sender with an additional eight characters in which to include his or her message.

<sup>46</sup> The phrase is a reference to the wrapper placed over the cover of sexually explicit magazines sent through the U.S. Postal system. For purposes of the Rule, the phrase electronic "brown paper wrapper" refers to the initially viewable area of an email message that is free of sexually oriented materials.

<sup>47</sup> See, e.g., Kautz; Potts.

<sup>48</sup> Moore at 7.

<sup>39</sup> *Central Hudson* at 564-65.

<sup>40</sup> *Board of Trustees* at 480.

recipient who wishes to view only certain types of sexually explicit email messages could modify his or her filtering programs to allow the delivery of sexually explicit messages and then choose among these messages without being subjected to potentially offensive materials.

In addition to requiring the prescribed mark in the subject heading and the "initially viewable" portion of an email message that contains sexually oriented materials, the Final Rule also requires the "initially viewable" area of the message to include certain specified information. In requiring the disclosures in the "initially viewable" area, the Rule directly advances the government's previously identified interests and provides email recipients with important factual information about the email message. In *Zauderer v. Office of Disciplinary Counsel*, the Supreme Court considered a challenge to compelled commercial speech in an advertisement by an attorney and found that an advertiser's "constitutionally protected interest in not providing any particular factual information in his advertising is minimal."<sup>49</sup> In upholding a disclosure requirement in advertisements, the Court noted that the statute at issue did not prevent attorneys from conveying information to the public, it merely required them "to provide somewhat more information than they might otherwise be inclined to present."<sup>50</sup>

Similarly, the Final Rule does not prevent sending sexually oriented materials to the public; rather, the Rule merely requires the inclusion of important factual information that sexually explicit email messages generally do not provide.<sup>51</sup> The prescribed mark in the subject heading of the email message alerts a recipient to the fact that an email contains materials that a recipient may find objectionable. Considering that sexually explicit email messages are often mislabeled in an apparent attempt to confuse and deceive recipients,<sup>52</sup> the Commission believes it is appropriate to require the mark in the subject heading of a sexually explicit email message.<sup>53</sup> In addition, placement of the prescribed mark, identifier, opt-out and physical address information in the "initially viewable" area provides a recipient with important factual information about the

content of the message and the sender of the message, without forcing the recipient to view materials that he or she may find objectionable.

In conclusion, the Commission believes that the Final Rule, as mandated by Section 7704(d) of the Act, is analogous to the statute upheld in *Rowan* and focuses on unwanted advertisements of a sexual nature sent to individuals' homes. The First Amendment raises no impediment to Rule provisions that will enable a person to filter out a class of objectionable commercial communications, or in the alternative, to receive accurate labeling information about the content of the email message before being confronted with such content.

### III. The Rule

#### A. Section 316.1(a)(1)—The Prescribed Mark

Section 316.1(a)(1) of the Proposed Rule would have required that "[a]ny person who initiates \* \* \* the transmission of a commercial electronic mail message that includes sexually oriented material must: (1) Include in the subject heading for the electronic mail message the phrase "SEXUALLY-EXPLICIT-CONTENT:" in capital letters as the first twenty seven (27) characters at the beginning of the subject line."<sup>54</sup>

Commenters agreed that the Commission's proposed mark would effectively alert recipients that an email message contains sexually oriented materials.<sup>55</sup> Although the mark is not constrained by any technical limitations in the length of an email's subject line,<sup>56</sup> several commenters noted that when placed in the subject line of an email message, a mark may push some or all of the sender's subject line message beyond the readable area of the subject line.<sup>57</sup> As noted above, to address these concerns, the Commission has shortened the prescribed mark to the phrase "SEXUALLY-EXPLICIT:" The Commission believes that this shortened mark leaves as much space in the subject line as possible, consistent with effectively aiding recipients to recognize

and filter emails that contain sexually oriented materials.

The Final Rule also specifies in Section 316.1(a)(1) that the initiator of an email message containing sexually oriented material must "exclude sexually oriented materials from the subject heading \* \* \*" This provision complements the requirement in Section 316.1(a)(2) that the initially viewable area, or "brown paper wrapper," of an email message, may contain only certain specified information—not sexually oriented material.

This modification of the Rule ensures that neither the subject line nor the initially viewable portion of the message body—that portion of an email that a recipient may be able to see without taking any affirmative action other than opening his or her email program—will confront recipients with unwelcome verbal or visual depictions of sexually explicit conduct.<sup>58</sup> Without this modification, the Commission believes that the Rule would not adequately advance the legitimate privacy interest of email message recipients in not being unwittingly subject to materials depicting such conduct—and not allowing their children to be subjected to them. Absent this modification, the Rule provisions designed to eliminate such materials from the "initially viewable" portion of the email could easily be defeated by inclusion of such material in the subject line (albeit, preceded by the prescribed mark). The Commission, therefore, adjusted the Rule to prevent this counterproductive outcome.

In formulating the shorter mark or notice, the Commission once again considered using variations of the word "adult" in the mark.<sup>59</sup> The Commission concludes that use of the word "adult" in the mark does not provide a recipient with the most effective notice of the materials contained in a sexually explicit email. There are many products or services that could be considered "adult" in nature, making the phrase inappropriate and inaccurate in this context.<sup>60</sup>

<sup>58</sup> See USDOJ (opining that "the CAN-SPAM Act provision [§ 7704(d)] applies to email containing textual descriptions of sexually explicit conduct without images.')

<sup>59</sup> See, e.g., 69 FR at 4264.

<sup>60</sup> For example, one of the first states to implement an "adult" labeling requirement was California in 1998. California's "ADV:ADLT" label applied to email messages containing a range of "adult" materials, including any "unsolicited advertising material for the lease, sale, rental, gift offer, or other disposition of any realty, goods, services, or extension of credit, that may only be viewed, purchased, rented, leased, or held in possession by an individual 18 years of age and

<sup>54</sup> 69 FR at 4266.

<sup>55</sup> See, e.g., ICC at 3 ("[t]he proposed rule does satisfy the statutory requirement to inform recipients that an email may contain objectionable sexually explicit content.'). See also VanMeter at 1; Chapman; USDOJ; Orlando at 1. Compare Attorney General of New Mexico (the mark "is not clear enough and needs to go further to adequately warn recipients of the disturbing and objectionable material that may be included with the email.')

<sup>56</sup> See, e.g., ICC at 2; Moore at 6.

<sup>57</sup> See, e.g., Moore at 1-3; Hinckley.

<sup>49</sup> 471 U.S. 626, 651 (1985).

<sup>50</sup> *Id.* at 650.

<sup>51</sup> See, e.g., Libera; Perry; Andre; Gregg.

<sup>52</sup> See, e.g., Haliwell; Gregg; Lieber.

<sup>53</sup> See *Zauderer* at 651 ("[D]isclosure requirements trench [sic] much more narrowly on an advertiser's interests than do flat prohibitions on speech.')

In addition, one commenter suggested that "a mark such as 'ADLT:SEX' would be sufficient to convey \* \* \* that the message was intended for adults and that it was sexually oriented, without occupying as much display space."<sup>61</sup> This phrase may alleviate some concerns about using the word "adult" in the mark, but the materials covered by the Final Rule are not simply sexual or adult materials, but rather explicit images or explicit descriptions of sexual conduct, including graphic depictions of various sex acts. While maximizing brevity, the label should be as precise as possible, and should accurately reflect the nature of the material whose presence it signals. Since an email recipient decides on whether to view an email message based on information contained in the email's subject line, for the mark to be effective it must accurately signal the sexually explicit materials contained in that email.<sup>62</sup> For these reasons, the Commission does not believe that the phrase "ADLT:SEX" provides an email recipient with the most effective notice that an email contains sexually oriented materials.

Several commenters also addressed whether the inclusion of a mark in the subject line of an email message would aid in blocking or filtering sexually oriented messages. One commenter stated that the mark would "admirably serve this purpose,"<sup>63</sup> noting that the mark would work because "[p]opular email programs, including NetScape Communicator and Microsoft Outlook and Outlook Express have filtering capabilities that likewise perform text matches within headers," and that he himself had "created a spam-filtering software program that operates by doing text matches within the headers of incoming email messages."<sup>64</sup>

Other commenters agreed that the inclusion of the mark in the subject heading of an email would assist a computer filtering program, but noted that several technical issues, including the character set used for the mark, the placement of the mark in the subject

older." See Ca. Bus. & Prof. Code § 17538.4 (repealed 2003). See also New Mexico's Unsolicited Facsimiles or E-mail Prohibition, which requires the subject line of an email to include the phrase "ADV:ADLT" if "the unsolicited advertisement advertises realty, goods, services, intangibles or the extension of credit that may only be viewed, purchased, licensed, rented, leased or held in the possession by an individual eighteen years of age or older." N.M. Stat. Ann. section 57-12-23(B)(4).

<sup>61</sup> See Moore at 6.

<sup>62</sup> The American Heritage Dictionary defines the word "explicit" as: "describing or portraying nudity or sexual activity in graphic detail." American Heritage Dictionary of the English Language (4th ed. 2000).

<sup>63</sup> Oney at 1.

<sup>64</sup> *Id.*

heading of an email message, the use of punctuation in the mark, and the use of non-English words in the mark should be considered to maximize the effectiveness of any subject heading label.<sup>65</sup> These technical considerations are discussed below.

#### (i) The Use of a Single Character Set

As noted above, the Proposed Rule specified that the mark must be displayed "as the first \* \* \* characters at the beginning of the subject line."<sup>66</sup> Numerous commenters suggested that the Final Rule go further, to specify that a single character set is required for the mark.<sup>67</sup> One commenter specifically mentioned problems that other countries have encountered when spammers used different character sets to avoid filters, while still complying with the letter of the law.<sup>68</sup>

The Commission is persuaded that to discourage evasion of the labeling requirements, the Final Rule should specify the character set in which the prescribed mark must appear. Therefore, the Final Rule requires that the prescribed mark be in the ASCII character set.<sup>69</sup> This requirement will maintain a single standard for the mark and therefore should promote the effectiveness of filtering systems. The Commission has added a definition to Section 316.1(c) of the Final Rule to clarify that the word "character" means "an element of the American Standard Code for Information Interchange ("ASCII") character set."

#### (ii) Placement of the Mark in the Subject Line

In the NPR, the Commission proposed requiring that the mark be displayed "as the first twenty seven (27) characters at the beginning of the subject line" of any commercial email message that includes sexually oriented materials.<sup>70</sup> Several

<sup>65</sup> See, e.g., Moore at 7 (agreeing that the inclusion of the Proposed Mark would aid a filtering program in blocking unwanted sexual emails, but noting that technical considerations may ultimately limit the effectiveness of the mark). See also Oney at 1; Hinckley.

<sup>66</sup> 69 FR at 4266.

<sup>67</sup> See, e.g., Mason (The Commission should "be very clear that those exact characters, in a given, named character set, must appear in the subject line."); Koehn.

<sup>68</sup> Mason.

<sup>69</sup> "ASCII" stands for American Standard Code for Information Interchange. ASCII is the basic coding system which computers use to communicate with one another. Computers can only understand numbers, so an ASCII code is the numerical representation of a character such as 'a' or '@' or an action of some sort. The standard ASCII character set consists of 128 decimal numbers ranging from zero through 127 that are assigned to letters, numbers, punctuation marks, and the most common special characters.

<sup>70</sup> 69 FR at 4266.

commenters questioned the interaction between the mark and other tags that often occur in the subject line of email messages, such as the abbreviations "re:" and "fw:," which are automatically added to an email message that an individual has respectively, sent in response, or forwarded.<sup>71</sup> One commenter noted that these tags could place the mark several characters off of the beginning of the subject line of an email message, possibly causing messages to slip by filters that were set up to recognize the mark as the first characters of the subject line.<sup>72</sup>

After reviewing the comments, the Commission has determined that no change in the Rule is necessary to address the situation when these tags are placed in the subject heading of an email message. A tag is automatically placed in the subject heading of an email message only after the original email recipient has taken some affirmative step either to respond to or forward that email.<sup>73</sup> Because these tags result from a recipient's affirmative step, the recipient who forwards or responds to such sexually oriented messages should delete any such tags added on to the message.<sup>74</sup>

#### (iii) The Effect of Punctuation on the Mark

The NPR also elicited comment on whether the inclusion of punctuation in the mark would affect the ability of computer programs to filter email containing the mark.<sup>75</sup> The Commission included punctuation in the mark (a dash between the two words and a colon and space after the phrase) to make the phrase more recognizable, unique, and prominent.

<sup>71</sup> See, e.g., Hinckley (the Commission "may want to clarify that it's the first non-meta information in the subject, or give more leeway for initial text (not to mention Fwd: or Re: type items).") See also Moore at 3-4, Oney at 1.

<sup>72</sup> Moore at 3-4.

<sup>73</sup> A recipient who forwards an email message that contains sexually oriented material may be an initiating or transmitting person within the meaning of Section 5(d) of the Act, and is therefore responsible for complying with the Rule and the Act. In a separate Federal Register notice, the Commission requested comment on who should be considered a person who "initiates" an email message when one recipient forwards the message to another. 69 FR 11776 (Mar. 11, 2004).

<sup>74</sup> One commenter also noted that email discussion lists often attach a prefix of the mailing list's "listname" to inform recipients that the message was sent through a particular discussion list. See Moore at 3. The Commission believes that the voluntary nature of a discussion list provides a sender with the opportunity to obtain prior affirmative consent from the list's recipients before sending out any commercial email messages that contain sexually oriented materials, thereby placing these messages outside the Rule's scope of coverage.

<sup>75</sup> 69 FR at 4266.

Several commenters addressed this issue and confirmed that the inclusion of punctuation characters diminishes the likelihood of a filtering program inappropriately or incorrectly filtering or blocking an email message.<sup>76</sup> Because the Commission did not receive any comments that suggested that the punctuation in the mark would frustrate or negatively effect a filtering program, or any that suggested that other punctuation would be superior, the Final Rule retains the proposed punctuation in the prescribed mark.

In addition, the Final Rule retains the requirement that the mark be displayed in capital letters. The Commission believes that this requirement makes the mark more prominent and noticeable, thereby presenting recipients with an eye-catching phrase that should immediately alert them to the sexual content of an email message. The Commission received no negative comments regarding the requirement that the mark be displayed in capital letters.

#### (iv) Non-English Alternatives

In the NPR the Commission chose to prescribe a mark that consisted of words rather than images or icons.<sup>77</sup> The Commission received no comments that suggested that the prescribed mark should be anything other than words. However, one commenter noted that since the mark contains only English words, it may not provide effective notice to people who do not speak English.<sup>78</sup> The Commission is aware of the limitations inherent in using English words in the mark, yet practical considerations dictate such a choice.

As mentioned above, the viewable portion of the subject line of an email message depends on the email program that a recipient is using and the hardware configurations of the email recipient's computer. The limited viewable area of a subject line dictates

that the mark be short in length while still providing an accurate description of the sexual content of an email message. Because of these length limitations, it is not feasible to include in the mark additional words or phrases translating the mark into the wide range of languages that may be spoken by various persons living in this country. In addition, nothing in a recipient's email address identifies the language that he or she may speak. The impossibility of determining the language that a recipient speaks further diminishes the utility of incorporating different languages into the Commission's prescribed mark. Furthermore, the Commission believes that email recipients, regardless of their native language, will quickly learn to identify the prescribed mark and understand the relationship between the mark and sexually explicit email messages. After reviewing the comments and considering the practical limitations in placing a label in the subject heading of an email, the Commission has decided to require that the mark be displayed only in English.

#### B. Section 316.1(a)(2)—The Electronic "Brown Paper Wrapper"

Section 316.1(a)(2) of the Rule tracks the elements of Section 7704(d)(1)(B) of the CAN-SPAM Act, and requires that an email message that includes sexually oriented material include only certain information in the body of the email that is initially viewable by the recipient. Commenters focused on several aspects of this section of the Rule, including: (1) Clarification of the requirements of the electronic "brown paper wrapper"; (2) the meaning of the phrase "initially viewable area"; and (3) what information is allowed in the initially viewable area.

#### (i) Clarification of the Requirements of the Electronic "Brown Paper Wrapper"

Several commenters sought clarification as to how the electronic "brown paper wrapper" applies to initiators of sexually oriented emails.<sup>79</sup> To address these commenters' concerns, the Commission intends to make it clear that the Rule requires that initiators of commercial emails that contain sexually oriented materials include the prescribed mark in the subject heading of the email AND provide that the initially viewable area of the body of the email contain only certain specified information. The mark in the subject

heading informs a recipient that an email contains sexually oriented materials, while the electronic "brown paper wrapper" ensures that should a recipient open a sexually explicit email message, the recipient is not bombarded with graphic sexual materials.<sup>80</sup>

With respect to the "brown paper wrapper," the CDT characterized the Rule as a "damned if you do, damned if you don't" labeling requirement which is "internally conflicting" and that "fails the constitutional requirement of clarity in speech."<sup>81</sup> The Commission sees no such conflict or lack of clarity. The CDT's interpretation of the Rule is based on a reading of Section 7704(d)(1)(B) of the CAN-SPAM Act that would prohibit "sending commercial email that includes anything more than instructions on how to access sexually oriented material, even if the material is lawful."<sup>82</sup> This reading of the Act is incorrect. Neither the Act, nor the Rule, excludes sexually oriented materials from the body of an email message. The Rule merely provides that these materials cannot be located in the subject line or the area of the email that is initially viewable to an email recipient.

#### (ii) The "Initially Viewable" Area

Section 316.1(a)(2) of the Proposed Rule required any person who initiates an email message that includes sexually oriented material to provide that "the matter in the message that is initially viewable by the recipient, when the message is opened by any recipient and absent any further actions by the recipient," only include certain information. The Final Rule retains this requirement with only one minor wording change. To make the provision more precise, the phrase "the content of" has been substituted for "the matter in."<sup>83</sup>

A number of commenters questioned how initiators of sexually explicit materials should go about complying with the "initially viewable" requirements. One commenter noted that the different email protocol standards deal primarily with the manner in which information is conveyed between computers and not with how that information is ultimately

<sup>80</sup> Commercial emails that contain sexually oriented materials sometimes appear automatically in a recipient's preview pane. These situations make it more likely that the prescribed mark in the subject line of an email message, in and of itself, would not fully protect recipients from exposure to materials that they may find objectionable or offensive.

<sup>81</sup> CDT at 3.

<sup>82</sup> *Id.*

<sup>83</sup> See, e.g., USDOJ.

<sup>76</sup> See, e.g., VanMeter at 1 ("The Proposed Mark's inclusion of hyphens between the words will address any concerns that a filter set to block a simple English phrase like 'sexually explicit content' would prevent delivery of an email from an anti-pornography group utilizing such a phrase in the content of their email. Further, the use of the hyphens creates a unique mark that will serve to make emails containing such information to be more effectively and easily detected by recipients who do not wish to receive such material."). See also Moore at 8 (noting that the use of odd spellings (such as "ADLT") would also have a similar effect).

<sup>77</sup> The Commission selected words over images or icons for the mark because of concerns about the efficacy of an image or icon in alerting email recipients about the sexual nature of an email message. Moreover, an icon or image that accurately depicted the sexual materials in question may run afoul of the requirements of the Final Rule, thereby frustrating the purpose of the statute.

<sup>78</sup> Moore at 4.

<sup>79</sup> See, e.g., Hinckley ("I can't find any description of how the 'brown wrapper' is going to work."); Koehn ("Is there any technical definition of the 'brown paper wrapper.'"); Moore at 4.

presented to the email recipient.<sup>84</sup> This in turn creates problems because the "initially viewable" area of an email may differ among different recipients of that email, depending on a number of factors, including the email program that a recipient is using and the hardware configurations of the email recipient's computer.

Nevertheless, an initiator of sexually oriented emails is not without tools to ensure that the "initially viewable" portion of an email message does not force the recipient to be confronted with offensive and objectionable materials. Given the variables that determine how an email message confronts a recipient, the Commission believes that the most appropriate way to achieve the Act's goals is to cast the Rule provisions in terms of a performance standard patterned after the language in the Act.

The Commission will consider sexually oriented materials to be in the "initially viewable" area of an email message if, upon opening the message, the recipient can see the materials without the recipient taking any further deliberate actions. The "initially viewable" area of an email message will be deemed to be free of sexually oriented materials if a recipient who wishes to view these materials must go looking for them. An initiator of sexually explicit emails must therefore structure the message to ensure that sexually explicit emails require an affirmative step by the email recipient to view the materials—for example, by scrolling down in order to view the sexually explicit content,<sup>85</sup> or clicking on a link to another section of an email message structured with multiple parts or to an external location such as a web server.

### (iii) Disclosures To Be Included in the Electronic "Brown Paper Wrapper"

The Final Rule provides that the portion of an email message that is initially viewable, absent any actions by the recipient other than opening the message, may include only certain specified information. Like the Proposed Rule, the Final Rule closely tracks the requirements of Section 7704(d)(1)(B) of the Act with only slight

<sup>84</sup> Moore at 5 (noting that the Internet is composed of a wide range of computing systems and devices, each with varying display and input capabilities).

<sup>85</sup> The Commission recognizes that situations in which a recipient merely must scroll down through the initially viewable area to see sexually explicit content present challenges. The size of the area that must be above sexually oriented material in order for the content to be outside the initial viewable area will vary with the recipient's software and hardware at any given time, and evolve with changes in technology and the price of technology.

modifications to improve the Rule's clarity and consistency.

(a) *Section 316.1(a)(2)(i): The prescribed mark in the body of the email message.* Section 316.1(a)(2)(i) of the Proposed Rule would have required that the initially viewable area of the email message include the phrase "SEXUALLY-EXPLICIT-CONTENT:" in a "clear and conspicuous manner."<sup>86</sup> The Commission received no comments on this requirement. Therefore, the Final Rule requires the same mark, "SEXUALLY-EXPLICIT:", be displayed in the initially viewable area, as in the subject line of the email message.

(b) *Section 316.1(a)(2)(ii-vi): Inclusion of identifier, opt-out, and physical address in commercial email, and instructions on how to access the sexually oriented materials.* The Proposed Rule would have required that the initially viewable area of a sexually oriented commercial email message include only the following information: clear and conspicuous notice that the message is an advertisement or solicitation; a clear and conspicuous opt-out notice; a functioning return email address or other Internet-based mechanism for opt-outs; a valid physical postal address of the sender; and instructions on how to access the sexually oriented material. This required information tracks the language found in Section 7704(d)(1)(B)(ii) of the CAN-SPAM Act.<sup>87</sup> The Commission received no comments that directly pertain to Sections 316.1(a)(2)(ii-vi) of the Proposed Rule, and therefore retains these sections in the Final Rule with only one minor "house-keeping" change.

Except for the "instructions on how to access the sexually oriented material" in Section 316.1(a)(2)(vi),<sup>88</sup> all of the

<sup>86</sup> This requirement stems from Section 5(d)(1)(B)(i) of the CAN-SPAM Act, which states that the initially viewable area of an email message should include "to the extent required or authorized pursuant to paragraph (2), any such marks or notices." The Commission believes that this internal reference to another section of the Act (paragraph (2)) is a typographical error because Section 7704(d)(3), not Section 7704(d)(2), directs the Commission to prescribe a mark or notice that will be included in commercial email that contains sexually oriented material. In addition, a review of the history of the Act revealed that, before its final passage, in prior versions of the Act, Section 7704(d)(2) directed the Commission to prescribe the mark or notice. Thus, the confusing reference to "paragraph (2)" is clearly the result of a reference that was mistakenly left over from an earlier version of the Act.

<sup>87</sup> Section 7704(d)(1)(B)(ii) of the Act references "information required to be included in the message pursuant to subsection (a)(5)." This subsection of the Act requires the "Inclusion of identifier, opt-out, and physical address in commercial electronic mail." 15 U.S.C. 7704(a)(5).

<sup>88</sup> Because of the economic nature of the email message, the Commission is not concerned that a

required disclosures in Sections 316.1(a)(2) of the Final Rule are required to be "clearly and conspicuously" displayed. As originally proposed, 316.1(a)(2)(v) did not require that the "valid physical postal address of the sender" be clearly and conspicuously disclosed. The Commission intends to dispel any notion that the valid physical postal address could be lawfully displayed in micro print, in a color of type that does not contrast with the background, or otherwise made hard to read and understand. Therefore, to ensure that this information is presented in a manner likely to be noticed by recipients, the Commission has added the phrase "clearly and conspicuously displayed" to Section 316.1(a)(2)(v) of the Final Rule.

(c) *Section 316.1(b): Prior Affirmative Consent.* Section 316.1(b) of the Proposed Rule provided that the requirements of the Rule do not apply "to the transmission of an electronic mail message if the recipient has given prior affirmative consent to receipt of the message." This exception tracks the language found in Section 7704(d)(2) of the CAN-SPAM Act.<sup>89</sup> The Commission received no comments on Section 316.1(b), and, therefore, retains this section in the Final Rule without changes.

(d) *Section 316.1(c): Definitions.* Section 316.1(c) of the Final Rule includes the definitions of a number of key terms of the Rule.<sup>90</sup> Most of these terms are defined by references to the corresponding sections of the Act. The Commission sought comment in the NPR as to whether the definitions as set forth in the Proposed Rule were acceptable and whether it would be preferable to include the legal definitions themselves in the Final Rule.

Only one commenter suggested that the Rule should go beyond merely referencing the Act's definitions and, for clarity's sake, should also include the legal definitions in the Final Rule.<sup>91</sup> At the other end of the spectrum, another commenter worried that importing the full statutory definitions into the Final Rule creates a risk that the Rule may

sender of a commercial email message that contained sexually oriented materials would fail to clearly and conspicuously display his or her instructions on how a potential buyer could access the materials.

<sup>89</sup> 15 U.S.C. 7704(d)(2).

<sup>90</sup> Most of the terms listed in § 316.1(c) occur in the text of the Final Rule; several of them are not in the Rule text, but are defined in the Rule because CAN-SPAM incorporates and defines them within the definition of another term. For example, the term "procure" is listed in the Rule's definitions [at § 316.1(c)(7)] because the Act defines and includes it in the term "initiate."

<sup>91</sup> Orlando at 3.

become stale if Congress amends the Act, or sections of the Act to which the Rule refers.<sup>92</sup>

The Commission believes that by referencing the definitions found in the Act, and any future modifications to those definitions, the Final Rule will accurately and effectively track any future changes made to the definitions in the Act.<sup>93</sup> Except as discussed below, the Commission has decided to maintain the method of defining key terms of the Final Rule by reference to the Act.

(i) *The definition of "sexually oriented materials"*. The term "sexually oriented material" is defined in Section 7704(d)(4) of the CAN-SPAM Act as "any material that depicts sexually explicit conduct (as that term is defined in Section 2256 of title 18, United States Code), unless the depiction constitutes a small and insignificant part of the whole, the remainder of which is not primarily devoted to sexual matters."<sup>94</sup> (Emphasis supplied). Several commenters expressed confusion regarding what materials would be considered "sexually oriented" under the CAN-SPAM definition.<sup>95</sup> The Department of Justice ("DOJ") opined that the Act applies to email messages that contain textual descriptions of sexually explicit conduct without images.<sup>96</sup> The Commission has determined that the phrase "sexually oriented materials," as defined in Section 7704(d)(4) of the Act, applies to both visual images and written descriptions of sexually explicit conduct.

Nothing in the text of the CAN-SPAM Act, nor in its legislative history, indicates an intent to limit the application of Section 7704(d) to only visual materials. Referencing the definition of "sexually explicit content" from 18 U.S.C. Section 2256, the Sexual Exploitation and Other Abuse of Children Act ("Abuse of Children Act"), in CAN-SPAM's definition of "sexually oriented material" does not necessarily import that Act's limitations in scope into Section 7704(d).<sup>97</sup> Moreover, the

phrase "sexually explicit conduct," as defined in the Abuse of Children Act is not itself limited to only visual images.<sup>98</sup>

The Commission's interpretation that the definition of "sexually oriented materials" covers both visual images and written descriptions of sexually explicit conduct also takes into consideration the meaning of the word "depicts," as it is used in Section 7704(d)(4) of CAN-SPAM.<sup>99</sup> The American Heritage Dictionary of the English Language defines the word "depict" to mean: "(1) to represent in a picture or sculpture; (2) to represent in words; describe."<sup>100</sup> Thus, while the primary meaning pertains to visual images, the secondary meaning encompasses descriptions in words. It is clear that an unsolicited commercial email could describe sexually explicit conduct in words as easily as it could represent such materials in a picture, and both types of depictions fall within the coverage of Section 7704(d) of the CAN-SPAM Act.<sup>101</sup>

(ii) *The definition of "character"*. As mentioned above, to help maintain a single standard for the mark and therefore increase the effectiveness of filtering systems, the Final Rule requires that the prescribed mark be in the ASCII character set. Section 316.1(c), therefore, has been expanded to include a definition of the word "character" to mean "an element of the American Standard Code for Information Interchange ("ASCII") character set."

#### IV. Paperwork Reduction Act

The Final Rule does not include a collection of information subject to the

CAN-SPAM's reference to the Abuse of Children Act (a child pornography statute) does not limit CAN-SPAM's coverage to only emails involving children.

<sup>92</sup> Section 2256(2)(A) of the Abuse of Children Act, defines "sexually explicit conduct" to mean "actual or simulated—(i) sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex; (ii) bestiality; (iii) masturbation; (iv) sadistic or masochistic abuse; or (v) lascivious exhibition of the genitals or pubic area of any person."

<sup>93</sup> Sexually oriented materials is defined under Section 7704(d)(4) of the CAN-SPAM Act as "any material that depicts sexually explicit conduct \* \* \*" (emphasis supplied).

<sup>94</sup> American Heritage Dictionary of the English Language (4th ed. 2000).

<sup>95</sup> Numerous commenters expressed concerns over the large number of unsolicited commercial emails they receive that are sexual in nature (i.e., advertisements for sexual enhancing drugs.) Although the ultimate decision as to whether an email message includes a depiction of sexually explicit conduct will be based on a review of the content of the individual email message, it is important to recognize that the CAN-SPAM Act covers only those commercial email messages that depict sexually explicit conduct, as defined in the Act, and not all materials of a sexual nature.

Paperwork Reduction Act (44 U.S.C. 3506; 5 CFR 1320). The mark that the Final Rule requires "is information originally supplied by the federal government."<sup>102</sup>

#### V. Regulatory Flexibility Act

The NPR included an initial regulatory flexibility analysis ("IRFA") under the Regulatory Flexibility Act ("RFA"),<sup>103</sup> even though the Commission did not expect that the Proposed Rule would have a significant economic impact on a substantial number of small entities. In addition, the Commission invited public comment on the Proposed Rule's effect on small entities to ensure that no significant impact would be overlooked.<sup>104</sup>

This Final Regulatory Flexibility Analysis ("FRFA") incorporates the Commission's initial findings, as set forth in the NPR; addresses the comments submitted in response to the IRFA notice; and describes the steps the Commission has taken in the Final Rule to minimize the impact on small entities consistent with the objectives of the CAN-SPAM Act.

#### A. Succinct Statement of the Need for, and Objectives of, the Final Rule

The Final Rule was created pursuant to the Commission's mandate under Section 7704(d) of the Act and its authority under Section 7711(a) of the CAN-SPAM Act. In order to inform the recipient that an email message contains sexually oriented materials and to facilitate filtering of such email messages, the Final Rule requires that any person who initiates a commercial email that contains sexually oriented material must: (1) Exclude sexually oriented materials from the subject heading of the email message and include the phrase "SEXUALLY-EXPLICIT:" in the subject heading; and (2) include only the following information in the initially viewable matter of the message: (i) the phrase "SEXUALLY-EXPLICIT:"; (ii) identifier, opt-out, and physical address information; and (iii) instructions on how to access the sexually oriented material.

#### B. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

In the IRFA, the Commission sought comment regarding the impact of the Proposed Rule and any alternatives the Commission should consider, with a

<sup>102</sup> See 5 CFR 1320.3(c)(2).

<sup>103</sup> 5 U.S.C. 601-612.

<sup>104</sup> 69 FR at 4265-66.

<sup>92</sup> Oney at 2.

<sup>93</sup> For example, the Act requires that the Commission go through the rulemaking process to define the meaning of "the primary purpose of an electronic mail message." See 15 U.S.C. 7702(2)(c). It is possible that this rulemaking will alter the underlying definition of "commercial electronic mail message" as well as the definition of "transactional or relationship messages."

<sup>94</sup> 15 U.S.C. 7704(d)(4).

<sup>95</sup> See, e.g., Oney, Koehn, Nunex, Simon-Kissel.

<sup>96</sup> USDOJ.

<sup>97</sup> The Abuse of Children Act, on its face, applies only to visual images of child pornography. But referencing that Act does not limit Section 7704(d) of CAN-SPAM to only visual images. Similarly,



specific focus on the effect of the Rule on small entities. The public comments on the Proposed Rule are discussed above throughout the Statement of Basis and Purpose, as are any changes that have been made in the Final Rule. After reviewing the comments, the Commission does not believe that the Final Rule will unduly burden the entities who sell sexually oriented materials through email messages, or those consumers who purchase such materials.<sup>105</sup>

*C. Explanation as to Why No Estimate Is Available as to the Number of Small Entities to Which the Final Rule Will Apply*

In general, the Final Rule will apply to any person or entity who initiates, originates, or transmits a commercial email message that contains sexually oriented material. Determining a precise estimate of the number of small entities subject to the Proposed Rule, or describing those entities, is not readily feasible because the assessment of whether an email message contains sexually oriented material turns on a number of factors that will require factual analysis on a case-by-case basis. In connection with the NPR and the IRFA, the Commission has not received any comments providing an estimate of the number of small entities to which the Final Rule will apply.

*D. Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule, Including an Estimate of the Classes of Small Entities That Will Be Subject to the Requirements of the Final Rule and the Type of Professional Skills That Will Be Necessary To Implement the Final Rule*

The Final Rule does not impose any reporting or any specific record-keeping requirements within the meaning of the Paperwork Reduction Act. While one commenter expressed concerns about the additional costs that may be associated with implementing the requirements of the Rule,<sup>106</sup> the Commission does not believe that the requirements of the Rule will create a significant burden on persons or entities who initiate commercial email messages that include sexually oriented material.

The Commission has not received any comments that necessitate modifying its previous description of projected compliance requirements.

*E. Discussion of Significant Alternatives Considered by the Commission That Would Accomplish the Stated Objectives of the CAN-SPAM Act and That Would Minimize Any Significant Economic Impact of the Final Rule on Small Entities*

Through the NPR, the Commission sought to gather information regarding the economic impact of CAN-SPAM's requirements on all businesses, including small entities. The Commission requested public comment on whether the Proposed Rule would unduly burden either entities selling lawful sexually oriented material through email messages or those consumers who were interested in purchasing sexually oriented material offered to them through email messages; whether this burden is justified by offsetting benefits to consumers; what effect the Rule will have on small entities that initiate commercial email messages that include sexually oriented material; what costs will be incurred by small entities to "implement and comply" with the Rule; and whether there are ways the Rule could be modified to reduce the costs or burdens for small entities while still being consistent with the requirements of the Act.<sup>107</sup> This information was requested by the Commission in an attempt to minimize the Final Rule's burden on all businesses, including small entities.

The Commission does not believe that the Final Rule will create a significant economic impact on persons or entities who initiate a commercial email message that includes sexually oriented material. The Final Rule does not prevent such entities from selling or advertising their materials; it merely limits the confrontational manner in which they currently advertise them. In doing so, it provides the offsetting benefit of allowing email recipients to potentially avoid unwanted exposure to materials that they might find offensive. In addition, the Final Rule imposes only a minor restriction on those individuals who are interested in purchasing sexually oriented materials—their ability to view or purchase such materials is only a mouse click away.

The Commission has not received any comments that lead it to believe that the Final Rule will unduly burden either the entities who sell, or those consumers who purchase, sexually oriented material through email

messages. In any event, the Commission believes that the minimal burden imposed upon such entities is justified by offsetting benefits to consumers, namely, the ability of a consumer to avoid viewing materials that they may consider objectionable or offensive.

**List of Subjects in 16 CFR Part 316**

Advertising, Business and industry, Computer technology, Consumer protection, Labeling.

■ Accordingly, for the reasons set forth in the preamble, the Commission adds a new part 316 consisting of § 316.1 to title 16 of the Code of Federal Regulations to read as follows:

**PART 316—RULES IMPLEMENTING THE CAN-SPAM ACT OF 2003**

**§ 316.1 Requirement to place warning labels on commercial electronic mail that contains sexually oriented material.**

(a) Any person who initiates, to a protected computer, the transmission of a commercial electronic mail message that includes sexually oriented material must:

(1) Exclude sexually oriented materials from the subject heading for the electronic mail message and include in the subject heading the phrase "SEXUALLY-EXPLICIT:" in capital letters as the first nineteen (19) characters at the beginning of the subject line;<sup>1</sup>

(2) Provide that the content of the message that is initially viewable by the recipient, when the message is opened by any recipient and absent any further actions by the recipient, include only the following information:

(i) The phrase "SEXUALLY-EXPLICIT:" in a clear and conspicuous manner;<sup>2</sup>

(ii) Clear and conspicuous identification that the message is an advertisement or solicitation;

(iii) Clear and conspicuous notice of the opportunity of a recipient to decline to receive further commercial electronic mail messages from the sender;

(iv) A functioning return electronic mail address or other Internet-based mechanism, clearly and conspicuously displayed, that—

(A) A recipient may use to submit, in a manner specified in the message, a reply electronic mail message or other form of Internet-based communication requesting not to receive future

<sup>105</sup> See, e.g., Bordeaux ("I am also an [Information Technology] director \* \* \* and I don't see anything in the present rule that would cause significant technical issues."); Potts ("This would be a simple change (I work in IT and know what it would take) that could be accomplished in less than a day."); Orlando at 2; Van Meter at 1. *But see*, Moore at 7 (outlining several ways in which the Rule may burden sellers and purchasers of sexually oriented materials); Oney at 2.

<sup>106</sup> Moore at 5.

<sup>107</sup> 69 FR at 4265–66.

<sup>1</sup> The phrase "SEXUALLY-EXPLICIT" comprises 17 characters, including the dash between the two words. The colon (:) and the space following the phrase are the 18th and 19th characters.

<sup>2</sup> This phrase consists of nineteen (19) characters and is identical to the phrase required in § 316.1(a)(1) of this Rule.

commercial electronic mail messages from that sender at the electronic mail address where the message was received; and

(B) Remains capable of receiving such messages or communications for no less than 30 days after the transmission of the original message;

(v) Clear and conspicuous display of a valid physical postal address of the sender; and

(vi) Any needed instructions on how to access, or activate a mechanism to access, the sexually oriented material, preceded by a clear and conspicuous statement that to avoid viewing the sexually oriented material, a recipient should delete the email message without following such instructions.

(b) *Prior affirmative consent.* Paragraph (a) of this section does not apply to the transmission of an electronic mail message if the recipient has given prior affirmative consent to receipt of the message.

(c) *Definitions.* (1) The definition of the term "affirmative consent" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(1).

(2) "Character" means an element of the American Standard Code for Information Interchange ("ASCII") character set.

(3) The definition of the term "commercial electronic mail message" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(2).

(4) The definition of the term "electronic mail address" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(5).

(5) The definition of the term "electronic mail message" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(6).

(6) The definition of the term "initiate" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(9).

(7) The definition of the term "Internet" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(10).

(8) The definition of the term "procure" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(12).

(9) The definition of the term "protected computer" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(13).

(10) The definition of the term "recipient" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(14).

(11) The definition of the term "routine conveyance" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(15).

(12) The definition of the term "sender" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(16).

(13) The definition of the term "transactional or relationship messages" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7702(17).

(14) The definition of the term "sexually oriented material" is the same as the definition of that term in the CAN-SPAM Act, 15 U.S.C. 7704(d)(4).

(d) *Severability.* The provisions of this Rule are separate and severable from one another. If any provision is stayed or determined to be invalid, it is the Commission's intention that the remaining provisions shall continue in effect.

**Authority:** Pub. L. 108-187, 117 Stat. 2699, 15 U.S.C. 7701 *et seq.*

By direction of the Commission.

**Donald S. Clark,**  
*Secretary.*

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# Federal Register

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Monday,  
April 19, 2004

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Part IV

## Department of Housing and Urban Development

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24 CFR Part 200

Revised Guidelines for Previous  
Participation Certification; Proposed Rule

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**24 CFR Part 200**

[Docket No. FR-4870-P-01]

RIN 2502-A110

**Revised Guidelines for Previous  
Participation Certification**

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would revise the regulations to require all participants in HUD's Multifamily Housing Programs to file their Previous Participation Certificates by a specified date using the Active Partner Performance System on HUD's secure Internet site.

**DATES:** *Comment Due Date:* May 19, 2004.

**ADDRESSES:** Interested persons are invited to submit written comments regarding this rule to the Regulations Division, 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:** James E. Collins, Management Analyst, Housing Policy and Participation Standards Division, Office of the Deputy Assistant Secretary for Multifamily Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-0614, extension 3279 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The purpose of the Previous Participation Certification process is to ensure that prospective participants in HUD's Multifamily Housing Programs have a history of carrying out their past financial, legal, and administrative obligations in a satisfactory and timely manner. The current system requires HUD's business partners that want to participate in multifamily housing

programs to file a paper Previous Participation Certificate using form HUD-2530 together with a description of all previous participation in multifamily programs every time they wish to do business with HUD.

**II. This Proposed Rule**

This proposed rule would amend 24 CFR 200.217(a) to require that filing by a specific date of the Previous Participation Certificate by participants in HUD's Multifamily Housing Programs be done electronically rather than by completing a paper form (form HUD-2530). The electronic filing will be accomplished by using a secure Internet-based application developed by HUD known as the Active Partner Performance System (APPS). The rule also specifies with more clarity transactions for which a principal or participant in HUD multifamily mortgage and project-based subsidy must complete an electronic Previous Participation Certificate.

APPS will provide participants with a secure environment within the HUD firewall where participants will record pertinent information about their specific relationship to any property. With the use of the APPS application, participants will be able to ensure that their individual records are complete, correct, and accurate at all times. APPS will provide participants with information about the physical condition of properties with which they are associated and will highlight any problems that may exist. Further, APPS will assist HUD in monitoring participants. APPS will allow HUD to maintain a history of participants, their various roles in property operations, and properties with which they are or were involved.

A clear benefit of using APPS is that risk assessment of a party's new or revised participation will occur faster, as paper is not required to be sent back and forth across the country. Risk information will be shared automatically with participants, which will make the issues resolution process more efficient.

**III. Findings and Certifications**

*Justification for 30-Day Comment Period*

HUD usually provides a 60-day period for the receipt of public comments when it issues a proposed rule. Notwithstanding that the provision for a 60-day public comment period is not a statutory requirement, HUD believes that where a rule provides for a shorter comment period than the usual 60 days, the rule should contain a justification to support the shorter period. In this

instance, the principal change to be effected by this rule would merely convert to an electronic format the recording of information that currently is obtained through a paper form. Since electronic filing has been used by participants for some time now, HUD believes that codifying the requirement for electronic filing as quickly as possible by, among other things, shortening the comment period would prejudice no one and make for a more efficient system.

*Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

*Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and on the private sector. This rule does not impose a federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

*Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule would not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are not any unusual procedures that would need to be complied with by small entities. Notwithstanding HUD's determination that this rule would not have a significant effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

*Executive Order 13132, Federalism*

Executive Order 13132 (entitled "Federalism") prohibits an agency from

publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments nor preempt state law within the meaning of the executive order.

#### *Catalog of Federal Domestic Assistance*

The Catalog of Federal Domestic Assistance number is 14.117.

#### **List of Subjects in 24 CFR Part 200**

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Lead poisoning, Loan programs—housing and community development, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR part 200 as follows:

#### **PART 200—INTRODUCTION TO FHA PROGRAMS**

1. The authority citation for part 200 continues to read as follows:

**Authority:** 12 U.S.C. 1702–1715z–21; 42 U.S.C. 3535(d)

2. Amend § 200.217 by revising paragraph (a) to read as follows:

#### **§ 200.217 Filing of previous participation certificate on prescribed form.**

(a) Effective [effective date of final rule to be inserted at publication of final

rule], or on such later date as may be allowed by HUD, all participants/principals in HUD multifamily mortgage and project based subsidy programs must submit an electronic Previous Participation Certificate (form HUD–2530) via HUD's secure web server as a condition prerequisite to new or revised participation. Prior to this date, participants are required to file form HUD–2530 as a condition prerequisite to new or revised participation. Filing requirements are as prescribed by the Assistant Secretary for Housing—Federal Housing Commissioner at the occurrence of any of the events below:

(1) With an Application for a Site Appraisal/Market Analysis Letter, Feasibility Letter, Conditional Commitment for Mortgage Insurance, or Firm Commitment for Mortgage Insurance, whichever application is first filed, for projects to be financed or refinanced with mortgages insured under the National Housing Act;

(2) With an Application for a Fund Reservation for projects financed or to be financed with direct loans or capital advances under section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped);

(3) With an Application for a Fund Reservation for projects financed or to be financed with direct loans or capital advances under section 811 of the Cranston-Gonzales National Affordable Housing Act (Supportive Housing for Persons with Disabilities);

(4) With the first request for a reservation of funds for assistance payments for projects in which 20 percent or more of the units are to receive a subsidy described in § 200.213(c);

(5) With an Application for any Transfer of Physical Assets;

(6) With a request to assume any existing Housing Assistance Payments Contract, Interest Reduction Contract,

Rent Supplement Contract, or Rental Assistance Payments Contract;

(7) With a request to change ownership of a property regulated or controlled by a HUD “use agreement”;

(8) With an application or request to change the approved lessee operating a nursing home, assisted living, or skilled care facility;

(9) With a bid to purchase a project being sold at foreclosure by HUD or by a foreclosure commissioner acting for HUD, when the terms of the sale permit HUD to disapprove a bidder;

(10) With a bid to purchase a Secretary-owned project;

(11) With a bid to purchase a mortgage note held by the Commissioner;

(12) At least 30 days prior to the date of any proposed substitution or addition of a new participant or principal in an existing project, such as management agents, LLC members, directors, or partners, or proposed participation in a different capacity from that previously approved for the same project;

(13) At least 30 days prior to the proposed acquisition by an existing limited partner, stockholder, or any principal of additional interests resulting in a total interest of at least 25 percent (partners) or 10 percent (non-partners); or

(14) Certificates of participation must be submitted for interests acquired by any party or organization by inheritance or court decree within 30 days after said acquisition or decree, but will not be subject to review or disapproval.

\* \* \* \* \*

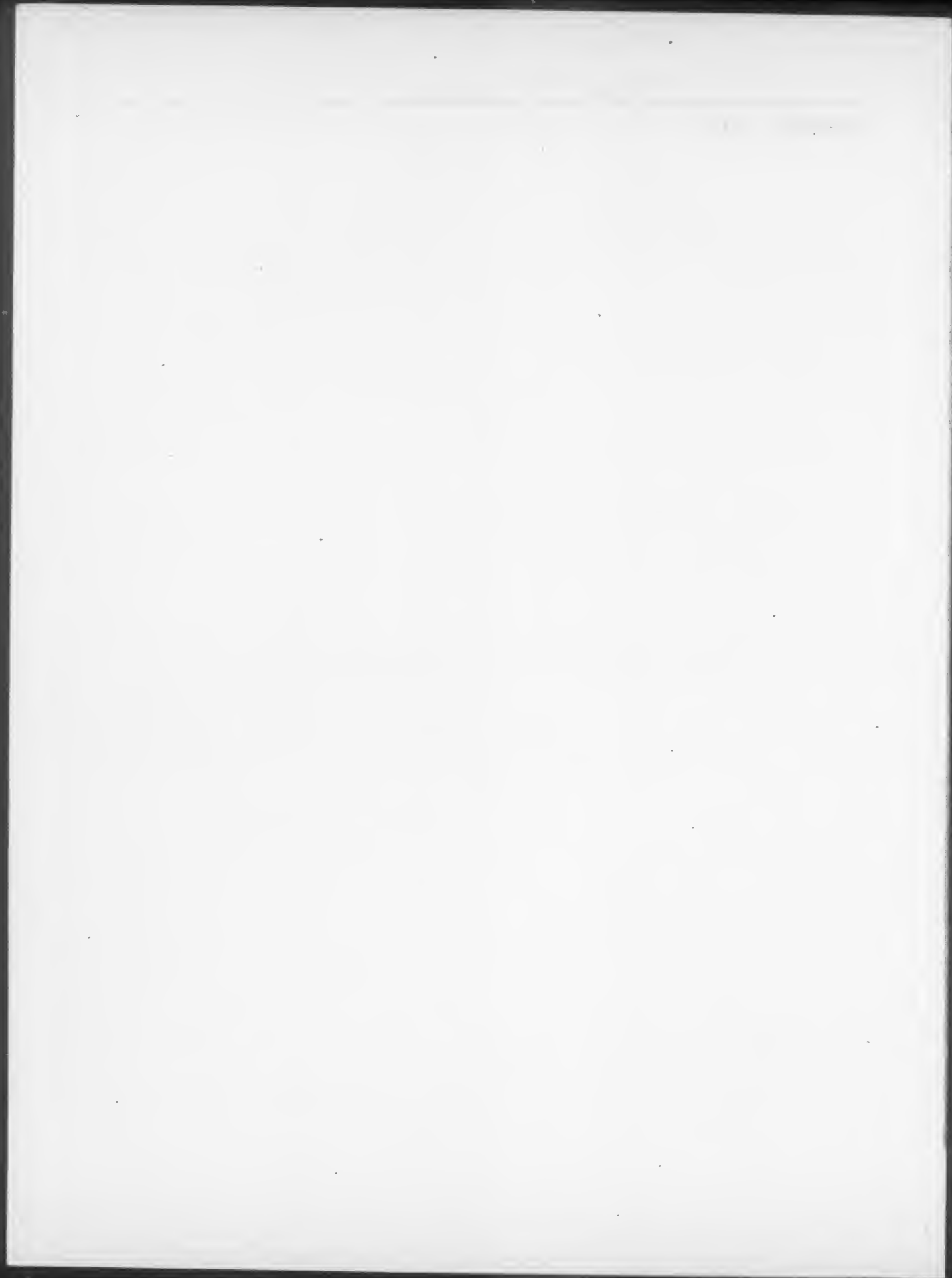
Dated: March 22, 2004.

**Sean Cassidy,**

*General Deputy Assistant Secretary for Housing.*

[FR Doc. 04–8724 Filed 4–16–04; 8:45 am]

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Raytheon; comments due by 4-26-04; published 3-1-04 [FR 04-04372]

Saab; comments due by 4-26-04; published 3-26-04 [FR 04-06685]

Short Brothers; comments due by 4-26-04; published 3-25-04 [FR 04-06680]

Airworthiness standards:

Special conditions—

Avidyne Corp., Inc.; various airplane models; comments due by 4-26-04; published 3-26-04 [FR 04-06748]

**TRANSPORTATION DEPARTMENT****National Highway Traffic Safety Administration**

Fuel economy standards:

Corporate Average Fuel Economy Program; comments due by 4-27-04; published 12-29-03 [FR 03-31890]

Corporate Average Fuel Economy Program; product plan information request; comments due by 4-27-04; published 12-29-03 [FR 03-31891]

Motor vehicle safety standards:

Bus emergency exits and window retention and release; comments due by 4-26-04; published 3-12-04 [FR 04-05691]

Rear impact guards; comments due by 4-27-04; published 2-27-04 [FR 04-04276]

**TREASURY DEPARTMENT****Comptroller of the Currency**

Corporate activities:

National banks; operating subsidies annual report; comments due by 4-26-04; published 3-25-04 [FR 04-06710]

**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 "PLUS" (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](http://www.archives.gov/federal_register/public_laws/public_laws.html).

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202-512-1808). The text will also be made available on the Internet from GPO Access at <http://www.gpoaccess.gov/plaws/index.html>. Some laws may not yet be available.

**H.R. 2584/P.L. 108-219**

To provide for the conveyance to the Utrok Atoll local government of a decommissioned National Oceanic and Atmospheric Administration ship, and for other purposes. (Apr. 13, 2004; 118 Stat. 615)

Last List April 14, 2004

**Public Laws Electronic Notification Service (PENS)**

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## CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (\*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869-052-00001-9)	9.00	Jan. 1, 2004
3 (2002 Compilation and Parts 100 and 101)	(869-050-00002-4)	32.00	Jan. 1, 2003
4	(869-052-00003-5)	10.00	Jan. 1, 2004
<b>5 Parts:</b>			
1-699	(869-052-00004-3)	60.00	Jan. 1, 2004
700-1199	(869-052-00005-1)	50.00	Jan. 1, 2004
*1200-End	(869-052-00006-0)	61.00	Jan. 1, 2004
6	(869-052-00007-8)	10.50	Jan. 1, 2004
<b>7 Parts:</b>			
1-26	(869-052-00008-6)	44.00	Jan. 1, 2004
27-52	(869-050-00008-3)	47.00	Jan. 1, 2003
53-209	(869-052-00010-8)	37.00	Jan. 1, 2004
210-299	(869-050-00010-5)	59.00	Jan. 1, 2003
*300-399	(869-052-00012-4)	46.00	Jan. 1, 2004
400-699	(869-052-00013-2)	42.00	Jan. 1, 2004
700-899	(869-050-00013-0)	42.00	Jan. 1, 2003
900-999	(869-052-00015-9)	60.00	Jan. 1, 2004
1000-1199	(869-052-00016-7)	22.00	Jan. 1, 2004
1200-1599	(869-052-00017-5)	61.00	Jan. 1, 2004
*1600-1899	(869-052-00018-3)	64.00	Jan. 1, 2004
1900-1939	(869-050-00018-1)	29.00	Jan. 1, 2003
1940-1949	(869-050-00019-9)	47.00	Jan. 1, 2003
1950-1999	(869-052-00021-3)	46.00	Jan. 1, 2004
2000-End	(869-052-00022-1)	50.00	Jan. 1, 2004
8	(869-052-00023-0)	63.00	Jan. 1, 2004
<b>9 Parts:</b>			
1-199	(869-052-00024-8)	61.00	Jan. 1, 2004
200-End	(869-052-00025-6)	58.00	Jan. 1, 2004
<b>10 Parts:</b>			
1-50	(869-052-00026-4)	61.00	Jan. 1, 2004
51-199	(869-050-00026-1)	56.00	Jan. 1, 2003
200-499	(869-052-00028-1)	46.00	Jan. 1, 2004
500-End	(869-052-00029-9)	62.00	Jan. 1, 2004
11	(869-052-00030-2)	41.00	Feb. 3, 2004
<b>12 Parts:</b>			
1-199	(869-052-00031-1)	34.00	Jan. 1, 2004
200-219	(869-052-00032-9)	37.00	Jan. 1, 2004
220-299	(869-052-00033-7)	61.00	Jan. 1, 2004
300-499	(869-052-00034-5)	47.00	Jan. 1, 2004
500-599	(869-052-00035-3)	39.00	Jan. 1, 2004
600-899	(869-052-00036-1)	56.00	Jan. 1, 2004
900-End	(869-052-00037-0)	50.00	Jan. 1, 2004

Title	Stock Number	Price	Revision Date
13	(869-052-00038-8)	55.00	Jan. 1, 2004
<b>14 Parts:</b>			
1-59	(869-052-00039-6)	63.00	Jan. 1, 2004
*60-139	(869-052-00040-0)	61.00	Jan. 1, 2004
140-199	(869-052-00041-8)	30.00	Jan. 1, 2004
200-1199	(869-052-00042-6)	50.00	Jan. 1, 2004
1200-End	(869-052-00043-4)	45.00	Jan. 1, 2004
<b>15 Parts:</b>			
0-299	(869-052-00044-2)	40.00	Jan. 1, 2004
300-799	(869-052-00045-1)	60.00	Jan. 1, 2004
800-End	(869-052-00046-9)	42.00	Jan. 1, 2004
<b>16 Parts:</b>			
0-999	(869-050-00046-6)	47.00	Jan. 1, 2003
1000-End	(869-052-00048-5)	60.00	Jan. 1, 2004
<b>17 Parts:</b>			
1-199	(869-050-00049-1)	50.00	Apr. 1, 2003
200-239	(869-050-00050-4)	58.00	Apr. 1, 2003
240-End	(869-050-00051-2)	62.00	Apr. 1, 2003
<b>18 Parts:</b>			
1-399	(869-050-00052-1)	62.00	Apr. 1, 2003
400-End	(869-050-00053-9)	25.00	Apr. 1, 2003
<b>19 Parts:</b>			
1-140	(869-050-00054-7)	60.00	Apr. 1, 2003
141-199	(869-050-00055-5)	58.00	Apr. 1, 2003
200-End	(869-050-00056-3)	30.00	Apr. 1, 2003
<b>20 Parts:</b>			
1-399	(869-050-00057-1)	50.00	Apr. 1, 2003
400-499	(869-050-00058-0)	63.00	Apr. 1, 2003
500-End	(869-050-00059-8)	63.00	Apr. 1, 2003
<b>21 Parts:</b>			
1-99	(869-050-00060-1)	40.00	Apr. 1, 2003
100-169	(869-050-00061-0)	47.00	Apr. 1, 2003
170-199	(869-050-00062-8)	50.00	Apr. 1, 2003
200-299	(869-050-00063-6)	17.00	Apr. 1, 2003
300-499	(869-050-00064-4)	29.00	Apr. 1, 2003
500-599	(869-050-00065-2)	47.00	Apr. 1, 2003
600-799	(869-050-00066-1)	15.00	Apr. 1, 2003
800-1299	(869-050-00067-9)	58.00	Apr. 1, 2003
1300-End	(869-050-00068-7)	22.00	Apr. 1, 2003
<b>22 Parts:</b>			
1-299	(869-050-00069-5)	62.00	Apr. 1, 2003
300-End	(869-050-00070-9)	44.00	Apr. 1, 2003
23	(869-050-00071-7)	44.00	Apr. 1, 2003
<b>24 Parts:</b>			
0-199	(869-050-00072-5)	58.00	Apr. 1, 2003
200-499	(869-050-00073-3)	50.00	Apr. 1, 2003
500-699	(869-050-00074-1)	30.00	Apr. 1, 2003
700-1699	(869-050-00075-0)	61.00	Apr. 1, 2003
1700-End	(869-050-00076-8)	30.00	Apr. 1, 2003
25	(869-050-00077-6)	63.00	Apr. 1, 2003
<b>26 Parts:</b>			
§§ 1.0-1-1.60	(869-050-00078-4)	49.00	Apr. 1, 2003
§§ 1.61-1.169	(869-050-00079-2)	63.00	Apr. 1, 2003
§§ 1.170-1.300	(869-050-00080-6)	57.00	Apr. 1, 2003
§§ 1.301-1.400	(869-050-00081-4)	46.00	Apr. 1, 2003
§§ 1.401-1.440	(869-050-00082-2)	61.00	Apr. 1, 2003
§§ 1.441-1.500	(869-050-00083-1)	50.00	Apr. 1, 2003
§§ 1.501-1.640	(869-050-00084-9)	49.00	Apr. 1, 2003
§§ 1.641-1.850	(869-050-00085-7)	60.00	Apr. 1, 2003
§§ 1.851-1.907	(869-050-00086-5)	60.00	Apr. 1, 2003
§§ 1.908-1.1000	(869-050-00087-3)	60.00	Apr. 1, 2003
§§ 1.1001-1.1400	(869-050-00088-1)	61.00	Apr. 1, 2003
§§ 1.1401-1.1503-2A	(869-050-00089-0)	50.00	Apr. 1, 2003
§§ 1.1551-End	(869-050-00090-3)	50.00	Apr. 1, 2003
2-29	(869-050-00091-1)	60.00	Apr. 1, 2003
30-39	(869-050-00092-0)	41.00	Apr. 1, 2003
40-49	(869-050-00093-8)	26.00	Apr. 1, 2003
50-299	(869-050-00094-6)	41.00	Apr. 1, 2003
300-499	(869-050-00095-4)	61.00	Apr. 1, 2003

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
500-599	(869-050-00096-2)	12.00	<sup>5</sup> Apr. 1, 2003	72-80	(869-050-00149-7)	61.00	July 1, 2003
600-End	(869-050-00097-1)	17.00	Apr. 1, 2003	81-85	(869-050-00150-1)	50.00	July 1, 2003
<b>27 Parts:</b>				86 (86.1-86.599-99)	(869-050-00151-9)	57.00	July 1, 2003
1-199	(869-050-00098-9)	63.00	Apr. 1, 2003	86 (86.600-1-End)	(869-050-00152-7)	50.00	July 1, 2003
200-End	(869-050-00099-7)	25.00	Apr. 1, 2003	87-99	(869-050-00153-5)	60.00	July 1, 2003
<b>28 Parts:</b>				100-135	(869-050-00154-3)	43.00	July 1, 2003
0-42	(869-050-00100-4)	61.00	July 1, 2003	136-149	(869-150-00155-1)	61.00	July 1, 2003
43-End	(869-050-00101-2)	58.00	July 1, 2003	150-189	(869-050-00156-0)	49.00	July 1, 2003
<b>29 Parts:</b>				190-259	(869-050-00157-8)	39.00	July 1, 2003
0-99	(869-050-00102-1)	50.00	July 1, 2003	260-265	(869-050-00158-6)	50.00	July 1, 2003
100-499	(869-050-00103-9)	22.00	July 1, 2003	266-299	(869-050-00159-4)	50.00	July 1, 2003
500-899	(869-050-00104-7)	61.00	July 1, 2003	300-399	(869-050-00160-8)	42.00	July 1, 2003
900-1899	(869-050-00105-5)	35.00	July 1, 2003	400-424	(869-050-00161-6)	56.00	July 1, 2003
1900-1910 (§§ 1900 to 1910.999)	(869-050-00106-3)	61.00	July 1, 2003	425-699	(869-050-00162-4)	61.00	July 1, 2003
1910 (§§ 1910.1000 to end)	(869-050-00107-1)	46.00	July 1, 2003	700-789	(869-050-00163-2)	61.00	July 1, 2003
1911-1925	(869-050-00108-0)	30.00	July 1, 2003	790-End	(869-050-00164-1)	58.00	July 1, 2003
1926	(869-050-00109-8)	50.00	July 1, 2003	<b>41 Chapters:</b>			
1927-End	(869-050-00110-1)	62.00	July 1, 2003	1, 1-1 to 1-10		13.00	<sup>3</sup> July 1, 1984
<b>30 Parts:</b>				1, 1-11 to Appendix, 2 (2 Reserved)		13.00	<sup>3</sup> July 1, 1984
1-199	(869-050-00111-0)	57.00	July 1, 2003	3-6		14.00	<sup>3</sup> July 1, 1984
200-699	(869-050-00112-8)	50.00	July 1, 2003	7		6.00	<sup>3</sup> July 1, 1984
700-End	(869-050-00113-6)	57.00	July 1, 2003	8		4.50	<sup>3</sup> July 1, 1984
<b>31 Parts:</b>				9		13.00	<sup>3</sup> July 1, 1984
0-199	(869-050-00114-4)	40.00	July 1, 2003	10-17		9.50	<sup>3</sup> July 1, 1984
200-End	(869-050-00115-2)	64.00	July 1, 2003	18, Vol. I, Parts 1-5		13.00	<sup>3</sup> July 1, 1984
<b>32 Parts:</b>				18, Vol. II, Parts 6-19		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. I		15.00	<sup>2</sup> July 1, 1984	18, Vol. III, Parts 20-52		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. II		19.00	<sup>2</sup> July 1, 1984	19-100		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. III		18.00	<sup>2</sup> July 1, 1984	1-100	(869-050-00165-9)	23.00	<sup>7</sup> July 1, 2003
1-190	(869-050-00116-1)	60.00	July 1, 2003	101	(869-050-00166-7)	24.00	July 1, 2003
191-399	(869-050-00117-9)	63.00	July 1, 2003	102-200	(869-050-00167-5)	50.00	July 1, 2003
400-629	(869-050-00118-7)	50.00	July 1, 2003	201-End	(869-050-00168-3)	22.00	July 1, 2003
630-699	(869-050-00119-5)	37.00	<sup>7</sup> July 1, 2003	<b>42 Parts:</b>			
700-799	(869-050-00120-9)	46.00	July 1, 2003	1-399	(869-050-00169-1)	60.00	Oct. 1, 2003
800-End	(869-050-00121-7)	47.00	July 1, 2003	400-429	(869-050-00170-5)	62.00	Oct. 1, 2003
<b>33 Parts:</b>				430-End	(869-050-00171-3)	64.00	Oct. 1, 2003
1-124	(869-050-00122-5)	55.00	July 1, 2003	<b>43 Parts:</b>			
125-199	(869-050-00123-3)	61.00	July 1, 2003	1-999	(869-050-00172-1)	55.00	Oct. 1, 2003
200-End	(869-050-00124-1)	50.00	July 1, 2003	1000-end	(869-050-00173-0)	62.00	Oct. 1, 2003
<b>34 Parts:</b>				<b>44</b>	(869-050-00174-8)	50.00	Oct. 1, 2003
1-299	(869-050-00125-0)	49.00	July 1, 2003	<b>45 Parts:</b>			
300-399	(869-050-00126-8)	43.00	<sup>7</sup> July 1, 2003	1-199	(869-050-00175-6)	60.00	Oct. 1, 2003
400-End	(869-050-00127-6)	61.00	July 1, 2003	200-499	(869-050-00176-4)	33.00	<sup>9</sup> Oct. 1, 2003
<b>35</b>	(869-050-00128-4)	10.00	<sup>6</sup> July 1, 2003	500-1199	(869-050-00177-2)	50.00	Oct. 1, 2003
<b>36 Parts:</b>				1200-End	(869-050-00178-1)	60.00	Oct. 1, 2003
1-199	(869-050-00129-2)	37.00	July 1, 2003	<b>46 Parts:</b>			
200-299	(869-050-00130-6)	37.00	July 1, 2003	1-40	(869-050-00179-9)	46.00	Oct. 1, 2003
300-End	(869-050-00131-4)	61.00	July 1, 2003	41-69	(869-050-00180-2)	39.00	Oct. 1, 2003
<b>37</b>	(869-050-00132-2)	50.00	July 1, 2003	70-89	(869-050-00181-1)	14.00	Oct. 1, 2003
<b>38 Parts:</b>				90-139	(869-050-00182-9)	44.00	Oct. 1, 2003
0-17	(869-050-00133-1)	58.00	July 1, 2003	140-155	(869-050-00183-7)	25.00	<sup>9</sup> Oct. 1, 2003
18-End	(869-050-00134-9)	62.00	July 1, 2003	156-165	(869-050-00184-5)	34.00	<sup>9</sup> Oct. 1, 2003
<b>39</b>	(869-050-00135-7)	41.00	July 1, 2003	166-199	(869-050-00185-3)	46.00	Oct. 1, 2003
<b>40 Parts:</b>				200-499	(869-050-00186-1)	39.00	Oct. 1, 2003
1-49	(869-050-00136-5)	60.00	July 1, 2003	500-End	(869-050-00187-0)	25.00	Oct. 1, 2003
50-51	(869-050-00137-3)	44.00	July 1, 2003	<b>47 Parts:</b>			
52 (52.01-52.1018)	(869-050-00138-1)	58.00	July 1, 2003	0-19	(869-050-00188-8)	61.00	Oct. 1, 2003
52 (52.1019-End)	(869-050-00139-0)	61.00	July 1, 2003	20-39	(869-050-00189-6)	45.00	Oct. 1, 2003
53-59	(869-050-00140-3)	31.00	July 1, 2003	40-69	(869-050-00190-0)	39.00	Oct. 1, 2003
60 (60.1-End)	(869-050-00141-1)	58.00	July 1, 2003	70-79	(869-050-00191-8)	61.00	Oct. 1, 2003
60 (Apps)	(869-050-00142-0)	51.00	<sup>8</sup> July 1, 2003	80-End	(869-050-00192-6)	61.00	Oct. 1, 2003
61-62	(869-050-00143-8)	43.00	July 1, 2003	<b>48 Chapters:</b>			
63 (63.1-63.599)	(869-050-00144-6)	58.00	July 1, 2003	1 (Parts 1-51)	(869-050-00193-4)	63.00	Oct. 1, 2003
63 (63.600-63.1199)	(869-050-00145-4)	50.00	July 1, 2003	1 (Parts 52-99)	(869-050-00194-2)	50.00	Oct. 1, 2003
63 (63.1200-63.1439)	(869-050-00146-2)	50.00	July 1, 2003	2 (Parts 201-299)	(869-050-00195-1)	55.00	Oct. 1, 2003
63 (63.1440-End)	(869-050-00147-1)	64.00	July 1, 2003	3-6	(869-050-00196-9)	33.00	Oct. 1, 2003
64-71	(869-050-00148-9)	29.00	July 1, 2003	7-14	(869-050-00197-7)	61.00	Oct. 1, 2003
				15-28	(869-050-00198-5)	57.00	Oct. 1, 2003
				29-End	(869-050-00199-3)	38.00	<sup>9</sup> Oct. 1, 2003
				<b>49 Parts:</b>			
				1-99	(869-050-00200-1)	60.00	Oct. 1, 2003

Title	Stock Number	Price	Revision Date
100-185 .....	(869-050-00201-9) .....	63.00	Oct. 1, 2003
186-199 .....	(869-050-00202-7) .....	20.00	Oct. 1, 2003
200-399 .....	(869-050-00203-5) .....	64.00	Oct. 1, 2003
400-599 .....	(869-050-00204-3) .....	63.00	Oct. 1, 2003
600-999 .....	(869-050-00205-1) .....	22.00	Oct. 1, 2003
1000-1199 .....	(869-050-00206-0) .....	26.00	Oct. 1, 2003
1200-End .....	(869-048-00207-8) .....	33.00	Oct. 1, 2003
<b>50 Parts:</b>			
1-16 .....	(869-050-00208-6) .....	11.00	Oct. 1, 2003
17.1-17.95 .....	(869-050-00209-4) .....	62.00	Oct. 1, 2003
17.96-17.99(h) .....	(869-050-00210-8) .....	61.00	Oct. 1, 2003
17.99(i)-end .....	(869-050-00211-6) .....	50.00	Oct. 1, 2003
18-199 .....	(869-050-00212-4) .....	42.00	Oct. 1, 2003
200-599 .....	(869-050-00213-2) .....	44.00	Oct. 1, 2003
600-End .....	(869-050-00214-1) .....	61.00	Oct. 1, 2003
<b>CFR Index and Findings</b>			
Aids .....	(869-050-00048-2) .....	59.00	Jan. 1, 2003
Complete 2004 CFR set .....		1,342.00	2004
<b>Microfiche CFR Edition:</b>			
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<sup>1</sup> Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup> 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.

<sup>3</sup> 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.

<sup>4</sup> 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.

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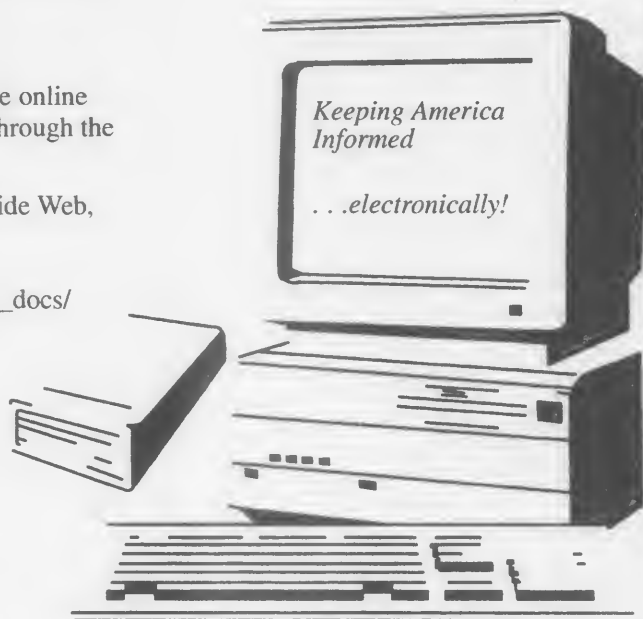
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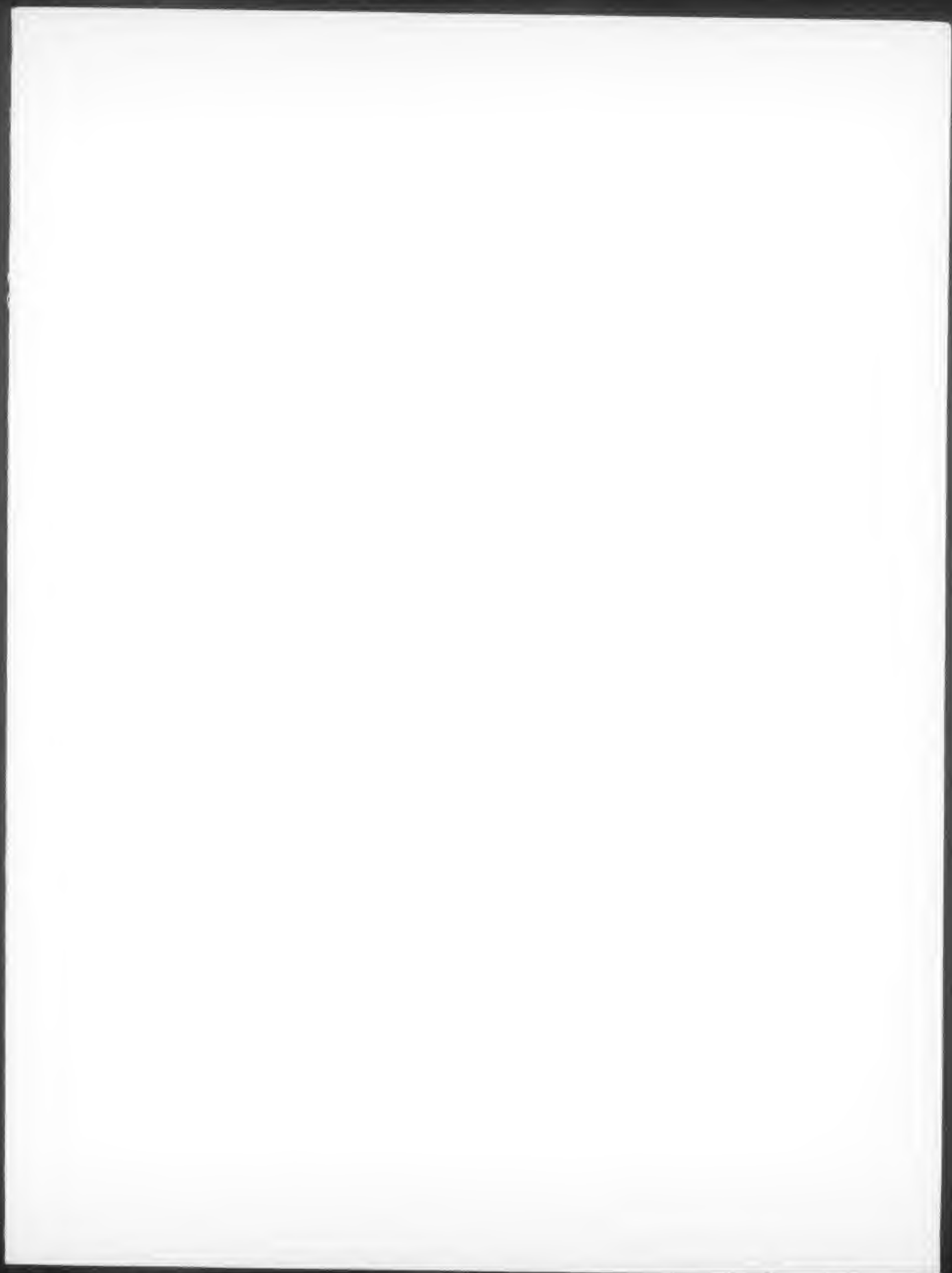
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