

(2) For Nickel Cadmium coated disks listed by P/N in Chart C of PW ASB No. 6038, Revision 5, dated August 17, 1994, inspect and recoat or remove from service in accordance with PW JT8D Engine Manual, P/N 481672, at the time intervals specified in Table B of this AD.

(3) For Aluminide coated disks listed by P/N in Chart B of PW ASB No. 6038, Revision 5, dated August 17, 1994, inspect and recoat or remove from service in accordance with PW JT8D Engine Manual, P/N 481672, at the time intervals specified in Table C of this AD.

**TABLE A.—INSPECTION INTERVAL FOR LOW UTILIZATION DISKS NiCAD COATED DISKS FROM CHART B OF PW ASB NO. 6038, REVISION 5, DATED AUGUST 17, 1994, AND ALUMINIDE COATED DISKS FROM CHART C OF PW ASB NO. 6038, REVISION 5, DATED AUGUST 17, 1994**

Years since new, replated or corrosion inspected (YRSNRC) per engine manual	Remove to inspect and recoat or replace
Less than or equal to 5.0 YRSNRC.	By 7 YRSNRC.
Greater than 5.0 but less than or equal to 6 YRSNRC.	Within 24 months of the effective date of this AD.
Greater than 6 but less than or equal to 7 YRSNRC.	Within 18 months of the effective date of this AD.
Greater than 7 but less than or equal to 8 YRSNRC.	Within 15 months of the effective date of this AD.
Greater than 8 but less than or equal to 9 YRSNRC.	Within 12 months of the effective date of this AD.
Greater than 9 but less than or equal to 10 YRSNRC.	Before reaching 10 YRSNRC.
Greater than 10 years	Before further flight.

**TABLE B.—INSPECTION INTERVAL FOR LOW UTILIZATION DISKS NiCAD COATED DISKS FROM CHART C OF PW ASB NO. 6038, REVISION 5, DATED AUGUST 7, 1994.**

Years since new, replated or corrosion inspected (YRSNRC) per engine manual	Remove to inspect and recoat or replace
Less than or equal to 5.0 YRSNRC.	By 7 YRSNRC.
Greater than 5.0 but less than or equal to 6 YRSNRC.	Within 24 months of the effective date of this AD.
Greater than 6 but less than or equal to 7 YRSNRC.	Within 21 months of the effective date of this AD.
Greater than 7 but less than or equal to 8 YRSNRC.	Within 18 months of the effective date of this AD.
Greater than 8 but less than or equal to 9 YRSNRC.	Within 15 months of the effective date of this AD.

**TABLE B.—INSPECTION INTERVAL FOR LOW UTILIZATION DISKS NiCAD COATED DISKS FROM CHART C OF PW ASB NO. 6038, REVISION 5, DATED AUGUST 7, 1994.—Continued**

Years since new, replated or corrosion inspected (YRSNRC) per engine manual	Remove to inspect and recoat or replace
Greater than 9 but less than or equal to 10 YRSNRC.	Within 12 months of the effective date of this AD.
Greater than 10 but less than or equal to 11 YRSNRC.	Before reaching 11 YRSNRC.
Greater than 11 years	Before further flight.

**TABLE C.—INSPECTION INTERVAL FOR LOW UTILIZATION DISKS ALUMINIDE COATED DISKS FROM CHART B OF PW ASB NO. 6038, REVISION 5, DATED AUGUST 17, 1994.**

Years since new, replated or corrosion inspected (YRSNRC) per engine manual	Remove to inspect and recoat or replace
Less than or equal to 5.0 YRSNRC.	By 7 YRSNRC.
Greater than 5.0 but less than or equal to 6 YRSNRC.	Within 24 months of the effective date of this AD.
Greater than 6 but less than or equal to 7 YRSNRC.	Within 18 months of the effective date of this AD.
Greater than 7 but less than or equal to 8 YRSNRC.	Within 12 months of the effective date of this AD.
Greater than 8 but less than or equal to 9 YRSNRC.	Before reaching 9 YRSNRC.
Greater than 9 years	Before further flight.

(e) For stage 7 through stage 12 HPC disks that have been recoated in accordance with paragraphs (b)(1), (c)(1), or (d)(1) of this AD, designate these disks as high utilization and perform the following:

(1) For disks installed in an engine that is part of a high utilization fleet, comply with the requirements of paragraph (b) of this AD.

(2) For disks installed in an engine that is part of a low utilization fleet, comply with the requirements of paragraph (c) of this AD.

(f) For the purpose of this AD, recoat of an HPC disk is defined as removal and application of new plating or coating in accordance with Sections 72-36-41, Repair 02; 72-36-42, Repair 02; 72-36-43, Repair 03; 72-36-44, Repair 03; 72-36-45, Repair 03; or 72-36-46, Repair 03, as applicable, of PW JT8D Engine Manual P/N 481672.

(g) For the purpose of this AD, part accessibility is defined as the removal of the disk from the engine and deblading of that disk.

(h) For the purpose of this AD, a sub-fleet is defined as any individual aircraft or any portion of an operator's fleet that operates in a separate and unique route structure,

characterized by different flight lengths, frequencies, or geographic location.

(i) 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, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

**Note 4:** Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

(j) 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 aircraft to a location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on September 10, 1997.

**Mark C. Fulmer,**

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

[FR Doc. 97-24799 Filed 9-16-97; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Institute of Standards and Technology

#### 15 CFR Part 295

[Docket No. 970822201-7201-01]

RIN 0693-AB44

#### Advanced Technology Program

**AGENCY:** National Institute of Standards and Technology, Technology Administration, Commerce.

**ACTION:** Notice of proposed rulemaking; request for comments.

**SUMMARY:** The National Institute of Standards and Technology requests comments on proposed revisions to the regulations which implement the Advanced Technology Program (ATP), found at part 295 of title 15 of the Code of Federal Regulations. Major changes proposed today include an increase in the cost-sharing requirement for large companies applying as single proposers in future competitions; modification of the ATP evaluation criteria for project selection to place greater emphasis on joint ventures and consortia with a broad range of participants; and changes in the valuation of transfers between separately-owned joint venture members and applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are

transferred from one joint venture member to other separately-owned joint venture members. These changes strengthen the fundamental mission of the ATP: for Government to work in partnership with industry to foster the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant, broad-based economic benefits for the nation.

**DATES:** Comments on the proposed program must be received no later than October 17, 1997.

**ADDRESSES:** Comments on the proposed program must be submitted in writing to: Advanced Technology Program Rule Comments, National Institute of Standards and Technology, Room A333, Administration Building, Gaithersburg, MD 20899-0001.

**FOR FURTHER INFORMATION CONTACT:** To receive additional program information, contact Barbara Lambis at (301) 975-4447.

**SUPPLEMENTARY INFORMATION:** In a statement to Congress in March of 1997, Secretary of Commerce William M. Daley announced a Departmental study of several issues raised by Members of Congress and others concerning the policies and procedures of the ATP. The study was designed to make recommendations for possible changes to improve the effectiveness of the program. Following issuance of a 30-day notice of opportunity for public comment on ways to improve the operation of the ATP, recommendations for possible changes were made to improve the effectiveness of the program.

In order to implement the recommendations and the decisions of Secretary Daley, the National Institute of Standards and Technology is today proposing changes to the operating procedures of the Advanced Technology Program found at part 295 of title 15 of the Code of Federal Regulations. These changes strengthen the fundamental mission of the ATP: For Government to work in partnership with industry to foster the development and broad dissemination of challenging, high-risk technologies that offer the potential for significant, broad-based economic benefits for the nation. Such a unique government-industry research partnership fosters the acceleration not only of dramatic gains in existing industries, but also acceleration of the development of emerging or enabling technologies leading to revolutionary new products, industrial processes and services for the world's markets and work to spawn industries of the 21st century. Furthermore, the proposed

changes also ensure that the fundamental strengths of the ATP remain unchanged, especially the requirement that the ATP continue to be a wholly merit-driven program based on peer review. These changes are reflected in proposed amendments to the regulation contained in this Notice:

- Proposed revised section 295.32(b) increases the cost-sharing requirement for large companies applying as single proposers in future competitions. "Large businesses" as the term is proposed to be defined in the revised Sec. 295.2(k), are proposed to cost-share at a minimum of 60 percent. This change is proposed to provide an incentive for large companies to participate in joint ventures and to guarantee that large companies pay a majority of total project costs.

- The term "large business" is proposed to be defined as including any business, including any parent company and related subsidiaries, having revenues in excess of the amount published by ATP in the relevant annual notice of availability of funds. In establishing this amount, ATP may consider the dollar value of the total revenues of the 500th company in Fortune Magazine's Fortune 500 listing. This is a response to a perceived need to eliminate the problem of unintentionally disadvantaging thousands of medium-sized firms of limited resources. The new definition provides for a simple, unambiguous and relatively effective measure of size.

- The ATP evaluation criteria for project selection are proposed to be modified to: (1) place greater emphasis on joint ventures and consortia with a broad range of participants; and (2) better define the multi-step selection process based on all of the criteria in Sec. 295.6. these proposed changes reaffirm ATP's increased emphasis on partnerships as part of the ATP's overall goals. Further, these changes will encourage joint ventures and consortia that team large companies with smaller companies and other technology resources, such as universities and federal laboratories, and will create new relationships among small and large companies to develop new technologies and bring them to commercialization.

- A new rule is proposed regarding the valuation of transfers between separately-owned joint venture members and applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are transferred from one joint venture member to other separately-owned joint venture members. This proposal

resulted from negotiations between the Department of Commerce's Inspector General and ATP concerning the valuation of transfers of certain goods and services within joint ventures. This proposal appears in Sec. 295.25.

- Also, a number of administrative and clerical changes are proposed to be implemented to Part 295 for consistency and clarity.

#### **Request for Comments**

The National Institute of Standards and Technology requests comments on the draft revisions to regulations found at 15 CFR part 295, implementing the Advanced Technology Program, which are included in this notice. Persons interested in commenting on the proposed program should submit their comments in writing to the above address. All comments received in response to this notice will become part of the public record and will be available for inspection and copying in the Commerce Department's Central Reference and Records Inspection Facility, Herbert Hoover Building, Room 6020, 14th Street between E Street and Constitution Avenue NW., Washington, DC 20230.

#### **Additional Information**

##### *Executive Order 12866*

This rule has been determined not to be significant under section 3(f) of Executive Order 12866.

##### *Executive Order 12612*

This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612.

##### *Regulatory Flexibility Act*

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy, Small Business Administration, that this rule, if promulgated, will not have a significant economic effect on a substantial number of small entities. (5 U.S.C. 605(b)). This is because there are only a small number of awardees and thus only a small number of awards will be given to small businesses. Specifically, based on past experience and currently foreseen budgets, the ATP would expect to receive only a few hundred proposals annually from small businesses, and from these, to make under 100 awards. The program is entirely voluntary for the participants that seek funding.

*Paperwork Reduction Act*

Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number.

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act. The collection of information requirement applies to persons seeking financial assistance under the Advanced Technology Program as well as reporting requirements if financial assistance is granted. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3507 of the Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to range between 20 and 30 hours per submission and 3 hours annually for recipients of financial assistance to provide monitoring reports. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Comments are requested concerning: (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 NIST's burden estimate; (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. Comments should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: Desk Officer for NIST); and to Barbara Lambis, Room A333, Administration Building, National Institute of Standards and Technology, Gaithersburg, MD 20899.

*National Environmental Policy Act*

This rule will not significantly affect the quality of the human environment. Therefore, an environmental assessment

or Environmental Impact Statement is not required to be prepared under the National Environmental Policy Act of 1969.

*Executive Order 12372*

Executive Order 12372 "Intergovernmental Review of Federal Programs" does not apply to this program.

**List of Subjects in 15 CFR Part 295**

Inventions and patents, Laboratories, Research, Science and Technology, Scientists.

Dated: September 12, 1997.

**Elaine Buntin-Mines,**  
*Director, Program Office.*

For reasons set forth in the preamble, it is proposed that title 15, part 295 of the Code of Federal Regulations be amended as follows:

**PART 295—ADVANCED TECHNOLOGY PROGRAM**

1. The authority citation for part 295 continues to read as follows:

**Authority:** 15 U.S.C. 278n.

2. Section 295.1 is revised to read as follows:

**§ 295.1 Purpose.**

(a) The purpose of the Advanced Technology Program (ATP) is to assist United States businesses to carry out research and development on high risk, high pay-off, emerging and enabling technologies. These technologies are:

- (1) High risk, because the technical challenges make success uncertain;
- (2) High pay-off, because when applied, they offer significant benefits to the U.S. economy; and
- (3) Emerging and enabling, because they offer wide breadth of potential application and form an important technical basis for future commercial applications.

(b) These rules prescribe policies and procedures for the award of cooperative agreements under the advanced Technology Program in order to ensure the fair treatment of all proposals. While the Advanced Technology Program is authorized to enter into grants, cooperative agreements, and contracts to carry out its mission, these rules address only the award of cooperative agreements. The Program employs cooperative agreements rather than grants because such agreements allow ATP to exercise appropriate management oversight of projects and also to link ATP-funded projects to ongoing R&D at the National Institute of Standards and Technology wherever such linkage would increase the likelihood of success of the project.

(c) In carrying out this rule, the Program endeavors to put more emphasis on joint ventures and consortia with a broad range of participants, including large companies, and less emphasis on support of individual large companies.

3. Section 295.2(c) is revised to read as follows:

**§ 295.2 Definitions.**

\* \* \* \* \*

(c) The term "direct costs" means costs that can be identified readily with activities carried out in support of a particular final objective. A cost may not be allocated to an award as a direct cost if any other cost incurred for the same purpose in like circumstances has been assigned to an award as an indirect cost. Because of the diverse characteristics and accounting practices of different organizations, it is not possible to specify the types of costs which may be classified as direct costs in all situations. However, typical direct costs could include salaries of personnel working on the ATP project and associated reasonable fringe benefits such as medical insurance. Direct costs might also include supplies and materials, special equipment required specifically for the ATP project, and travel associated with the ATP project. ATP shall determine the allowability of direct costs in accordance with applicable Federal cost principles.

\* \* \* \* \*

4. Section 295.2 is further amended by removing paragraph (e), redesignating paragraphs (f) through (k) as paragraphs (e) through (j), removing paragraph (n), redesignating paragraphs (o) through (r) as paragraphs (n) through (q), and adding new paragraph (k) to read as follows:

**§ 295.2 Definitions.**

\* \* \* \* \*

(k) The term "large business" for a particular ATP competition means any business, including any parent company and related subsidiaries, having revenues in excess of the amount published by ATP in the relevant annual notice of availability of funds required by § 295.7(a). In establishing this amount, ATP may consider the dollar value of the total revenues of the 500th company in Fortune Magazine's Fortune 500 listing.

\* \* \* \* \*

5. The newly designated § 295.2(g) is revised to read as follows:

**§ 295.2 Definitions.**

\* \* \* \* \*

(g) The term "indirect costs" means those costs incurred for common or joint

objectives that cannot be readily identified with activities carried out in support of a particular final objective. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose in like circumstances has been assigned to an award as a direct cost. Because of diverse characteristics and accounting practices it is not possible to specify the types of costs which may be classified as indirect costs in all situations. However, typical examples of indirect costs include general administration expenses, such as the salaries and expenses of executive officers, personnel administration, maintenance, library expenses, and accounting. ATP shall determine the allowability of indirect costs in accordance with applicable Federal cost principles.

\* \* \* \* \*

6. The newly designated § 295.2(h) is revised to read as follows:

#### § 295.2 Definitions.

\* \* \* \* \*

(h) The term "industry-led joint research and development venture" means a joint research and development venture that consists of two or more separately-owned, for-profit businesses that perform research and development in the project; control the venture's membership, research directions, and funding priorities; and share total project costs with the Federal government. The venture may include additional companies, independent research organizations, universities, and/or governmental laboratories (other than NIST) which may or may not contribute funds (other than Federal funds) to the project and perform research and development. An independent research organization may perform administrative tasks on behalf of an industry-led joint research and development venture, such as handling receipts and disbursements of funds and making antitrust filings.

\* \* \* \* \*

7. Redesignated § 295.2(j)(1)(vi) is revised to read as follows:

#### § 295.2 Definitions.

\* \* \* \* \*

(j) \* \* \*  
(1) \* \* \*

(vi) Any combination of the purposes specified in paragraphs (j)(1)(i), (ii), (iii), (iv) and (v) of this section, and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture, but does not

include any activity specified in paragraph (j)(2) of this section.

\* \* \* \* \*

8. Section 295.2(l) is revised to read as follows:

#### § 295.2 Definitions.

\* \* \* \* \*

(l) The term "matching funds or cost sharing" means that portion of project costs not borne by the federal government. Sources of revenue to satisfy the required cost share include cash and in-kind contributions. Cash contributions can be from recipient, state, county, city, or other non-Federal sources. In-kind contributions can be made by recipients or non-federal third parties (except subcontractors working on an ATP project) and include but are not limited to equipment, research tools, software, and supplies. Except as specified at § 295.25 of this regulation, the value of in-kind contributions shall be determined in accordance with OMB Circular A-110, Subpart C, Section 23. The value of in-kind contributions will be prorated according to the share of total use dedicated to the ATP program. ATP restricts the total value of in-kind contributions that can be used to satisfy the cost share by requiring that such contributions not exceed 30 percent of the non-federal share of the total project costs. ATP shall determine the allowability of matching share costs in accordance with applicable Federal cost principles.

\* \* \* \* \*

9. Section 295.3(c) is added as follows:

#### § 295.3 Eligibility of United States and foreign-owned businesses.

\* \* \* \* \*

(c) Companies owned by legal residents (green card holders) may apply to the Program, but before an award can be given, the owner(s) must either become a citizen or ownership must be transferred to a U.S. citizen(s).

10. Section 295.4 is revised to read as follows:

#### § 295.4 The selection process.

(a) The selection process for awards is a multi-step process based on the criteria listed in § 295.6. A source evaluation board (SEB) is established to ensure that all proposals receive careful consideration. In the first step, called "preliminary screening," proposals are eliminated that do not meet the requirements of this rule or the Program announcement. Typical but not exclusive of the reasons for eliminating a proposal at this stage is that the proposal: is deemed to have serious deficiencies in either the technical or

business plan; involves product development rather than high risk R&D; is not industry-led; is significantly overpriced or underpriced given the scope of the work; does not meet the requirements set out in the notice of availability of funds issued pursuant to § 295.7; or, in the case of joint ventures, requests more than a minority share of funding. NIST will also examine proposals that have been submitted to a previous competition to determine whether substantive revisions have been made to the earlier proposal, and, if not, may reject the proposal or forward it to a later stage in the review process based upon the earlier review.

(b) In the second step, referred to as the "technical and business review," proposals are evaluated under the criteria found in § 295.6. Proposals judged to have the highest merit based on the selection criteria receive further consideration and are referred to as "semifinalists."

(c) In the third step, referred to as "selection of finalists," the Program prepares a final scoring and ranking of semifinalist proposals. During this step, the semifinalist proposers may be asked to make oral presentations on their proposals at NIST, and in some cases site visits may be required. Subject to the provisions of § 295.6, a list of ranked finalists is submitted to the Selecting Official.

(d) In the final step, referred to as "selection of awardees," the Selecting Official selects funding recipients from among the finalists, based upon:

(1) The rank order of the proposals on the basis of all selection criteria § 295.6;  
(2) Assuring an appropriate distribution of funds among technologies and their applications; and  
(3) The availability of funds. The

Selecting Official is responsible for ensuring that only proposals that meet the Program selection criteria receive awards. The Program reserves the right to withhold awards in any case where a search of Federal records discloses information that raises a reasonable doubt as to the responsibility of the proposer. The decision of the Selecting Official is final.

(e) If a joint venture is ranked as a finalist, but the Program determines that the joint venture contains weaknesses in its structure or cohesiveness that may substantially lessen the probability of the proposed program being completed successfully, the Program may inform the proposer of the deficiencies and enter into negotiations with the proposer in an effort to remedy the deficiencies. If appropriate, funding up to 10 percent of the amount originally requested by the proposer may be

awarded by the Program to the proposer to assist in overcoming the organizational deficiencies. If the Program determines within six months of this award that the organizational deficiencies have been corrected, the Program may award the remaining funds requested by the proposer to that proposer.

(f) NIST reserves the right to negotiate with proposers selected to receive awards the cost and scope of the proposed work, e.g., to add or delete a task(s) to improve the probability of success or to make the proposal more consistent with ATP's mission.

11. Section 295.6 is revised to read as follows:

**§ 295.6 Criteria for selection.**

The evaluation criteria to be used in selecting any proposal for funding under this Program, and their respective weights, are listed below. No proposal will be funded unless the Program determines that it has high scientific and technical merit, no matter how meritorious the proposal might be with respect to the other selection criteria. Similarly, no proposal will be funded that does not require Federal support or that is product development rather than high risk R&D.

(a) Scientific and Technical Merit (30 percent).

(1) Quality, innovativeness, and cost-effectiveness of the proposed technical program, that is, uniqueness with respect to current industry practice. Proposers shall compare and contrast their approaches with those taken by other domestic and foreign companies working in the same field.

(2) Appropriateness of the technical risk and feasibility of the project, that is, is there a sufficient knowledge base to justify the level of technical risk involved, and is the risk commensurate with the potential payoff. Projects should press the state of the art while still having credibility with regard to technical approach.

(3) Coherency of the technical plan and clarity of vision of the technical objectives, and the degree to which the technical plan meets the project and, and in the case of focused program competitions, program goals.

(4) Integrated, forward-looking, team approach to the project. This factor includes the extent to which the R&D team will take into account aspects such as research and raw material suppliers and considerations of manufacturability and requirements of customers, regulatory concerns, safety issues, and environmental impacts. It also includes the extent to which all of the necessary technical disciplines will be brought

into the R&D and how R&D, manufacturing, and marketing will work together in an integrated fashion.

(5) Potential broad impact on U.S. technology and knowledge base.

(b) Potential Net Broad-Based Economic Benefits (20 percent). Potential to improve U.S. economic growth, taking into account the timeliness of the proposal; that is, the potential project results will not occur too late or too early to be competitively useful, and the degree to which ATP support is essential for the achievement of the broad-based benefits from the proposed R&D and appropriateness of proposed R&D for ATP support. This criterion takes into consideration the likelihood of the results being achieved in the same general time frame by the proposer or by other U.S. researchers without ATP support, and whether other Federal agencies or other sponsors are already funding very similar kinds of work. Projects will not be selected if the Program judges that Federal support is not needed. In assessing the potential for broad-based economic benefits, emphasis is placed on a strong potential for spillover benefits extending well beyond those accruing to the awardee(s). Benefits are compared against the costs of the proposal to determine cost-effectiveness of the proposal.

(c) Adequacy of Plans for Eventual Commercialization (20 percent).

(1) Evidence that if the project is successful, the proposers will pursue further development of the technology toward commercial application, either through their own organization(s) or through others.

(2) Degree to which proposal identifies potential applications of the technology and provides evidence that the proposer has credible plans to assure prompt and widespread use of the technology if the R&D is successful and to ensure adequate protection of the intellectual property by the participant(s) and, as appropriate, by other U.S. businesses.

(d) Level of Commitment and Organizational Structure (20 percent).

(1) Level of commitment of proposer as demonstrated by contribution of personnel, equipment, facilities, and cost-sharing. Extent to which the proposer assigns the company's best people to the project. Priority given to this work in relation to other company activities.

(2) For joint ventures, the extent to which the joint venture has been structured (vertical integration, horizontal integration, or both) so as to include sufficient participants possessing all of the skills required to

complete successfully the proposed work.

(3) For joint ventures, the extent to which participation by small businesses is encouraged and is a key component of the proposal.

(4) Appropriateness of subcontractor/supplier/collaborator participation and relationships (where applicable). For large company single proposers, the extent to which subcontractor teaming arrangements are featured and are a key component of the proposal.

(5) Clarify and appropriateness of management plan. Extent to which the proposers have clarified who is responsible for each task, and the chain of command. Extent to which those responsible for the work have adequate authority and access to higher level management.

(e) Experience and Qualifications (10 percent).

(1) Adequacy of proposer's facilities, equipment, and other technical, financial, and administrative resources to accomplish the proposed program objectives. This factor includes consideration of resources possessed by subcontractors to the proposer or other collaborators.

(2) Quality and appropriateness of the technical staff to carry out the proposed work program and to identify and overcome barriers to meeting project objectives.

(3) Past performance of the company or joint venture members in carrying out similar kinds of efforts successfully, including technology application. Consideration of this factor in the case of a start-up company or new joint venture, will take into account the past performance of the key people in carrying out similar kinds of efforts.

(f) Each of the subfactors within a selection criterion shall be weighted equally.

(12) Section 295.12 is revised to read as follows:

**§ 295.12 Special reporting and auditing requirements.**

Each award by the Program shall contain procedures regarding technical, business, and financial reporting and auditing requirements to ensure that awards are being used in accordance with the Program's objectives and applicable Federal cost principles. The purpose of the technical reporting is to monitor "best effort" progress toward overall project goals. The purpose of the business reporting system is to monitor project performance against the Program's mission as required by the Government Performance and Results Act (GPRA) mandate for program evaluation. The audit standards to be

applied to ATP awards are the "Government Auditing Standards (GAS) issued by the Comptroller General of the United States (also known as yellow book standards) and the ATP program-specific audit guidelines.

The ATP program-specific audit guidelines include guidance on the number of audits required under an award. In the interest of efficiency, the recipients are encouraged to retain their own independent CPA firm to perform these audits. The Department of Commerce's Office of Inspector General (OIG) reserves the right to conduct audits as deemed necessary and appropriate.

#### **§ 295.12 [Removed]**

13. Section 295.14 is removed.

14. Section 295.22 is revised to read as follows:

#### **§ 295.22 Limitations on assistance.**

(a) An award will be made under this subpart only if the award will facilitate the formation of a joint venture or the initiation of a new research and development project by an existing joint venture.

(b) The total value of any in-kind contributions used to satisfy the cost sharing requirement may not exceed 30 percent of the non-federal share of the total project costs.

15. Section 295.25 is added as follows:

#### **§ 295.25 Special rule for the valuation of transfers between separately-owned joint venture members.**

(a) *Applicability.* This section applies to transfers of goods, including computer software, and services provided by the transferor related to the maintenance of those goods, when those goods or services are transferred from one joint venture member to other separately-owned joint venture members.

(b) *Rule.* The greater amount of the actual cost of the transferred goods and services as determined in accordance with applicable Federal cost principles, or 75 percent of the best customer price of the transferred goods and services, shall be deemed to be allowable costs; provided, however, that in no event shall the aggregate of these allowable costs exceed 30 percent of the non-Federal share of the total cost of the joint research and development program.

(c) *Definition.* The term "best customer price" shall mean the GSA schedule price, or if such price is unavailable, the lowest price at which a sale was made during the last twelve months prior to the transfer of the particular good or service.

16. Sections 295.31 and 295.32 are revised to read as follows:

#### **§ 295.31 Qualification of proposers.**

Awards under this subpart will be available to all businesses subject to the limitations set out in §§ 295.3 and 295.32.

#### **§ 295.32 Limitations on assistance.**

(a) The Program will not directly provide funding under this Subpart to any governmental entity, academic institution or independent research organization.

(b) For proposals submitted to ATP after November 1, 1997, awards to large businesses made under this Subpart shall not exceed 40 percent of the total project costs of those awards in any year of the award.

(c) Awards under this subpart may not exceed \$2,000,000, or be for more than three years, unless the Secretary provides a written explanation to the authorizing committees of both Houses of Congress and then, only after thirty days during which both Houses of Congress are in session. No funding for indirect costs, profits, or management fees shall be available for awards made under this Subpart.

(d) The total value of any in-kind contributions used to satisfy a cost sharing requirement may not exceed 30 percent of the non-federal share of the total project costs.

17. In addition to the amendments set forth above, in 15 CFR part 295 remove the word "applicants" or "applicant" and add in its place the word "proposers" or "proposer" in the following places

- a. Section 295.7(a), (b) and (c);
- b. Section 295.21 section heading;
- c. Subpart C heading; and
- d. Section 295.31 section heading.

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## **DEPARTMENT OF THE INTERIOR**

### **Office of Surface Mining Reclamation and Enforcement**

#### **30 CFR Part 934**

[OSM SPATS No. ND-035-FOR, North Dakota Amendment No. XXV]

#### **North Dakota Regulatory Program**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, Interior.

**ACTION:** Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

**SUMMARY:** The Office of Surface Mining Reclamation and Enforcement (OSM) is

announcing receipt of a proposed amendment to the North Dakota regulatory program (hereinafter, the "North Dakota program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of revisions to rules pertaining to a proposal to eliminate the requirement for companies to submit a copy of the federal reclamation fee report, changes to revegetation success standards, and a new rule on inspection frequencies for inactive mines. The amendment is intended to revise the North Dakota program to improve operational efficiency.

**DATES:** Written comments must be received by 4:00 p.m., m.d.t. October 17, 1997. If requested, a public hearing on the proposed amendment will be held on October 14, 1997. Requests to present oral testimony at the hearing must be received by 4:00 p.m., m.d.t. on October 2, 1997.

**ADDRESSES:** Written comments should be mailed or hand delivered to Guy Padgett at the address listed below.

Copies of the North Dakota program, the proposed amendment, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Casper Field Office.

Guy Padgett, Director, Casper Field Office, Office of Surface Mining Reclamation and Enforcement, 100 East "B" Street, Federal Building, room 2128, Casper, Wyoming 82601-1918

James R. Deutsch, Director, Reclamation Division, Public Service Commission, State Capitol, Bismarck, North Dakota 58505, Telephone: (701) 328-2252

**FOR FURTHER INFORMATION CONTACT:** Guy Padgett, (307) 261-6550; Internet address, gpadgett@osmre.gov.

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background on the North Dakota Program**

On December 15, 1980, the Secretary of the Interior conditionally approved the North Dakota program. General background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval of the North Dakota program can be found in the December 15, 1980 **Federal Register** (45 FR 82214). Subsequent actions concerning North Dakota's program and program amendments can