otherwise has Federalism implications. We have reviewed the proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this proposal does not impose substantial direct requirement costs on State and local governments, preempt State law, or otherwise has Federalism implications. On the contrary, the proposal provides for more flexibility for the States in the use of Federal funds, and establishes a working relationship between the Federal and State governments that will help the States improve access to quality care for those individuals in need of substance abuse or mental health services.

Paperwork Reduction

This proposal would assume information collection requirements that would be subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980. This **Federal Register** notice, however, is only seeking comment on proposed information collection and is not establishing a collection requirement. Therefore, doing a Paperwork Reduction Act analysis would be premature. The Department will comply with the requirements of the Paperwork Reduction Act when determinations have been made on the information to be collected and in advance of requiring the submission of that information.

Dated: November 18, 2002.

Charles G. Curie,

Administrator, Substance Abuse and Mental Health Services Administration.

Dated: December 18, 2002.

Tommy G. Thompson,

Secretary.

[FR Doc. 02–32304 Filed 12–23–02; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Community Mental Health Services Performance Partnership

AGENCY: Substance Abuse and Mental Health Services Administration (SAMHSA), HHS.

ACTION: Notice: Request for comments.

SUMMARY: Section 1949 of the Public Health Service Act as amended by Public Law 106–310 requires the Secretary of Health and Human Services to submit a plan to Congress detailing how the Secretary intends to change the current Community Mental Health Services (CMHS) Block Grant into a performance partnership. The plan, by statute, must include the following:

A description of the flexibility that would be given to the States under the plan;

The common set of performance measures that would be used for accountability;

The definitions for the data elements to be used under the plan;

The obstacles to implementation of the plan and the manner in which such obstacles would be resolved;

The resources needed to implement the performance partnerships under the plan; and

An implementation strategy complete with recommendations for any necessary legislation.

Section 1949 requires that the Secretary develop this plan in conjunction with the States and other interested parties. SAMHSA has been in discussion with the States for several years over this proposal. This FRN provides States and other interested parties an opportunity to comment on those discussions.

DATES: Comments on the information must be in writing and should be sent to: Joseph D. Faha, Director of Legislation/SAMHSA, 5600 Fishers Lane, Room 12–95, Rockville, Maryland 20857, by February 24, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph D. Faha, Director of Legislation/SAMHSA, 5600 Fishers Lane, Room 12–95, Rockville, Maryland 20857. Mr. Faha may be reached on (301) 443–4640.

SAMHSA seeks comments on its proposal to develop a plan for the changing of the current SAPT Block Grant from its current emphasis on process requirements, financial earmarks, and accountability based on narrative documentation of compliance and expenditure reports to a system referred to as a performance partnership that offers States more flexibility in the expenditure of funds while basing accountability on performance and develops a partnership between the Federal Government and State governments in the provision of substance abuse prevention and treatment services.

The current SAPT Block Grant program has its origins in the Alcohol, Drug Abuse and Mental Health Services Block Grant, first legislated in 1981. In its conception, the Federal Government gave funds to States based on a formula in statute for the purposes of providing substance abuse and community based mental health services with minimal programmatic and reporting requirements. Over time, the statute authorizing the program was changed to require the States to spend certain stipulated amounts on or to emphasize public health issues such as HIV, tuberculosis, pregnant addicts and others.

Performance Partnership Grants (PPG) represent a new paradigm in Federal and State relations and cooperation. Under this grant program, the Federal Government would acknowledge the ability of States to both recognize their own needs and to address them as they relate to the provision of substance abuse prevention and treatment services by increasing flexibility for the States in their use of block grant funds. It would also shift State accountability away from Federal monitoring of State processes and related expenditures to identifying the strengths of a State's service system and areas where it could be improved to the benefit of those in need of such services. The goal is ''continuous quality improvement.''

The next section of this notice presents the proposal. The first part of this section discusses how the new program will work and the second part of this section will share the measures that have been agreed to so far in our discussions with the States. This is followed by a section that lends some explanation for the changes. Finally, there is a section suggesting both general and specific questions to which you may wish to respond. Public comments will be taken into consideration in developing the plan the Secretary will submit to Congress.

Proposal

Operationalization

Eligibility and Distribution of Funds: SAMHSA proposes that those entities which are currently eligible to receive direct funding under the SAPT Block Grant would continue to be eligible and that the formula, recently revised, would be retained. Eligible entities include the 50 States, the District of Columbia, the Territories and the Red Lake Indian Tribe of Minnesota.

Use of Funds: SAPT Block Grant funds would be available as they are now for substance abuse prevention and treatment activities and for carrying out programs required under section 1924 of the Public Health Service Act which deals with early intervention services for HIV and with tuberculosis services. Language would be added to clarify in statute that funds may be used to train counselors and to collect and report performance measurement data.

In addition, under performance partnerships, SAMHSA proposes

retaining restrictions on the use of funds as follows:

For construction and major rehabilitation (unless waived by the Secretary as set out in current law) or purchase of major medical equipment;

For inpatient hospital substance abuse treatment, except if the treatment is a medical necessity for the individual involved as set out in current law;

To make cash payments to patients;

To support needle exchange programs;

To be used as a State match against other Federal programs;

To provide financial assistance to for-profit private entities;

To provide treatment in penal and correctional facilities of the State beyond what the State spent in 1991; and

For administrative expenses above 5 percent of the State's allocation.

Plans: States would be required to submit a plan every 3 years for the use of the funds including performance objectives for the 3 years unless the State or the Secretary believes circumstances dictated the need to revise the plan in the interim.

The plans would include three sections, the first of which would describe the system of services in the State including a demographic and client characteristic profile, client screening and placement procedures, the treatment options that are available, the use of Federal and non-Federal funds to provide substance abuse services, how the principal agency coordinates with other service delivery systems, and how the block grant funds are used.

A second section would be an analysis of any State or Federal data that might be available including performance data to identify the strengths of the system and areas where improvement may be needed.

A third section would propose, for the Secretary's approval, the areas the State wants to focus on for the 3 years of the plan to further improve the system. The areas that the State may want to focus on could be, but must not necessarily be, selected from among the core measures being used. For example, the data may show that a large percentage of those completing treatment are unemployed at the time of discharge and steady employment is a precursor of success in treatment. If a State chooses to focus on a particular area not among those covered by the core measures, for example, stigma against individuals with a substance abuse problem, then the State would be asked to identify a performance measure that could be used. If it appears that several States are focusing on an area, SAMHSA, the States and other interested parties will work together to develop a common measure. To clarify, all States will be required to submit data on the core measures. This paragraph is only a discussion of what areas a State would like to focus on for the sake of the plan. For a more complete discussion of the measures, please read that section later in this notice.

Annual Reports to SAMHSA: These reports would serve to keep SAMHSA and the States informed of the States' progress in meeting their goals and to report on remaining expenditure requirements including State maintenance of effort. States also would be required to report on their intended use of PPG funds for the next fiscal year. States are currently required to submit an annual report to the Secretary as part of their application which details how they met the requirements in statute.

Congressional Reports: Each year SAMHSA would submit a report to Congress summarizing the programs in each State and the State's progress in meeting its objectives. These reports will not compare and contrast States. Currently there is no requirement for a report to Congress.

Public Comment: SAMHSA proposes to retain the current requirements on seeking public comments which require the State to make the State application public in such a manner as to facilitate comment from any person during the development of the application. SAMHSA will be working with the States to further improve public access and participation.

Incentives: SAMHSA seeks ideas on building incentives into the system to encourage States to further improve the service system. Currently the system is built on enforcement principles of withholding funds and financial penalties for non-compliance with requirements of the program.

Particular Requirements in Current Law

Prevention Set Aside: SAMHSA proposes to retain the requirement that a minimum of 20 percent of PPG funds be expended for prevention activities. SAMHSA also proposes to change the current definition of prevention to one developed by the Institute of Medicine that refers to universal, selected and indicated interventions. Universal interventions are designed to reach an entire population or large audience, for example, a radio message on preventing substance abuse. Selective interventions target subgroups who may be at risk to use substances, for example, children of alcoholics. Indicated interventions identify individuals who are experiencing early signs of substance use and other problems.

Expenditure Requirement for Pregnant Women and Women with Dependent Children: SAMHSA proposes to retain the current set aside requirement that single State agencies maintain their level of financial support for pregnant addicts and women with children at the level the single State agency expended in 1994. SAMHSA also proposes to permit the Secretary to waive the requirement based on performance criteria to be developed.

Mandatory Services for Intravenous Drug Users: SAMHSA proposes to eliminate the requirement in favor of a performance measure related to the reduction of HIV transmissions.

Early Intervention for HIV: SAMHSA proposes to retain the requirement that States whose incidence of AIDS is at or greater than 10 per 100,000 of the general population use between 2 and 5 percent of their allocations for HIV early intervention services. SAMHSA also proposes to permit a waiver against this requirement with the criterion being based on the State's reduction of HIV transmissions among the substance abusing population.

SAMHSA also proposes to permit, but not require, States whose incidence of AIDS is below 10 per 100,000 of the general population to spend between 2 and 5 percent of their allotment on early intervention services if their incidence rate had been at or above the threshold level in either of the previous 2 years. This permits a more consistent State policy.

Tuberculosis Services: SAMHSA proposes to retain the requirement that States are to ensure that entities which receive block grant funds make available tuberculosis services to each individual receiving treatment and, if an individual is denied treatment based on lack of capacity, will refer the individual to another provider of tuberculosis services. SAMHSA also proposes to give the Secretary the authority to waive this requirement using performance criteria.

Group Homes: Currently States have the option as to whether to maintain a $100,000 revolving fund to support recovery homes. SAMHSA proposes to maintain this as an optional requirement.

Preference for Pregnant Addicts: SAMHSA proposes to retain the requirement that pregnant addicts be given preferential placement in funded facilities.

Improving Referrals/Continuing Education/Coordination of Services: SAMHSA proposes to eliminate the requirements that States take deliberate steps to improve their referral systems

and that States ensure that substance abuse services are coordinated with other social service programs. States will be submitting information in the first section of the State plan on how they assess and refer individuals in need of treatment and how they coordinate with other service delivery systems. Because of the need to improve the skills of substance abuse counselors, SAMHSA proposes to retain the requirement on continuing education and as has been previously stated to affirm that block grant funds may be used for training.

Maintenance of Effort: SAMHSA proposes to retain the current requirement that States be required to spend State funds for the single State agency of the State responsible for substance abuse services at a level at least equal to the average that the State spent in the past 2 years. The penalty is a loss of a dollar of allocation under the program for each dollar the State is short in meeting its requirement. SAMHSA proposes to retain current statutory provisions which authorizes the Secretary to waive the requirement for a State experiencing ''extraordinary economic conditions.'' SAMHSA also proposes to retain the recently passed exclusion from calculation for one time expenditures for a single purpose.

Audits: SAMHSA proposes to retain the current audit requirement.

Independent Peer Review: SAMHSA proposes to eliminate the requirement that States ensure that 5 percent of facilities funded under the program are independently peer reviewed to assess the quality, appropriateness and efficacy of treatment services.

Performance Measures

SAMHSA and the States have been working for some time on a set of measures that would give both the Federal Government and the State government a view of how well the service system is doing in achieving its goal of providing access to quality services. SAMHSA expects to have a more complete list of such measures in June of 2003 after further discussion with the States and consideration of public comments.

Treatment Measures

The following table summarizes the preliminary measures that SAMHSA proposes to use in the performance partnership. The measures are divided into two categories: core and developmental. Core measures are those the States are committed to submitting. There is still work that needs to be done to further define and standardize the measures which will be completed prior to the submission of the plan to Congress. Measures for vulnerable populations or public health issues including pregnant women and women with children, HIV transmission, tuberculosis and co-occurring populations will be added to the core measures. These measures will be completed in time for the submission of the plan to Congress. The measure on individuals with a co-occurring substance abuse and mental health disorder will be developed jointly with State mental health commissioners and directors of substance abuse services and in the context of the previously mentioned Co-occurring Report.

Developmental measures are those which require additional work to ensure both the Federal Government and the State governments that these measures are necessary, provide the information that both levels of government need and are practicable. SAMHSA is committed to concluding work on these measures by October of 2003. If, after discussions with the States and public comment, any and or all of these measures prove to be helpful in understanding the service system, they will be added to the list of core measures.

SAMHSA is applying the principle of ''continuous quality improvement'' to the measures as well. SAMHSA will continuously evaluate whether certain areas of inquiry are helpful in determining the efficiency and effectiveness of the system of services, whether specific questions are providing the information needed and whether there might be other areas of inquiry that should be taken.

In the table below, there are two domains: effectiveness and efficiency. Effectiveness is measured by examining changes that have occurred in the individual with regard to their physical and mental health, their employment status and social functioning, living status, penetration rates, social support systems and general health. Efficiency will be measured by the percentage of clients who complete treatment and the average length of stay in treatment.

SAMHSA is managing the Office of National Drug Control Policy's National Treatment Outcome Management System (NTOMS) intended to assess on a national level treatment effectiveness of various modalities of treatment in terms of such outcomes as drug use, criminal behavior, health, employment and other factors through the interviewing of individuals entering and leaving some 200 treatment facilities nationwide. The performance measures being used in this performance partnership focus on the effectiveness of the State system using as areas of inquiry many of these same factors.

CORE MEASURES

Domain	Indicator area	Specific indicator	Basis of measurement
Effectiveness	Health Status—Physical.	AOD Use	One measure for alcohol and one measure for other drugs (marijuana, cocaine, opiates, methamphetamines). For ''other drugs,'' take the highest frequency reported among all drugs used. Report frequency of use in past 30 days at admission to AOD treatment setting and discharge: no past month use (0 days), 1—3 times/month (2 days), 1—2 times/week (6 days), 3—6 times/week (18 days), Daily (30 days).
	Economic Self-Sufficiency.	Employment Status	Employment status at admission to AOD treatment setting and at 6 months post-admission. —Employment (full and part-time or in school if under 18), —Unemployed, —Not in Labor Force (homemaker, student, disabled, retired, or looking in last days, institutionalized). This measure is the percent employed at admission and at 6 months post-admission.

CORE MEASURES—Continued

Domain	Indicator area	Specific indicator	Basis of measurement
	Social Functioning	Criminal Justice Involvement.	Number of arrests during the past 6 months at time of admission to AOD treatment setting and at 6 months post-admission.

*Core measures will be developed on pregnant addicts and women with children, HIV transmission, tuberculosis and co-occurring populations to be added to the plan to be submitted to Congress.

DEVELOPMENTAL MEASURES

Domain	Indicator area	Specific indicator	Basis of measurement
Effectiveness	Health Status		
	Social Functioning	Living Status.	
		Social Support.	
Efficiency	Access	Penetration Rates.	
	Treatment Retention ..	Length of Stay.	
		Treatment Completion.	

It is expected that some States will be able to report on the performance data in time for the FY 2005 application. Other States will be asked for a plan of implementation on the collection and reporting on the data.

Prevention Measures

The States will submit data with regard to those programs supported in whole or in part with funding under the prevention set aside of the new PPG. The performance measures will cover three areas: capacity, process and outcomes. The outcome measures are sorted by whether an activity is focused on the individual, peers, schools, families or communities. States will collect outcome data from each of the activities supported in whole or in part with PPG prevention set aside funds and aggregate that data for submission to SAMHSA. Each activity, however, will only submit outcome data to the State that is appropriate to the focus of the activity. For example, if the funded activity focuses on schools, the activity must supply the State with information designated in the table below.

SAMHSA is particularly interested in your thoughts and comments on the Capacity measures.

The measures that are being used conform with the measures currently being used under the State Incentive Grant prevention program though they have been pared down to focus on those that are most important and to reduce the costs associated with implementation. They include attitudes toward health risks and attitudes regarding social acceptance.

PREVENTION MEASURES

Area	Domain	Indicator	Measure
Capacity	.....	Coalition Building	(Coalitions are community based organizations that have as their mission the reduction of substance abuse in a comprehensive and long term manner, with a primary focus on youth in the community. These coalitions are made up of community leaders in all aspects of community life.)
		Workforce Development.	
		Technological Capacity.	
		Ability to Assess Need.	
		Ability to Conduct Exemplary Programs.	
		Ability to Evaluate and Report.	
Process		Name and type of program, number of prevention services rendered, service type by strategy and type of service.	
		Demographic Information (Age groups, gender, race ethnicity, number of participants completing program.	
Outcome	Individual	Attitude toward drug use	How wrong do you think it is for someone your age to drink beer, wine or hard liquor regularly?
			How wrong do you think it is for someone your age to smoke cigarettes?

PREVENTION MEASURES—Continued

Area	Domain	Indicator	Measure
			How wrong do you think it is for someone your age to smoke marijuana?
		Perceived risk/harm	How wrong do you think it is for someone your age to use LSD, cocaine, or methamphetamine?
			How much do you think people risk harming themselves (physically or in other ways) if they smoke one or more packs of cigarettes per day?
			How much do you think people risk harming themselves (physically or in other ways) if they try marijuana once or twice?
			How much do you think people risk harming themselves (physically or in other ways) if they try marijuana regularly?
			How much do you think people risk harming themselves (physically or in other ways) if they take one or two drinks of an alcoholic beverage (beer, wine, liquor) nearly every day?
		Resistance skills (social/life skills)	To be determined.
	Peer	Perceptions of peer alcohol, tobacco or other drug use.	To be determined.
	School	School bonding	How often do you feel that the school work you are assigned is meaningful and important?
			How interesting are most of your courses to you?
			How important do you think the things you are learning in school are going to be for your later life?
			Now thinking back over the past year in school—
			How often did you enjoy being in school?
			How often did you hate being in school?
			How often did you try to do your best in school?
	Family	Perceived parental attitudes	How wrong do your parents feel it would be for you to drink beer, wine or hard liquor regularly?
			How wrong do your parents feel it would be for you to smoke cigarettes?
			How wrong do your parents feel it would be for you to smoke marijuana?
		Parenting skills/practices/bonding	My parents ask if I've gotten my homework done.
			My parents want me to call if I'm going to be late getting home.
			Would your parents know if you did not come home on time?
			When I am not at home, one of my parents knows where I am and who I am with?
			The rules in my family are clear?
			My family has clear rules about alcohol and drug abuse.

PREVENTION MEASURES—Continued

Area	Domain	Indicator	Measure
	Community	Perceived availability	If you wanted to get some beer, wine or liquor, how easy would it be for you to get some? If you wanted to get some cigarettes, how easy would it be for you to get some? If you wanted to get some marijuana, how easy would it be for you to get some? If you wanted to get a drug like LSD, how easy would it be for you to get some?
		Community norms	How wrong would most adults in your neighborhood think it was for kids your age: —to use marijuana? —to drink alcohol? —to smoke cigarettes? If a kid drank some beer, wine, or hard liquor in your neighborhood, would he or she be caught by the police? If a kid smoked marijuana in your neighborhood, would he or she be caught by the police?

All States will begin submitting some of the prevention information for the FY 2005 application, and all States will be able to submit all the data by FY 2006 applications.

Explanation

The performance partnerships for the Substance Abuse Prevention and Treatment program are built on three principles:

1. That the Federal Government and the State governments are partners in the provision of substance abuse prevention and treatment services and that our shared goal is ''continuous quality improvement'' of the service system.

2. That States understand the needs of their population and should have more flexibility in the use of Federal grant funds.

3. That accountability should be based on performance and not entirely on expenditures.

The first principle is reached in this proposal when both the Federal and State governments identify the strengths and weaknesses of various systems of service and work in tandem to improve those systems. The new partnerships will be built on incentives to improve services rather than penalties for noncompliance.

The second principle is achieved in this proposal by reducing the number of requirements, simplifying the planning process, giving greater freedom in the use of the funds to States, and reducing administrative costs and burden.

The shift to performance measures provides a focus on the efficiency and effectiveness of services and, therefore, helps both the State and the Federal Government to identify how to improve the system of services. For example, the measures will enable us to determine whether pregnant addicts are being effectively served. Currently, all we know is that States are giving pregnant addicts preference in treatment and spending the required amount on pregnant addicts and women with children.

Eligibility for the block grant and the formula for the distribution of the funds will not be affected by the changes.

The use of funds is not being changed except to make it clear that PPG funds may be used for training and to develop the data infrastructure necessary to collect and report on performance measures.

The plans bring a new dimension to this block grant. Currently, State plans have more to do with the expenditure of funds. The proposed plan calls for the State to describe the current system, present data on how well the system is giving access to quality care for individuals in need of substance abuse services, requires the State to focus on issues related to prevention and treatment that need to be addressed to improve the system of services, and finally to set performance objectives. SAMHSA is recommending a 3-year cycle on plans for several reasons: first, 3-year plans give States a chance to do more long range planning and they reduce the administrative burden of both the State and the Federal Government permitting resources to be better used to improve access to quality care. Recognizing that there will occasionally be the need to revise plans, the Secretary is authorized to consider changing the plans either at his/her request or the request of the State.

States will continue to be responsible for providing the Secretary with annual reports detailing their progress in meeting their performance objectives and for providing necessary expenditure data to demonstrate compliance with such provisions as maintenance of effort, the set-aside for women with children, and others.

The Annual Report to Congress is not part of current law. SAMHSA and its predecessor agency, the Alcohol, Drug Abuse and Mental Health Administration were on occasion required to submit a report to Congress on block grant activities. The last such report was provided in 1994. The proposed annual report will serve to demonstrate to Congress that the funds are being used efficiently and effectively and that the State systems are improving. The report will not compare and contrast State systems. SAMHSA believes this would be counterproductive to our goal of continuing quality improvement as States would present themselves in the best of light.

States are currently required to ensure that individuals have an opportunity to review and comment on the State plan.

SAMHSA proposes to continue this requirement but at the same time to elicit ways of improving public participation.

SAMHSA is not interested in penalizing States for not meeting performance objectives choosing instead to work with them to further improve the service system. However, there would remain a few statutory requirements which the States would have to comply with by law. In the case of the Synar provision and maintenance of effort, the penalties are clearly defined and the procedures for penalizing a State stipulated in statute. There are other requirements that would be retained as well including early intervention for HIV, tuberculosis, set aside for substance abusing pregnant women and women with children, and others for which States may be penalized if they failed to meet.

Specific Requirements

With regard to specific requirements in the statute, SAMHSA proposes to maintain the requirement that States spend a minimum of 20 percent of their allocation on prevention but permit the funds to be used for prevention as defined by the Institute of Medicine which used the universal, selected and indicated criteria. Using these criteria would permit for a better continuum of services.

Universal interventions are designed to reach an entire population or large audience, for example, a radio message on preventing substance abuse. Selective interventions target subgroups who may be at risk to use substances, for example, children of alcoholics. Indicated interventions identify individuals who are experiencing early signs of substance use. Some have registered concern that this definition does not include environmental efforts; however, SAMHSA believes that environmental efforts are incorporated under Universal.

SAMHSA proposes that both the set-aside for women with children and the requirement that pregnant addicts be given preferential consideration for placement in a treatment facility that is receiving block grant funds be retained. While both populations have improved access to services since these provisions were first put in statute, they remain a very vulnerable population that can benefit from such requirements.

The current statute requires that States carry out outreach activities to locate intravenous drug users and to provide treatment within a given period of time or the State incurs an obligation to provide them with interim services. The emphasis on the intravenous drug population arose in 1992 largely because of the concern for the transmission of HIV. SAMHSA proposes, however, to address the issue differently by having a core measure related to the transmission of HIV instead of the expenditures.

HIV among the substance abusing population remains a public health concern. To ensure that States maintain their effort to address this public health concern, SAMHSA proposes to retain the requirement that States having an incidence of AIDS at or above 10 per 100,000 of general population be required to spend between 2 and 5 percent of their allotment on HIV early intervention services.

SAMHSA realizes that most of the HIV services would be provided by an agency of the State government other than the single State agency and thus holding the State to a performance measure on HIV transmission would be difficult. Nonetheless, because of the importance of the issue and the requirement of the statute at section 1949(a)(2) of the Public Health Service Act a performance measure will be added as a core measure for all States to report on.

SAMHSA also proposes that the Secretary be granted the authority to waive this requirement for States whose performance is good in reducing the transmission rates.

SAMHSA also proposes to permit, but not require States whose incidence of AIDS is below 10 per 100,000 of general population to spend between 2 and 5 percent of their allotment on early intervention services if their incidence rate had been at or above the threshold level in either of the previous two years. This will permit States whose incidence rates are at or near 10 per 100,000 to provide more consistent services.

The same concern for the transmission of tuberculosis among the substance abusing population leads SAMHSA to retain the requirements with regard to tuberculosis. SAMHSA recognizes that in the case of tuberculosis, as in the case of HIV, another agency of the State government is responsible for providing these services. Despite this, because the public health issue is so important and because the statute at section 1949(a)(2) requires that a performance measure be developed on tuberculosis, a core measure will be added that focuses attention on tuberculosis. SAMHSA does propose, however, that the Secretary be authorized to waive the requirement for a State that demonstrates that tuberculosis rates among the substance abusing population are decreasing.

Current statute permits but does not require States to maintain a revolving fund to support recovery homes. SAMHSA proposes to retain the current statute so that States can maintain such funds if needed.

SAMHSA proposes to eliminate the requirement to improve referral systems. States will in their plans discuss the process for determining placement for treatment. Whether this system is working will surface as SAMHSA and the States review the effectiveness of treatment. SAMHSA also proposes to eliminate the requirement to coordinate services. The need to coordinate services is a well established principle of prevention and treatment. States will be required to discuss how the substance abuse service system coordinates with other service systems in section 1 of the plan.

SAMHSA proposes to retain the requirement for continuing education of counselors. With the ever increasing amount of information that is being accumulated on how best to provide prevention and treatment services, there needs to be a mechanism to ensure that counselors are kept informed. Continuing education is one mechanism.

Maintenance of Effort presents an economic burden on States especially in these times where the State budgets are running in the red and they are looking for ways to reduce spending. SAMHSA, however, proposes to retain the requirement. The Federal Government's contribution to the provision of substance abuse prevention and treatment services through the block grant accounts for over 50 percent of State expenditures. In 1995 the block grant accounted for 38 percent. Since the requirement does not require the States to increase their expenditures to match Federal allocations but only to maintain their level of support, SAMHSA does not believe it is over burdening the States. To address issues of the economies of the States, SAMHSA placed criteria in the regulation issued in 1993 on when the Secretary would exercise his authority to waive such requirements.

SAMHSA proposes to eliminate the requirement that States independently peer review 5 percent of facilities under the program each year to assess the quality, appropriateness and efficacy of treatment services. While this specific provision was added with the Anti-Drug Abuse Act of 1988, there had always been a provision in statute requiring States to evaluate the performance of facilities receiving funds under the Block Grant program. The Department has monitored the usefulness of the

requirement and believes that it has not achieved the purpose for which it was included in statute largely because the States, while they fulfilled their obligation under the provision, did not use it to improve performance. In addition, the Department believes that this provision not only requires that it be done but that it stipulates the way it should be done when there is nothing to suggest that an independent peer review is the best way to accomplish the goal of the provision.

The Department is extremely interested in improving the quality of services. This is one of the purposes of the whole Performance Partnership program—continuous quality improvement. It is our belief, however, that the State analysis that has to be done as part of the second section of the plan will identify where the State, as a whole, needs to improve if the system is to improve. The only way that States have of improving their system is to work with the individual providers. As an example, the analysis may very well identify that programs are not using evidenced based practices. If this is true, the Department can work with the States to share the findings from National Institute on Alcohol Abuse and Alcoholism and National Institute on Drug Abuse services research programs, the findings from National Treatment Outcome Management Survey, knowledge gained from other States or communities, findings from the Department's own programs, information from the technical assistance centers that the Department supports and from other sources. It would naturally be in the best interest of the State to ensure that the providers are actually then using those practices. The end result is that the State undertakes activities in support of its own interests and not because of a requirement in statute.

Performance Measures

The performance measures used in this program have been developed after considerable consultation with experts in the field and State directors. Their acceptance, however, is largely based on what we know today. In one to two years after some experience SAMHSA and the States may find that the measures need to be revised or replaced. Therefore, the performance partnership program must have built into it the ability to change the core measures.

SAMHSA has also considered the practicality of the measures that it has been and will be developing. The collection and reporting of data on individuals, most of whom are not living in facilities, is a very expensive undertaking and administratively burdensome. So while SAMHSA is interested in getting a picture of the service system, SAMHSA wants to accomplish this without incurring a significant financial and administrative burden. SAMHSA believes that it has accomplished that goal. In giving comments, SAMHSA asks that you keep this criterion in mind.

Critical to the collection and reporting on performance measures is the ability to upgrade the data infrastructure of the State. This involves ensuring that each prevention and treatment program begins to collect the data that is needed and has the infrastructure to record it. It also assumes that States have the ability to receive and analyze that data. This remains an issue of critical importance. Without improved data infrastructures in States, many will not be able to collect and report on performance measures.

States will begin to submit performance data according to their ability to do so. Their ability to do so, in many cases, will be dependent on the resources available to develop the data infrastructure needed to collect and report on such data.

With time SAMHSA expects the States to report common data elements for each of the measures. In the meantime, SAMHSA expects the States to use generally accepted methodological principles.

Questions for You To Consider in Making Your Comments

In General

1. Please comment in general about the benefits and challenges of converting to performance partnership grants. What areas of greater flexibility are needed in the administration of the SAPT PPG and what measures of accountability are needed in the performance of the program and for the overall community based service system?

2. SAMHSA through the creation of a performance based system is developing a partnership with the States in the provision of substance abuse services. Do you support this partnership? Are there other ways that the Federal Government and State governments could partner in the provision of substance abuse services?

Operationalization

1. Under this proposal, SAPT Block Grant funds would be available as they are now for substance abuse prevention and treatment activities and for carrying out programs required under section 1924 of the Public Health Service Act which deals with early intervention services for HIV and with tuberculosis, for training of counselors and for data infrastructure development. Do you agree with this approach? If not, why not?

2. SAMHSA is proposing to continue current statutory restrictions on the use of the funds as outlined previously in the notice. Do you agree with these proposals?

3. SAMHSA proposes to retain the set aside for women and children and the requirement that pregnant addicts be given preferential consideration in being given the opportunity for treatment. In addition it is our proposal that specific performance measures be established for both populations as a way of ensuring that women with children and pregnant addicts will receive the services they may require. If you have any comments on this or proposals for measures that could be used, please forward your comments.

4. States would be required under this proposal to develop a 3-year plan on how they intend to use the funds and how they intend to improve access to quality care. Do you agree that 3-year plans are appropriate?

5. Under the proposal, States would be required to submit yearly reports showing their progress in meeting their goals under the program. SAMHSA would then use this information to create a report for Congress to demonstrate how each State is using the funds efficiently and effectively to provide access to quality care. The report to Congress would not be a comparison of States but a presentation on the programs in each State and what steps the States are taking to further improve their system of services. Do you agree with this approach and can you recommend alternative, effective approaches to public disclosure of developments in State drug treatment and prevention?

6. SAMHSA proposes to eliminate several current requirements for intravenous drug users. Do you believe that these vulnerable populations will receive the services they need under this new approach?

7. While SAMHSA proposes to retain the set aside for prevention, we are proposing that the set aside be used for prevention as defined by the Institute of Medicine as universal, selected and indicated as explained earlier in the notice. Do you agree with this expansion of the use of the set aside?

8. SAMHSA proposes to continue the current maintenance of effort requirement including the exclusion from the calculation for one time

expenditures of a single purpose. Do you agree with this proposal?

9. Do you agree with the concept of ''continuous quality improvement'' and do you have any ideas on how to build in incentives for States to improve their system of services?

10. Do you agree with eliminating certain requirements in favor of performance measures which would clarify whether the goals of the requirements are actually being met?

Performance Measures

1. Core and developmental measures are listed for treatment and a set of core measures for prevention. Please comment about the benefits and challenges on using this information to describe performance by individual States and to describe the overall accountability, capacity, and effectiveness of the service system.

2. If you could, how would you improve them keeping in mind the need to minimize the costs of data collection? Provide specific information of the shortcomings of the measures and how you would improve them. In responding to this question consider whether there are measures listed above that should be improved, why they need improvement and how you would improve them. If you believe additional measures are necessary, please explain what is missing and what you would add to the list of core measures.

3. With the States, SAMHSA will be developing measures for vulnerable populations and for specific public health issues such as pregnant addicts, women with children, transmission of sexually transmitted diseases, and the co-occurring population. Do you have any recommendations for these measures?

4. Do you agree that States can and should begin submitting performance data as part of their FY 2005 application?

5. SAMHSA has developed a matrix of program priorities and cross cutting principles that now guides the agency's daily operations and overall program and management decisions. Programs and issues prioritized in this matrix include: Co-occurring disorders; substance abuse treatment capacity; seclusion and restraint; prevention and early intervention; children and families; New Freedom Initiative (including the President's Mental Health Commission); terrorism/bio-terrorism; homelessness; aging; HIV/AIDS and Hepatitis C; and criminal justice. As we move forward in measuring the extent to which the agency has been successful in these 11 areas, we are asking the public to comment on how to begin work on ways to measure progress by the States in these and other program areas.

Economic Impact

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), as amended by Executive Order 13258 (February 2002, Amending Executive Order 12866 on Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 1980; Public Law 96–354), the Unfunded Mandated Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132 (August 1999, Federalism). Executive Order 12866 (the Order), as amended by Executive Order 13258, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize the benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in 1 year). We have determined that the proposed rule is consistent with the principles set forth in the Order, and we find that the proposed rule would not have an effect on the economy that exceeds $100 million in any one year. In addition, this rule is not a major rule as defined at 5 U.S.C. 804(2).

In accordance with the provisions of the Order, the rule was reviewed by the Office of Management and Budget.

It is hereby certified under the RFA that this proposed regulation, will not have a significant economic impact on a substantial number of small entities. This proposed rule applies only to States.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribunal governments, in the aggregate, or by the private sector, of $100 million. As noted above, we find that the proposed rule would not have an effect of this magnitude on the economy.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed the proposed rule under the threshold criteria of Executive Order 13132, Federalism, and have determined that this proposal does not impose substantial direct requirement costs on State and local governments, preempt State law, or otherwise has Federalism implications. On the contrary, the proposal provides for more flexibility for the States in the use of Federal funds, and establishes a working relationship between the Federal and State governments that will help the States improve access to quality care for those individuals in need of substance abuse or mental health services.

Paperwork Reduction

This proposal would assume information collection requirements that would be subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980. This **Federal Register** Notice, however, is only seeking comment on proposed information collection and is not establishing a collection requirement. Therefore, doing a Paperwork Reduction Act analysis would be premature. The Department will comply with the requirements of the Paperwork Reduction Act when determinations have been made on the information to be collected and in advance of requiring the submission of that information.

Dated: November 18, 2002.

Charles G. Curie,

Administrator, Substance Abuse and Mental Health Services Administration.

Dated: December 18, 2002.

Tommy G. Thompson,

Secretary.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by January 23, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information