

determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office

of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation because we are establishing a safety zone.

A final “Environmental Analysis Check List” and a final “Categorical Exclusion Determination” are available in the docket where indicated under ADDRESSES.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

- 2. Add a new § 165.T11–073 to read as follows:

##### § 165.T11–073 Safety Zone; Offshore Gran Prix, Huntington Beach, CA.

(a) *Location.* The following described area constitutes a temporary safety zone: All waters of the Pacific Ocean near Huntington Beach, California, from surface to bottom, encompassed by lines connecting points beginning at latitude 33°43′36″ N, longitude 118°05′0″ W; then to 33°43′16″ N, 118°05′39″ W; then to 33°39′54″ N, 118°02′15″ W; then to 33°40′31″ N, 118°01′39″ W; and then returning to the point of origin. (Datum: NAD 1983).

(b) *Effective period.* This section is effective from 12 noon to 3 p.m. (PDT) on August 17, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of

this part, entry into, transit through, or anchoring within the safety zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number (800) 221–8724 or the Patrol Commander on VHF-FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

Dated: July 14, 2003.

**John M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.*

[FR Doc. 03–18762 Filed 7–23–03; 8:45 am]

**BILLING CODE 4910–15-P**

#### DEPARTMENT OF EDUCATION

#### 34 CFR Part 263

**RIN 1810–AA93**

#### Indian Education Discretionary Grant Programs

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Final regulations.

**SUMMARY:** The Secretary amends the regulations governing the discretionary grant programs administered under Title VII of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001, Public Law No. 107–110. The programs governed by this title include grants for the Professional Development program and the Demonstration Grants for Indian Children program. These regulations identify specific application and program requirements that must be set forth in order for applications to be considered for funding, and the requirements for the payback provisions that apply to the Professional Development program. These regulations will govern the grant application process for new awards under both programs for fiscal year 2003 and thereafter, including the payback provisions for the Professional Development program.

**EFFECTIVE DATE:** These regulations are effective July 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Cathie Martin. Telephone: (202) 260–1683 or via Internet: [cathie.martin@ed.gov](mailto:cathie.martin@ed.gov).

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On January 8, 2002, the Demonstration Grants for Indian Children program and Professional Development program were revised and recodified as sections 7121 and 7122 of subpart 2 of part A of title VII of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by Public Law 107-110, the No Child Left Behind Act of 2001. On July 22, 2002, the Secretary published in the **Federal Register** (67 FR 47695) a final rule with request for comment on these programs. No comments were received, and no substantive changes are made to these regulations.

These regulations incorporate the specific program requirements for both programs. They also include the Secretary's application requirements for the Professional Development program that must be met in order for applications to be considered for funding, and the requirements concerning the payback provisions applicable to that program. The Secretary is required, under Section 7122(h) of the ESEA, to establish regulations governing payback and reporting provisions for the Professional Development program.

##### **Analysis of Comments and Changes**

No comments were received in response to the Secretary's invitation to comment on the final rule that suggested changes or clarification of the content of these regulations. Consequently, the Secretary has determined that no substantive changes are necessary.

##### **Executive Order 12866**

Under Executive Order 12866, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those we have determined to be necessary for administering these programs effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this regulatory action,

we have determined that the benefits justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

##### **Waiver of Proposed Rulemaking**

Under the Administrative Procedure Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. Section 437(d)(2) of the General Education Provisions Act (GEPA), however, exempts from this rulemaking requirement those rules where the Secretary determines it would cause extreme hardship to the beneficiaries of the program that would be affected by those rules. The Secretary, in accordance with section 437(d)(2) of GEPA, has decided to issue these rules without first publishing them for public comment in order to ensure timely and high quality grant awards.

##### **Regulatory Flexibility Act Certification**

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities.

The small entities that are affected by these regulations are small local educational agencies (LEAs) receiving Federal funds under this program. However, the regulations will not have a significant economic impact on the small LEAs affected because the regulations do not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations impose minimal requirements to ensure the proper expenditure of program funds.

##### **Paperwork Reduction Act of 1995**

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in these final regulations at the end of the affected sections of the regulations.

##### **Intergovernmental Review**

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

##### **Assessment of Educational Impact**

Based on the response to the final regulations with invitation to comment and our own review, we have determined that these final regulations do not require transmission of information that any other agency or authority of the United States gathers or makes available.

##### **Electronic Access to This Document**

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: <http://www.ed.gov/legislation/FedRegister>.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.access.gpo.gov/nara/index.html>.

(Catalog of Federal Domestic Assistance Number 84.299 Indian Education—Special Programs.)

##### **List of Subjects in 34 CFR Part 263**

Elementary and secondary education, Grant programs—education, Indians—education, Reporting and recordkeeping requirements, Scholarships and fellowships.

Dated: July 21, 2003.

**Eugene W. Hickok,**  
*Under Secretary of Education.*

■ For the reasons discussed in the preamble, the Secretary revises part 263 of title 34 of the Code of Federal Regulations to read as follows:

#### **PART 263—INDIAN EDUCATION DISCRETIONARY GRANT PROGRAMS**

##### **Subpart A—Professional Development Program**

Sec.

- 263.1 What is the Professional Development program?
- 263.2 Who is eligible to apply under the Professional Development program?
- 263.3 What definitions apply to the Professional Development program?
- 263.4 What training costs may a Professional Development program include?

- 263.5 What priority is given to certain projects and applicants?
- 263.6 How does the Secretary evaluate applications for the Professional Development program?
- 263.7 What are the requirements for a leave of absence?
- 263.8 What are the payback requirements?
- 263.9 When does payback begin?
- 263.10 What are the payback reporting requirements?

#### Subpart B—Demonstration Grants for Indian Children Program

- 263.20 What definitions apply to the Demonstration Grants for Indian Children program?
- 263.21 What priority is given to certain projects and applicants?

**Authority:** 20 U.S.C. 7441 and 7442, unless otherwise noted.

#### Subpart A—Professional Development Program

##### § 263.1 What is the Professional Development program?

(a) The Professional Development program provides grants to eligible entities to—

- (1) Increase the number of qualified Indian individuals in professions that serve Indian people;
- (2) Provide training to qualified Indian individuals to become teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and
- (3) Improve the skills of qualified Indian individuals who serve in the education field.

(b) The Professional Development program requires individuals who receive training to—

- (1) Perform work related to the training received under the program and that benefits Indian people, or to repay all or a prorated part of the assistance received under the program; and
- (2) Report to the Secretary on the individual's compliance with the work requirement.

(Authority: 20 U.S.C. 7442)

##### § 263.2 Who is eligible to apply under the Professional Development program?

(a) In order to be eligible for either pre-service or in-service training programs, an applicant must be an eligible entity which means—

- (1) An institution of higher education, including an Indian institution of higher education;
- (2) A State educational agency in consortium with an institution of higher education;
- (3) A local educational agency in consortium with an institution of higher education;
- (4) An Indian tribe or Indian organization in consortium with an institution of higher education; or

(5) A Bureau of Indian Affairs (Bureau)-funded school.

(b) Bureau-funded schools are eligible applicants for—

- (1) An in-service training program; and
- (2) A pre-service training program when the Bureau-funded school applies in consortium with an institution of higher education that is accredited to provide the coursework and level of degree required by the project.

(c) Eligibility of an applicant requiring a consortium with any institution of higher education, including Indian institutions of higher education, requires that the institution of higher education be accredited to provide the coursework and level of degree required by the project.

(Authority: 20 U.S.C. 7442)

##### § 263.3 What definitions apply to the Professional Development program?

The following definitions apply to the Professional Development program:

*Bureau-funded school* means a Bureau school, a contract or grant school, or a school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

*Department* means the U.S. Department of Education.

*Dependent allowance* means costs for the care of minor children under the age of 18 who reside with the training participant and for whom the participant has responsibility. The term does not include financial obligations for payment of child support required of the participant.

*Expenses* means tuition and required fees; health insurance required by the institution of higher education; room, personal living expenses, and board at or near the institution; dependent allowance; and instructional supplies.

*Full course load* means the number of credit hours that the institution requires of a full-time student.

*Full-time student* means a student who—

- (1) Is a degree candidate for a baccalaureate or graduate degree;
- (2) Carries a full course load; and
- (3) Is not employed for more than 20 hours a week.

*Good standing* means a cumulative grade point average of at least 2.0 on a 4.0 grade point scale in which failing grades are computed as part of the average, or another appropriate standard established by the institution.

*Graduate degree* means a post-baccalaureate degree awarded by an institution of higher education beyond the undergraduate level.

*Indian means* an individual who is—

- (1) A member of an Indian tribe or band, as membership is defined by the

Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides;

(2) A descendant of a parent or grandparent who meets the requirements of paragraph (1) of this definition;

(3) Considered by the Secretary of the Interior to be an Indian for any purpose;

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994.

*Indian institution of higher education* means an accredited college or university within the United States cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994, any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978, and the Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978.

*Indian organization* means an organization that—

- (1) Is legally established—
  - (i) By tribal or inter-tribal charter or in accordance with State or tribal law; and
  - (ii) With appropriate constitution, by-laws, or articles of incorporation;
- (2) Has as its primary purpose the promotion of the education of Indians;
- (3) Is controlled by a governing board, the majority of which is Indian;
- (4) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation;
- (5) Is neither an organization or subdivision of, nor under the direct control of, any institution of higher education; and
- (6) Is not an agency of State or local government.

*Induction services* means services provided after the participant completes his or her training program and includes, at a minimum, these activities:

- (1) Mentoring, coaching, and consultation services for the participant to improve performance,
- (2) Access to research materials and information on teaching and learning,
- (3) Periodic assessment of, and feedback sessions on, the participant's performance, provided in coordination with the participant's supervisor,
- (4) Periodic meetings or seminars for participants to enhance collaboration, feedback, and peer networking and support.

*In-service training* means professional activities and opportunities designed to

enhance the skills and abilities of individuals in their current areas of employment.

*Institution of higher education* means an accredited college or university within the United States that awards a baccalaureate or post-baccalaureate degree.

*Participant* means an Indian individual who is being trained under the Professional Development program.

*Payback* means work-related service or cash reimbursement to the Department of Education for the training received under the Professional Development program.

*Pre-service training* means training to Indian individuals to prepare them to meet the requirements for licensing or certification in a professional field requiring at least a baccalaureate degree.

*Professional development activities* means in-service training offered to enhance the skills and abilities of individual participants.

*Secretary* means the Secretary of the Department of Education or an official or employee of the Department acting for the Secretary under a delegation of authority.

*Stipend* means that portion of an award that is used for room and board and personal living expenses.

**Note:** Only full-time students are eligible for stipends.

*Undergraduate degree* means a baccalaureate (bachelor's) degree awarded by an institution of higher education.

(Authority: 20 U.S.C. 7442 and 7491)

#### **§ 263.4 What training costs may a Professional Development program include?**

(a) A Professional Development program may include, as training costs, assistance to either—

(1) Fully finance a student's educational expenses; or

(2) Supplement other financial aid—including Federal funding other than loans—for meeting a student's educational expenses.

(b) The Secretary announces the expected maximum amounts for stipends and other costs—including training costs—in the annual application notice published in the **Federal Register**.

(Authority: 20 U.S.C. 7442)

#### **§ 263.5 What priority is given to certain projects and applicants?**

(a) The Secretary awards a total of 5 points to an application submitted by an Indian tribe, Indian organization, or an Indian institution of higher education that is eligible to participate in the

Professional Development program. A consortium application of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 of EDGAR and includes an Indian tribe, Indian organization or Indian institution of higher education will be considered eligible to receive the 5 priority points. The consortium agreement, signed by all parties, must be submitted with the application in order to be considered as a consortium application.

(b) The Secretary awards a total of 5 points to an application submitted by a consortium of eligible applicants that includes a tribal college or university and that designates that tribal college or university as the fiscal agent for the application. The consortium application of eligible entities must meet the requirements of 34 CFR 75.127 through 75.129 of EDGAR to be considered eligible to receive the 5 priority points. These competitive preference points are in addition to the 5 competitive preference points that may be given under paragraph (a) of this section. The consortium agreement, signed by all parties, must be submitted with the application in order to be considered as a consortium application.

(c) The Secretary may give absolute preference reserving all or a portion of the funds available for new awards under the Professional Development program, to only those applications that meet one of the following priorities selected for a fiscal year. The Secretary announces the absolute priority selected in the annual application notice published in the **Federal Register**.

(1) *Pre-Service training for teachers.* This priority provides support and training to Indian individuals to complete a pre-service education program that enables these individuals to meet the requirements for full State certification or licensure as a teacher through—

(i) Training that leads to a bachelor's degree in education before the end of the award period; or

(ii) For States allowing a degree in a specific subject area, training that leads to a bachelor's degree in the subject area as long as the training meets the requirements for full State teacher certification or licensure; or

(iii) Training in a current or new specialized teaching assignment that requires at least a bachelor's degree and in which a documented teacher shortage exists; and

(iv) One-year induction services after graduation, certification, or licensure, provided during the award period to graduates of the pre-service program while they are completing their first

year of work in schools with significant Indian student populations.

**Note to paragraph (c)(1):** In working with various institutions of higher education and State certification/licensure requirements, we found that States requiring a degree in a specific subject area (e.g., specialty areas or teaching at the secondary level) generally require a Master's degree or fifth-year requirement before an individual can be certified or licensed as a teacher. These students would be eligible to participate as long as their training meets the requirements for full State certification or licensure as a teacher.

(2) *Pre-service administrator training.* This priority provides—

(i) Support and training to Indian individuals to complete a master's degree in education administration that is provided before the end of the award period and that allows participants to meet the requirements for State certification or licensure as an education administrator; and

(ii) One year of induction services, during the award period, to participants after graduation, certification, or licensure, while they are completing their first year of work as administrators in schools with significant Indian student populations.

(Authority: 20 U.S.C. 7442 and 7473)

#### **§ 263.6 How does the Secretary evaluate applications for the Professional Development program?**

The following criteria, with the total number of points available in parenthesis, are used to evaluate an application for a new award:

(a) *Need for project (5) points.* In determining the need for the proposed project, the Secretary considers the following:

(1) The extent to which the proposed project will prepare personnel in specific fields in which shortages have been demonstrated; and

(2) The extent to which specific gaps or weaknesses in local capacity to provide, improve, or expand services that address the needs of the community or region have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(b) *Significance (10) points.* In determining the significance of the proposed project, the Secretary considers the following:

(1) The potential contribution of the proposed project to increase effective strategies for teaching and student achievement;

(2) The likelihood that the proposed project will build local capacity to provide, improve, or expand services that address the needs of the target population; and

(3) The likelihood that the proposed project will result in system change or improvement.

(c) *Quality of the project design (15) points.* The Secretary considers the following factors in determining the quality of the design of the proposed project:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable;

(2) The extent to which the design of the proposed project reflects up-to-date knowledge from scientifically-based research and effective practices on how to improve teaching and learning to support student proficiency in meeting rigorous academic standards;

(3) The extent to which performance feedback and continuous improvement of participant performance are integral to the design of the proposed project; and

(4) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing educational services to the population of students to be served by the participants.

(d) *Quality of project services (15) points.* The Secretary considers the following factors:

(1) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge of scientifically-based research and effective practice;

(2) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in the achievement of students as measured against rigorous academic standards; and

(3) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of the training and project services provided.

(e) *Quality of project personnel (15) points.* The Secretary considers the following factors when determining the quality of the personnel who will carry out the proposed project:

(1) The qualifications, including relevant training and experience, of the project director;

(2) The qualifications, including relevant training and experience, of key project personnel; and

(3) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(f) *Adequacy of resources (10) points.* In determining the adequacy of support

for the proposed project, the Secretary considers the following factors:

(1) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project;

(2) The extent to which the costs are reasonable in relation to the design of the program, program objectives, number of persons to be served, and the anticipated results and benefits; and

(3) The potential for the incorporation of project purposes, activities, or benefits into the ongoing program of the agency or organization at the end of Federal funding.

(g) *Quality of the management plan (15) points.* In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of procedures for ensuring feedback and continuous improvement in the performance of program participants in meeting the needs of the population they are to serve;

(2) The adequacy of the management plan to achieve the objectives of the proposed project during the award period, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks; and

(3) The extent to which the time commitments of the project director and other key personnel are appropriate and adequate to meet the objectives of the proposed project.

(h) *Quality of the project evaluation (15) points.* In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the context within which the project operates and the effectiveness of project implementation strategies;

(2) The extent to which the methods of evaluation will provide performance feedback on participants and permit periodic assessment of progress toward achieving the intended outcomes; and

(3) The extent to which the methods of evaluation include the use of objective output measures that are directly related to the intended outcomes of the project and will produce both quantitative and qualitative data to the extent possible.

(Approved by the Office of Management and Budget under control number 1810-0580)

(Authority: 20 U.S.C. 7442)

#### **§ 263.7 What are the requirements for a leave of absence?**

(a) A participant shall submit a written request for a leave of absence to

the project director not less than 30 days prior to withdrawal or completion of a grading period, unless an emergency situation has occurred and the project director chooses to waive the prior notification requirement.

(b) The project director may approve a leave of absence, for a period not longer than one academic year, provided a training participant has successfully completed at least one academic year.

(c) The project director permits a leave of absence only if the institution of higher education certifies that the training participant is eligible to resume his or her course of study at the end of the leave of absence.

(Approved by the Office of Management and Budget under control number 1810-0580)

(Authority: 20 U.S.C. 7442)

#### **§ 263.8 What are the payback requirements?**

(a) Individuals receiving assistance under the Professional Development program are required to—

(1) Sign an agreement, at the time of selection for training, to meet the provisions of the payback requirement; and

(2) Perform work related to the training received and that benefits Indian people; or

(3) Repay all or a prorated part of the assistance received.

(b) The period of time required for a work-related payback is equivalent to the total period of time for which training was actually received under the Professional Development program.

(c) The cash payback required shall be equivalent to the total amount of funds received and expended for training received under these programs and may be prorated based on any approved work-related service the participant performs.

(Approved by the Office of Management and Budget under control number 1810-0580)

(Authority: 20 U.S.C. 7442)

#### **§ 263.9 When does payback begin?**

(a) For all participants who complete their training under the Professional Development program, payback shall begin within six months from the date of completion of the training.

(b) For participants who do not complete their training under the Professional Development program, payback shall begin within six months from the date the fellow leaves the Professional Development program, unless he or she continues as a full-time student without interruption, in a program leading to a degree in an accredited institution of higher education.

(1) If the participant leaves the Professional Development program, but plans to continue his or her education as a full-time student, the Secretary may defer the payback requirement until the participant has completed his or her educational program. Written requests for deferment shall be submitted to the Secretary within 30 days of leaving the Professional Development program and shall provide the following information—

(i) The name of the accredited institution the student will be attending;

(ii) A copy of the letter of admission from the institution;

(iii) The degree being sought; and

(iv) The projected date of completion.

(2) After approval by the Secretary for deferment of the payback provision on the basis of continuing as a full-time student, former participants are required to submit to the Secretary a status report from an academic advisor or other authorized representative of the institution of higher education, showing verification of enrollment and status, after every grading period.

(Approved by the Office of Management and Budget under control number 1810-0580)

(Authority: 20 U.S.C. 7442)

#### **§ 263.10 What are the payback reporting requirements?**

(a) *Notice of intent.* Participants shall submit to the Secretary, within 30 days of completion of their training program, a written notice of intent to complete a work-related or cash payback, or to continue in a degree program as a full-time student.

(b) *Work-related payback.* If the participant proposes a work-related payback, the written notice of intent shall include information explaining how the work-related service is related to the training received and how it benefits Indian people.

(1) For work-related service, the Secretary shall review each participant's payback plan to determine if the work-related service is related to the training received and that it benefits Indian people. The Secretary approves the payback plan if a determination is made that the work-related service to be performed is related to the training received and benefits Indian people, meets all applicable statutory and regulatory requirements, and is otherwise appropriate.

(2) The payback plan for work-related service shall identify where, when, the type of service, and for whom the work will be performed.

(3) A participant shall notify the Secretary in writing of any change in the work-related service being performed within 30 days of such change.

(4) For work-related payback, individuals shall submit a status report every six months beginning from the date the work-related service is to begin. The reports shall include a certification from the participant's employer that the service(s) have been performed without interruption.

(5) For participants that initiate, but cannot complete, a work-related payback, the payback reverts to a cash payback that is prorated based upon the amount of time the work-related payback has been completed.

(c) *Cash payback.* If a cash payback is to be made, the Department will contact the participant to establish an appropriate schedule for payments.

(Approved by the Office of Management and Budget under control number 1810-0580)

(Authority: 20 U.S.C. 7442)

#### **Subpart B—Demonstration Grants for Indian Children Program**

##### **§ 263.20 What definitions apply to the Demonstration Grants for Indian Children program?**

The following definitions apply to the Demonstration Grants for Indian Children program:

*Federally supported elementary or secondary school for Indian students* means an elementary or secondary school that is operated or funded, through a contract or grant, by the Bureau of Indian Affairs.

*Indian* means an individual who is—

(1) A member of an Indian tribe or band, as membership is defined by the Indian tribe or band, including any tribe or band terminated since 1940, and any tribe or band recognized by the State in which the tribe or band resides;

(2) A descendant of a parent or grandparent who meets the requirements described in paragraph (1) of this definition;

(3) Considered by the Secretary of the Interior to be an Indian for any purpose;

(4) An Eskimo, Aleut, or other Alaska Native; or

(5) A member of an organized Indian group that received a grant under the Indian Education Act of 1988 as it was in effect October 19, 1994.

*Indian institution of higher education* means an accredited college or university within the United States cited in section 532 of the Equity in Educational Land-Grant Status Act of 1994, any other institution that qualifies for funding under the Tribally Controlled College or University Assistance Act of 1978, and the Navajo Community College, authorized in the Navajo Community College Assistance Act of 1978.

*Indian organization* means an organization that:

(1) Is legally established:

(i) By tribal or inter-tribal charter or in accordance with State or tribal law; and

(ii) With appropriate constitution, by-laws, or articles of incorporation;

(2) Has as its primary purpose the promotion of the education of Indians;

(3) Is controlled by a governing board, the majority of which is Indian;

(4) If located on an Indian reservation, operates with the sanction or by charter of the governing body of that reservation;

(5) Is neither an organization or subdivision of, nor under the direct control of, any institution of higher education; and

(6) Is not an agency of State or local government.

*Professional development activities* means in-service training offered to enhance the skills and abilities of individuals that may be part of, but not exclusively, the activities provided in a Demonstration Grants for Indian Children program.

(Authority: 20 U.S.C. 7441)

##### **§ 263.21 What priority is given to certain projects and applicants?**

(a) The Secretary awards a total of 5 competitive preference priority points to an application that presents a plan for combining two or more of the activities described in section 7121(c) of the Act over a period of more than one year.

(b) The Secretary awards a total of 5 competitive preference priority points to an application submitted by an Indian tribe, Indian organization, or Indian institution of higher education that is eligible to participate in the Demonstration Grants for Indian Children program. A consortium of eligible entities that meets the requirements of 34 CFR 75.127 through 75.129 of EDGAR and includes an Indian tribe, Indian organization, or Indian institution of higher education will be considered eligible to receive the five (5) priority points. The consortium agreement, signed by all parties, must be submitted with the application in order to be considered as a consortium application. These competitive preference points are in addition to the 5 competitive preference points that may be given under paragraph (a) of this section.

(c) The Secretary may give absolute preference reserving all or a portion of the funds available for new awards under the Demonstration Grants for Indian Children program, to only those applications that meet one or more of the following priorities selected for a

fiscal year. The Secretary announces the absolute priority selected in the annual application notice published in the **Federal Register**.

(1) School readiness projects that provide age appropriate educational programs and language skills to three- and four-year-old Indian students to prepare them for successful entry into school at the kindergarten school level.

(2) Early childhood and kindergarten programs, including family-based preschool programs, emphasizing school readiness and parental skills.

(3) College preparatory programs for secondary school students designed to increase competency and skills in challenging subject matters, including math and science, to enable Indian students to successfully transition to postsecondary education.

(Authority: 20 U.S.C. 7441 and 7473)

[FR Doc. 03-18873 Filed 7-23-03; 8:45 am]

BILLING CODE 4000-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket No. 01-185; FCC 03-15]

#### Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects one citation in the rule changes published in the **Federal Register** of June 5, 2003, regarding Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands.

**DATES:** Effective on July 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Breck Blalock or James Ball, Policy Division, International Bureau, (202) 418-1460.

**SUPPLEMENTARY INFORMATION:** On June 5, 2003, the **Federal Register** published a summary of the final rule in the above captioned proceeding. As published, the final rule contains errors which may prove to be misleading and need to be clarified. In final rule FR Doc. 03-14081, beginning on page 33649 in the issue of June 5, 2003, make the following corrections:

On page 33649 in the 2nd column, remove instruction number 6 and the text.

Dated: July 16, 2003.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 03-18641 Filed 7-23-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 25

[IB Docket No. 01-185; FCC 03-15]

#### Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects one citation in the rule changes published in the **Federal Register** of June 5, 2003, regarding Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands. This correction cites to 47 CFR 25.136, the correct rule section affected by the rule change.

**DATES:** Effective on July 24, 2003.

**FOR FURTHER INFORMATION CONTACT:** Breck Blalock or James Ball, Policy Division, International Bureau, (202) 418-1460.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** of June 5, 2003, (68 FR 33640). In FR Doc. 03-14081, published in the **Federal Register** of June 5, 2003, (68 FR 33640), § 25.136 was inadvertently identified. In Rule FR Doc. 03-14081 published on June 5, 2003 (68 FR 33640) make the following correction.

On page 33649, in the second column, ■ 6. Section 25.136 is amended by revising the section heading and adding paragraphs (f), (g), and (h) of this section to read as follows:

#### § 25.136 Licensing provisions for the L-Band mobile-satellite service.

\* \* \* \* \*

(f) *Incorporation of ancillary terrestrial component base station into an L-band Mobile-Satellite Service System.* Any licensee authorized to construct and launch an L-band mobile-satellite system may construct ancillary terrestrial component (ATC) base stations as defined in § 25.201 at its own risk and subject to the conditions specified in this subpart any time after commencing construction of the mobile-satellite service system.

(g) *Pre-operational testing.* An MSS ATC licensee may, without further

authority from the Commission, conduct equipment tests for the purpose of making such adjustments and measurements as may be necessary to assure compliance with the terms of the technical provisions of its MSS license, its ATC authorization, the rules and regulations in this part and the applicable engineering standards. An MSS licensee may not offer ATC service to the public for compensation during pre-operational testing. In order to operate any ATC base stations, such a licensee must meet all the requirements set forth in § 25.147 and must have been granted ATC authority through a modification of its space station license.

(h) *Aircraft.* All portable or hand-held transceiver units (including transceiver units installed in other devices that are themselves portable or hand-held) having operating capabilities in the 1626.5-1660.5 MHz and 1525-1559 MHz bands shall bear the following statement in a conspicuous location on the device: "This device may not be operated while on board aircraft. It must be turned off at all times while on board aircraft."

\* \* \* \* \*

Dated: July 16, 2003.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 03-18642 Filed 7-23-03; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[DA 03-2258; MM Docket No. 02-15, RM-10364]

#### Radio Broadcasting Services; Glenpool and Okmulgee, OK

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission, at the request of Shamrock Communications, Inc., reallocates Channel 231C1 from Okmulgee to Glenpool, Oklahoma, and modifies Station KTSO(FM)'s license accordingly. See 67 FR 5961, February 8, 2002. Channel 231C1 can be allotted to Glenpool in compliance with the Commission's minimum distance separation requirements at petitioner's presently authorized site. The coordinates for Channel 231C1 at Glenpool are 35-50-02 North Latitude and 96-07-28 West Longitude.

**DATES:** Effective August 28, 2003.