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DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Chapter III

[Docket No. 950525142-6028-02]

RIN 0610-AA47

Simplification and Streamlining of Regulations of the Economic Development Administration

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: The Economic Development Administration (EDA) has amended all of its regulations so that they are easy to read and use, and accurately reflect program requirements, evaluation criteria and selection process in implementing programs under the Public Works and Economic Development Act of 1965, as amended, (PWEDA or the Act) the Trade Act of 1974, as amended (the Trade Act) and other statutes to be noted herein. This streamlining effort includes the removal of numerous unnecessary, redundant and outdated parts, sections and portions thereof.

EFFECTIVE DATE: This rule is effective on March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Awilda R. Marquez, (202) 482-4687; fax number: (202) 482-5671.

SUPPLEMENTARY INFORMATION:

Background

• Pursuant to a directive from President Clinton to Federal agencies in March of 1995 regarding their responsibilities under his Regulatory Reform Initiative (as part of the National Performance Review), EDA undertook a comprehensive review of its rules to remove those which were obsolete or

unnecessary and to modify those in need of reform.

• On September 26, 1995, EDA published an interim-final rule on simplification and streamlining its regulations (60 FR 49670-49703). In this interim-final rule EDA removed over 60% of its then existing rules and streamlined and clarified those which remained. The public was invited to submit comments on the interim-final rule for a period of sixty (60) days ending November 27, 1995.

Comments on the Interim-Final Rule

EDA received comments from more than twenty (20) persons, all of whom are or were EDA officials.

- OMB Control Numbers.

A commenter noted that the OMB control numbers needed to be updated.

We concur and have made the appropriate change to § 300.3.

- Notice of Funding Availability (NOFA).

Commenters noted that the acronym "NOFA" was not explained in the general information section of the interim-final rule and that for various programs, references to general information at § 300.4 should more appropriately be to the NOFA.

We concur and have changed 13 CFR 300.4, 307.13(b), 307.18(b), 308.5(b), and 315.8(a) accordingly.

- Area designation-American Indian lands.

A commenter suggested that the section on American Indian area designation should be modified to clarify what is required when non-contiguous land is considered as one area, noting that a relationship between the land must be demonstrated.

We concur and have made the appropriate change to 13 CFR 301.4(d).

- Area designation-per capita employment decline.

A commenter suggested that the term "out-migration" as used in conjunction with per capita employment decline, as a basis of area designation be changed to "population loss" as a more apt and readily available descriptive term. This commenter also suggested that per capita employment decline be modified so that what is measured is the decline of the working age population.

We do not concur because the regulation as currently written in 13 CFR 301.9 accurately reflects PWEDA.

- Economic Development Districts.

A commenter made suggestions for clarifications and corrections of 13 CFR 302.4(a); 302.13; 302.17 and 302.18.

We concur with all of the above and have made the recommended changes, with the exception of § 302.13 (c), since we do not agree that the use of a pronoun to describe the Economic Development Center (EDC) is unclear.

- Overall Economic Development Program (OEDP).

A commenter recommended that the section describing requirements for District OEDPs be modified to make it clear that both conditions listed must be satisfied.

We concur and have changed 13 CFR 303.2(a) accordingly.

A commenter recommended that the section describing Area OEDP committees be further streamlined and clarified.

We concur and have revised 13 CFR 303.3(a)(1) accordingly.

- Selection Process.

Commenters made suggestions concerning programs which are reviewed, processed and approved in EDA headquarters—National Technical Assistance and Research, to clarify language about Solicitation of Proposals, and to accommodate proposals in excess of two pages with allowances for more in-depth project descriptions in applications, if so requested by EDA.

We concur and have made the suggested changes to 13 CFR 304.1 (a)(1)(i) and (a)(3)(iii).

Commenters recommended that for those programs where Regional Directors have been delegated the authority to approve projects, changes be made indicating that appropriate Regional Office Project Review Committees (PRCs) shall have the opportunity to review all proposals (wherever originally received); PRC meetings will be regularly scheduled, and proponents will be given timely written notice of the results of the PRC meeting at which their proposal was reviewed.

We concur and have made the suggested changes to 13 CFR 304.1 (a)(2)(i), (a)(2)(ii), and (a)(2)(iii).

Commenters recommended that a sentence be added to the section describing general evaluation criteria indicating that each annual FY NOFA could identify special areas of interest for that FY.

We concur and have changed 13 CFR 304.1(b) accordingly.

- Proposal form.

A commenter suggested that the standard OMB proposal form number be noted in the final rule.

We concur and have changed 13 CFR 304.1(a)(1)(i) accordingly.

- Award requirements.

A commenter noted that for programs under Titles I and IX of PWEDA, the award period can be no longer than the end of the fifth fiscal year after the award was made.

We concur and have made the changes to 13 CFR 305.7(a) and 308.7(a) accordingly.

- Public Works and Development Facilities Program.

Public Works Impact Program (PWIP): A commenter suggested that a statement be added to the evaluation criteria at 13 CFR 305.6 indicating that a major purpose is for speedy work.

We do not concur, because to do so would be to repeat what is stated in PWEDA (42 U.S.C. 3131(a)(1)(D)).

Supplementary grant rates: A commenter recommended that the median family income category for computation of supplementary grant rates at 13 CFR 305.8(b)(6) through (b)(8) be replaced by per capita income, because it is virtually impossible to have such low median family income ranges in today's economy.

We do not concur because the statute requires the use of median family incomes. We have, however, updated median family income figures based upon the 1990 U.S. Census.

Grants for construction cost increases: A commenter suggested redrafting and making 13 CFR 305.10 a part of 13 CFR part 316, since change of scope applies to other projects in addition to those involving construction.

We do not concur because this section is intended to apply only to statutorily authorized grants for construction cost increases under section 107 of PWEDA. Any other change of scope matters not specifically addressed in the rule are covered under 13 CFR 316.10.

New Subpart for Other Requirements: A commenter suggested an additional Subpart C for part 305, because the subjects in §§ 305.11–305.15 more appropriately should be included under a new Subpart C—Other Requirements.

We concur and have made the necessary changes to the rule by adding a Subpart C to part 305.

Disbursement of grant funds: A commenter suggested that 13 CFR 305.11 (a)(1), (a)(4) and (a)(6) be deleted on the ground that they are burdensome and go beyond uniform federal requirements. The commenter also suggested that other portions of the disbursement section either be deleted

as duplicative of general federal requirements or be moved to 13 CFR part 316 for all programs.

We do not concur because a consensus had been reached prior to publication of the interim-final rule that these conditions were needed in order to provide a structure within which EDA could exercise its judgment concerning grant disbursements.

Amendments and changes: A commenter suggested that this requirement under 13 CFR 305.13 applies to all programs, not just to public works under Title I, and should therefore, be moved to 13 CFR part 316.

We concur and have redesignated this requirement at 13 CFR 316.11.

Contract and subcontract clauses: A commenter suggested that this requirement under 13 CFR 305.15 applies to all programs, not just to public works under Title I, and should therefore, be moved to 13 CFR part 316.

We concur and have moved this requirement to 13 CFR 316.12.

- Local and National Technical Assistance.

Eligible applicants: Commenters suggested that the interim-final rule incorrectly includes other applicants such as private individuals, partnerships, firms and corporations (for-profits) as eligible grantees under the Local and National Technical Assistance programs under 13 CFR part 307.

We concur and have revised the interim-final rule at 13 CFR 307.2(c) and 307.12(c) to delete references to these other applicants. This change is made consistent with our revised interpretation of relevant provisions of PWEDA and the Federal Grant and Cooperative Agreement Act.

Other changes: Commenters suggested other changes for clarity and consistency with other portions of the rule, at 13 CFR 307.13(b), 307.14(e), 307.16 and 307.18(b).

We concur and have made these changes in the final rule. **Research topics and structure:** Commenters suggested that for the National Technical Assistance Program, the evaluation criterion describing levels of preferences for projects, based upon geographic scope, be modified to remove the levels of preferences.

We concur and have modified 13 CFR 307.20(c) accordingly.

- Title IX—Economic Adjustment Revolving Loan Fund (RLF).

Nonrelocation: A commenter suggested that the interim-final rule be modified to include borrowers under the Title IX Economic Adjustment Revolving Loan (RLF) program.

After discussion within the agency, we decided not to modify the interim-final rule at 13 CFR 316.4, but instead to include applicable nonrelocation requirements as part of RLF Plans and, if need be, as special conditions of the grant.

Subgrants: A commenter suggested that for RLF grants involving subgrants, processing be specifically set forth indicating those aspects to be reviewed and monitored by EDA and those to be handled by EDA's RLF grantees on EDA's behalf.

After discussions within the agency, it was determined that the rule should remain silent in this matter. Processing of subgrants will continue to be handled on a case by case basis to be covered in grant award documents, including special conditions by those Regional Offices handling such projects.

- Estimated useful life determinations.

A commenter suggested that the interim-final rule at 13 CFR part 314 be changed to add a maximum estimated useful life for projects, up to but not exceeding 20 years.

We do not concur because of applicable case law concerning extinguishing the Federal interest in projects.

- Evidence of Title to real property.

A commenter suggested that the interim-final rule be modified at 13 CFR 314.7 so that only recipients without the power of eminent domain be required to submit evidence of title.

We do not concur with this suggestion because the title requirements apply to all grantees, regardless of their legal status.

- Trade Act.

A commenter recommended changes to the definitions of firm, Partial separation, and A significant number of proportion of workers to more accurately reflect EDA's current policies concerning such terms.

We concur and have changed 315.2 accordingly.

Other changes: A commenter recommended changes to four other sections (selection process, certification requirements, processing petitions for certification, and hearings, appeals and final determinations) of the Trade Act portion of the rule, in order to clarify meanings.

We concur and have made changes accordingly to 13 CFR 315.5(b)(2), 315.9(a), 315.10 (b)(4) through (b)(6), and 315.11(a).

- Environment.

A commenter suggested that the Notice requirement under NEPA regulations be moved from EDA's annual FY NOFA to EDA's regulations,

since this is a continuing requirement that more appropriately should be codified along with other similar matters found in 13 CFR chapter III.

We concur and have added this to 13 CFR 316.1 (b)(1)(i) and (b)(1)(ii).

A commenter noted an error in the citation to the Resource Conservation and Recovery Act of 1976.

We concur and have changed 13 CFR 316.1(b)(7) accordingly.

- Excess capacity.

Commenters suggested that four of the five definitions—"capacity", "demand", "efficient capacity", and "existing competitive enterprise", be modified slightly to enable applicants to more easily provide information to EDA from which the agency can make necessary excess capacity findings and determinations.

We concur and have modified 13 CFR 316.3(b) accordingly.

- Civil rights.

Several commenters suggested changing the interim-final rule to give applicants for planning grants the option of submitting employment data on the ED-612 or in a narrative format traditionally used by such applicants/grantees containing comparable information to that provided on the ED-612.

We concur and have modified 13 CFR 317.1 accordingly.

A commenter suggested that we consider including developers as "Other Parties" for purposes of submission of civil rights employment data forms.

After discussions within the agency, it was determined that there is no need to modify the interim final rule, and that any special situations involving developers could, if need be, be covered by grant award special conditions.

Savings Clause

The rights, duties, and obligations of all parties pursuant to parts, sections and portions thereof of the Code of Federal Regulations removed by this rule shall continue in effect.

Executive Order 12866

This rule has been determined to be significant for purposes of E.O. 12866.

Regulatory Flexibility Act

Since notice and an opportunity for comment are not required to be given for the rule under 5 U.S.C. 553 or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 601-612) no initial or final Regulatory Flexibility Analysis is required, and none has been prepared.

Paperwork Reduction Act

This rule does not contain new information collection or recordkeeping

requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

E.O. 12612

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

List of Subjects

13 CFR Part 300

Organization and functions (Government agencies), Reporting and recordkeeping requirements.

13 CFR Part 301

Community development.

13 CFR Part 302

Community development, Grant programs—business, Grant programs—housing and community development, Loan programs—business, Loan programs—housing and community development, Technical assistance.

13 CFR Part 303

Community development, Reporting and recordkeeping requirements.

13 CFR Part 304

Community development.

13 CFR Part 305

Community development, Community facilities, Grant programs—housing and community development, Indians.

13 CFR Part 307

Business and industry, Community development, Grant programs—business, Grant programs—housing and community development, Indians, Research, Technical assistance.

13 CFR Part 308

Business and industry, Community development, Community facilities, Grant programs—business, Grant programs—housing and community development, Indians, Manpower training programs, Mortgages, Relocation assistance, Rent subsidies, Reporting and recordkeeping requirements, Research, Technical assistance, Unemployment compensation.

13 CFR Part 312

Community development, Grant programs—housing and community development.

13 CFR Part 314

Community development, Grant programs—housing and community development.

13 CFR Part 315

Administrative practice and procedure, Community development, Grant programs—business, Grant programs—housing and community development, Technical assistance, Trade adjustment assistance.

13 CFR Part 316

Community development, Community facilities, Freedom of information, Grant programs—housing and community development.

13 CFR Part 317

Aged, Civil rights, Equal employment opportunity, Individuals with disabilities, Reporting and recordkeeping requirements, Sex discrimination.

Accordingly, the interim rule revising 13 CFR Chapter III which was published at 60 FR 49670 on September 26, 1995, is adopted as a final rule with the following changes:

PART 300—GENERAL INFORMATION

1. The authority citation for part 300 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 300.3 is amended by revising paragraph (b) to read as follows:

§ 300.3 OMB control numbers.

* * * * *

(b) Control Number Table:

13 CFR part or section where identified and described	Current OMB control No.
303	0610-0093
305	0610-0094
	0610-0092
308	0610-0092
312.5	0610-0094
315	0610-0091
316.4	0610-0082

3. Section 300.4 is revised to read as follows:

§ 300.4 Economic Development Administration—Washington, D.C., Regional and Economic Development Representatives.

For addresses and phone numbers of the Economic Development Administration in Washington, D.C., Regional and Field Offices and Economic Development Representatives, refer to EDA's annual Fiscal Year (FY) Notice of Funding Availability (NOFA).

PART 301—DESIGNATION OF AREAS

1. The authority citation for part 301 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 301.4 is amended by revising paragraph (d) to read as follows:

§ 301.4 Designation on the basis of American Indian lands.

* * * * *

(d) When the determination of economic distress pertains to land areas that are not contiguous, it must be shown that there is a clear economic connection justifying the inclusion of the noncontiguous land areas that will contribute to a more effective economic development program for the area.

PART 302—ECONOMIC DEVELOPMENT DISTRICTS

1. The authority citation for part 302 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 302.4 is amended by revising paragraph (a) introductory text to read as follows:

§ 302.4 District organizations.

(a) The district organization is a prerequisite to the awarding of a planning grant and to the initial designation of EDDs. The District shall be organized in one of the following manners:

* * * * *

3. Section 302.13 is amended by redesignating the introductory text and paragraphs (a) through (d) as paragraph (a) introductory text and paragraphs (a)(1) through (a)(4), revising newly designated paragraph (a)(2), and designating the undesignated paragraph at the end of the section as paragraph (b) to read as follows:

§ 302.13 Termination and suspension of economic development centers.

(a) * * *

(2) The economic development center no longer meets the standards for designation, § 302.10;

* * * * *

4. Section 302.17 is revised to read as follows:

§ 302.17 Grant rate for economic development center projects.

The grant rate for projects under Title I of the Act in EDCs, which are growth

centers not located in designated redevelopment areas, shall not exceed 50 percent of the project costs except for the ten percent bonus provided for in § 302.18 and § 305.9 of this chapter.

5. Section 302.18 is revised to read as follows:

§ 302.18 Financial assistant redevelopment centers.

The eligibility of redevelopment centers for EDA financial assistance, including the ten percent bonus as provided for herein, is the same as for any designated redevelopment area within the district. The grant rate for the redevelopment center shall be determined by the rate applicable to the redevelopment area within which it is located.

PART 303—OVERALL ECONOMIC DEVELOPMENT PROGRAM

1. The authority citation for part 303 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 303.2 is amended by revising paragraph (a) to read as follows:

§ 303.2 Redevelopment area—District OEDPs.

* * * * *

(a) The area actively participates in and supports the district OEDP planning process; and

* * * * *

3. Section 303.3 is amended by redesignating paragraphs (a) introductory text and (a)(1) as paragraphs (a)(1) and (a)(2) respectively, and by revising the newly designated paragraph (a)(2) to read as follows:

§ 303.3 Redevelopment area OEDP committee.

(a) * * *

(2) Redevelopment area OEDP committees are required only in areas not located in EDDs. EDA recommends OEDP committees in all areas whenever practicable.

* * * * *

PART 304—GENERAL SELECTION PROCESS AND EVALUATION CRITERIA

1. The authority citation for part 304 continues to read as follows:

Authority: Sec. 701, Pub.L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 304.1 is amended by revising paragraphs (a)(1)(i), (a)(2)(ii),

(a)(2)(iii), (a)(3)(iii), and (b) to read as follows:

§ 304.1 General selection process and evaluation process and evaluation criteria for programs under PWEDA.

* * * * *

(a) * * *

(1) * * *

(i) There will be a brief proposal on the OMB approved form, number 0610-0094, consisting of the face sheet (SF-424) and two additional pages, except for projects under part 307, subparts C and D, of this chapter for which proponents may include more than two pages if necessary to provide adequate information to EDA upon which to make an informed determination whether to invite a more comprehensive proposal and application, including for example, budget, scope of work and capability statements.

* * * * *

(2) * * *

(ii) Such proposals, whether received through contact with the appropriate Economic Development Representative (EDR) or Regional Office of EDA, shall have the opportunity to be formally reviewed by the appropriate Regional Office Project Review Committee (consisting of at least three EDA officials) (PRC). Generally, an EDR will evaluate proposals under paragraph (b) of this section before submitting them to the EDA Regional Office for such review.

(iii) The results of these PRC meetings shall be communicated to the proponents in writing and in a timely manner, advising them that they are: being invited to submit a formal application; having their application returned because of specified deficiencies (resubmissions will be allowed when the deficiencies are cured) or being denied for specific reasons.

* * * * *

(3) * * *

(iii) If the proposal is acceptable under paragraph (b) of this section, EDA may invite proponents to submit applications which must include a more detailed and comprehensive project narrative.

* * * * *

(b) General evaluation criteria for projects to be funded under parts 305, 307 and 308 of this chapter in addition to criteria noted in such parts, are as follows: All proposals/applications will be screened for conformance to statutory and regulatory requirements, the relative severity of the economic problem of the area, the quality of the scope of work proposed to address the

problem, the merits of the activity(ies) for which funding is requested, and the ability of the prospective applicant to carry out the proposed activity(ies) successfully. The NOFA may identify special areas of interest for the fiscal year of such NOFA.

PART 305—PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

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

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 305.7 is amended by revising paragraph (a) to read as follows:

§ 305.7 Award requirements.

(a) Projects are expected to be completed in a timely manner consistent with the nature of the project. Normally, the maximum period for any financial assistance that is provided shall be not more than 5 years from the end of the fiscal year of the award.

* * * * *

3. Section 305.8 is amended in paragraph (b) by revising entries (6) through (8) in the table to read as follows:

§ 305.8 Supplementary grants.

* * * * *

(b) * * *

Projects	Maximum grant rates (percent)

(6) Projects located in areas designated under Title IV of the Act in which the median family income is \$12,100 or below, or the average unemployment rate for the preceding 24 months is 12 percent or higher	80
(7) Projects located in areas designated under Title IV of the Act in which the median family income is \$13,900-\$12,101, or the average unemployment rate for the preceding 24 months is 10 percent to 11.9 percent	70
(8) Projects located in areas designated under Title IV of the Act in which the median family income is \$15,700-\$13,901, or the average unemployment rate for the preceding 24 months is 8 percent to 9.9 percent	60

* * * * *

§ 305.13 [Redesignated as § 316.11]

4. Section 305.13 is redesignated as § 316.11.

§ 305.14 [Redesignated as § 305.13]

5. Section 305.14 is redesignated as § 305.13.

§ 305.15 [Redesignated as § 316.12]

6. Section 305.15 is redesignated as § 316.12.

7. Sections 305.11 through 305.13 are designated as subpart C and a subpart heading is added to read as follows:

Subpart C—Other Requirements

PART 307—LOCAL TECHNICAL ASSISTANCE, UNIVERSITY CENTER TECHNICAL ASSISTANCE, NATIONAL TECHNICAL ASSISTANCE, RESEARCH AND EVALUATION AND PLANNING

1. The authority citation for part 307 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 307.2 is amended by revising paragraph (c) to read as follows:

§ 307.2 Applicants.

* * * * *

(c) Technical assistance grant funds may not be awarded to private individuals or for profit organizations.

3. Section 307.12 is amended by revising paragraph (c) to read as follows:

§ 307.12 Applicants.

* * * * *

(c) Technical assistance grant funds may not be awarded to private individuals or for profit organizations.

4. Section 307.13 is amended by revising paragraph (b) to read as follows:

§ 307.13 Selection process.

* * * * *

(b) EDA may during the course of the year, identify specific economic development technical assistance activities it wishes to have conducted. Organizations and individuals interested in being invited to respond to Solicitations of Applications (SOAs) to conduct such studies should submit information on their capabilities and experience. See the annual FY NOFA for the appropriate point of contact and address.

4. Section 307.14 is amended by revising paragraph (e) to read as follows:

§ 307.14 Evaluation criteria.

* * * * *

(e) Demonstrates innovative approaches to stimulating economic development in depressed areas.

5. Section 307.16 is amended by revising the introductory text to read as follows:

§ 307.16 Purpose and scope.

The purposes of research and evaluation projects are as follows:

* * * * *

6. Section 307.18 is amended by revising paragraph (b) to read as follows:

§ 307.18 Selection process.

* * * * *

(b) EDA may during the course of the year, identify specific research or program evaluation projects it wishes to have conducted. Organizations and individuals interested in being invited to respond to SOAs to conduct such studies should submit information on their capabilities and experience. See the annual FY NOFA for the appropriate point of contact and address.

7. Section 307.20 is amended by revising paragraph (c) and removing paragraph (e) to read as follows:

§ 307.20 Research topics and structure.

* * * * *

(c) EDA normally prefers research of broad geographical scope.

* * * * *

PART 308—REQUIREMENTS FOR GRANTS UNDER THE TITLE IX ECONOMIC ADJUSTMENT PROGRAM

1. The authority citation for part 308 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 308.5 is amended by revising paragraph (b) to read as follows:

§ 308.5 Selection process.

* * * * *

(b) Applicants for funding of a Revolving Loan Fund (RLF) are generally required to submit a RLF Plan in addition to the adjustment strategy for the area. Guidelines on RLFs are available from the Regional Offices. See the annual FY NOFA for the appropriate point of contact and address.

2. Section 308.7 is amended by revising paragraph (a) to read as follows:

§ 308.7 Award requirements.

(a) Projects are expected to be completed in a timely manner consistent with the nature of the project. Normally, the maximum period for any financial assistance that is provided shall be not more than 5 years from the end of the fiscal year of the award.

* * * * *

PART 315—CERTIFICATION AND ADJUSTMENT ASSISTANCE FOR FIRMS

1. The heading for part 315 is revised to read as set forth above.

2. The authority citation for part 315 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Title II, Chapter 3 of the Trade Act of 1974, as amended, (19 U.S.C. 2341-2355); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

3. Section 315.2 is amended by revising the definitions of *Firm*, *Partial separation*, and *A significant number or proportion of workers* to read as follows:

§ 315.2 Definitions.

* * * * *

Firm means an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy or receiver under court decree and including fishing, agricultural entities and those which explore, drill or otherwise produce oil or natural gas. When a firm owns or controls other firms as described below, for purposes of receiving benefits under this part, the firm and such other firms may be considered a single firm when they produce like or directly competitive articles or are exerting essential economic control over one or more production facilities. Such other firms include:

- (1) Predecessor;
- (2) Successor;
- (3) Affiliate; or
- (4) Subsidiary.

* * * * *

Partial separation means either:

- (1) A reduction in an employee's work hours to 80 percent or less of the employee's average weekly hours during the year of such reductions as compared to the preceding year; or
- (2) A reduction in the employee's weekly wage to 80 percent or less of his/her average weekly wage during the year of such reduction as compared to the preceding year.

* * * * *

A significant number or proportion of workers means 5 percent of the firm's work force or 50 workers, whichever is less. An individual farmer is considered a significant number or proportion of workers.

* * * * *

4. Section 315.5 is amended by revising paragraph (b)(2) to read as follows:

§ 315.5 Selection process.

* * * * *

(b) * * *

(2) Once firms are certified in accordance with the procedures described in §§ 315.9 and 315.10, an adjustment proposal is usually prepared with technical assistance from a party independent of the firm, usually the TAAC, and submitted to EDA;

* * * * *

5. Section 315.8 is amended by revising paragraph (a) to read as follows:

§ 315.8 Purpose and scope.

(a) Trade Adjustment Assistance Centers (TAACs) are available to assist firms in all fifty states, the District of Columbia and the Commonwealth of Puerto Rico in obtaining adjustment assistance. TAACs provide technical assistance in accordance with this subpart either through their own staffs or by arrangements with outside consultants. Information concerning TAACs serving particular areas can be obtained from EDA. See the annual FY NOFA for the appropriate point of contact and address.

* * * * *

6. Section 315.9 is amended by revising paragraph (a) to read as follows:

§ 315.9 Certification requirements.

* * * * *

(a) A significant number or proportion of workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated.

* * * * *

7. Section 315.10 is amended by revising paragraphs (b)(4) through (b)(6) to read as follows:

§ 315.10 Processing petitions for certification.

* * * * *

(b) * * *

(4) Data on its sales, production and employment for the two most recent years;

(5) Copies of its audited financial statements, or if not available, unaudited financial statements and Federal income tax returns for the two most recent years;

(6) Copies of unemployment insurance reports for the two most recent years.

* * * * *

8. Section 315.11 is amended by revising paragraph (a) to read as follows:

§ 315.11 Hearings, appeals and final determinations.

(a) Any petitioner may appeal to EDA from a denial of certification provided that the appeal is received by EDA in writing by personal delivery or by registered mail within 60 days from the

date of notice of denial under § 315.10(g). The appeal shall state the grounds on which the appeal is based, including a concise statement of the supporting facts and law. The decision of EDA on the appeal shall be the final determination within the Department of Commerce. In the absence of an appeal by the petitioner under this paragraph, such final determination shall be determined under § 315.10(g).

* * * * *

PART 316—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. The authority citation for part 316 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Title II, Chapter 3 of the Trade Act of 1974, as amended, (42 U.S.C. 2341-2355); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 316.1 is amended by revising paragraphs (b)(1) and (b)(7) to read as follows:

§ 316.1 Environment.

* * * * *

(b) * * *

(1) Requirements under the National Environmental Policy Act of 1969 (NEPA), Public Law 91-190, as amended, 42 U.S.C. 4321 *et seq.* as implemented under 40 CFR parts 1500 *et seq.* including the following:

(i) The implementing regulations of NEPA require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b); and

(ii) Depending on the project location, environmental information concerning specific projects can be obtained from the Environmental Officer in the appropriate Washington, D.C. or regional office listed in the NOFA;

* * * * *

(7) Resource Conservation and Recovery Act of 1976, Public Law 94-580 as amended, 42 U.S.C. 6901 *et seq.*;

* * * * *

3. Section 316.3 is amended by revising paragraph (b) to read as follows:

§ 316.3 Excess capacity.

* * * * *

(b) *Definitions.* For purposes of this section only:

Capacity means the maximum amount of a product or service that can be supplied to the market area over a sustained period by existing enterprises

through the use of present facilities and customary work schedules for the industry.

Demand means the actual quantity of a product or service that users are willing to purchase for use in the market area served by the intended commercial or industrial beneficiary.

Efficient capacity means that part of capacity derived from the use of contemporary structures, machinery and equipment, designs and technologies.

Existing competitive enterprise means an established operation which either produces the same product or delivers the same service to all or a substantial part of the market area.

* * * * *

4. Section 316.13 is added to read as follows:

§ 316.13 Preapproval construction.

Project construction carried out before approval of an application by EDA is carried out at the sole risk of applicant. Such activity could result in rejection of such project application, the disallowance of costs, or other adverse consequences as a result of non-compliance with Federal labor standards, or Federal environmental, historic preservation or related requirements.

PART 317—CIVIL RIGHTS

1. The authority citation for part 317 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136; 79 Stat. 570 (42 U.S.C. 3211); Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

2. Section 317.1 is amended by revising paragraph (c)(2) to read as follows:

§ 317.1 Civil rights.

* * * * *

(c) * * *

(2) Employment data in such form and manner as determined by EDA;

* * * * *

Dated: February 26, 1996.

Phillip A. Singerman,

Assistant Secretary for Economic Development.

[FR Doc. 96-4707 Filed 2-29-96; 8:45 am]

BILLING CODE 3510-34-P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Small Business Investment Companies; Correction

AGENCY: Small Business Administration.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, January 31, 1996, (61 FR 3177). The regulations related to examination fees for SBA examination of small business investment companies.

EFFECTIVE DATE: January 31, 1996.

FOR FURTHER INFORMATION CONTACT: Leonard Fagan, Office of Investment, (202) 205-6510.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections concern policies applicable to examination fees for licensees under the Small Business Investment Company program.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on January 31, 1996 of the final regulations that were the subject of FR Doc. 96-1351, is corrected as follows:

§ 107.692 [Corrected]

On page 3203, in the first column, in § 107.692, in the third column of the rate table in paragraph (a), entitled "Percent of assets", the last entry should be corrected to read "\$100,000,000" instead of "\$50,000,000".

Dated: February 26, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96-4774 Filed 2-29-96; 8:45 am]

BILLING CODE 8025-01-P

13 CFR Part 115

Surety Bond Guarantees; Correction

AGENCY: Small Business Administration.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, January 31, 1996, (61 FR 3266). The regulations related to definitions in provisions for all surety bond guarantees.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Barbara Brannan, Office of Surety Guarantees, (202) 205-6540.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections concern

definitions applicable to regulations governing the Surety Bond Guarantee program.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on January 31, 1996 of the final regulations that were the subject of FR Doc. 96-1347, is corrected as follows:

§ 115.10 [Corrected]

On page 3271, in the third column, in § 115.10, in the definition "Investment Act", the citation should be corrected to read "15 U.S.C. 661 *et seq.*".

Dated: February 26, 1996.

John T. Spotila,

Acting Administrator.

[FR Doc. 96-4771 Filed 2-29-96; 8:45 am]

BILLING CODE 8025-01-P

13 CFR Part 120

Business Loan Programs; Correction

AGENCY: Small Business Administration.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to the final regulations that were published Wednesday, January 31, 1996, (61 FR 3226). The regulations related to eligible passive companies, interest rates on smaller loans, the Certified Lenders Program, and the Development Company Loan Program.

EFFECTIVE DATE: March 1, 1996.

FOR FURTHER INFORMATION CONTACT: John R. Cox, (202) 205-6490.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections concern policies applicable to SBA's business (non-disaster) loan programs. Section 120.111 relates to all business loans, § 120.215 relates to 7(a) business loans, § 120.440 relates to special purpose loans, and § 120.839 relates to development company loans.

Need for Correction

As published, the final regulations contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication on January 31, 1996 of the final regulations