

Current section and paragraph	Redesignated section and paragraph
250.1014 .....	250.1019.

■ 4. The headings for newly redesignated §§ 250.1010 through 250.1014 are revised, and headings for newly redesignated §§ 250.1015 through 250.1019 are added to read as follows:

**§ 250.1009 Requirements to obtain pipeline right-of-way grants.**

\* \* \* \* \*

**§ 250.1010 General requirements for pipeline right-of-way holders.**

\* \* \* \* \*

**§ 250.1011 Bond requirements for pipeline right-of-way holders.**

\* \* \* \* \*

**§ 250.1012 Required payments for pipeline right-of-way holders.**

\* \* \* \* \*

**§ 250.1013 Grounds for forfeiture of pipeline right-of-way grants.**

\* \* \* \* \*

**§ 250.1014 When pipeline right-of-way grants expire.**

\* \* \* \* \*

**§ 250.1015 Applications for pipeline right-of-way grants.**

\* \* \* \* \*

**§ 250.1016 Granting pipeline rights-of-way.**

\* \* \* \* \*

**§ 250.1017 Requirements for construction under pipeline right-of-way grants.**

\* \* \* \* \*

**§ 250.1018 Assignment of pipeline right-of-way grants.**

\* \* \* \* \*

**§ 250.1019 Relinquishment of pipeline right-of-way grants.**

\* \* \* \* \*

■ 5. Redesignated § 250.1012 is revised to read as follows:

**§ 250.1012 Required payments for pipeline right-of-way holders.**

(a) You must pay MMS an annual rental of \$15 for each statute mile, or part of a statute mile, of the OCS that your pipeline right-of-way crosses.

(b) This paragraph applies to you if you obtain a pipeline right-of-way that includes a site for an accessory to the pipeline, including but not limited to a platform. This paragraph also applies if you apply to modify a right-of-way to change the site footprint. In either case, you must pay the amounts shown in the following table.

If...	Then...
(1) Your accessory site is located in water depths of less than 200 meters;	You must pay a rental of \$5 per acre per year with a minimum of \$450 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.
(2) Your accessory site is located in water depths of 200 meters or greater;	You must pay a rental of \$7.50 per acre per year with a minimum of \$675 per year. The area subject to annual rental includes the areal extent of anchor chains, pipeline risers, and other facilities and devices associated with the accessory.

(c) If you hold a pipeline right-of-way that includes a site for an accessory to your pipeline and you are not covered by paragraph (b) of this section, then you must pay MMS an annual rental of \$75 for use of the affected area.

(d) You may make the rental payments required by paragraphs (a), (b)(1), (b)(2), and (c) of this section on an annual basis, for a 5-year period, or for multiples of 5 years. You must make the first payment at the time you submit the pipeline right-of-way application. You must make all subsequent payments before the respective time periods begin.

(e) Late payments. An interest charge shall be assessed on unpaid and underpaid amounts from the date the amounts are due, in accordance with the provisions found in 30 CFR 218.54. If you fail to make a payment that is late after written notice from MMS, MMS may initiate cancellation of the right-of-use grant and easement under 30 CFR 250.1009(d).

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**DEPARTMENT OF EDUCATION**

**34 CFR Parts 668, 674, 682, and 685**

**Federal Student Aid Programs (Student Assistance General Provisions, Federal Perkins Loan Program, Federal Direct Loan Program, Federal Family Education Loan Program and the Federal Pell Grant Program)**

**AGENCY:** Department of Education.

**ACTION:** Notice of waivers and modifications of statutory and regulatory provisions pursuant to the Higher Education Relief Opportunities for Students Act of 2003, Pub. L. 108-76.

**SUMMARY:** The Secretary of Education announces waivers and modifications of statutory and regulatory provisions that are appropriate to assist individuals (referred to in this notice as "affected individuals") who are applicants and recipients of student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA), and who—

- Are serving on active duty during a war or other military operation or national emergency;

- Are performing qualifying National Guard duty during a war or other military operation or national emergency;

- Reside or are employed in an area that is declared a disaster area by any Federal, State, or local official in connection with a national emergency;

- Suffered direct economic hardship as a direct result of a war or other military operation or national emergency, as determined by the Secretary.

The Secretary is issuing these waivers and modifications under the authority of section 2(a) of the Higher Education Relief Opportunities for Students (HEROES) Act of 2003, Pub. L. 108-76. Section 2(b) of the HEROES Act requires the Secretary to publish, in a notice in the **Federal Register**, the waivers or modifications of statutory or regulatory provisions applicable to the student financial assistance programs under title IV of the HEA that the Secretary believes are appropriate to ensure that:

- Individuals who are recipients of student financial assistance under title IV are not placed in a worse position financially in relation to that student financial assistance because they are affected individuals;

- Affected individuals who are recipients of student financial assistance are not unduly subject to administrative burden or inadvertent, technical violations or defaults;

- Affected individuals are not penalized when a determination of need for student financial assistance is calculated;

- Affected individuals are not required to return or repay an overpayment of grant funds based on the HEA's Return of Title IV Funds provision; and

- Entities that participate in the student financial assistance programs under title IV of the HEA and that are located in areas that are declared disaster areas by any Federal, State, or local official in connection with a national emergency, or whose operations are significantly affected by such a disaster, receive temporary relief from administrative requirements.

Section 2(b)(1) of the HEROES Act further provides that section 437 of the General Education Provisions Act (20 U.S.C. 1232) and Section 553 of the Administrative Procedure Act (5 U.S.C. 553) do not apply to the contents of this notice.

Section 5 of the HEROES Act defines the following terms used in this notice:

**Active duty**—The term “active duty” has the meaning given that term in 10 U.S.C. section 101(d)(1), but does not include active duty for training or attendance at a service school (e.g., the U.S. Military Academy or U.S. Naval Academy).

**Military operation**—The term “military operation” means a contingency operation as that term is defined in 10 U.S.C. section 101(a)(13).

**National emergency**—The term “national emergency” means a national emergency declared by the President of the United States.

**Serving on active duty**—The term “serving on active duty during a war or other military operation or national emergency” includes service by an individual who is—

- (A) a Reserve member of an Armed Force ordered to active duty under 10 U.S.C. 12301(a), 12301(g), 12302, 12304, or 12306, or any retired member of an Armed Force ordered to active duty under 10 U.S.C. 688, for service in connection with a war or other military operation or national emergency, regardless of the location at which that active duty service is performed; and

- (B) any other member of an Armed Force on active duty in connection with any war, operation, or emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which the individual is normally assigned.

**Qualifying National Guard duty**—The term “qualifying National Guard duty during a war or other military operation or national emergency” means service as a member of the National Guard on full-time National Guard duty (as defined in 10 U.S.C. 101(d)(5)) under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 U.S.C. 502(f), in connection with a war, another military operation, or a national emergency declared by the President and supported by Federal funds.

Section 2(c) of the HEROES Act requires the Secretary to provide an impact report to the Committee on Education and the Workforce of the U.S. House of Representatives and the Committee on Health, Education, Labor, and Pensions of the U.S. Senate not later than 15 months after first exercising the authority to issue a waiver or modification under section 2(a) of the HEROES Act. The report will describe the impact of any waivers or modifications on affected individuals and the programs under title IV of the HEA, and the basis for that determination, and will include the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of the waivers or modifications. Therefore, a guaranty agency, lender, or institution must document its application of a waiver or modification made in accordance with this notice in such a manner that the institution can, upon request, report to the Secretary on the effect of the waivers and modifications.

**EFFECTIVE DATE:** December 12, 2003. The provisions of Pub. L. 108–76, and the waivers and modifications in this document, expire on September 30, 2005.

**FOR FURTHER INFORMATION CONTACT:** For provisions related to the title IV loan programs (Federal Perkins Loan Program, Federal Family Education Loan (FFEL) Program, and Federal Direct Loan (Direct Loan) Program): Ms. Gail McLarnon or Mr. George Harris, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., (8th Floor), Washington, DC 20006. Internet and Telephone: [Gail.McLarnon@ed.gov](mailto:Gail.McLarnon@ed.gov) and (202) 219–

7048 or [GeorgeOPE.Harris@ed.gov](mailto:GeorgeOPE.Harris@ed.gov) and (202) 502–7521.

For other provisions: Ms. Wendy Macias, U.S. Department of Education, 1990 K Street, NW. (8th Floor), Washington, DC 20006. Internet and Telephone: [Wendy.Macias@ed.gov](mailto:Wendy.Macias@ed.gov) and (202) 502–7526.

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, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

#### SUPPLEMENTARY INFORMATION:

**Category 1:** The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for ALL affected individuals specified in the **SUMMARY** section of this notice:

#### Need Analysis

Section 480 of the HEA provides that, in the calculation of an applicant's expected family contribution (EFC), the term “total income,” which is used in the determination of “annual adjusted family income” and “available income,” is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income. The HEROES Act allows an institution to substitute adjusted gross income plus untaxed income and benefits received in the first calendar year of the award year for which such determination is made for any affected individual, and for his or her spouse and dependents, if applicable, in order to reflect more accurately the financial condition of an affected individual and his or her family. The Secretary has determined that an institution has the option of using the applicant's original EFC or the EFC based on the data from the first calendar year of the award year.

If an institution chooses to use the alternate EFC, it should use the administrative Professional Judgment procedures established by the Secretary as discussed in the following section on “Professional Judgement.”

#### Professional Judgment

Section 479A of the HEA specifically gives the financial aid administrator (FAA) the authority to use professional judgment to make adjustments on a case-by-case basis to the cost of attendance or to the values of the items used in calculating the EFC to reflect a student's special circumstances. The

Secretary is modifying this provision by removing the requirement that adjustments be made on a case-by-case basis for affected individuals. The use of professional judgment in Federal need analysis is discussed in the Student Financial Aid Handbook.

The Secretary encourages FAAs to use professional judgment in order to reflect more accurately the financial need of affected individuals. To that end, the Secretary encourages institutions to determine need for any affected individual by determining the most beneficial of:

- The individual's need as determined using the adjusted gross income plus untaxed income and benefits received in the first calendar year of the award year;

- The individual's need as determined using professional judgment; or

- The individual's need as determined making no modifications. (For example, in some cases, an individual's income will increase as a result of serving on active duty or performing qualifying National Guard duty.)

The FAA must clearly document the reasons for any adjustment. As usual, any professional judgment decisions made by an FAA that affect a student's eligibility for a Federal Pell Grant must be reported to the Central Processing System (CPS).

#### **Return of Title IV Funds—Grant Overpayments Owed by the Student**

Section 484B(b)(2) of the HEA and 34 CFR 668.22(h)(3)(ii) require a student to return or repay, as appropriate, 50 percent of any unearned grant funds for which the student is responsible under the Return of Title IV Funds calculation. For a student who withdraws from an institution because of his or her status as an affected individual, the Secretary is waiving these statutory and regulatory requirements so that a student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provisions. For these students, the Secretary also waives 34 CFR 668.22(h)(4), which:

- Requires an institution to notify a student of a grant overpayment and the actions the student must take to resolve the overpayment;

- Denies eligibility to a student who owes an overpayment and does not take an action to resolve the overpayment; and

- Requires an institution to refer an overpayment to the Secretary under certain conditions.

Therefore, an institution is not required to contact the student, notify

NSLDS, or refer the overpayment to the Department. Note that this is a change from previous guidance that instructed institutions to refer these overpayments to the Department. However, the institution must document in the student's file the amount of any overpayment as part of the documentation of the application of this waiver. The student is not required to return or repay an overpayment of grant funds based on the Return of Title IV Funds provision; therefore, an institution must not apply any title IV credit balance to the grant overpayment before paying any amount of the title IV credit balance to the student or parent, in the case of a PLUS loan.

#### **Return of Title IV Funds—Amount of Unearned Funds Owed by the Institution**

If the Return of Title IV Funds calculation results in the institution being required to return funds to one or more of the title IV programs, the institution must do so as it must for any student who withdraws. In many cases a return of funds by the institution will reduce the student's loan debt.

Section 484B(b)(1) of the HEA and 34 CFR 668.22(g) provide that an institution must return the lesser of (1) the total amount of unearned aid to be returned; or (2) an amount equal to the student's total institutional charges for the payment period or period of enrollment multiplied by the percentage of unearned aid. The total (initial) amount of institutional charges is used even if the institution fully refunds or otherwise adjusts the amount of institutional charges after the student withdraws. For a student who withdraws because of his or her status as an affected individual, the Secretary is modifying this provision to exclude from the amount of a student's total institutional charges any institutional charges that the institution is required to cover, and has covered, with non-title IV sources of aid. For example, assume a student receives a state grant of \$800 that must be used only for tuition charges. The institution applies the state grant toward the total institutional charges of \$1,000. The student withdraws. The institution uses \$200, the difference between the full institutional charges and the amount of the state grant the institution was required to apply to the institutional charges, as the student's total institutional charges for the payment period or period of enrollment when determining the amount of unearned title IV funds that the institution must return.

#### **Verification of AGI and U.S. Income Tax Paid**

34 CFR 668.57(a)(3) provides that when an individual whose income was used in the calculation of the EFC of an applicant for title IV assistance has not filed an income tax return because he or she has been granted a filing extension by the IRS, an institution must accept, in lieu of an income tax return for verification of AGI or income tax paid:

- A copy of IRS Form 4868, "Application for Automatic Extension of Time to File U.S. Individual Income Tax Return," that the individual filed with the IRS for the base year, or a copy of the IRS's approval of an extension beyond the automatic four-month extension if the individual requested an additional extension of the filing time; and

- A copy of each W-2 received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The Secretary is modifying this provision so that the submission of a copy of IRS Form 4868 or a copy of the IRS extension approval is not required if an individual whose income was used in the calculation of the EFC:

- Has not filed and was not required to file an income tax return by the filing deadline because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; and

- Was not required to file for an extension.

For these individuals, an institution must accept, in lieu of an income tax return for verification of AGI or income tax paid:

- A statement from the individual certifying that he or she has not filed and was not required to file an income tax return or a request for a filing extension because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency; and

- A copy of each W-2 received for the base year, or for a self-employed individual, a statement signed by the individual certifying the amount of AGI for the base year.

The student must submit the tax return to the institution once it is filed with the IRS for the institution to re-verify the AGI and taxes paid.

Category 2: The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty, performing

qualifying National Guard duty during a war or other military operation or national emergency, or who reside or are employed in a disaster area as described in the SUMMARY section of this notice:

#### **Return of Title IV Funds— Postwithdrawal Disbursements**

Under 34 CFR 668.22(a)(4)(ii)(A)(3) and (B), a student (or parent for a PLUS loan) must be provided a postwithdrawal disbursement if the student (or parent) responds to an institution's notification of the postwithdrawal disbursement within 14 days of the date that the institution sent the notice. If a student or parent submits a late response, an institution may, but is not required to, make the postwithdrawal disbursement. The Secretary is modifying this requirement so that, for a student who withdraws because of his or her status as an affected individual in this category and is eligible for a postwithdrawal disbursement, the 14-day time period in which the student (or parent) must normally respond to the offer of the post-withdrawal disbursement is extended to 45 days. If the student or parent submits a response after the 45-day period, the institution may, but is not required to, make the postwithdrawal disbursement. As required under the current regulations, if the student or parent submits the timely response instructing the institution to make all or a portion of the postwithdrawal disbursement, or the institution chooses to make a postwithdrawal disbursement based on receipt of a late response, the institution must disburse the funds within 120 days of the date of the institution's determination that the student withdrew.

#### **Leaves of Absence**

34 CFR 668.22(d)(4)(iii)(B) requires a student to provide a written, signed, and dated request, which includes the reason for that request, for an approved leave of absence prior to the leave of absence, or at a later date if the student is prevented from providing a prior written request by unforeseen circumstances. It may be appropriate in certain limited cases for an institution to provide an approved leave of absence to a student who must interrupt his or her enrollment because he or she is an affected individual. Therefore, the Secretary is waiving the requirement that the student provide a written request for affected individuals who would have difficulty providing a written request as a result of being an affected individual. The institution's

documentation of its decision to grant the leave of absence must include, in addition to the reason for the leave of absence, the reason for waiving the requirement that the waiver be requested in writing.

#### **Treatment of Title IV Credit Balances When a Student Withdraws**

Under 34 CFR 668.164(e), an institution must pay any credit balance to the student, or parent in the case of a PLUS loan, within 14 days after the balance occurred. However, if a student (or parent) has provided permission, an institution may use a title IV credit balance to reduce the borrower's loan debt.

Therefore, for students who withdraw because they are affected individuals, the Secretary is modifying 34 CFR 668.164(e) to consider an institution to have met the 14-day requirement if, within that timeframe, the institution attempts to contact the student to suggest that permission be given to the institution allowing it to return the credit balance to the loan program(s). Based upon the instructions of the student (or parent), the institution must promptly return the funds to the title IV loan programs or pay the credit balance to the student (or parent).

If an institution chooses to attempt to contact the student (or parent), it must allow the student (or parent) 45 days to respond. If there is no response within 45 days, the institution must promptly return the funds to the title IV programs. The institution may also choose to pay the credit balance to the student (or parent) without first requesting permission to return the funds to the loan program in order to reduce the borrower's debt.

#### **Cash Management—Borrower Request for Loan Cancellation**

Under 34 CFR 668.165(a)(4)(ii), an institution must return loan proceeds or cancel the loan, or both, if the institution receives a loan cancellation request from a borrower within 14 days after the date of the institution's notice to the borrower, or by the first day of the payment period if the institution sends the notice more than 14 days before the first day of the payment period. If an institution receives a late loan cancellation request from a borrower, the institution may, but is not required to, comply with the request. For a borrower who is an affected individual in this category, the Secretary is modifying this provision to require an institution to allow at least 60 days, rather than at least 14 days, for the borrower to request the cancellation of all or a portion of loan proceeds that

have been credited to the account at the institution. If an institution receives a loan cancellation request from a borrower after the 60-day period, the institution may, but is not required to, comply with the request.

#### **Cash Management—Student and Parent Authorizations**

34 CFR 668.165(b)(1) provides that an institution must obtain a written authorization from a student or parent, as applicable, to:

- Disburse title IV funds to a bank account designated by the student or parent;
- Use title IV funds to pay for current charges other than tuition, fees, room, and board, if the student contracts with the school for room and board; and
- Hold on behalf of the student or parent any title IV funds that would otherwise be paid directly to the student or parent.

The Secretary is modifying these provisions to permit an institution to accept an authorization provided by a student (or parent for a PLUS loan) orally, rather than in writing, if the student or parent is prevented from providing a written authorization because of his or her status as an affected individual in this category.

#### **Satisfactory Academic Progress**

Institutions may, in cases where a student failed to meet satisfactory academic progress standards as a direct result of being an affected individual in this category, apply the exception provision of "other special circumstances" contained in 34 CFR 668.34(c)(3) of the regulations.

#### **Borrowers in a Grace Period**

Sections 428(b)(7)(D) and 464(c)(7) of the HEA and 34 CFR 674.31(b)(2)(i)(C), 682.209(a)(6), and 685.207(b)(2)(ii) and (c)(2)(ii) exclude from a Federal Perkins Loan, FFEL, or Direct Loan borrower's (title IV borrower's) initial grace period, any period, not to exceed three years, during which a borrower who is a member of an Armed Forces reserve component is called or ordered to active duty for a period of more than 30 days. The statutory and regulatory provisions further require that any single excluded period may not exceed three years and must include the time necessary for the borrower to resume enrollment at the next available regular enrollment period. Lastly, borrowers are entitled to another full six- or nine-month grace period, as applicable, upon completion of the excluded period of service.

The Secretary is modifying these statutory and regulatory provisions to exclude from a title IV borrower's initial

grace period, any period, not to exceed three years, during which a borrower is an affected individual in this category. Any excluded period must include the time necessary for an affected individual in this category to resume enrollment at the next available enrollment period. Affected individuals in this category are also entitled to another full six- or nine-month grace period upon completion of the excluded period of service.

#### **Borrowers in an "In-School" Period**

A title IV borrower is considered to be in an "in-school" status and is not required to make payments on a title IV loan that has not entered repayment as long as the borrower is enrolled at an eligible school on at least a half-time basis. Under sections 428(b)(7) and 464(c)(1)(A) of the HEA and 34 CFR 674.31(b)(2), 682.209(a), and 685.207(b), (c), and (e)(2) and (3), when a title IV borrower ceases to be enrolled at an eligible institution on at least a half-time basis, the borrower is obligated to begin repayment of the loan after a six- or nine-month grace period, depending on the title IV loan program and the terms of the borrower's promissory note. The Secretary is modifying the statutory and regulatory provisions that obligate an "in-school" borrower who has dropped below half-time status to begin repayment if the borrower is an affected individual in this category by requiring the holder of the loan to maintain the loan in an "in-school" status for a period not to exceed three years, including the time necessary for the borrower to resume enrollment in the next regular enrollment period, if the borrower is planning to go back to school. The Secretary will pay interest that accrues on a subsidized Stafford Loan as a result of the extension of a borrower's in-school status under this modification.

#### **Borrowers in an In-School or Graduate Fellowship Deferment**

Under sections 427(a)(2)(C)(i), 428(b)(1)(M)(i), 428B(a)(2), 428C(b)(4)(C), 455(f)(2)(A), and 464(c)(2)(A)(i)(I) of the HEA and 34 CFR 674.34(b)(1), 682.210(b)(1)(i) and (ii), 682.210(s)(2), 682.210(s)(3), and 685.204(b)(1)(i), a title IV borrower is eligible for a deferment on the loan during periods after the commencement or resumption of the repayment period on the loan when the borrower is enrolled and in attendance as a regular student on at least a half-time basis (or full-time, if required by the terms of the borrower's promissory note) at an eligible institution; enrolled and in attendance as a regular student in a

course of study that is part of a graduate fellowship program; or engaged in graduate or post-graduate fellowship-supported study outside the United States. The borrower's deferment period ends when the borrower no longer meets one of the above conditions. The Secretary is waiving the statutory and regulatory eligibility requirements for this deferment for title IV borrowers who were required to interrupt a graduate fellowship deferment or who were in an in-school deferment but who left school because of their status as an affected individual in this category. The holder of the loan is required to maintain the loan in a graduate fellowship deferment or in-school deferment status for a period not to exceed three years during which the borrower is an affected individual. This period includes the time necessary for the borrower to resume his or her graduate fellowship program or resume enrollment in the next regular enrollment period if the borrower returns to school. The Secretary will pay interest that accrues on a subsidized Stafford Loan as a result of extending a borrower's eligibility for deferment under this waiver.

#### **Forbearance**

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2), there is a 3-year cumulative limit on the length of forbearances that a Federal Perkins Loan borrower can receive. To assist Perkins borrowers who are affected individuals in this category, the Secretary is waiving these statutory and regulatory requirements so that any forbearance based on a borrower's status as an affected individual is excluded from the 3-year cumulative limit.

Under section 464(e) of the HEA and 34 CFR 674.33(d)(2) and (3), a school must receive a written request and supporting documentation from a Federal Perkins Loan borrower before granting the borrower a forbearance, the terms of which must be in the form of a written agreement. The Secretary is waiving these statutory and regulatory provisions to require an institution to grant forbearance based on the borrower's status as an affected individual in this category for a one-year period, including a 3-month "transition period" that immediately follows that period, without supporting documentation or a written agreement, based on the written or oral request of the borrower, a member of the borrower's family, or another reliable source. The purpose of the 3-month "transition period" is to assist borrowers so that they will not be required to reenter repayment

immediately after they are no longer affected individuals.

In order to grant the borrower forbearance beyond the initial period, supporting documentation from the borrower, a member of the borrower's family, or another reliable source is required.

34 CFR 682.211(i)(1) requires an FFEL borrower who requests forbearance because of a military mobilization to provide the loan holder with documentation showing that he or she is subject to a military mobilization. The Secretary is waiving this requirement to allow the borrower to receive forbearance at the request of the borrower, a member of the borrower's family, or another reliable source for a one-year period, including a three-month transition period that immediately follows that period, without providing the loan holder with documentation. In order to grant the borrower forbearance beyond this period, documentation supporting the borrower's military mobilization must be submitted to the holder of the loan.

The Secretary will apply the forbearance waivers and modifications in this section to loans held by the Department of Education.

#### **Collection of Defaulted Loans**

In accordance with 34 CFR Part 674, Subpart C-Due Diligence and 682.410, schools and guaranty agencies must attempt to recover amounts owed from defaulted Perkins and FFEL borrowers. The Secretary is waiving the regulatory provisions that require schools and guaranty agencies to attempt collection on defaulted loans for the time period during which the borrower is an affected individual. The school or guaranty agency may stop collection activities upon notification by the borrower, a member of the borrower's family, or another reliable source that the borrower is an affected individual in this category. Collection activities must resume after the borrower has notified the school or guaranty agency that he or she is no longer an affected individual and must include the 3-month transition period. The loan holder must document in the loan file why it has suspended collection activities on the loan, and the loan holder is not required to obtain evidence of the borrower's status while collection activities have been suspended. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

#### **Loan Cancellation**

Depending on the loan program, borrowers may qualify for loan

cancellation if they are employed full-time in specified occupations, such as teaching, childcare, or law enforcement, pursuant to sections 428J(b)(1), 428K(d)(1), 460(b)(1)(A), and 465(a)(2)(A)–(I) and (a)(3) of the HEA, and 34 CFR 674.53(d), 674.55(a)(2), 674.55(b)(5), 674.55(c)(2), 674.56(d)(1), 674.57(b)(1), 674.58(b), 674.60(b), 682.215, and 685.217. Generally, to qualify for loan cancellation, borrowers must perform uninterrupted, otherwise qualifying service for a specified length of time (for example, one year) or for consecutive periods of time, such as 5 consecutive years. For borrowers who are affected individuals in this category, the Secretary is waiving the requirements that apply to the various loan cancellations that such periods of service be uninterrupted and/or consecutive, if the reason for the interruption is related to the borrower's status as an affected individual. Therefore, the period during which the borrower is an affected individual in this category, including the 3-month transition period, will not be considered an interruption in the required service for the borrower to receive an otherwise eligible loan cancellation. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

#### Rehabilitation of Defaulted Loans

A borrower of an HEA, title IV loan must make 12 consecutive, monthly, on-time payments to rehabilitate a defaulted loan in accordance with sections 428F(a) and 464(h)(1) of the HEA and 34 CFR 674.39(a)(2), 682.405, and 685.211(f)(1). To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving the statutory and regulatory requirements that payments made to rehabilitate a loan be consecutive. Loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category, or the 3-month transition period, as an interruption in the number of consecutive, monthly, on-time payments required for loan rehabilitation. When the borrower is no longer considered to be an affected individual in this category, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

#### Reinstatement of Title IV Eligibility

Under sections 428F(b) and 464(h)(2) of the HEA and under the definition of

“satisfactory repayment arrangement” in 34 CFR 668.35(a)(2), 674.2(b), 682.200(b), and 685.102(b), a defaulted title IV borrower may make six consecutive, monthly, on-time payments to reestablish eligibility for title IV student financial assistance. To assist title IV borrowers who are affected individuals in this category, the Secretary is waiving statutory and regulatory provisions that require the borrower to make consecutive payments in order to reestablish eligibility for title IV student financial assistance. Loan holders should not treat any payment missed during the time that a borrower is an affected individual as an interruption in the six consecutive, monthly, on-time payments required for reestablishing title IV eligibility. When the borrower is no longer considered to be an affected individual or in the 3-month transition period for purposes of this notice, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

#### Consolidation of Defaulted Loans

Under the definition of “satisfactory repayment arrangement” in 34 CFR 682.200(b) and 685.102(b), a defaulted FFEL or Direct Loan borrower may establish eligibility to consolidate a defaulted loan by making three consecutive, monthly, on-time payments on the loan. The Secretary is waiving the regulatory requirement that such payments be consecutive. FFEL loan holders should not treat any payment missed during the time that a borrower is an affected individual in this category as an interruption in the three consecutive, monthly, on-time payments required for establishing eligibility to consolidate a defaulted loan. When the borrower is no longer considered to be an affected individual in this category or in the 3-month transition period, the required sequence of qualifying payments may resume at the point they were discontinued as a result of the borrower's status as an affected individual. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

Category 3: The Secretary is waiving or modifying the following provisions of title IV of the HEA and the Department's regulations for affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency as described in the **SUMMARY** section of this notice:

#### Military Deferment

Under section 455(f)(4) of the HEA and 34 CFR 674.35(c)(1), 674.36(c)(1), 674.37(c)(1), 682.210(b)(2), and 685.204(d), certain borrowers are eligible for a deferment on their title IV loans for periods, not to exceed 3 years, during which the borrower is on active duty status in the United States Armed Forces. This provision includes a member of the National Guard or the Reserves serving a period of full-time active duty in the Armed Forces. The Secretary is modifying the statutory and regulatory requirements that limit military deferments to a 3-year cumulative period so that the time during which affected individuals in this category are serving on active duty is excluded from this time limit. The Secretary will pay interest that accrues on subsidized Stafford Loans during an extended period of deferment under this modification.

Under 34 CFR 674.38(a)(1) and 682.210(a)(4), a borrower must request the deferment and provide the institution or lender with supporting documentation to receive a deferment. The Secretary is modifying the regulations to allow a loan holder to grant an affected individual in this category a military deferment based on a request from a family member or another reliable source. The Secretary is also waiving documentation requirements to allow a loan holder to grant an affected individual in this category a military deferment for a one-year period without documentation. In order to grant a military deferment beyond the initial period, supporting documentation from the borrower, a member of the borrower's family, or another reliable source is required. The Secretary will apply the waivers described in this paragraph to loans held by the Department of Education.

#### Institutional Charges and Refunds

The HEROES Act encourages institutions to provide a full refund of tuition, fees, and other institutional charges for the portion of a period of instruction that a student was unable to complete, or for which the student did not receive academic credit, because he or she was called up for active duty or for qualifying National Guard duty during a war or other military operation or national emergency. Alternatively, the Secretary encourages institutions to provide a credit in a comparable amount against future charges.

The HEROES Act also recommends that institutions consider providing easy and flexible reenrollment options to such students who are affected

individuals in this category. Specifically, institutions are urged to minimize deferral of enrollment or reapplication requirements and to provide the greatest flexibility possible with administrative deadlines related to those applications.

Of course, an institution may provide such treatment to affected individuals other than those who are called up to active duty or for qualifying National Guard duty during a war or other military operation or national emergency.

However, before an institution makes a refund of institutional charges, it must perform the required Return of title IV Funds calculations based upon the originally assessed institutional charges. After determining the amount that the institution must return to the title IV Federal student aid programs, any reduction of institutional charges may take into account the funds that the institution is required to return. In other words, we do not expect that an institution would both return funds to the Federal programs and also provide a refund of those same funds to the student.

Category 4: The Secretary is waiving or modifying the following provisions of the HEA and regulations for dependents and spouses of affected individuals who are serving on active duty or performing qualifying National Guard duty during a war or other military operation or national emergency as described in the **SUMMARY** section of this notice:

#### Verification Signature Requirements

34 CFR 668.57(b) and (c) require signatures to verify the number of family members in the household and the number of family members enrolled in postsecondary institutions. The Secretary is waiving the requirement that a dependent student submit a statement signed by one of the applicant's parents when no responsible parent can provide the required signature because of the parent's status as an affected individual in this category.

#### Required Signatures on the Free Application for Federal Student Aid (FAFSA), Student Aid Report (SAR), and Institutional Student Information Record (ISIR)

Generally, when a dependent applicant for title IV aid submits an application (FAFSA) or submits corrections to a previously submitted application, at least one parental signature is required. The Secretary is waiving this requirement so that an applicant need not provide a parent's signature when there is no responsible

parent who can provide the required signature because of the parent's status as an affected individual in this category. In these situations, a student's high school counselor or the FAA may sign on behalf of the parent as long as the applicant provides adequate documentation concerning the parent's inability to provide a signature due to the parent's status as an affected individual in this category.

#### 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/news/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.

You may also view this document in PDF at the following site: <http://www.ifap.ed.gov>.

**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.gpoaccess.gov/nara/index.html>.

*Catalog of Federal Domestic Assistance Numbers:* 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Family Education Loan Program; 84.032 Federal PLUS Program; 84.033 Federal Work Study Program; 84.038 Federal Perkins Loan Program; 84.063 Federal Pell Grant Program and 84.268 William D. Ford Federal Direct Loan Program.

**Program Authority:** 20 U.S.C. 1071, 1082, 1087a, 1087aa, Pub. L. 108-76.

Dated: December 8, 2003.

**Sally L. Stroup,**

*Assistant Secretary, Office of Postsecondary Education.*

[FR Doc. 03-30781 Filed 12-11-03; 8:45 am]

BILLING CODE 4000-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA 296-0427; FRL-7594-2]

### Interim Final Determination To Stay and Defer Sanctions, South Coast Air Quality Management District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** EPA is making an interim final determination to stay and defer imposition of sanctions based on a proposed approval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP) published elsewhere in today's **Federal Register**. The revisions concern SCAQMD Rule 1168.

**DATES:** This interim final determination is effective on December 12, 2003. However, comments will be accepted until January 12, 2004.

**ADDRESSES:** Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105 or e-mail to [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov), or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted rule revisions, EPA's technical support document (TSD), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted rule revisions by appointment at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Fong, EPA Region IX, (415) 947-4117, [fong.yvonne@epa.gov](mailto:fong.yvonne@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

#### I. Background

On April 26, 2002 (67 FR 20645), we published a limited approval and limited disapproval of SCAQMD Rule 1168. Table 1 lists the rule addressed by our prior limited approval and disapproval with the dates that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).