

List of Subjects in 29 CFR Part 4003

Administrative practice and procedure, Organization and functions (Government agencies), Pension insurance, Pensions.

For the reasons set forth above, the PBGC is amending 29 CFR part 4003 as follows.

PART 4003—RULES FOR ADMINISTRATIVE REVIEW OF AGENCY DECISIONS

1. The authority citation for part 4003 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3).

2. Add new § 4003.61 to read as follows:

§ 4003.61 Action by a single Appeals Board member.

(a) *Authority to act.* Notwithstanding any other provision of this part, any member of the Appeals Board has the authority to take any action that the Appeals Board could take with respect to a routine appeal as defined in paragraph (b) of this section.

(b) *Routine appeal defined.* For purposes of this section, a routine appeal is any appeal that does not raise a significant issue of law or a precedent-setting issue. This would generally include any appeal that—

(1) Is outside the jurisdiction of the Appeals Board (for example, an appeal challenging the plan's termination date);

(2) Is filed by a person other than an aggrieved person or an aggrieved person's authorized representative;

(3) Is untimely and presents no grounds for waiver or extension of the time limit for filing the appeal, or only grounds that are clearly without merit;

(4) Presents grounds that clearly warrant or clearly do not warrant the relief requested;

(5) Presents only factual issues that are not reasonably expected to affect other appeals (for example, the participant's date of birth or date of hire); or

(6) Presents only issues that are controlled by settled principles of existing law, including Appeals Board precedent (for example, an issue of plan interpretation that has been resolved by the Appeals Board in a decision on an appeal by another participant in the same plan).

Issued in Washington, DC, this 16th day of July, 2002.

Elaine L. Chao,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth above pursuant to a resolution of the Board of Directors

authorizing its Chairman to issue this final rule.

James J. Keightley,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 02-18373 Filed 7-19-02; 8:45 am]

BILLING CODE 7708-01-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 with request for comments.

SUMMARY: The Secretary amends the regulations that govern the competition of new Indian Education discretionary grant programs for fiscal year (FY) 2002. The programs governed by this part include grants for the Professional Development program and the Demonstration Grants for Indian Children program. These programs are authorized under Title VII of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001. These regulations identify eligible applicants for the program and the specific application and program requirements that must be met in order for applications to be considered for funding. These regulations also provide the requirements for the payback provisions that apply to the Professional Development program. These regulations will govern the grant application process for new FY 2002 awards under both programs, including the payback provisions for the Professional Development program.

EFFECTIVE DATE: These regulations are effective July 22, 2002.

We must receive your comments on or before August 21, 2002.

ADDRESSES: Address all comments concerning these regulations to Cathie Martin, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3W111, Washington, DC 20202-6335. If you prefer to send your comments through the Internet, use the following address: cathie.martin@ed.gov.

If you want to comment on the information collection requirements, you must send your comments to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

You may also send a copy of these comments to the Department representative named in this section.

FOR FURTHER INFORMATION CONTACT: Cathie Martin. Telephone: (202) 260-1683 or via Internet: 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:**Invitation To Comment**

Although the Secretary has decided to issue these final regulations without first publishing proposed regulations for public comment, we are interested in whether you think we should make any changes in these regulations. We will consider these comments in determining whether to revise the regulations.

To ensure that your comments have maximum effect, we urge you to identify clearly the specific section or sections of the regulations that each of your comments addresses and to arrange your comments in the same order as the regulations.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these regulations. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these regulations in room 3W115 at 400 Maryland Ave., SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these regulations. If you want to schedule an appointment for this type

of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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 Pub. L. 107–110. These regulations incorporate the specific program requirements for both programs. They also include the 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.

Executive Order 12866

1. Potential Costs and Benefits

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.

2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on “Plain Language in Government Writing” require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the regulations clearly stated?
- Do the regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the regulations be easier to understand if we divided them into more (but shorter) sections? (A

“section” is preceded by the symbol “§” and a numbered heading; for example, § 263.9 When does payback begin?)

- Could the description of the regulations in the **SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the regulations easier to understand? If so, how?

- What else could we do to make the regulations easier to understand?

Send any comments that concern how the Department could make these regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

Waiver of Proposed Rulemaking

Under the Administrative Procedures Act (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed regulations. However, in order to make timely grant awards in fiscal year (FY) 2002, the Secretary has decided to issue these final regulations without first publishing proposed regulations for public comment. These regulations will apply to the FY 2002 grant competition only. The Secretary takes this action under section 437(d)(1) of the General Education Provisions Act.

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

The Secretary particularly requests comments on whether these regulations 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 16, 2002.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

For the reasons discussed in the preamble, the Secretary amends title 34 of the Code of Federal Regulations by revising part 263 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-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 described in paragraph (a) 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.

(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 the paragraph (a) of this section.

(c) The Secretary may give absolute preference to applications, reserving all or a portion of the funds available for new awards under the Professional Development program, to fund 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,

(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,

(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,

(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;

(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.

(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.

(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.

(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.

(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 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 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; or

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

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

(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 meet 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 written consortium agreement must be submitted with the application.

(c) The Secretary may give absolute preference to applications, reserving all or a portion of the funds available for new awards under the Demonstration Grants for Indian Children program, to fund 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. 02-18305 Filed 7-19-02; 8:45 am]

BILLING CODE 4000-01-P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1228

RIN 3095-AB02

Records Disposition

AGENCY: National Archives and Records Administration (NARA).

ACTION: Correcting amendment.

SUMMARY: This document corrects NARA's rule on disposition of Federal records by correcting a reference to a section that has been redesignated.

DATES: Effective on July 22, 2002.

FOR FURTHER INFORMATION CONTACT: Kim Richardson at telephone number 301-837-2902 or fax number 301-837-0319.

SUPPLEMENTARY INFORMATION: NARA redesignated certain sections in Part 1228 in a rulemaking on December 2, 1999 (64 FR 67667). We inadvertently failed to amend § 1228.42 to reflect the redesignation of a referenced section. This amendment makes that correction to the CFR.

List of Subjects in 36 CFR Part 1228

Archives and records.

Accordingly, 36 CFR part 1228 is corrected by making the following correcting amendment:

PART 1228—DISPOSITION OF FEDERAL RECORDS

1. The authority citation for Part 1228 continues to read as follows:

Authority: 44 U.S.C. chs. 21, 29, and 33.

§ 1228.42 [Amended].

2. In paragraph (d) of § 1228.42 revise the reference to “§ 1228.200” to read “§ 1228.282”.

Dated: July 15, 2002.

John W. Carlin,

Archivist of the United States.

[FR Doc. 02-18327 Filed 7-19-02; 8:45 am]

BILLING CODE 7515-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 261-0362a; FRL-7247-8]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from organic solvents, organic solvent degreasing operations and organic solvent cleaning, storage and disposal. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This direct final rule is effective on September 20, 2002, without further notice, unless EPA receives adverse comments by August 21, 2002. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection

Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

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

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726.

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX, (415) 972-3960.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State's Submittal

A. What Rules Did the State Submit?

Table 1 lists the rules we are approving with the dates that they were adopted by the local air agencies and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD	4661	Organic Solvents	12/20/01	02/20/02
SJVUAPCD	4662	Organic Solvent Degreasing Operations	12/20/01	02/20/02
SJVUAPCD	4663	Organic Solvent Cleaning, Storage, and Disposal	12/20/01	02/20/02

On March 15, 2002, these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There are no previous versions of Rules 4662 and 4663 in the SIP, although the SJVUAPCD adopted earlier

versions of rule 4661 on December 9, 1999, and CARB submitted it to us on February 23, 2000. We approved this version of Rule 4661 into the SIP on August 29, 2000. The SJVUAPCD