

announced that a petition (FAP 6B3967) had been filed by Rohm and Haas Co., Philadelphia, PA 19105, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of allylmethacrylate as a component of acrylic copolymer adhesives used in food packaging.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended in 21 CFR 175.105(c)(5) as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. This action was considered under FDA's final rule implementing the National Environmental Policy Act (21 CFR Part 25).

Any person who will be adversely affected by this regulation may at any time on or before August 24, 1987, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such

a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR Part 175 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1786 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10, 5.61.

2. Section 175.105 is amended in paragraph (c)(5) by alphabetically inserting a new item under the heading "Polymers: Homopolymers and copolymers of the following monomers," to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
Polymers: Homopolymers and copolymers of the following monomers:	
Allylmethacrylate (CAS Reg. No. 00066-05-09).	

Dated: July 15, 1987.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 87-16799 Filed 7-23-87; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 558

Animal Drugs, Feeds, and Related Products; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Pennfield Chemical Corp. providing for manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles. The Type A articles are intended for use in making Type C medicated feeds for use in swine, beef cattle, and chickens. The regulations are further amended to add the firm to the list of sponsors of approved applications.

EFFECTIVE DATE: July 24, 1987.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION:

Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137, is the sponsor of NADA 140-680 submitted on its behalf by Elanco Products Co. The NADA provides for the manufacture of 5-, 10-, 20-, and 40-gram-per-pound tylosin Type A medicated articles used to make Type C medicated feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The NADA is approved and 21 CFR 558.625(b)(89) is added to reflect the approval. The regulations are further amended in 21 CFR 510.600(c)(1) and (2) to add the firm to the list of sponsors of approved NADA's.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for 21 CFR Part 510 continues to read as follows:

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. Part 510 is amended in § 510.600 in paragraph (c)(1) by adding a new sponsor entry alphabetically and in paragraph (c)(2) by adding a new entry numerically to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * *	
(c) * * *	
(1) * * *	
Firm name and address	
Drug labeler code	
Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137.	
053389	
(2) * * *	
Drug labeler code	
Firm name and address	
053389 Pennfield Chemical Corp., 14040 Industrial Rd., Omaha, NE 68137.	

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

4. Part 558 is amended in § 558.625 by adding new paragraph (b)(89) to read as follows:

§ 558.625 Tylosin.

(b) * * *

(89) To 053389: 5, 10, 20, and 40 grams per pound, paragraph (f)(1) (i) through (vi) of this section.

Dated: July 13, 1987.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 87-16798 Filed 7-23-87; 8:45 am]

BILLING CODE 4150-01-M

DEPARTMENT OF EDUCATION

34 CFR PARTS 75, 76, 500, and 745

Direct Grant Programs, State-Administered Programs, Bilingual Education; General Provisions, and Women's Educational Equity Act Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Education Department General Administrative Regulations (EDGAR) to provide for greater flexibility and to eliminate obsolete and unnecessary regulations. Certain EDGAR provisions are transferred to the program regulations to which they apply.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. Amendment number 11, revising § 75.210, does not apply to any competition announced in an application notice published in the Federal Register before July 24, 1987. If you want to know the effective date of these regulations, call or write the Department of Education (ED) contact person.

FOR FURTHER INFORMATION CONTACT:

Hazel Fiers, Office of Management, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 3021, Federal Office Building No. 6), Washington, DC 20202. Telephone (202) 472-5123.

SUPPLEMENTARY INFORMATION:

On February 19, 1987, the Secretary published in the Federal Register (52 FR 5142) a Notice of Proposed Rulemaking (NPRM) proposing certain amendments to EDGAR. The NPRM included a discussion of the specific sections proposed for revision. Some of the provisions were made obsolete by laws passed since EDGAR became effective. Other provisions duplicated existing statutory or regulatory requirements. Still others were not required by statute. The Secretary believes these amended regulations will assist the Department in its efforts to reduce regulatory burden on the public and to streamline and promote efficient operation of Departmental programs. There are no differences between the revisions

published in the NPRM and these final regulations.

The revisions in this document do not include regulatory provisions related to the Office of Management and Budget (OMB) Circular A-102. The OMB has initiated a separate effort to revise the Circular A-102 requirements.

Two letters commenting on the NPRM were received. The commenters questioned:

- The removal of program lists at § 75.1 and § 76.1;
- The removal of § 75.111(d) and (e), which required an applicant under a formula grant program to submit information about "traditionally underrepresented group";
- The removal of §§ 75.202(b)(5) and 75.203(b)(4), regarding certain population groups, and the related incorporation of new language at §§ 75.210(b)(3)(v) and (b)(4)(i)(D); and
- The revision to the evaluation procedures at § 75.217.

A summary of the comments and the Department's responses follow:

Sections 75.1 and 76.1 Programs to Which Parts 75 and 76 Apply

Comment: The commenter believed the removal of the list of programs to which the respective parts apply would require administrators of Federal programs to expend more time and effort in order to compile the information from other sources.

Response: The lists may provide a reference for administrators of Federal programs to the extent that the lists are current. However, frequent revisions would be necessary due to changes in legislation and regulations. The Secretary believes it is a disservice to the public to use obsolete lists. Also, program regulations specifically state whether Part 75 or Part 76 applies; therefore, program administrators have the current information cited in those regulations.

Changes: None.

Sections 75.111 Describe the Project

Comment: One commenter objected to the removal of § 75.111(d) and (e). The commenter believed the removal of these paragraphs would weaken the affirmative commitment to ensure that "traditionally underrepresented groups" are served by federally supported programs.

Response: These paragraphs required applicants under direct grant programs that are based on a statutory formula to describe characteristics of project participants and beneficiaries and to describe the effects of the project on certain population groups. However,

under these specific programs, the Secretary must fund an applicant that meets the minimum requirements for funding under the statute for the program even if that applicant fails to provide the requested descriptive information related those population groups. As the NPRM preamble stated, the purpose of the deletion is to bring EDGAR into compliance with the OMB regulations implementing the Paperwork Reduction Act of 1980. Under those regulations, the Federal Government may not collect information that is unnecessary to the administration of a program (5 CFR 1320.4(b)(2) and (d)). The removal of the collection requirement from EDGAR will in no way weaken the Secretary's commitment to nondiscriminatory practices.

Changes: None.

Sections 75.202-75.206 and 75.210 Selection Criteria

Comment: One commenter supported incorporating selection criteria from §§ 75.202-75.206 into § 75.210 which provides selection criteria for a discretionary grant program that does not have regulations. However, the commenter believed the change in language regarding certain population groups did not clearly reflect a commitment to nondiscriminatory employment practices. A second commenter disagreed with the changes, stating that the proposed provisions do not address the total application and approval process for federally funded grants as do the current provisions. This commenter cited current laws relating to affirmative efforts to serve underrepresented groups as supporting retention of the regulatory language.

Response: In the process of adapting language from the general selection criteria for use in § 75.210, the Secretary proposed revising provisions requiring applicants to describe how an applicant would provide equal access to eligible participants who are members of "traditionally underrepresented groups" and how the applicant would encourage applications for employment by members of those groups. Under the proposed revisions, the Secretary would ask an applicant to provide information on how eligible participants would be selected in an unbiased manner and how the applicant would ensure that it uses nondiscriminatory employment practices. The proposed language will prevent discrimination by ensuring that project participants who are otherwise eligible to participate and applicants for employment in the project are selected without regard to race, color, national origin, gender, age, or handicapping condition. The second commenter's

concern that this revision will limit the Secretary's efforts to support nondiscriminatory practices to programs that lack regulations is unfounded. The EDGAR criteria were simply a guide used by the Department in preparing selection criteria for inclusion in particular program regulations. Program regulations will continue to contain selection criteria and the Secretary will establish internal directives to guide the Department's employees in preparing criteria for future regulations. These directives will ensure that any new discretionary grant regulations will have appropriate criteria, including criteria regarding nondiscrimination in selecting participants and hiring employees. As has been the case in the past, the Department will solicit public comment on any proposed selection criteria for its discretionary grant programs. The public will have an opportunity to express views at that time as to whether the criteria adequately address the concerns expressed by the commenter.

Concerning the current laws which one commenter cited as evidence that Congress supports a policy of encouraging participation and employment by persons who are traditionally underrepresented, the Secretary has implemented those statutory requirements in relevant program regulations.

Changes: None. However, because a number of programs are relying on the existing regulations in 34 CFR 75.210 to make awards in fiscal year 1987, the revisions to this section will not apply to any competition that has been announced in the *Federal Register* before the publication of these final regulations.

Section 75.217 Application Evaluation Process

Comment: One Commenter expressed concern that the proposed revision to § 75.217 would exclude from the application review process the required participation of at least one expert who is not an employee of the Federal Government and disagreed with the removal of the requirement that ED employees who have been involved in administering the program could not evaluate applications under that program.

Response: Revision of § 75.217 will allow the Secretary to determine the review process that is most appropriate according to the nature of the program for which applications are under review. As stated in the NPRM, the Secretary can achieve time and costs savings and improve service to grantees by using a review process that can be tailored to meet the needs of the various programs.

Previously, the same review procedures had to be used for every program, regardless of the nature or competitiveness of the program. For example, recipient eligibility for certain programs is established by legislation and 85-100% of the applicants are funded. In these types of programs there is often little reason for the Department to spend limited resources to establish application review groups using outside experts of employees other than those involved in the administration of the program to select the grants. On the other hand, certain highly competitive programs make awards to only 8-10% of the applicants. In these competitions it may be more appropriate to use groups of experts, both Federal and non-Federal, to review applications. The Secretary is committed to ensure that all applications are reviewed in a fair and impartial manner.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major, because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

Information collection requirements contained in these regulations in § 75.210 will be sent to the OMB for review, as required by section 3504(h) of the Paperwork Reduction Act of 1980, and will become effective after they have been approved by OMB.

Assessment of Educational Impact

In the NPRM, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 75

Education Department, Grant programs—education, Grant administration.

34 CFR Part 76

Education Department, Grant programs—education, Grant

administration, intergovernmental relations, State-administered programs.

34 CFR Part 500

Adult education, Bilingual education, Education Department, Elementary and secondary education, Grant programs—education, Teachers.

34 CFR Part 745

Education, Government contracts, Grant programs—education, Sex discrimination.

(Catalog of Federal Domestic Assistance Number does not apply.)

Dated: July 20, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 75, 76, 500, and 745 of Title 34 of the Code of Federal Regulations as follows:

PART 75—DIRECT GRANT PROGRAMS

1. The authority citation for Part 75 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3(a)(1), unless otherwise noted.

2. In § 75.1, the tables following this section and the note following paragraph (a) are removed and paragraph (a) is revised to read as follows:

§ 75.1 Programs to which Part 75 applies.

(a) The regulations in Part 75 apply to each direct grant program of the Department of Education.

* * * * *

3. Section 75.50 is revised to read as follows:

§ 75.50 How to find out whether you are eligible.

Eligibility to apply for a grant under a program of the Department is governed by the authorizing statute and implementing regulations for that program.

[Authority: 20 U.S.C. 1221e-3(a)(1)]

§ 75.111 [Amended]

4. In § 75.111, paragraphs (d) and (e) are removed.

§ 75.124 [Amended]

5. Section 75.124 and the heading "Joint Funding Simplification Procedures" preceding § 75.124 are removed.

§ 75.125 [Amended]

6. Section 75.125 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§§ 75.138, 75.139, 75.140, 75.141

[Removed]

7. Sections 75.138, 75.139, 75.140, and 75.141 and the heading "OPEN MEETING CERTIFICATION UNDER CERTAIN ESEA PROGRAMS" are removed.

8. Section 75.200 is amended by revising paragraphs (b)(3) and (c)(2) to read as follows:

§ 75.200 How applications for new grants are selected for funding.

* * * * *

(b) * * *

(3) If a program does not have regulations, the Secretary uses the selection criteria in § 75.210 to select grantees under the program.

(c) * * *

(2) The Secretary applies the program statute and regulations to fund projects under a formula grant program.

Authority: 20 U.S.C. 1221e-3(a)(1)

§ 75.201 [Amended]

9. Section 75.201 is amended by removing paragraph (b)(2) and the designation (1) after the heading for paragraph (b).

§§ 75.202 through 75.206 [Removed]

10. Sections 75.202 through 75.206 are removed.

11. Section 75.210 is revised to read as follows:

§ 75.210 Selection criteria for a discretionary grant program that does not have regulations.

(a) *How this section works.* (1) If a discretionary grant program does not have implementing regulations, the Secretary uses the criteria in this section to evaluate applications for new grants under the program.

(2) The maximum score for all of the criteria in this section is 100 points.

(3) Subject to paragraph (c) of this section, the maximum score for each criterion is indicated in parentheses with the criterion.

(b) *The criteria.*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purpose of the statute that authorizes the program, including consideration of—

(i) The objectives of the project; and
(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (20 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points)

(i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraphs (b)(4)(i) (A) and (B) of this section will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B) of this section, the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each

application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (5 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and
(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

(c) *Weighting the criteria.* (15 points) The Secretary distributes an additional 15 points among the criteria listed in paragraph (b) of this section. The Secretary indicates in the application notice for the program how these 15 points are distributed.

(Authority: 20 U.S.C. 1221e-3(a)(1))

12. Section 75.217 is revised to read as follows:

§ 75.217 How the Secretary selects applications for new grants.

(a) The Secretary selects applications for new grants on the basis of the authorizing statute, the selection criteria, and any priorities or other requirements that have been published in the *Federal Register* and apply to the selection of those applications.

(b)(1) The Secretary may use experts to evaluate the applications submitted under a program.

(2) These experts may include persons who are not employees of the Federal Government.

(c) The Secretary prepares a rank order of the applications based solely on the evaluation of their quality according to the selection criteria.

(d) The Secretary then determines the order in which applications will be selected for grants. The Secretary considers the following in making these determinations:

(1) The information in each application.

(2) The rank ordering of the applications.

(3) Any other information relevant to a criterion, priority, or other requirement that applies to the selection of applications for new grants, including information concerning the applicant's

use of funds under a previous award under the same Federal program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

13. Section 75.219 is amended by removing paragraph (b), redesignating paragraph (c) as paragraph (b), and revising the newly redesignated paragraph (b) to read as follows:

§ 75.219 Exceptions to the procedures in § 75.217.

(b)(1) The application was evaluated under the preceding competition of the program;

(2) The application rated high enough to deserve selection under § 75.217; and

(3) The application was not selected for funding because the application was mishandled by the Department.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 75.221 [Removed]

14. Section 75.221 is removed.

§ 75.222 [Amended]

15. Section 75.222 is amended by changing "§ 75.219(c)" wherever it appears in the heading and section to "§ 75.219(b)".

§ 75.250 [Amended]

16. Section 75.250 is amended by removing paragraph (b) and amending paragraph (a) by removing the paragraph designation.

§ 75.254 [Removed]

17. Section 75.254 is removed.

18. In § 75.260, paragraph (a) is revised to read as follows:

§ 75.260 Allotments and reallocations.

(a) Under some of the programs covered by this part, the Secretary allots funds under a statutory or regulatory formula.

19. In § 75.708, paragraph (a) is revised to read as follows:

§ 75.708 Prohibition of subgrants.

(a) A grantee may not make a subgrant under a program covered by this part unless specifically authorized by statute.

§ 75.721 [Removed]

20. Section 75.721 is removed.

§ 75.733 [Removed]

21. Section 75.733 is removed.

PART 76—STATE-ADMINISTERED PROGRAMS

22. The authority citation for Part 76 is revised to read as follows:

Authority: 20 U.S.C. 1221e-3(a)(1), unless otherwise noted.

23. § 76.1, the note following paragraph (a) and the tables following paragraph (b) are removed, and paragraph (a) is revised to read as follows:

§ 76.1 Programs to which Part 76 applies.

(a) The regulations in Part 76 apply to each State-administered program of the Department.

24. In § 76.50, the introductory text in paragraph (a) is revised to read as follows:

§ 76.50 Statutes determine eligibility and whether subgrants are made.

(a) Under a program covered by this part, the Secretary makes a grant—

25. Section 76.100 is revised to read as follows:

§ 76.100 Effect of this subpart.

This subpart establishes general requirements that a State must meet to apply for a grant under a program covered by this part. Additional requirements are in the authorizing statute and the implementing regulations for the program.

(Authority: 20 U.S.C. 1221e-3(a)(1))

26. Section 76.101 is revised to read as follows:

§ 76.101 The general State application.

A State that makes subgrants to local educational agencies under a program subject to this part shall have on file with the Secretary a general application that meets the requirements of Section 435 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d)

27. The cross-reference following § 76.102 is removed.

28. Section 76.301 is revised to read as follows:

§ 76.301 Local educational agency general application.

A local educational agency that applies for a subgrant under a program subject to this part shall have on file with the State a general application that meets the requirements of Section 436 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232d)

29. In § 76.401, the introductory text in paragraph (a) and paragraph (b) are revised to read as follows:

§ 76.401 Disapproval of an application—opportunity for a hearing.

(a) *State agency hearing before disapproval.* Under the following programs the State agency that administers the program shall provide an application with notice and an opportunity for a hearing before it may disapprove the application:

(b) *Other programs—hearings not required.* Under other programs covered by this part, a State agency—other than a State educational agency—is not required to provide an opportunity for a hearing regarding the agency's disapproval of an application.

§ 76.563 [Amended]

30. In § 76.563 introductory text, "listed in § 76.1" is removed.

31. The cross-reference following § 76.772 is removed.

PART 500—BILINGUAL EDUCATION: GENERAL PROVISIONS

32. The authority citation for Part 500 continues to read as follows:

Authority: 20 U.S.C. 3221-3262, unless otherwise noted.

33. A new center heading "OPEN MEETING CERTIFICATION" is added to Part 500 after the title for Subpart C.

34. A new § 500.15 is added after the new center heading to Subpart C, to read as follows:

§ 500.15 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency [LEA] that submits an application under a program subject to this subpart to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application.

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

PART 745—WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

35. The authority citation for Part 745 is revised to read as follows:

Authority: 20 U.S.C. 3341-3348, unless otherwise noted.

36. A new § 745.12 is added to Subpart A to read as follows:

§ 745.12 Open meeting certification.

(a) This section implements Section 1006 of the Elementary and Secondary Education Act of 1965, as amended.

(b) Section 1006 requires a local educational agency (LEA) that submits an application under a program subject to this part to certify that the LEA has held an open meeting regarding the contents of the application.

(c) An LEA that must comply with this section shall—

(1) Give reasonable notice of the general public's opportunity to testify or otherwise comment at an open meeting regarding the subject matter of the application;

(2) Hold the open meeting;

(3) Consider comments obtained at the meeting in developing the final application; and

(4) Certify in the application submitted to the Secretary that the LEA has held an open meeting regarding the application, as required by this section.

(Authority: 20 U.S.C. 887e)

[FR Doc. 87-16734 Filed 7-23-87; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES**Public Health Service****42 CFR Part 36****Indian Health; Preference in Employment**

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: This rule amends the definition of the term "Indian" for purposes of Indian preference in employment in the Indian Health Service (IHS) to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The amendment extends the previous expiration date of October 4, 1985 to September 14, 1988 to permit the tribe to formally organize and to establish current membership standards.

EFFECTIVE DATE: October 4, 1985.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: As a result of the April 22, 1977, decision of the U.S. District Court for the District of Columbia in *Tyndall v U.S.*, the Department of Health and Human Services (HHS) is under continuing court order to apply the same definition of the term "Indian" for purposes of Indian preference in employment in the IHS as that adopted by the Department of the Interior (DOI) and to publish the definition as a regulation in the *Federal Register* within 30 days of the DOI's publication.

Rulemaking procedures under the Administrative Procedure Act (5 U.S.C. 8553) generally involve publication of a notice of proposed rulemaking, affording interested persons the opportunity to comment, and publication of the final rule after consideration of the comments received. However, the statute allows the agency to dispense with notice and comment procedures:

(b) When the Agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

The Court's order in *Tyndall* provides good cause for dispensing with notice and comment procedures in this instance.

On July 11, 1978 (43 FR 29783), HHS published a final rule which brought the definition of Indian for purposes of Indian preference in employment in the IHS into conformance with the DOI's Bureau of Indian Affairs definition published January 17, 1978 (42 FR 2393). On July 17, 1981 (46 FR 37044, 45), on October 4, 1984 (49 FR 39157), and most recently on September 15, 1986 (51 FR 32631, 32) the DOI amended its definition to continue the application of Indian preference to persons of the Osage Tribe of Oklahoma, who are at least one-quarter degree Indian ancestry. The HHS rule was revised on November 4, 1981 (45 FR 54743) and November 6, 1984 (49 FR 44288, 89) to conform to the DOI's 1981 and 1984 changes.

The membership rolls of the Osage Tribe of Oklahoma, like a number of other tribes, were closed by an act of Congress, and therefore, these tribes did not have current membership standards. The original regulation provided a 3-year period for such tribes to formally organize and establish membership standards and, in the interim, permitted persons of one quarter degree blood of