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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1703

RIN 0572-AA87

Rural Economic Development Loan and Grant Program; Grants; Correction

AGENCY: Rural Electrification Administration, USDA.

ACTION: Correction to final regulations.

SUMMARY: The Rural Electrification Administration (REA) published amendments to its regulation on the Rural Economic Development Loan and Grant Program at 59 FR 11702 on March 14, 1994. Due to minor errors in the final rule that may prove to be misleading, REA is publishing this correction.

EFFECTIVE DATE: April 13, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Jill M. Eberhart, Management Analyst, Program Support Staff, Rural Electrification Administration, room 2242, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 720-0380.

SUPPLEMENTARY INFORMATION:

Background

REA published a final rule in the *Federal Register* on March 14, 1994, which amended its Rural Economic Development Loan and Grant Program. These corrections are necessary to correct minor errors in the regulatory text.

Need for Correction

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

Correction of Publication

Accordingly, the publication on March 14, 1994, of the final regulation, which was the subject of FR Doc. 94-5740, is corrected as follows:

§ 1703.18 [Corrected]

1. On page 11706, in § 1703.18(b), in the second column, in line 12, and in § 1703.18(c), in the third column, in line 12, remove the term "§ 1703.19(i)" and replace with "§ 1703.19".

§ 1703.22 [Corrected]

2. On page 11708, in § 1703.22(a)(10), in the third column, in line 4, remove the term "§ 1703.17" and replace with "§ 1703.18".

§ 1703.30 [Corrected]

3. On page 11711, in the parentheticals at the end of § 1703.30, in the third column, in line 2, remove the Office of Management and Budget control number "0572-090090" and add, in its place, the number "0572-0090".

Dated: July 23, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94-18412 Filed 7-27-94; 8:45 am]

BILLING CODE 3410-15-P

7 CFR Part 1703

Rural Economic Development Loan and Grant Program; Grants; Correcting Amendments

AGENCY: Rural Electrification Administration, USDA.

ACTION: Correcting amendments.

SUMMARY: The Rural Electrification Administration (REA) is correcting its regulations on the Rural Economic Development Loan and Grant Program in order to update Office of Management and Budget (OMB) control numbers and internal references.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Ms. Jill M. Eberhart, Management Analyst, Program Support Staff, Rural Electrification Administration, room 2242, South Building, U.S. Department of Agriculture, Washington, DC 20250-1500, telephone number (202) 720-0380.

SUPPLEMENTARY INFORMATION:

Background

The Rural Economic Development Loan and Grant Program contained in part 1703 in the Code of Federal Regulations is in need of correction for two reasons: (1) § 1703.34 contains a non-current Office of Management and Budget control number which was inadvertently overlooked when the regulation was updated on March 14, 1994, at 59 FR 11702. The current control number is being inserted; and (2) Internal references need to be redesignated in § 1703.46 as the paragraphs in which they are found were redesignated in the rule published on March 14, 1994, at 59 FR 11702.

List of Subjects in 7 CFR Part 1703

Community development, Grant programs—housing and community development, Loan programs—housing and community development, Reporting and recordkeeping requirements, Rural areas.

PART 1703—RURAL DEVELOPMENT

Accordingly, 7 CFR part 1703 is corrected by making the following correcting amendments:

1. The authority citation for 7 CFR part 1703 continues to read as follows:

Authority: 7 U.S.C. *et seq.* and 950aaa *et seq.*

§ 1703.34 [Amended]

2. At the end of § 1703.34, remove the Office of Management and Budget control number "0572-0086" in the parentheticals, and add, in its place, the number "0572-0090".

§ 1703.46 [Amended]

3. In the list below, for each paragraph indicated in the left column, remove the term indicated in the middle column from wherever it appears in the paragraph, and add the term indicated in the right column:

Paragraph	Remove	Add
1703.46 (a) ...	1703.46(k) ... (g) and (h) ...	1703.46(j) (f) and (g)
1703.46(d) introductory text.	1703.46(j) ... (g) and (h) ...	1703.46(i) (f) and (g)
1703.46 (e) ...	(g) (h)	(f) (g)

Paragraph	Remove	Add
1703.46 (g)(6)(iii).	(h)(6)(ii)	(g)(6)(ii)
1703.46 (h) introductory text.	1703.46(g) ... 1703.46(h) ...	1703.46(f) 1703.46(g)

Dated: July 23, 1994.

Bob J. Nash,

Under Secretary, Small Community and Rural Development.

[FR Doc. 94-18413 Filed 7-27-94; 8:45 am]

BILLING CODE 3410-15-P

Rural Development Administration

7 CFR Part 4285

RIN 0537-AA00

Federal-State Research on Cooperatives Program

AGENCY: Rural Development Administration, USDA.

ACTION: Final rule.

SUMMARY: This rulemaking establishes within the Rural Development Administration (RDA) a matching fund cooperative research agreement program to State Departments of Agriculture, State Agricultural Experiment Stations, and other related State Agencies to conduct marketing research related to cooperatives. This rule establishes the procedures to be followed annually in the solicitation of cooperative agreement proposals, the evaluation of such proposals, and the award of the cooperative agreements under this program. These rules are necessary to award the funds appropriated to Agricultural Marketing Service in fiscal year 1994 for research on cooperatives under the Federal-State Marketing Improvement Program. The intended effect is to encourage more research at state levels that will enhance the well-being of agricultural cooperatives and their members.

EFFECTIVE DATE: July 28, 1994.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas H. Stafford, Director, Cooperative Marketing Division, Cooperative Services, Rural Development Administration, USDA, Ag Box 3252, Washington, DC 20250-3252, Phone: 202-690-0368.

SUPPLEMENTARY INFORMATION:

Classification

This rule has been determined to be not-significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

Paperwork Reduction Act

The information collection or recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provision of 44 U.S.C. Chapter 35 and have been assigned OMB control number 0570-0005 in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). This final rule does not revise or impose any new information collection or recordkeeping requirement from those approved by OMB.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601-612), the undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Intergovernmental Review

This program is considered a part of "Technical Assistance To Cooperatives" as listed as No. 10.350 in the "Catalog of Federal Domestic Assistance". For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials.

Civil Justice Reform

This document has been reviewed in accordance with Executive Order (E.O.) 12778. It is the determination of RDA that this action does not unduly burden the Federal Court System in that it meets all applicable standards provided in section 2 of the E.O.

Discussion of Rule

A proposed rule was issued on this subject on May 9, 1994 (59 FR 23804-10). No comments were received on the proposed rule. The proposed rule, therefore, is adopted as final except for the administrative changes discussed below.

In error, the proposed rule indicated in one place the Federal-State Research On Cooperatives (FSROC) Program was subject to Executive Order 12372 requiring intergovernmental consultations and in another place that it was exempt from the Order. The

FSROC Program is excluded from the scope of the Executive Order No. 12372; therefore, the incorrect reference in the proposed rule was removed.

In addition, the definition of "State agencies" eligible under the program has been changed to include State Agricultural Experiment stations and State Departments of Agriculture in the 50 States, the Virgin Islands, and Guam, and other appropriate State agencies. The proposed rule included experiment stations and State Departments of Agriculture in the 50 States and all territories or possessions of the United States. The change was made to conform to the limiting language of 7 U.S.C. 1626 which defines "state" to include the Virgin Islands and Guam. The Agency has interpreted the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-27) as providing no authority to fund marketing research by agencies of other United States territories or possessions.

List of Subjects in 7 CFR Part 4285

Agricultural commodities, Agricultural research, Cooperatives, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 7 CFR Ch. XLII is amended by adding Part 4285 to read as follows:

PART 4285—COOPERATIVE AGREEMENTS

Subpart A—Federal-State Research on Cooperatives Program

Sec.

- 4285.1 Objective.
- 4285.2 Cooperative agreement purposes.
- 4285.3 Definitions.
- 4285.4-4285.23 [Reserved]
- 4285.24 Eligibility.
- 4285.25 Authorized use of cooperative agreement funds.
- 4285.26-4285.45 [Reserved]
- 4285.46 Prohibited use of cooperative agreement funds.
- 4285.47 Limitations.
- 4285.48-4285.57 [Reserved]
- 4285.58 How to apply for cooperative agreement funds.
- 4285.59-4285.68 [Reserved]
- 4285.69 Evaluation and disposition of applications.
- 4285.70 Evaluation criteria.
- 4285.71-4285.80 [Reserved]
- 4285.81 Cooperative agreement awards.
- 4285.82 Use of funds; changes.
- 4285.83-4285.92 [Reserved]
- 4285.93 Other Federal statutes and regulations that apply.
- 4285.94 Other conditions.
- 4285.95-4285.99 [Reserved]
- 4285.100 OMB control number.

Authority: 7 U.S.C. 1623; Public Law 103-111, 107 Stat. 1046; 7 U.S.C. 2201; USDA Secretary's Memorandum 1020-39, dated September 30, 1993; and Public Law 103-211, 108 Stat. 3.

Subpart A—Federal-State Research on Cooperatives Program

§ 4285.1 Objective.

This subpart sets forth the policies and procedures and delegates authority for providing Federal-State Research on Cooperatives cooperative agreement funds to finance programs of research on cooperatives as authorized under Section 204 (b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623 (b)). The primary purpose of this matching fund program, via cooperative agreements, is to encourage State Departments of Agriculture and State Agricultural Experiment Stations in conducting research related to agricultural cooperatives.

§ 4285.2 Cooperative agreement purposes.

Rural Development Administration (RDA) may enter into a cooperative agreement with a State agency to provide funds to the State agency to:

- (a) Conduct marketing research related to agricultural cooperatives.
- (b) Assist other organizations in conducting marketing research related to agricultural cooperatives.

§ 4285.3 Definitions.

As used in this part:

Agreement period. The total period of time approved by the Assistant Administrator for Cooperative Services for conducting the proposed project as outlined in an approved application. The time period is normally no more than 3 years, renewable for cause not to exceed a total of 4 fiscal years.

Agricultural products. Agricultural products include agricultural, horticultural, viticultural, and dairy products, livestock and poultry, bees, forest products, fish and shellfish, and any products thereof, including processed or manufactured products, and any and all products raised or produced on farms and any processed or manufactured product thereof.

Assistant Administrator for Cooperative Services. The Assistant Administrator for Cooperative Services, Rural Development Administration, USDA or any authorized delegate.

Awarding official. The Assistant Administrator for Cooperative Services or authorized delegate.

Cooperative agreement. A legal instrument reflecting a relationship between the United States Government and a State where:

- (1) The principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State agency to carry out research related to cooperatives; and
- (2) Substantial involvement is anticipated between RDA, acting for the

Federal Government, and the State or other recipient during performance of the research in the agreement.

Cooperator. The State agency designated in the cooperative agreement award document as the responsible legal entity to whom a cooperative agreement is awarded under this part.

Department. The U.S. Department of Agriculture.

Methodology. The research approach to be followed to carry out the project.

Principal investigator. A single individual who is responsible for the scientific and technical direction of the project, as designated by the cooperator in the cooperative agreement application and approved by the Assistant Administrator for Cooperative Services.

Project. The particular activity within the scope of one or more of the research program areas identified in the annual program solicitation that is supported by a cooperative agreement under this part.

State agencies. State agencies include, among others, State Agricultural Experiment Stations and State Departments of Agriculture in the 50 States, the Virgin Islands, and Guam, and other appropriate State agencies. Final determination of whether certain 1890 or 1862 Land Grant institutions qualify as state agencies will be determined on a case-by-case basis by the Office of the General Counsel (OGC), USDA.

§§ 4285.4–4285.23 [Reserved]

§ 4285.24 Eligibility.

To enter into a cooperative agreement for these funds, the applicant must:

- (a) Be a State Agency as defined in § 4285.3 of this subpart;
- (b) Have the financial, legal, administrative, and actual capacity to assume and carry out the responsibilities imposed by the Agreement. To meet the requirement of actual capacity it must either:

- (1) Have necessary background and experience with proven ability to perform responsibly in the field of economic, business management, or other needed research area; or
- (2) Have the necessary administrative and supervisory controls in place to assure an agreed upon contracting organization has the proven ability to perform responsibly in the field of economic, business management, or other needed research area;

- (c) Legally obligate itself to administer cooperative agreement funds, provide adequate accounting of the expenditure of such funds, and comply with the cooperative agreement;

(d) Provide at least 50 percent of the funds necessary to conduct the research from non-federal funds; and

(e) Agree to conduct proposed research related to cooperatives and agricultural marketing.

§ 4285.25 Authorized use of cooperative agreement funds.

Funds received for research under cooperative agreements in this program shall only be used for:

(a) Payment of salaries and necessary employee benefits of personnel as agreed upon in the Cooperative Agreement. Included are salaries and benefits of State employees assigned full-time to one or more projects, or the percent of the salaries and benefits related to project work for State employees assigned part-time to research on one or more projects. Salaries and benefits include basic salary, other compensation such as holiday pay, sick or annual leave, and personnel benefits (quarters allowance, payments to other funds such as employees' life insurance, health benefits, retirement, Federal Insurance Contributions Act (FICA), accident compensation, and similar payments). For any of the benefit items when the State usually pays the employer share, Federal funds may be used to pay the proportionate share of such employer contributions.

(b) Payment of necessary and reasonable office expenses such as office rental, office utilities, and office equipment rental. The purchase of office equipment is permissible when the cooperator determines it to be more economical than renting. However, as a general rule, these types of expenses would be classified as indirect costs in multiple funded organizations and would not be an allowable expense. Planned purchases of equipment costing more than \$200 per unit must be approved by RDA. Equipment purchased becomes State property pursuant to the cooperative agreement.

(c) Payment of necessary and reasonable costs of printing publications of research project results. However, all such publications should show the RDA as cooperator in the project and bear the following statement: "State funds for this project (publication) were matched with Federal funds under the Federal-State Research on Cooperatives Program of the U.S. Department of Agriculture, Rural Development Administration, Cooperative Services, as provided by the Agricultural Marketing Act of 1946 and (appropriate) fiscal year appropriations."

(d) Purchase of office supplies (such as paper, pens, pencils, and trade

magazines) and postage needed for project activities.

(e) Payment of necessary and reasonable travel expenses.

§§ 4285.26-4285.45 [Reserved]

§ 4285.46 Prohibited use of cooperative agreement funds.

(a) The Agricultural Marketing Act prohibits the use of Federal funds to pay for newspaper or periodical space and radio and television time, either directly to the media or indirectly through an advertising agency or other firm. County and State fair exhibits, as well as commodity months and weeks, are also excluded as the research on cooperatives program activities.

(b) Federal funds cannot be used to purchase products or samples of products to give away to the public.

(c) Federal program funds cannot be used to purchase:

(1) Promotional pieces such as point-of-sale materials, promotional kits, billboard space and signs, streamers, automobile stickers, table tents, and placemats; or

(2) Promotion items of a personal gift nature.

(d) Cooperative agreement funds cannot be used to conduct general publicity or information programs designed to build the image of the State's agriculture or of a particular State Department of Agriculture or Agricultural Experiment Station.

(e) Project funds cannot be used to pay for the salary and travel of employees of cooperatives, trade associations, commodity groups, and other industry organizations, or of State personnel while engaged in managing market orders, cooperatives, or other group endeavors.

(f) Commissioners, Directors, and Secretaries of State Departments of Agriculture, Agricultural Experiment Stations, and other State agencies cannot charge their salaries and travel to project funds, with the exception of travel to workshops or conferences devoted to the Federal-State Research On Cooperatives Program.

(g) Funds made available for this program shall not be subject to reduction for indirect costs or for tuition remission.

§ 4285.47 Limitations.

The amount of funds available for the cooperative agreements under this program is limited to the amount appropriated for the fiscal year.

§§ 4285.48-4285.57 [Reserved]

§ 4285.58 How to apply for cooperative agreement funds.

(a) A program solicitation will be prepared and announced through publications such as the *Federal Register*, professional trade journals, agency or program handbooks, and/or any other appropriate means, as early as practicable each fiscal year in which funds are appropriated for the program.

(b) The annual program solicitation will contain information sufficient to enable all eligible applicants to prepare proposals including:

(1) Desired research topics. The FY-94 solicitation will encourage studies:

(i) To improve the efficiency and effectiveness of marketing of agricultural cooperatives;

(ii) To measure the impact of rural cooperatives on the local economies;

(iii) That help identify opportunities to develop cooperatives for new or alternative market uses of agricultural products;

(iv) That help identify ways to develop agricultural marketing cooperatives; and

(v) Addressing other cooperative marketing objectives;

(2) Explanation of eligibility requirements as outlined in § 4285.24 of this subpart;

(3) The notice of availability of application forms and instructions for submission of applications;

(4) The notice of deadline dates for postmarking proposal packages.

(c) *Format for proposals.* Unless otherwise indicated by the Department in the annual program solicitation, the following information must be submitted for the preparation of proposals under this program:

(1) Form SF-424, "Application for Federal Assistance."

(2) Form SF-424A, "Budget Information—Non-Construction Programs."

(3) Form SF-424B, "Assurances—Non-Construction Programs."

(4) *Statement of Work.* The application must include a narrative statement describing the nature of the proposed research. The Statement of Work must include at least the following:

(i) Title of the Project. The title of the proposal must be brief, yet represent the major thrust of the project.

(ii) Project Leaders. List the name(s) of the principal investigator(s). Minor collaborators or consultants should be so designated and not listed as principal investigators.

(iii) Need for the Project. A concisely worded rationale behind the proposed

research must be presented. The need for the proposed research must be clearly related to marketing and to the needs of agricultural cooperatives.

(iv) Objectives of the project. The specific description of the overall project goal(s) and supporting objectives must be presented.

(v) Procedures for conducting the research. The hypotheses or questions being asked and the methodology being applied to the proposed project must be described. A description of any subcontracting arrangements that will be used for conducting the research must be included. A tentative schedule for conducting major steps involved in the investigation must also be included.

(vi) The expected output of the project. A description of how the results of the research will be disseminated should be presented. Responsibility for publishing any research reports or other types of output should also be identified.

(5) *Collaborative arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations, agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Evidence (i.e., letters of intent) should be provided to assure reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such a collaborative arrangement(s) has the potential for conflict(s) of interest.

(6) *Personnel support.* To assist reviewers in assessing the competence and experience of the proposed project staff, key personnel who will be involved in the proposed project must be identified clearly. For each principal investigator involved, and for all senior associates and other professional personnel who expect to work on the project, whether or not funds are sought for their support, the following must be included:

(i) An estimate of the time commitments necessary;

(ii) Curriculum Vitae. The curriculum vitae should be limited to a presentation of academic and research credentials, e.g., educational, employment and professional history, and honors and awards. Unless pertinent to the project, it should not include meetings attended, seminars given, or personal data such as birth date, marital status, or community activities; and

(iii) Publication List(s). A chronological list of all publications in refereed journals during the past five years, including those in press, must be

provided for each professional project member for whom a curriculum vitae is provided. Also list other non-refereed technical publications that have relevance to the proposed project. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

§§ 4285.59–4285.68 [Reserved]

§ 4285.69 Evaluation and disposition of applications.

(a) *Evaluation.* (1) All proposals received from eligible applicants and postmarked in accordance with deadlines established in the annual program solicitation shall be evaluated by the Assistant Administrator for Cooperative Services through an RDA staff panel. The Assistant Administrator for Cooperative Services will select the evaluation panel from staff determined to be highly qualified in the subject matter areas that were emphasized in the current year's solicitation and from those with no potential conflict of interest with the applicants.

(2) Prior to technical examination, a preliminary review will be made for responsiveness to the program solicitation (e.g., relationship of proposal to research topic(s) listed in solicitation). Proposals that do not fall within the guidelines as stated in the program solicitation will be eliminated from competition and will be returned to the applicant.

(3) Proposals will be ranked based on evaluation criteria established in § 4285.70 of this subpart, and financial support levels will be recommended to the Assistant Administrator for Cooperative Services by the panel within the limitation of the total funding available in the fiscal year. The purpose of these evaluations is to provide information upon which the Assistant Administrator for Cooperative Services may make informed judgments in selecting proposals. Such recommendations are advisory only and are not binding on the awarding official of RDA. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* (1) On the basis of the Assistant Administrator for Cooperative Services's evaluation of an application in accordance with paragraph (a) of this section, the Assistant Administrator for Cooperative Services will either:

- (i) Approve support using currently available funds;
- (ii) Defer support due to lack of funds or need for further evaluation; or

(iii) Disapprove support for the proposed project in whole or in part.

(2) With respect to any approved project, the Assistant Administrator for Cooperative Services will determine the project period during which the project may be funded.

(3) Any deferral or disapproval of an application will not preclude its reconsideration or reapplication during subsequent fiscal years. However, applicants must reapply if reconsideration is desired.

(4) The Assistant Administrator for Cooperative Services will not make a cooperative agreement funding award, based upon an application covered by this part, unless the application has been properly reviewed in accordance with the provisions of this part and unless said reviewers have made recommendations concerning the scientific merit and relevance to the program of such application.

§ 4285.70 Evaluation criteria.

(a) In evaluating the proposal, the RDA staff review panel and the awarding official will take into account the degree to which the proposal demonstrates the following:

(1) Focus on a practical solution to a significant problem involving one or more of the following on a cooperative business basis: the preparation for market, processing, packaging, handling, storing, transporting, distributing, or marketing of agricultural products. (35%)

(2) Adequacy, soundness, and appropriateness of the proposed approach to solve the identified problem. (30%)

(3) Feasibility and probability of success of project solving the problem. (10%)

(4) Qualifications, experience in related work, competence, and availability of project personnel to direct and carry out the project. (25%)

(b) In addition, the cost relative to the expected research results will be considered in determining the awarding of the agreements.

§§ 4285.71–4285.80 [Reserved]

§ 4285.81 Cooperative agreement awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make awards for cooperative agreements to those applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Assistant Administrator for Cooperative Services as the beginning of the project period

shall be no later than September 30 of the Federal fiscal year in which the project is approved and funds are appropriated for such purpose, unless otherwise permitted by law. All funds awarded under this part shall be expended solely in accordance with the methods identified in approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's "Uniform Federal Assistance Regulations" (part 3015 of this title) and the Department's "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" (part 3016 of this title).

(b) *Cooperative agreement award document and notice of award.* (1) Cooperative agreement award document. The award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Assistant Administrator for Cooperative Services has competitively awarded funds under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying cooperative agreement number assigned by RDA;

(v) Project period, specifying the amount of time the Agency intends to support the project without requiring recompensation for funds;

(vi) Total amount of Agency financial assistance approved by the Assistant Administrator for Cooperative Services during the project period;

(vii) Legal authority(ies) under which the cooperative agreement is awarded;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the cooperative agreement award; and

(ix) Other information or provisions deemed necessary by RDA to carry out its agreement activities or to accomplish the purpose of a particular cooperative agreement.

(2) *Notice of award.* The notice of award of funds for the cooperative agreement will be in the form of a letter providing pertinent instructions or information to the cooperator.

(c) *Types of cooperative agreement instruments.* The types of cooperative agreements shall be as follows:

(1) *New agreement.* This is an agreement instrument by which RDA agrees to support a specified level of effort for a project not supported previously under this program. This type of agreement is approved on the

basis of an RDA Staff evaluation review and recommendation.

(2) *Renewal agreement.* This is an agreement instrument by which RDA agrees to provide additional funding for a project beyond the period approved in an original or amended agreement, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it must include a summary of progress to date from the previous agreement period. A renewal agreement shall be based upon new application, de novo review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Supplemental agreement.* This is an instrument by which RDA agrees to provide small amounts of additional funding under a new or renewal cooperative agreement as specified in paragraphs (c)(1) and (c)(2) of this section and may involve a short-term (usually one year or less) extension of the project period beyond that approved in an original or amended award, but in no case may the cumulative period for the project exceed the statutory limitation. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification to warrant such action. A request of this nature will not require additional review.

(d) *Obligation of the Federal Government.* The approval of any application or the award of any funds for a cooperative agreement shall not commit nor obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

(e) *Obligation of the cooperator.* The cooperator shall be responsible for:

(1) Making a brief quarterly progress reports at the end of each December, March, June and September to the FSROC program staff for the duration of the research project;

(2) Presenting a final administrative report on the project at the end of the research project; and

(3) Preparing and publishing a report(s) of research findings for dissemination to interested producers, cooperatives, and agencies. Include recognition to financial and other assistance received from the FSROC program.

§ 4285.82 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The cooperator may not, in whole or in part, delegate or transfer to another person, institution, or organization the

responsibility for use or expenditure of cooperative agreement funds.

(b) *Change in project plans.* (1) The permissible changes by the cooperator, principal investigator(s), or other key project personnel in the approved cooperative agreement shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the cooperator and/or the principal investigator(s) is uncertain whether a particular change complies with this provision, the question must be referred to the Assistant Administrator for Cooperative Services for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes. Normally, no requests for such changes outside the scope of the original approved project will be approved.

(3) Changes in approved project leadership or the replacement or realignment of other key project personnel shall be requested by the cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the cooperator and approved in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, prior to effecting such changes, except as may be allowed in the terms and conditions of a cooperative agreement award.

(c) *Changes in project period.* The project period determined pursuant to § 4285.81(b) of this subpart may be extended by the Assistant Administrator for Cooperative Services without additional financial support, for such additional period(s) as the Assistant Administrator for Cooperative Services determines may be necessary to complete, or fulfill the purposes of, an approved project. Any extension, when combined with the originally approved or amended project period, shall not exceed four (4) years and shall be further conditioned upon prior request by the cooperator and approval in writing by the Assistant Administrator for Cooperative Services, or authorized delegate, except as may be allowed in the terms and conditions of a cooperative agreement award.

(d) *Changes in approved budget.* The terms and conditions of a cooperative

agreement will prescribe circumstances under which written Agency approval must be requested and obtained prior to instituting changes in an approved budget.

§§ 4285.83–4285.92 [Reserved]

§ 4285.93 Other Federal statutes and regulations that apply.

Several other Federal statutes and regulations apply to cooperative agreement proposals considered for review or to agreements awarded under this part. These include but are not limited to:

(a) 7 CFR Part 1, Subpart A—USDA implementation of the Freedom of Information Act;

(b) 7 CFR Part 3—USDA implementation of OMB Circular A-129 regarding debt collection;

(c) 7 CFR Part 15, Subpart A—USDA implementation of title VI of the Civil Rights Act of 1964 in order to assure nondiscrimination;

(d) 7 CFR Part 1473—National Agricultural, Research, Extension, and Teaching Policy Act Amendments of 1981 if the project involves a college or university;

(e) 7 CFR Part 3015—USDA Uniform Federal Assistance Regulations implementing OMB directives (i.e., Circular Nos. A-110, A-21, and A-122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, 92 Stat. 3), as well as general policy requirements applicable to recipients of Departmental financial assistance;

(f) 7 CFR Part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

(g) 7 CFR Part 3017—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants);

(h) 7 CFR Part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

(i) 7 CFR Part 3051—Audits of Institutions of Higher Education and Other Nonprofit Institutions;

(j) 29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR Part 15B prohibiting discrimination based upon physical or mental handicap in Federally assisted programs;

(k) 35 U.S.C. 200 *et seq.*—Bayh-Dole Act, controlling allocation of rights to

inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 4285.94 Other conditions.

Post-award requirements. Upon awarding the cooperative agreement, the post-award requirements of subparts C and D of part 3016 of this title apply.

§§ 4285.95–4285.99 [Reserved]

§ 4285.100 OMB control number.

The reporting and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0570-0005. Public reporting burden for this collection of information is estimated to vary from 10 minutes to 36 hours per response with an average of 3.48 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Ag Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB # 0570-0005), Washington, DC 20503.

Dated: July 18, 1994.

Karl N. Stauber,

Acting Under Secretary for Small Community and Rural Development.

[FR Doc. 94-18287 Filed 7-27-94; 8:45 am]

BILLING CODE 3410-32-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150-AD30

Annual Physical Fitness Performance Testing for Tactical Response Team Members, Armed Response Personnel, and Guards at Category I Licensees

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding annual physical fitness performance testing for Tactical Response Team members, armed

response personnel, and guards at fuel cycle facilities possessing formula quantities of strategic special nuclear material (Category I licensees). This action is necessary to ensure that these personnel are able to perform their assigned duties under conditions of strenuous tactical engagements. Tactical Response Team members, armed response personnel, and guards at these facilities will be required to participate in a continuing physical fitness program and, according to new criteria, pass an annual performance test. As an alternative to the fitness program and the performance test, the licensee will be permitted to develop and submit for NRC approval a content-based site specific test, to be administered quarterly, and to justify that this test duplicates the response duties that are expected of Tactical Response Team members, armed response personnel, and guards in the event of a strenuous tactical engagement.

EFFECTIVE DATE: August 29, 1994.

FOR FURTHER INFORMATION CONTACT:

Harry S. Tovmassian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6231.

SUPPLEMENTARY INFORMATION:

Background

On December 13, 1991 (56 FR 65024), the Commission published proposed amendments to 10 CFR Part 73 that contained requirements relative to the physical fitness programs and day firing qualifications for security personnel at Category I fuel cycle facilities. Those amendments would have required Tactical Response Team (TRT) members, armed response personnel, and guards to participate in annual physical fitness performance testing and in a continuing physical fitness training program to ensure that these individuals achieve and maintain the required fitness level.

During the resolution of the public comments for those proposed amendments, the NRC concluded that an acceptable alternative to the approach specified in the proposed rule would be for licensees to develop and submit for NRC approval a site specific content-based physical fitness performance test. To provide the public the opportunity to comment on the modified requirements, the NRC published yet another proposed rule on the physical fitness performance testing requirements on October 6, 1993 (58 FR 52035).

Under the alternative included with the modified rule, the licensee will administer the test quarterly and justify

that the test duplicates the response duties that a security force officer would perform during strenuous tactical engagements. The NRC recognizes that, in the absence of an ongoing physical fitness training program, the use of a content-based performance test may present risks of potential injury to security personnel. Each licensee should evaluate these risks of potential injury to unfit employees when choosing between the alternatives. The NRC will not object to the use of a content-based test on the basis of perceived risk of employee injury. Such risk of injury will be assumed by the licensee and/or the armed security persons.

The comment period expired on December 20, 1993, with no public comments being received. Therefore, the Commission is publishing the requirements proposed on October 6, 1993 (58 FR 52035), as a final rule without any modification.

Criminal Penalties

The Commission notes that these amendments are issued under Sections 161 (b) and (i) of the Atomic Energy Act of 1954, as amended. Therefore, violation of these regulations may subject a person to criminal sanctions under Section 223 of the Atomic Energy Act.

Finding of no Significant

Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment, and therefore, an environmental impact statement is not required. The rule will not adversely affect either the safety of the operations carried out by licensees possessing formula quantities of strategic special nuclear material nor the routine release of, or exposure to, radioactivity. These amendments will specify (1) annual performance testing criteria and a minimum physical fitness training program or (2) a quarterly administered site specific content-based physical fitness performance test to assure that Tactical Response Team members, armed response personnel, and guards can adequately perform their duties under conditions of strenuous tactical engagement.

The environmental assessment and finding of no significant impact on which this determination is based is available for inspection at the NRC Public Document Room, 2120 L Street,

NW (Lower Level), Washington, DC. Single copies of the environmental assessment and finding of no significant impact are available from Mr. Harry Tovmassian, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-6231.

Paperwork Reduction Act Statement

This rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0002.

The public reporting burden for this collection of information is estimated to average 41 hours per licensee respondent, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Information and Records Management Branch (T6 F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB-3019, (3150-0002), Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a regulatory analysis on this rule. The analysis examines the costs and benefits of the alternatives considered by the Commission and provides a decision rationale for the chosen approach. The analysis is available for inspection in the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC. Single copies of the regulatory analysis may be obtained from Ms. Carrie Brown, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-8092.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rulemaking will not have a significant economic impact upon a substantial number of small entities. The rule will affect two Category I licensees. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small

Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Thus, this rule does not fall within the purview of the act.

Backfit Analysis

The Commission has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule because these amendments do not impose requirements on existing 10 CFR Part 50 licensees. Therefore, a backfit analysis is not required for this rule.

List of Subjects in 10 CFR Part 73

Criminal penalties, Export, Hazardous materials transportation, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the Commission is adopting the following amendments to 10 CFR Part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for 10 CFR Part 73 continues to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

2. In § 73.46 paragraphs (b)(4) and paragraph (i) are revised and new paragraphs (b)(10), (b)(11), and (b)(12) are added to read as follows:

§ 73.46 Fixed site physical protection systems, subsystems, components, and procedures.

* * * * *

(b) * * *

(4) The licensee may not permit an individual to act as a Tactical Response Team member, armed response person, guard, or other member of the security organization unless the individual has been trained, equipped, and qualified to perform each assigned security duty in accordance with Appendix B of this part, "General Criteria for Security Personnel." In addition, Tactical Response Team members, armed response personnel, and guards shall be trained, equipped, and qualified for use

of their assigned weapons in accordance with paragraphs (b)(6) and (b)(7) of this section. Tactical Response Team members, armed response personnel, and guards shall also be trained and qualified in accordance with either paragraphs (b)(10) and (b)(11) or paragraph (b)(12) of this section. Upon the request of an authorized representative of the Commission, the licensee shall demonstrate the ability of the physical security personnel, whether licensee or contractor employees, to carry out their assigned duties and responsibilities. Each Tactical Response Team member, armed response person, and guard, whether a licensee or contractor employee, shall requalify in accordance with Appendix B of this part. Tactical Response Team members, armed response personnel, and guards shall also requalify in accordance with paragraph (b)(7) of this section at least once every 12 months. The licensee shall document the results of the qualification and requalification. The licensee shall retain the documentation of each qualification and requalification as a record for 3 years after each qualification and requalification.

* * * * *

(10) In addition to the medical examinations and physical fitness requirements of paragraph I.C of Appendix B of this part, each Tactical Response Team member, armed response person, and guard, except as provided in paragraph (b)(10)(v) of this section, shall participate in a physical fitness training program on a continuing basis.

(i) The elements of the physical fitness training program must include, but not necessarily be limited to, the following:

(A) Training sessions of sufficient frequency, duration, and intensity to be of aerobic benefit, e.g., normally a frequency of three times per week, maintaining an intensity of approximately 75 percent of maximum heart rate for 20 minutes;

(B) Activities that use large muscle groups, that can be maintained continuously, and that are rhythmical and aerobic in nature, e.g., running, bicycling, rowing, swimming, or cross-country skiing; and

(C) Musculoskeletal training exercises that develop strength, flexibility, and endurance in the major muscle groups, e.g., legs, arms, and shoulders.

(ii) The licensee shall assess Tactical Response Team members, armed response personnel, and guards for general fitness once every 4 months to determine the effectiveness of the

continuing physical fitness training program. Assessments must include a recent health history, measures of cardiovascular fitness, percent of body fat, flexibility, muscular strength, and endurance. Individual exercise programs must be modified to be consistent with the needs of each participating Tactical Response Team member, armed response person, and guard and consistent with the environments in which they must be prepared to perform their duties. Individuals who exceed 4 months without being assessed for general fitness due to excused time off from work must be assessed within 15 calendar days of returning to duty as a Tactical Response Team member, armed response person, or guard.

(iii) Within 30 days prior to participation in the physical fitness training program, the licensee shall give Tactical Response Team members, armed response personnel, and guards a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness training program.

(iv) Licensees may temporarily waive an individual's participation in the physical fitness training program on the advice of the licensee's examining physician, during which time the individual may not be assigned duties as a Tactical Response Team member.

(v) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the physical fitness training program specified in paragraph (b)(10) of this section, provided that they are not assigned temporary response guard duties.

(11) In addition to the physical fitness demonstration contained in paragraph I.C of Appendix B of this part, Tactical Response Team members, armed response personnel, and guards shall meet or exceed the requirements in paragraphs (b)(11)(i) through (b)(11)(v) of this section, except as provided in paragraph (b)(11)(vi) of this section, initially and at least once every 12 months thereafter.

(i) For Tactical Response Team members the criteria are a 1-mile run in 8 minutes and 30 seconds or less and a 40-yard dash starting from a prone position in 8 seconds or less. For armed response personnel and guards that are not members of the Tactical Response Team the criteria are a one-half mile run in 4 minutes and 40 seconds or less and a 40-yard dash starting from a prone position in 8.5 seconds or less. The test

may be taken in ordinary athletic attire under the supervision of licensee designated personnel. The licensee shall retain a record of each individual's performance for 3 years.

(ii) Incumbent Tactical Response Team members, armed response personnel, and guards shall meet or exceed the qualification criteria within 12 months of NRC approval of the licensee's revised Fixed Site Physical Protection Plan. New employees hired after the approval date shall meet or exceed the qualification criteria prior to assignment as a Tactical Response Team member, armed response person, or guard.

(iii) Tactical Response Team members, armed response personnel, and guards shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness performance testing. The medical examination must be given within 30 days prior to the first administration of the physical fitness performance test, and on an annual basis thereafter.

(iv) The licensee shall place Tactical Response Team members, armed response persons, and guards, who do not meet or exceed the qualification criteria, in a monitored remedial physical fitness training program and relieve them of security duties until they satisfactorily meet or exceed the qualification criteria.

(v) Licensees may temporarily waive the annual performance testing for an individual on the advice of the licensee's examining physician, during which time the individual may not be assigned duties as a Tactical Response Team member.

(vi) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the annual performance testing specified in paragraph (b)(11) of this section, provided that they are not assigned temporary response guard duties.

(12) The licensee may elect to comply with the requirements of this paragraph instead of the requirements of paragraphs (b)(10) and (b)(11) of this section. In addition to the physical fitness qualifications of paragraph I.C of Appendix B of this part, each licensee subject to the requirements of this section shall develop and submit to the NRC for approval site specific, content-based, physical fitness performance tests which will—when administered to each Tactical Response Team member, armed response person, or guard—

duplicate the response duties these individuals may need to perform during a strenuous tactical engagement.

(i) The test must be administered to each Tactical Response Team member, armed response person, and guard once every 3 months. The test must specifically address the physical capabilities needed by armed response personnel during a strenuous tactical engagement at the licensed facility. Individuals who exceed 3 months without having been administered the test due to excused time off from work must be tested within 15 calendar days of returning to duty as a Tactical Response Team member, armed response person, or guard.

(ii) Within 30 days before the first administration of the physical fitness performance test, and on an annual basis thereafter, Tactical Response Team members, armed response personnel, and guards shall be given a medical examination including a determination and written certification by a licensed physician that there are no medical contraindications, as disclosed by the medical examination, to participation in the physical fitness performance test.

(iii) Guards whose duties are to staff the central or secondary alarm station and those who control exit or entry portals are exempt from the performance test specified in paragraph (b)(12) of this section, provided that they are not assigned temporary response guard duties.

(i) *Implementation schedule for revisions to physical protection plans.*

(1) By November 28, 1994, each licensee shall submit a revised Fixed Site Physical Protection Plan to the NRC for approval. The revised plan must describe how the licensee will comply with the requirements of paragraphs (b)(10) and (b)(11) of this section or the requirements of (b)(12) of this section. Revised plans must be mailed to the Director, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(2) Each licensee shall implement the approved plan pursuant to paragraphs (b)(10) and (b)(11) of this section or (b)(12) of this section within 1 year after NRC approval of the revised Fixed Site Physical Protection Plan.

Dated at Rockville, Maryland, this 21st day of June 1994.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 94-18371 Filed 7-27-94; 8:45 am]

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