

Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). The Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612, entitled *Federalism* (52 FR 41685, October 30, 1987). This action does not alter the relationships or distribution of power

and responsibilities established by Congress in the preemption provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(b)(4). This action directly regulates growers, food processors, food handlers and food retailers, not States. This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

#### **X. Submission to Congress and the Comptroller General**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### **List of Subjects in 40 CFR Part 180**

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 29, 1999.

**Marcia E. Mulkey,**  
Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

#### **PART 180—[AMENDED]**

1. The authority citation for part 180 continues to read as follows:

**Authority:** 21 U.S.C. 321(q), 346(a) and 371.

2. In section 180.1001, the table in paragraph (c) is amended by adding alphabetically the following inert ingredient:

#### **§ 180.1001 Exemptions from the requirement of a tolerance.**

*	*	*	*	*
(c)	*	*	*	*

Inert ingredients	Limits	Uses
<div><div>*</div><div><i>Rhizobium</i> inoculants (e.g. <i>Sinorhizobium</i>, <i>Bradyrhizobium</i> &amp; <i>Rhizobium</i>).</div><div>*</div></div>	<div><div><div><div>*</div><div>*</div><div>*</div><div>*</div><div>*</div></div><div>.....</div></div></div>	<div><div>*</div><div>All leguminous food commodities</div><div>*</div></div>

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#### **COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED**

##### **41 CFR Parts 51-2 and 51-5**

#### **Miscellaneous Amendments to Committee Regulations**

**AGENCY:** Committee for Purchase From People Who Are Blind or Severely Disabled.

**ACTION:** Final rule.

**SUMMARY:** The Committee is changing its pricing and shipping regulations to

make them consistent with new Committee pricing policies reflecting a preference for negotiated rather than formula-based fair market prices.

**EFFECTIVE DATE:** November 15, 1999.

**ADDRESSES:** Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202-4302.

**FOR FURTHER INFORMATION CONTACT:** G. John Heyer (703) 603-0665. Copies of this notice will be made available on request in computer diskette format.

**SUPPLEMENTARY INFORMATION:** The Committee is revising 41 CFR 51-2.7, the Committee's general fair market pricing regulation, to reflect the

preference for negotiated prices set forth in the Committee's recently-adopted pricing policies and the methods of price-setting established by those policies. Paragraph (a) of 41 CFR 51-5.5 is revised to emphasize the statutory nature of the Committee's price-setting authority. This revision is intended to emphasize the exemption of the Committee's prices from a statutory requirement that cost or pricing data be submitted to contracting activities before a price can be negotiated and recommended to the Committee. Paragraph (d)(2) of 41 CFR 51-5.5 is revised to change the minimum time for a contracting activity to submit required wage determination paperwork to the appropriate central nonprofit agency

from 90 to 60 days before the beginning of a new service period, and to eliminate the requirement for submission of Standard Form 98, which is no longer needed to learn the applicable wage determination rate. Paragraph (e) of 41 CFR 51-5.5 is revised to give more flexibility in pricing of special packaging and marking of products and to accommodate current contract documentation.

Prior to a November 16, 1994 change to the Committee's regulations (59 FR 59338), pricing and delivery terms for JWOD commodities, other than military resale commodities, were on an "F.O.B. origin" basis. The 1994 change permitted use of "F.O.B. destination" as an alternative. Since then, the Committee's commodity pricing policies have been revised to designate "F.O.B. destination" as the preferred pricing and delivery basis. "F.O.B. origin" pricing and delivery remain available as an alternative when the nonprofit agency and the Government contracting activity agree to use this basis. The current revision of the shipping regulation (41 CFR 51-5.6) reflects the change in Committee pricing policy by identifying "F.O.B. destination" as the preferred pricing and shipping basis for all JWOD commodities, with "F.O.B. origin" as a possible alternative basis.

#### Public Comments on the Proposed Rule

The Committee published the proposed rule in the **Federal Register** of August 2, 1999 (64 FR 41882). No comments were received. Accordingly, the Committee's regulations are being amended as stated in the proposed rule.

#### Regulatory Flexibility Act

I certify that this revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

#### Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this final rule because it contains no new information collection or recordkeeping requirements as defined in that Act and its regulations.

#### Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, the final rule is not a significant regulatory action as defined in the Executive Order.

#### List of Subjects in

##### 41 CFR Part 51-2

Organization and functions  
(Government agencies)

##### 41 CFR Part 51-5

Government procurement,  
Handicapped.

For the reasons set out in the preamble, parts 51-2 and 51-5 of Title 41, Chapter 51 of the Code of Federal Regulations are amended as follows:

1. The authority citation for parts 51-2 and 51-5 continues to read as follows:

**Authority:** 41 U.S.C. 46-48c.

#### PART 51-2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

2. Section 51-2.7 is revised to read as follows:

##### § 51-2.7 Fair market price.

(a) The Committee is responsible for determining fair market prices, and changes thereto, for commodities and services on the Procurement List. The Committee establishes an initial fair market price at the time a commodity or service is added to the Procurement List. This initial price is based on Committee procedures, which permit negotiations between the contracting activity and the nonprofit agency which will produce or provide the commodity or service to the Government, assisted by the appropriate central nonprofit agency. If agreed to by the negotiating parties, the initial price may be developed using other methodologies specified in Committee pricing procedures.

(b) Prices are revised in accordance with changing market conditions under Committee procedures, which include negotiations between contracting activities and producing nonprofit agencies, assisted by central nonprofit agencies, or the use of economic indices, changes in nonprofit agency costs, or other methodologies permitted under these procedures.

(c) Recommendations for initial fair market prices, or changes thereto, shall be submitted jointly by the contracting activities and nonprofit agencies concerned to the appropriate central nonprofit agency. After review and analysis, the central nonprofit agency shall submit the recommended prices and methods by which prices shall be changed to the Committee, along with the information required by Committee pricing procedures to support each recommendation. The Committee will review the recommendations, revise the recommended prices where appropriate,

and establish a fair market price, or change thereto, for each commodity or service which is the subject of a recommendation.

#### PART 51-5—CONTRACTING REQUIREMENTS

3. Section 51-5.5 is amended by revising paragraphs (a), (d)(2), and (e), to read as follows:

##### § 51-5.5 Prices.

(a) The prices for items on the Procurement List are fair market prices established by the Committee under authority of the Javits-Wagner-O'Day Act (41 U.S.C. 47(b)).

\* \* \* \* \*

(d) \* \* \*

(2) Provide a copy of the new wage determination rate or the Department of Labor document stating that the wage determination rate is unchanged to the central nonprofit agency at least 60 days before the beginning of the new service period.

\* \* \* \* \*

(e) If a contracting activity desires packing, packaging, or marking of products other than the standard pack or as provided in the Procurement List, any difference in cost shall be negotiated with the nonprofit agency.

4. Section 51-5.6 is revised to read as follows:

##### § 51-5.6 Shipping.

(a) Except as provided in paragraph (b) of this section, commodities are sold to the Government on an "F.O.B. destination" basis, with delivery being accomplished when the shipment reaches the facility designated by the contracting activity. Time of delivery is when the shipment is released by the carrier and accepted by the contracting activity or its agent. In this delivery method, the nonprofit agency will normally use commercial bills of lading and will be responsible for any loss or damage to the goods occurring before the commodities reach the designated delivery point. The nonprofit agency will prepare and distribute commercial bills of lading, furnish delivery schedules, designate the carriers, and pay all shipping charges to specified delivery points.

(b) The Committee may determine that certain commodities are to be sold to the Government on an "F.O.B. origin" basis, with delivery being accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is when the shipment is released to and accepted by the initial carrier. In this delivery method, the nonprofit agency will normally use

Government bills of lading, and responsibility for loss or damage to the goods while in transit passes to the Government at the time the initial carrier accepts a shipment. If the contracting activity fails to furnish a Government bill of lading promptly, such failure shall be considered an excusable delay in delivery.

Dated: October 12, 1999.

**Beverly L. Milkman,**

*Executive Director.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### 45 CFR Part 96

RIN 0991-AA97

#### Block Grant Programs

**AGENCY:** Department of Health and Human Services (HHS).

**ACTION:** Final rule with comment period.

**SUMMARY:** This final rule amends the regulations of the Department of Health and Human Services (HHS) governing the administration of block grant programs. It updates the current regulations to reflect current statutory citations for the block grants. It establishes a requirement for grantees to submit obligation and expenditure reports for all of the block grants. Additionally, this rule establishes submission dates and completion dates for applications for funding from States and territories for Low-Income Home Energy Assistance Program (LIHEAP) and Social Services Block Grant Program (SSBG). It also establishes a completion date for applications for direct funding from Indian tribes and tribal organizations for LIHEAP and clarifies procedures related to the withholding of funds for these programs. In addition, it modifies the requirements for reallocation of funds under LIHEAP. This regulation also includes an amendment to § 96.82, regarding the required submission of reports on households applying for and receiving LIHEAP assistance that is being issued as an interim final rule with opportunity for comment.

**DATES:** *Effective Date:* This final rule and the interim § 96.82 are effective November 15, 1999, except that §§ 96.10(c), 96.10(d) and 96.49, are effective March 1, 2000. The information collection requirements

contained in § 96.30 will take effect upon OMB approval.

**Comment Period:** Comments on § 96.82 will be considered, if received at the appropriate address, as provided below, no later than 5 p.m. on December 14, 1999. We will not consider comments concerning provisions that remain unchanged from the July 17, 1992 or November 16, 1993 proposed rules or that were revised based on public comment.

**ADDRESSES:** Mail written comments on § 96.82 to Janet M. Fox, Director, Division of Energy Assistance, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade SW, Washington, DC 20447.

The comments received in response to the requirements in § 96.82 may be inspected or reviewed at the above address, Monday through Friday, between 9 a.m. and 5 p.m., beginning one week after the publication of this rule.

**FOR FURTHER INFORMATION CONTACT:** Mike Herrell, 202/690-5739.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35) established seven block grants to be administered by the Department of Health and Human Services (HHS). Subsequent legislation repealed the Primary Care Block Grant. Additional legislation divided the Alcohol and Drug Abuse and Mental Health Services Block Grant into two, resulting in the Community Mental Health Services Block Grant and the Substance Abuse Prevention and Treatment Block Grant. An interim final regulation to implement the block grants was published in the **Federal Register** on October 1, 1981 (46 FR 48582) and the final regulation was issued on July 6, 1982 (47 FR 29472). Subsequent legislation changed certain provisions of the block grants and the regulation was modified several times. The regulation was modified most recently on May 1, 1995 (60 FR 21332) to address requirements for LIHEAP. Based on our experience in administering the block grants, we have identified several aspects of the block grant rules that require, or would benefit from, clarification. Some of those changes were proposed in a notice of proposed rulemaking (NPRM) issued by HHS for block grant programs dated July 17, 1992 (57 FR 31685) and are discussed below.

The Augustus F. Hawkins Human Services Reauthorization Act of 1990, Public Law 101-501, was enacted on November 3, 1990. Title VII of this

public law contains amendments to the Low-Income Home Energy Assistance Act of 1981 (title XXVI of Pub. L. 97-35, as amended), including several changes affecting LIHEAP grantee program administration. An interim final rule published January 16, 1992, in the **Federal Register** (57 FR 1960 *et seq.*) promulgated regulatory changes for several provisions which were effective for fiscal years (FY) 1991 and FY 1992, including a leveraging incentive program. It also indicated that regulations concerning additional changes resulting from Public Law 101-501 would be issued at a later date. A final rule relating to the provisions included in the interim final rule was published on May 1, 1995 (60 FR 21332). An NPRM dated November 16, 1993 (58 FR 60498) proposed additional regulatory changes for provisions included in Public Law 101-501 that were scheduled to become effective in FY 1993 and FY 1994. The later changes concerned "forward funding" and the end of authority to transfer LIHEAP funds to other HHS block grants. Other provisions relating to application submission and completion dates were included in the NPRM. Some of the provisions included in the Department's NPRM of July 17, 1992, were also included in the November 16, 1993 NPRM.

This final rule includes provisions which were originally contained in both the NPRM issued by the Department of Health and Human Services on July 17, 1992 (57 FR 31685) and the NPRM issued on November 16, 1993 (58 FR 60498) concerning LIHEAP, CSBG and SSBG, all of which are administered by the Administration for Children and Families (ACF). It includes a due date for completion of applications for direct funding of Indian tribes and tribal organizations under LIHEAP. Other issues proposed in the NPRM of July 17, 1992 which address LIHEAP, CSBG, and SSBG as well as some of the other block grant programs which are administered by agencies of the Public Health Service (PHS), are also finalized in this rule. It clarifies procedures related to the withholding and reallocation of funds and requires obligation and expenditure reports. Some of those items in the July 17, 1992 NPRM which relate to the block grants that are administered by agencies of the PHS may be addressed in a separate action. Therefore, this final rule excludes the following sections relating to the block grants administered by the PHS contained in the July 1992 NPRM: 96.121, 96.122, 96.123 and 96.124. In addition, this final rule finalizes proposals from the November