

Dated: August 28, 2009.

**Joseph T. Rannazzisi,**

Deputy Assistant Administrator, Office of  
Diversion Control.

[FR Doc. E9-21698 Filed 9-8-09; 8:45 am]

BILLING CODE 4410-09-P

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter VI

#### Office of Postsecondary Education; Notice of Negotiated Rulemaking for Programs Authorized Under Title IV of the Higher Education Act of 1965, as Amended

**AGENCY:** Department of Education.

**ACTION:** Notice of establishment of  
negotiated rulemaking committees.

**SUMMARY:** We announce our intention to establish two negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended (HEA). Each committee will include representatives of organizations or groups with interests that are significantly affected by the subject matter of the proposed regulations. We request nominations for individual negotiators who represent key stakeholder constituencies that are involved in the student financial assistance programs authorized under Title IV of the HEA to serve on these committees.

**DATES:** We must receive your nominations for negotiators to serve on the committees on or before September 25, 2009.

**ADDRESSES:** Please send your nominations for negotiators to Patty Chase, U.S. Department of Education, 1990 K Street, NW., room 8034, Washington, DC 20006, or by fax at (202) 502-7874. You may also e-mail your nominations to [Patty.Chase@ed.gov](mailto:Patty.Chase@ed.gov). Nominees will be notified whether or not they have been selected as negotiators, as soon as the Department's review process is completed.

**FOR FURTHER INFORMATION CONTACT:** For information about the content of this notice, including information about the negotiated rulemaking process or the nomination submission process contact: Wendy Macias, U.S. Department of Education, 1990 K Street, NW., room 8017, Washington, DC 20006. Telephone: (202) 502-7526. You may also e-mail your questions about the nomination submission process to: [Wendy.Macias@ed.gov](mailto:Wendy.Macias@ed.gov).

**Note:** For general information about the negotiated rulemaking process, see *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at <http://www.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html>.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free at 1-800-877-8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or computer diskette) by contacting the contact person under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:** On May 26, 2009, we published a notice in the *Federal Register* (74 FR 24728) announcing our intent to establish negotiated rulemaking committees to develop proposed regulations (1) governing foreign schools, including the implementation of the changes made to the HEA by the Higher Education Opportunity Act of 2008 (HEOA), Public Law 110-315, that affect foreign schools; and (2) to maintain or improve program integrity in the Title IV, HEA programs. We announced our intent to develop these proposed regulations by following the negotiated rulemaking procedures in section 492 of the HEA. The notice also announced a series of three regional hearings at which interested parties could comment on the topics suggested by the Department, and suggest additional topics for consideration for action by the negotiating committees. We invited parties to comment and submit topics for consideration in writing, as well. We heard testimony and received written comments from approximately 290 individuals. Transcripts from the hearings and copies of the written comments can be found at <http://www.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summer/fall.html>.

**Regulatory Issues:** After consideration of the information received at the regional hearings and in writing, we have decided to establish the following two negotiating committees:

- Team I—Program Integrity Issues
- Team II—Foreign School Issues

We received many comments suggesting that we negotiate issues related to the student loan programs authorized under Title IV of the HEA. As we anticipate the need to convene a negotiated rulemaking committee following the completion of pending legislative action related to student loans, we will not be including student loan issues on the agenda at this time. Many of those who testified and those who provided written comments made

the case for changes to bankruptcy rules as they relate to student loans; some also called for changes in statutes of limitations and loan refinancing rules. While those issues are important, addressing them would require action by Congress.

We also received comments suggesting revisions to the institutional financial responsibility regulations for Title IV, HEA institutional eligibility. We agree that this is an area where changes may be beneficial. However, significant analysis must be done by the Department before we can bring this issue to a committee for negotiation. We will be beginning this process in the near future. More information about the public aspects of this process will be forthcoming on the Department's Web site.

We list the topics each committee is likely to address during this round of negotiations elsewhere in this notice under *Committee Topics*.

We intend to select negotiators for the committees that represent the interests significantly affected by the topics proposed for negotiations. In so doing, we will follow the requirement in section 492(b)(1) of the HEA that the individuals selected must have demonstrated expertise or experience in the relevant subjects under negotiation. We will also select individual negotiators who reflect the diversity among program participants, in accordance with section 492(b)(1) of the HEA. Our goal is to establish committees that will allow significantly affected parties to be represented while keeping the committee size manageable.

The committees may create subgroups on particular topics that would involve additional individuals who are not members of the committees. Individuals who are not selected as members of the committees will be able to attend the meetings, have access to the individuals representing their constituencies, and participate in informal working groups on various issues between the meetings. The committee meetings will be open to the public.

The Department has identified the following constituencies as having interests that are significantly affected by the topics proposed for negotiations. The Department plans to seat as negotiators individuals from organizations or groups representing each of these constituencies. The Department anticipates that individuals from organizations or groups representing each of these constituencies will participate as members of one or more committees as appropriate. These constituencies are:

- Students.

- Legal assistance organizations that represent students.
- Consumer advocacy organizations.
- Financial aid administrators at postsecondary institutions.
- Business officers and bursars at postsecondary institutions.
- Admissions officers at postsecondary institutions.
- Institutional third-party servicers who perform functions related to the Title IV programs (including collection agencies).
- State higher education executive officers.
- State Attorneys General and other appropriate State officials.
- Business and industry.
- Institutions of higher education eligible to receive Federal assistance under Title III, Parts A and B, and Title V of the HEA, which include Historically Black Colleges and Universities, Hispanic-Serving Institutions, American Indian Tribally Controlled Colleges and Universities, Alaska Native and Native Hawaiian-Serving Institutions, and other institutions with a substantial enrollment of needy students as defined in Title III of the HEA.
- Two-year public institutions of higher education.
- Four-year public institutions of higher education.
- Private, non-profit institutions of higher education.
- Private, for-profit institutions of higher education.
- Guaranty agencies and guaranty agency servicers (including collection agencies).
- Lenders, secondary markets, and loan servicers.
- Regional accrediting agencies.
- National accrediting agencies.
- Specialized accrediting agencies.
- State approval agencies.
- State student grant agencies.
- State agencies addressing secondary education.
- Private secondary schools.
- Home schools for secondary education.
- Foreign institutions.
- Governmental entities overseeing public foreign institutions.
- Clinical sites of foreign medical institutions located in the United States (for Team II—Foreign School Issues, Issues specific to foreign medical schools).
- State agencies that certify clinical sites of foreign medical institutions in the United States (for Team II—Foreign School Issues, Issues specific to foreign medical schools).

The negotiation of proposed regulations for issues specific to foreign

medical schools on the Team II agenda requires some specific constituencies who are affected parties for purposes of these issues only.

For these issues, we will be selecting “single-issue negotiators” whose participation on the committee will be limited to the negotiation of only the issues specific to foreign medical schools. As previously noted, the committee may form subgroups for preliminary discussions of these, or other, issues to include individuals who are not members of the committee but who have expertise that would be helpful.

The goal of each committee is to develop proposed regulations that reflect a final consensus of the committee. Consensus means that there is no dissent by any member of the negotiating committee. An individual selected as a negotiator will be expected to represent the interests of their organization or group. If consensus is reached, all members of the organization or group represented by a negotiator are bound by the consensus and are prohibited from commenting negatively on the resulting proposed regulations. The Department will not consider any such negative comments that are submitted by members of such an organization or group.

Nominations should include:

- The name of the nominee, the organization or group the nominee represents, and a description of the interests that the nominee represents.
- Evidence of the nominee’s expertise or experience in the subject, or subjects, to be negotiated.
- Evidence of support from individuals or groups of the constituency that the nominee will represent.
- The nominee’s commitment that he or she will actively participate in good faith in the development of the proposed regulations.
- The nominee’s contact information, including address, phone number, fax number, and e-mail address.

For a better understanding of the negotiated rulemaking process, nominees should review *The Negotiated Rulemaking Process for Title IV Regulations, Frequently Asked Questions* at <http://www.ed.gov/policy/highered/reg/hearulemaking/hea08/neg-reg-faq.html> prior to committing to serve as a negotiator.

#### Committee Topics

The topics the committees are likely to address are as follows:

##### *Team I—Program Integrity Issues*

- Satisfactory academic progress.

- Monitoring grade point averages.
- Incentive compensation.
- Gainful employment in a recognized occupation.
  - State authorization as a component of institutional eligibility.
  - Definition of a credit hour.
  - Verification of information included on a Free Application for Federal Student Aid (FAFSA).
  - Definition of a high school diploma for purposes of establishing eligibility to participate in Federal student aid programs.
  - Misrepresentation of information provided to students and prospective students.
  - Ability to benefit.
  - Agreements between institutions of higher education.
  - Retaking coursework.
  - Term-based module programs.
  - Institutions required to take attendance for purposes of the Return of Title IV Funds requirements.
    - Timeliness and method of disbursement of Title IV funds.

##### *Team II—Foreign School Issues*

- United States Generally Accepted Accounting Principles (U.S. GAAP) financial statements (section 493(b) of the HEOA).
- Compliance audits (section 493(b) of the HEOA).
- Definition of a foreign school.
- Non-profit status for foreign schools.
- Public foreign schools and financial responsibility.
- Consolidation of select Title IV requirements on a countrywide basis.
- Deferments for eligible non-citizens.
- Non-degree programs.
- Issues specific to foreign medical schools:
  - New eligibility criteria for foreign medical schools (section 102(a)(1)(B) and (b) of the HEOA).
  - Clinical sites of foreign medical schools in other countries.
  - Basic science locations of foreign medical schools in other countries.
  - Eligibility requirements for foreign veterinary schools.
  - Eligibility requirements for foreign nursing schools (sections 102(a)(1)(A) and (D) of the HEOA).
  - Foreign medical and veterinary schools certified separately from larger school.

These topics are tentative. Topics may be added or removed as the process continues.

#### Schedule for Negotiations

We anticipate that negotiations for these committees will begin at the end of October 2009, with each committee

meeting for three sessions of approximately five days at roughly monthly intervals. Meetings will start on a Monday at 1:00 and end on a Friday at noon. The committees will meet in the Washington, DC area. The dates and locations of these meetings will be posted on the Department's Web site at: <http://www.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summerfall.html>.

The schedule for these negotiations has been developed to ensure publication of the final regulations by the November 1, 2010 statutory deadline for publishing Title IV, HEA student financial assistance final regulations.

#### Electronic Access to This Document

You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF), on the Internet at the following site: <http://www.ed.gov/news/fedregister>.

To use PDF you must have Adobe Acrobat Reader, which is available free

at this site. If you have questions about using PDF, call the U.S. Government Printing Office toll free at 1-888-293-6498; or in the Washington, DC, area at (202) 512-1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: <http://www.gpoaccess.gov/nara/index.html>.

*Program Authority:* 20 U.S.C. 1098a.

*Delegation of Authority:* The Secretary of Education has delegated authority to Daniel T. Madzellan, Director, Forecasting and Policy Analysis for the Office of Postsecondary Education, to perform the functions and duties of the Assistant Secretary for Postsecondary Education.

Dated: September 3, 2009.

**Daniel T. Madzellan,**

*Director, Forecasting and Policy Analysis.*

[FR Doc. E9-21695 Filed 9-8-09; 8:45 am]

**BILLING CODE 4000-01-P**

$$d_{rem} = r - \sqrt{\left(\frac{p-1}{p}\right)r^2 - rd_{last} + \frac{1}{2}d_{last}^2} \quad \text{Eq. 2H-1}$$

[FR Doc. Z9-20395 Filed 9-8-09; 8:45 am]

**BILLING CODE 1505-01-D**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[FWS-R4-ES-2009-0029  
MO 9221050083-B2]

#### Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition to List the Eastern Population of the Gopher Tortoise (*Gopherus polyphemus*) as Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of 90-day petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on a petition to list the eastern population of the gopher tortoise (*Gopherus polyphemus*) as threatened under the Endangered Species Act of 1973, as amended (Act) and designate critical habitat. Herein, the Service refers to the eastern population of the gopher tortoise as the gopher tortoise in the eastern portion of its range.

Following a review of the petition, we find that the petition presents substantial scientific or commercial information indicating that listing the gopher tortoise in the eastern portion of its range may be warranted. Therefore, with the publication of this notice, we are initiating a status review to determine if listing the gopher tortoise in the eastern portion of the range is warranted. To ensure that the status review is comprehensive, we are soliciting scientific and commercial data and other information regarding the status of and threats facing the gopher tortoise throughout all of its range.

**DATES:** We made the finding announced in this document on September 9, 2009. To allow us adequate time to conduct this review, we request that we receive information on or before November 9, 2009 to allow us time to review and consider the information in our status review.

**ADDRESSES:** You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R4-ES-2009-0029; Division of Policy and Directives Management; U.S. Fish and

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[EPA-HQ-OAR-2008-0697; FRL-8948-9]

RIN 2060-AP08

#### Revisions to Test Method for Determining Stack Gas Velocity Taking Into Account Velocity Decay Near the Stack Walls

##### Correction

In proposed rule document E9-20395 beginning on page 42819 in the issue of Tuesday, August 25, 2009 make the following correction:

#### Appendix A-2 to Part 60 [Corrected]

On page 42819, in Appendix A-2 to Part 60, Equation 2H-1 is reprinted correctly to read as set forth below:

Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will post all information received on <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

David L. Hankla, Field Supervisor, Jacksonville Ecological Services Field Office, 7915 Baymeadows Way, Suite 200, Jacksonville, FL 32256, by telephone 904/731-3336, or by facsimile 904/731-3045. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### SUPPLEMENTARY INFORMATION:

##### Information Solicited

When we make a finding that a petition presents substantial information indicating that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information concerning the status of the gopher tortoise throughout all of its range. We request information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning the status