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(c) In the event of the sale, collection, or liquidation of RLF loans, any proceeds, net of repaid principal and reasonable administrative costs incurred, up to the amount of the outstanding loan principal, must be returned to the RLF for relending. Any net proceeds from loan sales above the outstanding loan principal is considered RLF income and must either be added to the RLF capital base for lending or used to cover eligible costs for administering the RLF in accordance with the rules for use of RLF income. The net transaction proceeds must be used for additional loans as part of the RLF project.

[64 FR 5476, Feb. 3, 1999, as amended at 65 FR 2536, Jan. 18, 2000]

### Subpart D—Release of EDA's Property Interest

#### § 314.11 Procedures for release of EDA's property interest.

(a) Before the expiration of the estimated useful life of the grant project, EDA may release, in whole or in part, any real property interest, or tangible personal property interest, in connection with a grant after the date that is 20 years after the date on which the grant was awarded. (The term "tangible personal property" excludes debt instruments, currency, and accounts in financial institutions.) Except as provided in paragraph (b) of this section, such release is not automatic; it requires EDA's approval, which will not be withheld except for good cause. The release may be unconditional, or may be conditioned upon some activity of the recipient intended to be pursued as a consequence of the release.

(b) EDA hereby releases all of its real and tangible personal property interests in projects awarded under the Public Works Employment Act of 1976 (Pub. L. 94-369) and under that act as amended by the Public Works Employment Act of 1977 (Pub. L. 95-28).

(c)(1) Notwithstanding §§ 314.11(a) and (b), in no event, either before or after the release of EDA's interest, may project property be used:

(i) In violation of the nondiscrimination requirements of the project award, or

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(ii) For religious purposes prohibited by the holding of the U.S. Supreme Court in *Tilton v. Richardson*, 403 U.S. 672 (1971).

(2) Such use voids the release, and is an unauthorized use of the property, as provided in § 314.4.

## PART 315—CERTIFICATION AND ADJUSTMENT ASSISTANCE FOR FIRMS

### Subpart A—General Provisions

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AUTHORITY: 42 U.S.C. 3211; 19 U.S.C. 2341, *et seq.*; Department of Commerce Organization Order 10-4.

SOURCE: 64 FR 5478, Feb. 3, 1999, unless otherwise noted.

### Subpart A—General Provisions

#### § 315.1 Purpose and scope.

The regulations in this part implement certain changes to responsibilities of the Secretary of Commerce under Chapter 3 of Title II of the Trade Act of 1974, as amended (19 U.S.C. 2341 *et seq.*) (Trade Act), concerning adjustment assistance for firms. The statutory authority and responsibilities of the Secretary of Commerce relating to adjustment assistance are delegated to EDA. EDA has the duties of certifying

firms as eligible to apply for adjustment assistance, providing technical adjustment assistance to eligible recipients, and providing assistance to organizations representing trade injured industries.

### §315.2 Definitions.

As used in this part 315 of this chapter:

*Adjustment assistance* is technical assistance provided to firms or industries under Chapter 3 of Title II of the Trade Act.

*Adjustment proposal* means a certified firm's plan for improving its economic situation.

*Certified firm* means a firm which has been determined by EDA to be eligible to apply for adjustment assistance.

*Confidential business information* means information submitted to EDA or TAACs by firms that concerns or relates to trade secrets for commercial or financial purposes which is exempt from public disclosure under 5 U.S.C. 552(b)(4), 5 U.S.C. 552b(c)(4) and 15 CFR part 4.

*Decreased absolutely* means a firm's sales or production has declined:

- (1) Irrespective of industry or market fluctuations; and
- (2) Relative only to the previous performance of the firm.

*Directly competitive* means:

(1) Articles which are substantially equivalent for commercial purposes, i.e., are adapted to the same function or use and are essentially interchangeable; and

(2) Oil or natural gas (exploration, drilling or otherwise produced).

*Firm* means an individual proprietorship, partnership, joint venture, association, corporation (including a development corporation), business trust, cooperative, trustee in bankruptcy or receiver under court decree and including fishing, agricultural entities and those which explore, drill or otherwise produce oil or natural gas. When a firm owns or controls other firms as described below, for purposes of receiving benefits under this part, the firm and such other firms may be considered a single firm when they produce like or directly competitive articles or are exerting essential economic control over

one or more production facilities. Such other firms include:

- (1) Predecessor;
- (2) Successor;
- (3) Affiliate; or
- (4) Subsidiary.

*A group of workers threatened with total or partial separation* means there is reasonable evidence that such total or partial separation is imminent.

*Like articles* means articles which are substantially identical in their intrinsic characteristics.

*Partial separation* means either:

(1) A reduction in an employee's work hours to 80 percent or less of the employee's average weekly hours during the year of such reductions as compared to the preceding year; or

(2) A reduction in the employee's weekly wage to 80 percent or less of his/her average weekly wage during the year of such reduction as compared to the preceding year.

*Person* means individual, organization or group.

*The record* means:

(1) A petition for certification of eligibility to qualify for adjustment assistance;

(2) Any supporting information submitted by the petitioner;

(3) Report of the EDA investigation in regard to the petition; and

(4) Any information developed during the investigation or in connection with any public hearing held on the petition.

*Recipient* means a firm, Trade Adjustment Assistance Center or other party receiving adjustment assistance or through which adjustment assistance is provided under the Trade Act.

*A significant number or proportion of workers* means 5 percent of the firm's work force or 50 workers, whichever is less. An individual farmer is considered a significant number or proportion of workers.

*Substantial interest* means a direct, material, economic interest in the certification or noncertification of the petitioner.

*Technical Assistance* means assistance provided to firms or industries under Chapter 3 of Title II of the Trade Act.

*A totally separated worker* means an employee who has been laid off or

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whose employment has been terminated by his/her employer for lack of work.

#### **§ 315.3 Confidential business information.**

EDA will follow the procedures set forth in 15 CFR §4.7, and submitters should so designate any information they believe confidential.

#### **§ 315.4 Eligible applicants.**

(a) Trade Adjustment Assistance Centers (TAACs) are eligible applicants. A TAAC can be:

- (1) A university affiliate;
- (2) State or local government affiliate;
- (3) Non-profit organization.

(b) Firms;

(c) Organizations assisting or representing industries in which a substantial number of firms or workers have been certified as eligible to apply for adjustment assistance under sections 223 or 251 of the Trade Act including the following:

- (1) Existing agencies;
- (2) Private individuals;
- (3) Firms;
- (4) Universities;
- (5) Institutions;
- (6) Associations;
- (7) Unions; or
- (8) Other non-profit industry organizations.

#### **§ 315.5 Selection process.**

(a) TAACs are selected in accordance with the following:

(1) Currently funded TAACs are invited by EDA to submit either new or amended applications, provided they have performed in a satisfactory manner and complied with previous and/or current conditions in their cooperative agreements with EDA and contingent upon availability of funds. Such TAACs shall submit an application on a form approved by OMB, as well as a proposed budget, narrative scope of work, and such other information as requested by EDA. Acceptance of an application or amended application for a cooperative agreement does not assure funding by EDA; and

(2) New TAACs will be invited to submit proposals, and if they are acceptable, EDA will invite an application on

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a form approved by OMB. An application will be accompanied by a narrative scope of work, proposed budget and such other information as requested by EDA. Acceptance of an application does not assure funding by EDA.

(b) Firms are selected in accordance with the following:

(1) Firms may apply for certification generally through a TAAC by filling out a petition for certification. The TAAC will provide technical assistance to firms wishing to fill out such petitions;

(2) Once firms are certified in accordance with the procedures described in §§315.9 and 315.10, an adjustment proposal is usually prepared with technical assistance from a party independent of the firm, usually the TAAC, and submitted to EDA;

(3) Certified firms which have submitted acceptable adjustment proposals within the time limits described in §315.13 below, may begin implementation of such proposal, generally through the TAAC and often with Technical Assistance from the TAAC, by submitting a request to the TAAC to provide assistance in implementing an accepted adjustment proposal; and

(4) EDA determines whether or not to provide assistance for adjustment proposals based upon §315.6(c)(2).

(c) Organizations representing trade injured industries must meet with an EDA representative to discuss the industry problems, opportunities and assistance needs, and if invited by EDA may then submit an application as approved by OMB, as well as a scope of work and proposed budget.

#### **§ 315.6 Evaluation criteria.**

(a) Currently funded TAACs are generally evaluated based on the following:

(1) How well they have performed under cooperative agreements with EDA and if they are in compliance with the terms and conditions of such cooperative agreements;

(2) Proposed scope of work, budget and application or amended application; and

(3) The availability of funds.

(b) New TAACs are generally evaluated on the following:

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(1) Demonstrates competence in administering business assistance programs;

(2) Background and experience of staff;

(3) Proposed scope of work, budget and application; and

(4) The availability of funding.

(c) Firms are generally evaluated based on the following:

(1) For certification, firms' petitions are selected strictly on the basis of conformance with requirements set forth in §315.9 below;

(2) An adjustment proposal is evaluated on the basis of the following:

(i) The proposal must be submitted to EDA within 2 years after the date of the certification of the firm; and

(ii) The adjustment proposal must include a description of any technical assistance requested to implement such proposal including financial and other supporting documentation as EDA determines is necessary, based upon either:

(A) An analysis of the firm's problems, strengths and weaknesses and an assessment of its prospects for recovery; or

(B) If EDA so determines, an acceptable adjustment proposal can be prepared on the basis of other available information.

(iii) The adjustment proposal must be evaluated to determine that it:

(A) Is reasonably calculated to contribute materially to the economic adjustment of the firm, i.e., that such proposal will be a constructive aid to the firm in establishing a competitive position in the same or a different industry;

(B) Gives adequate consideration to the interests of a sufficient number of separated workers of the firm, by providing for example that the firm will:

(1) Give a rehiring preference to such workers;

(2) Make efforts to find new work for a number of such workers; and

(3) Assist such workers in obtaining benefits under available programs.

(C) Demonstrates that the firm will make all reasonable efforts to use its own resources for economic development, though under certain circumstances, resources of related firms

or major stockholders will also be considered.

(d) Organizations representing trade injured industries must demonstrate that the industry is injured by increased imports and that the activities to be funded will yield some short-term actions that the industry itself (and individual firms) can and will take toward the restoration of the industry's international competitiveness.

(1) The emphasis is on practical results that can be implemented in the near term, and long-term research and development activities are given low priority.

(2) It is also expected that the industry will continue activities on its own without the need for continued Federal assistance.

### §315.7 Award requirements.

(a) Award periods are as follows:

(1) TAACs are generally funded for 12 months;

(2) Firms are generally provided assistance over a 2-year period; and

(3) Organizations representing trade injured industries are generally funded for 12 months.

(b) Matching requirements are as follows:

(1) There are no matching requirements for certification assistance provided by the TAACs to firms or for administrative expenses for the TAACs;

(2) All adjustment proposals and implementation assistance must include not less than 25% nonfederal match, provided to the extent practicable, by firms being assisted; and

(3) Contributions of at least 50% of the total project cash cost, in addition to appropriate in kind contributions, are expected from organizations representing trade injured industries.

## Subpart B—Trade Adjustment Assistance Centers

### §315.8 Purpose and scope.

(a) Trade Adjustment Assistance Centers (TAACs) are available to assist firms in all fifty states, the District of Columbia and the Commonwealth of Puerto Rico in obtaining adjustment assistance. TAACs provide technical assistance in accordance with this subpart either through their own staffs or

by arrangements with outside consultants. Information concerning TAACs serving particular areas can be obtained from EDA. See the annual FY NOFA for the appropriate point of contact and address.

(b) Prior to submitting a request for technical assistance to EDA, a firm should determine the extent to which the required technical assistance can be provided through a TAAC. EDA will provide technical assistance through TAACs whenever EDA determines that such assistance can be provided most effectively in this manner. Requests for technical assistance will normally be made through TAACs.

(c) TAACs generally provide technical assistance to a firm by providing the following:

- (1) Assistance to a firm in preparing its petition for certification;
- (2) Assistance to a certified firm in diagnosing its strengths and weaknesses and developing an adjustment proposal for the firm; and
- (3) Assistance to a certified firm in the implementation of the adjustment proposal for the firm.

### Subpart C—Certification of Firms

#### § 315.9 Certification requirements.

A firm will be certified eligible to apply for adjustment assistance based upon the petition for certification if EDA determines, under section 251(c) of the Trade Act, that:

(a) Based upon a comparison of the most recent 12 month period for which data are available and the immediately preceding 12 month period, the following conditions have been met:

(1) A significant number or proportion of workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) Either sales or production, or both of the firm have decreased absolutely; or sales or production, or both of any article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely; and

(3) Increases of imports (absolute or relative to domestic production) of ar-

ticles like or directly competitive with articles produced by such firm contributed importantly to such total or partial separation or threat thereof, and to such decline in sales or production; provided that imports will not be considered to have contributed importantly if other factors were so dominant, acting singly or in combination, that the worker separation or threat thereof, or decline in sales or production would have been essentially the same irrespective of the influence of imports; or

(b) Based upon an interim sales or production decline, the following conditions have been met:

(1) There has been an absolute decrease in sales or production for, at minimum, a three month period during the most recent 12 month period for which data are available as compared to the same period of time during the immediately preceding 12 month period;

(2) During the same base and comparative period of time as the period of absolute decrease in sales or production, a significant number or proportion of workers in such firm have become totally or partially separated; and

(3) During the same base and comparative period of time as the period of absolute decrease in sales or production, there has been an increase of imports (absolute or relative to domestic production) of articles like or directly competitive with articles produced by such firm which contributed importantly to such total or partial separation, and to such decline in sales or production; provided that imports will not be considered to have contributed importantly if other factors were so dominant, acting singly or in combination, that the worker separation, or decline in sales or production would have been essentially the same irrespective of the influence of imports; or

(c) Based upon an interim employment decline, the following conditions have been met:

(1) A significant number or proportion of workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated during, at a minimum, the most recent month during

the most recent 12 month period for which data are available as compared to the same period of time during the immediately preceding 12 month period; and

(2) Either sales or production, or both of the firm have decreased absolutely during the 12-month period preceding the most recent 12-month period for which data are available; and

(3) There has been an increase of imports (absolute or relative to domestic production) of articles like or directly competitive with articles produced by such firm which contributed importantly to such total or partial separation or threat thereof, and to such decline in sales or production; provided that imports will not be considered to have contributed importantly if other factors were so dominant, acting singly or in combination, that the worker separation or threat thereof, or decline in sales or production would have been essentially the same irrespective of the influence of imports.

[65 FR 71026, Nov. 28, 2000]

**§ 315.10 Processing petitions for certification.**

(a) Firms are encouraged to consult with a TAAC or EDA for guidance and assistance in the preparation of their petitions for certification.

(b) A firm seeking certification shall complete a petition (OMB Control Number 0610-0091) in the form prescribed by EDA with the following information about such firm:

(1) Identification and description of the firm, including legal form of organization, economic history, major ownership interests, officers, directors, management, parent company, subsidiaries or affiliates, and production and sales facilities;

(2) Description of goods and services produced and sold;

(3) Description of imported articles like or directly competitive with those produced;

(4) Data on its sales, production and employment for the two most recent years;

(5) Copies of its audited financial statements, or if not available, unaudited financial statements and Federal income tax returns for the two most recent years;

(6) Copies of unemployment insurance reports for the two most recent years;

(7) Information concerning its major customers and their purchases; and

(8) Such other information as EDA may consider material.

(c) EDA shall determine whether the petition has been properly prepared and can be accepted. Immediately thereafter, EDA shall notify the petitioner that the petition has been accepted or advise the petitioner that the petition has not been accepted, but may be resubmitted at any time without prejudice when the specified deficiencies have been corrected and the resubmission will be treated as a new petition.

(d) A notice of acceptance of a petition shall be published in the FEDERAL REGISTER.

(e) An investigation shall be initiated by EDA to determine whether the petitioner meets requirements set forth in section 251(c) of the Trade Act and §315.9 above. The investigation can be terminated at any time for failure to meet such requirements. A report of this investigation shall become part of the record upon which a determination of the petitioner's eligibility to apply for adjustment assistance shall be made.

(f) A petitioner may withdraw a petition for certification if a request for withdrawal is received by EDA before a certification determination or denial is made. Such firm may submit a new petition at any time thereafter in accordance with the requirements of this section and §315.9.

(g) Following acceptance, EDA shall decide what action to take on petitions for certification as follows:

(1) Make a determination based on the record as soon as possible after all material has been submitted. In no event may the period exceed 60 days from the date on which the petition was accepted; and

(2) Either certify the petitioner eligible to apply for adjustment assistance or deny the petition, and in either event EDA shall promptly give notice of the action in writing to the petitioner. A notice to the petitioner or

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any parties requesting notice as specified in §315.10(d) of a denial of a petition shall specify the reasons upon which the denial is based. If a petition is denied, the petitioner shall not be entitled to resubmit its petition within one year from the date of the denial. At the time of the denial of a petition EDA may waive the 1-year limitation for good cause.

### §315.11 Hearings, appeals and final determinations.

(a) Any petitioner may appeal to EDA from a denial of certification provided that the appeal is received by EDA in writing by personal delivery or by registered mail within 60 days from the date of notice of denial under §315.10(g). The appeal shall state the grounds on which the appeal is based, including a concise statement of the supporting facts and law. The decision of EDA on the appeal shall be the final determination within the Department of Commerce. In the absence of an appeal by the petitioner under this paragraph, such final determination shall be determined under §315.10(g).

(b) A firm, its representative or any other interested domestic party aggrieved by a final determination under paragraph (a) of this section may, within 60 days after notice of such determination, begin a civil action in the United States Court of International Trade for review of such determination in accordance with section 284 of the Trade Act (19 U.S.C. 2395).

(c) EDA will hold a public hearing on an accepted petition not later than 10 days after the date of publication of the Notice of Acceptance in the FEDERAL REGISTER if requested by either the petitioner or any other person found by EDA to have a substantial interest in the proceedings, under procedures, as follows:

(1) The petitioner and other interested persons shall have an opportunity to be present, to produce evidence, and to be heard;

(2) A request for public hearing must be delivered by hand or by registered mail to EDA. A request by a person other than the petitioner shall contain:

(i) The name, address, and telephone number of the person requesting the hearing; and

(ii) A complete statement of the relationship of the person requesting the hearing to the petitioner and the subject matter of the petition, and a statement of the nature of its interest in the proceedings.

(3) If EDA determines that the requesting party does not have a substantial interest in the proceedings, a written notice of denial shall be sent to the requesting party. The notice shall specify the reasons for the denial;

(4) EDA shall publish a notice of a public hearing in the FEDERAL REGISTER, containing the subject matter, name of petitioner, and date, time and place of hearing;

(5) EDA shall appoint the presiding officer of the hearing who shall determine all procedural questions;

(6) Procedures for requests to appear are as follows:

(i) Within 5 days after publication of the Notice of Public Hearing in the FEDERAL REGISTER, each party wishing to be heard must file a request to appear with EDA. Such request may be filed by:

(A) The party requesting such hearing;

(B) Any other party with substantial interest; or

(C) Any other party demonstrating to the satisfaction of the presiding officer that it should be allowed to be heard.

(ii) The party filing the request shall submit the names of the witnesses and a summary of the evidence it wishes to present; and

(iii) Such requests to appear may be approved as deemed appropriate by the presiding officer.

(7) Witnesses will testify in the order and for the time designated by the presiding officer, except that the petitioner shall have the opportunity to make its presentation first. After testifying, a witness may be questioned by the presiding officer or his/her designee. The presiding officer may allow any person who has been granted permission to appear to question the witnesses for the purpose of assisting him/her in obtaining relevant and material facts on the subject matter of the hearing;

(8) The presiding officer may exclude evidence which s/he deems improper or irrelevant. Formal rules of evidence

shall not be applicable. Documentary material must be of a size consistent with ease of handling, transportation, and filing. Large exhibits may be used during the hearing, but copies of such exhibits must be provided in reduced size for submission as evidence. Two copies of all documentary evidence must be furnished to the presiding officer during the hearing;

(9) Briefs may be presented to the presiding officer by parties who have entered an appearance. Three copies of such briefs shall be filed with the presiding officer within 10 days of the completion of the hearing; and

(10) Procedures for transcripts are as follows:

(i) All hearings will be transcribed. Persons interested in transcripts of the hearings may inspect them at the U.S. Department of Commerce in Washington, D.C., or purchase copies as provided in 15 CFR part 4, Public Information; and

(ii) Confidential business information as determined by EDA shall not be a part of the transcripts. Any confidential business information may be submitted directly to the presiding officer prior to the hearing. Such information shall be labeled Confidential Business Information. For the purpose of the public record, a brief description of the nature of the information shall be submitted to the presiding officer during the hearing.

#### **§ 315.12 Termination of certification and procedure.**

(a) Whenever EDA determines that a certified firm no longer requires adjustment assistance or for other good cause, EDA will terminate the certification and promptly publish notice of such termination in the FEDERAL REGISTER. The termination will take effect on the date specified in the Notice.

(b) EDA shall immediately notify the petitioner and shall state the reasons for such termination.

#### **§ 315.13 Loss of certification benefits.**

A firm may fail to obtain benefits of certification, regardless of whether its certification is terminated for any of the following reasons:

(a) Failure to submit an acceptable adjustment proposal within 2 years

after date of certification. While approval of an adjustment proposal may occur after the expiration of such 2-year period, an acceptable adjustment proposal must be submitted before such expiration;

(b) Failure to submit documentation necessary to start implementation or modify its request for adjustment assistance consistent with its adjustment proposal within 6 months after approval of the adjustment proposal and 2 years have elapsed since the date of certification. If the firm anticipates that a longer period will be required to submit documentation, such longer period should be indicated in its adjustment proposal. If the firm becomes unable to submit its documentation within the allowed time, it should notify EDA in writing of the reasons for the delay and submit a new schedule. EDA has the discretion to accept or refuse a new schedule;

(c) If the firm's request for adjustment assistance has been denied, the time period allowed for the submission of any documentation in support of such request has expired, and 2 years have elapsed since the date of certification; or

(d) Failure to diligently pursue an approved adjustment proposal, and 2 years have elapsed since the date of certification.

### **Subpart D—Assistance to Industries**

#### **§ 315.14 Assistance to firms in import-impacted industries.**

(a) Whenever the International Trade Commission makes an affirmative finding under section 202(B) of the Trade Act that increased imports are a substantial cause of serious injury or threat thereof with respect to an industry, EDA shall provide to the firms in such industry, assistance in the preparation and processing of petitions and applications for benefits under programs which may facilitate the orderly adjustment to import competition of such firms.

(b) EDA may provide technical assistance, on such terms and conditions as EDA deems appropriate for the establishment of industry wide programs for new product development, new

process development, export development or other uses consistent with the purposes of this part.

(c) Expenditures for technical assistance under this section may be up to \$10,000,000 annually per industry and shall be made under such terms and conditions as EDA deems appropriate.

## PART 316—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

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AUTHORITY: 42 U.S.C. 3211, 42 U.S.C. 5141; 19 U.S.C. 2341, *et seq.*, Department of Commerce Organization Order 10-4.

SOURCE: 64 FR 5482, Feb. 3, 1999, unless otherwise noted.

### § 316.1 Environment.

(a) The purpose of this section is to ensure proper environmental review of EDA's actions under PWEDA and the Trade Act and to comply with the Federal environmental statutes and regulations in making a determination that balances economic development and environmental enhancement and mitigates adverse environmental impacts to the extent possible.

(b) Environmental assessments of EDA actions will be conducted in accordance with the statutes, regulations, and Executive Orders listed

below. This list will be supplemented and modified, as applicable, in EDA's annual FY NOFA.

(1) Requirements under the National Environmental Policy Act of 1969 (NEPA), Pub. L. 91-190, as amended, 42 U.S.C. 4321 *et seq.* as implemented under 40 CFR parts 1500 *et seq.* including the following:

(i) The implementing regulations of NEPA require EDA to provide public notice of the availability of project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision etc., to the affected public as specified in 40 CFR 1506.6(b); and

(ii) Depending on the project location, environmental information concerning specific projects can be obtained from the Environmental Officer in the appropriate Washington, D.C. or regional office listed in the NOFA;

(2) Clean Air Act, Pub. L. 88-206 as amended, 42 U.S.C. 7401 *et seq.*;

(3) Clean Water Act (Federal Water Pollution Control Act), c. 758, 62 Stat. 1152 as amended, 33 U.S.C. 1251 *et seq.*;

(4) Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), Pub. L. 96-510, as amended, 42 U.S.C. 9601 *et seq.* and the Superfund Amendments and Reauthorization Act of 1986 (SARA), Pub. L. 99-499, as amended;

(5) Floodplain Management Executive Order 11988 (May 24, 1977);

(6) Protection of Wetlands Executive Order 11990 (May 24, 1977);

(7) Resource Conservation and Recovery Act of 1976, Pub.L. 94-580 as amended, 42 U.S.C. 6901 *et seq.*;

(8) Historical and Archeological Data Preservation Act, Pub. L. 86-523, as amended, 16 U.S.C. § 469a-1 *et seq.*;

(9) National Historic Preservation Act of 1966, Pub. L. 89-665, as amended, 16 U.S.C. § 470 *et seq.*;

(10) Endangered Species Act of 1973, Pub. L. 93-205, as amended, 16 U.S.C. § 1531 *et seq.*;

(11) Coastal Zone Management Act of 1972, Pub. L. 92-583, as amended, 16 U.S.C. § 1451 *et seq.*;

(12) Flood Disaster Protection Act of 1973, Pub. L. 93-234, as amended, 42 U.S.C. § 4002 *et seq.*;