

organic slaughter stock unless she was raised organically from the last third of the mother's gestation, the same as other slaughter livestock (except poultry, which must be raised organically beginning with the second day of life). That remains the same in the NOP regulation.

In providing the transition language, entry in organic dairying may become easier, which could ease current milk shortages in the organic milk market at retail. Certainly it should help smaller dairy farmers entering the organic industry who may be faced with having to purchase higher priced organic feed, by allowing them to graze dairy livestock on their land that is being transitioned to organic certification.

With respect to alternatives to this proposed rule, this proposed rule merely implements language which Congress has enacted and complies with the court's final judgment and order.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

No additional collection or recordkeeping requirements are imposed on the public by this proposed rule. Accordingly, OMB clearance is not required by § 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, or OMB's implementing regulation at 5 CFR part 1320.

#### D. General Notice of Public Rulemaking

This proposed rule reflects amendments made by Congress to the OFPA that were passed on November 10, 2005 and a court final order that requires USDA to publish final revisions to the NOP regulations within 360 days of the court order, by June 4, 2006. Accordingly, AMS believes that a 15-day period for interested persons to comment on this rule is appropriate.

#### List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

For the reasons set forth in the preamble, 7 CFR part 205, is proposed to be amended as follows:

### PART 205—NATIONAL ORGANIC PROGRAM

The authority citation for 7 CFR part 205 continues to read as follows:

1. **Authority:** 7 U.S.C. 6501–6522.

2. Section 205.236(a)(2) is revised to read as follows:

#### § 205.236 Origin of livestock.

(a) \* \* \*

(2) *Dairy animals.* Milk or milk products must be from animals that have been under continuous organic management beginning no later than 1 year prior to the production of the milk or milk products that are to be sold, labeled, or represented as organic, *Except*, That, crops and forage from land included in the organic system plan of a dairy farm that is in the third year of organic management may be consumed by the dairy animals of the farm during the 12-month period immediately prior to the sale of organic milk and milk products;

(i) Once an entire, distinct herd has been converted to organic production, all dairy animals shall be under organic management from the last third of gestation.

(ii) [Reserved]

\* \* \* \* \*

3. Section 205.606 is revised to read as follows:

#### § 205.606 Nonorganically produced agricultural products allowed as ingredients in or on processed products labeled as organic or made with organic ingredients.

Only the following nonorganically produced agricultural products may be used as ingredients in or on processed products labeled as “organic” or “made with organic (specified ingredients or food group(s)),” only in accordance with any restrictions specified in this section, and only when the product is not commercially available in organic form.

(a) Cornstarch (native)

(b) Gums—water extracted only (arabic, guar, locust bean, carob bean)

(c) Kelp—for use only as a thickener and dietary supplement

(d) Lecithin—unbleached

(e) Pectin (high-methoxy)

Dated: April 24, 2006.

**Lloyd C. Day,**

*Administrator, Agricultural Marketing Service.*

[FR Doc. 06–4006 Filed 4–25–06; 10:52 am]

**BILLING CODE 3410–02–P**

### DEPARTMENT OF EDUCATION

#### 34 CFR Part 76

RIN 1890–AA13

#### State-Administered Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations in 34 CFR part 76 governing State reporting requirements. States are required to submit their performance reports, financial reports, and any other required reports, in the manner prescribed by the Secretary, including through electronic submission, if the Secretary has obtained approval from the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA). The amendments proposed in this notice would provide that: (1) Failure to submit these reports in the manner prescribed by the Secretary constitutes a failure, under section 454 of the General Education Provisions Act, 20 U.S.C. 1234c, to comply substantially with a requirement of law applicable to the funds made available under the program for which the reports are submitted; and (2) if the Secretary chooses to require submission of information electronically, the Secretary may establish a transition period during which a State would not be required to submit such information electronically in the format prescribed by the Secretary, if the State meets certain requirements. The Secretary proposes these changes to the regulations in 34 CFR part 76 to highlight that the U.S. Department of Education (Department) may require, through the PRA clearance process, that States report certain information electronically; and to establish that the Department may take administrative action against a State for failure to submit reports in the manner prescribed by the Secretary. The proposed changes will facilitate the use of the Department's electronic ED*Facts* data management system (ED*Facts*) (Approved under OMB Control No. 1880–0541) for electronic submission of certain reports and provide the Department with more timely and accessible data for accountability and decision-making. The Department's goal in requiring electronic submission of information is to reduce State reporting burden significantly and to streamline dozens of data collections currently required by the Department.

**DATES:** We must receive your comments on or before May 30, 2006.

**ADDRESSES:** Address all comments about these proposed regulations to *Bonny*

Long, U.S. Department of Education, 400 Maryland Avenue, SW., room 7C110, Washington, DC 20202. If you prefer to send your comments through the Internet, you may address them to us at the U.S. Government Web site: <http://www.regulations.gov> or you may send your Internet comments to us at the following address:

[StateReporting@ed.gov](mailto:StateReporting@ed.gov).

You must include the term "State Reporting/EDFacts Regulation" in the subject line of your electronic message.

**FOR FURTHER INFORMATION CONTACT:**

Bonny Long. Telephone: (202) 401-0325 or via Internet: [Bonny.Long@ed.gov](mailto:Bonny.Long@ed.gov).

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

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:**

**Invitation to Comment**

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each of your comments addresses and to arrange your comments in the same order as the proposed regulations. In particular, we invite specific comments on the Department's approach to implementing these regulations in regard to the following issues:

- Whether the proposed two-year transition period discussed in both the background section of this preamble and in § 76.720(c)(3) is sufficient; and
- Whether the Department's intent to require States to submit data electronically through *EDFacts* beginning with the 2006-07 school year, discussed in the background section of this preamble, is feasible and the effects of this action for States.

We also invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed regulations. Please let us know of any further opportunities we should provide to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the Department's State-administered programs.

During and after the comment period, you may inspect all public comments

about these proposed regulations in room 7C110, 400 Maryland Avenue, SW., Washington, DC, between the hours of 9 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

**Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record**

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

*Background*

Complete, accurate, and reliable data are essential for effective decision-making and for implementing the requirements of the Nation's education laws. The Department's ability to collect, store, and manage education data efficiently through electronic means allows for easier submission by States and reduces duplication of collections and burdens on States. It also facilitates the efficient use of data for analysis by program officials and other interested parties. Implementation of the No Child Left Behind Act of 2001 (Pub. L. 107-110) (NCLB) requires that educators have accurate and reliable data to assess the Nation's progress in reaching the goal of ensuring that every child achieves high academic standards. These data help educators know where they need to focus their attention in order to improve the academic achievement of all students.

In 2003, the Department launched the Performance-Based Data Management Initiative (PBDMI) to design an elementary and secondary education data collection system that would: (1) increase the analytical capabilities of Federal, State, and local governments in their efforts to improve outcomes for students; (2) improve the quality, timeliness, and accessibility of data; and (3) reduce State reporting burden by streamlining data collections and eliminating duplication in reporting. Through this initiative, the Department developed the Education Data Exchange Network (EDEN), a central repository and electronic data collection system for over 140 common data elements on student achievement, school characteristics, demographics, and program financial information. States have been submitting data to EDEN voluntarily for the past two years. The

Department is now increasing the EDEN capabilities to include, in addition to the Web-based interface that allows States to submit data electronically into EDEN, a capability for States, Department staff, and, eventually, the public, to query the database and independently analyze the data, subject to all applicable privacy protections for disclosing statistical data. To signal the increased capabilities of the system, the Department is renaming EDEN and the expanded Web-based interface "*EDFacts*." Accordingly, unless otherwise noted, for purposes of this preamble, the expanded system will be referred to as "*EDFacts*."

To date, submission of data through *EDFacts* has been voluntary and, therefore, regardless of whether States have reported data through *EDFacts*, they have been required to continue reporting data through dozens of existing data collections required by Congress and administered by the Department. These collections frequently request duplicative data, including, in particular, data on student achievement and school demographics. The Department has designed *EDFacts* to obtain the most commonly collected data elements so that States need only report these data once, through a centralized, electronic process. As *EDFacts* is implemented completely, the Department will retire dozens of separate data collections, either in full or in part, and reduce State reporting burden significantly.

Nearly every State has submitted electronically some portion of the data that it eventually will be required to submit to the Department through *EDFacts*. However, *EDFacts* will only reach its full potential in reducing duplicative State reporting burden and increasing the ability of the Department and States to analyze and improve student achievement if all States provide their data through the system.

Beginning with the data from the 2006-07 school year, the Department intends to obtain approval, pursuant to the PRA, of an information collection request that would require States to submit electronically through *EDFacts* the program and demographic information that States currently are required to report under separate and overlapping collections. This data collection request will eliminate the need for States to submit reports under current separate and overlapping collection instruments because the Department intends to discontinue any existing data collections that require submission of data that will be subject to the *EDFacts* information collection request.

EDFacts has the capability to collect data at the State, district, and school levels and, for the 2006–2007 school year the Department plans to require States to submit electronically those data, including district and school level data, that States currently are required to provide under existing data collections. The Department will continue to work with States to collect the full range of data that can be collected through EDFacts, including data that are not currently subject to one of the Department's OMB-approved information collection requests if eventually approved through future PRA information collection requests. We plan to consolidate as many information requests in EDFacts as possible because it provides the best opportunity for efficient and effective data collection on key aspects of student achievement and program performance. In this regard, States will have the option to provide, through EDFacts, additional district- and school-level data that they are not currently required to provide under existing data collections. For example, when preparing other documents to submit to the Department (e.g., a performance report), a State and its subgrantees would be able to simply reference school- and district-level data already submitted through EDFacts rather than undertake the burden of reproducing the same data in multiple documents. Once data are submitted to EDFacts, ED would be able to prepopulate collection forms so that States would only have to provide the data that does not overlap with the EDFacts data. In general, the amount of burden reduction available to States would be correlated directly with the amount of data they would provide through EDFacts. If the voluntary submission of district- and school-level data to EDFacts proves successful, the Department will consider expanding EDFacts required reporting to cover those more detailed data elements. Accordingly, the Department welcomes comments on a State's capacity for, and interest in, electronic reporting of district- and school-level data through EDFacts as an efficient means to centralize reporting and reduce State paperwork burden.

Two ways the Department will reduce State burden and reporting duplication in connection with EDFacts in the short term are as follows:

(1) The Department plans to eliminate existing collections that completely overlap with data required to be submitted through EDFacts. For reporting 2005–06 school year data, the Department is piloting this approach with four data collections for

Individuals with Disabilities Education Act (IDEA) programs. Under this pilot, States that submit specified EDFacts data files that meet current program reporting standards will be relieved of submitting those data through other means.

(2) For existing collections that partially overlap with data required to be submitted through EDFacts, the Department will pre-populate those collections with the data that States submitted through EDFacts so that States need not submit those data more than once. The Department is piloting this approach with the Consolidated State Performance Report (CSPR) (Approved under OMB Collection No. 1810–0614), required under section 9303 of the Elementary and Secondary Education Act of 1965, as amended by NCLB, for the 2004–05 school year data. Under this pilot, States will access a CSPR Web page that is pre-populated with the EDFacts data they already have submitted, decreasing significantly the number of CSPR questions they must answer.

Both the Department and each State already have committed significant resources to the Department's data management initiative; the Department believes that requiring full participation in EDFacts, while eliminating, either completely or partially, the majority of the Department's existing annual elementary and secondary education data collections, is the only way to ensure that those investments deliver their intended benefits, including reducing State reporting burden.

As part of the Department's efforts to streamline its data collection processes and elevate the importance of State compliance with reporting requirements, the Department proposes to amend the regulations in 34 CFR part 76. As more fully discussed in the Significant Proposed Regulations section of this notice, the proposed regulations in §§ 76.720 and 76.722 would provide the Department with enforcement capabilities that are not available under the PRA alone. The proposed regulations emphasize the critical need for accurate data reporting for the Department's programs, including those authorized under ESEA, by making failure to report data under a program administered by the Secretary, in a manner prescribed by the Secretary, a failure to comply substantially with a requirement of law applicable to the funds made available under that program. This standard comes from section 454 of the General Education Provisions Act (20 U.S.C. 1234c) and gives the Secretary the authority to take administrative action

against a recipient that does not comply with a program requirement.

Finally, in recognition of the fact that some States may not be able to submit data electronically in the manner prescribed by the Secretary, e.g., through EDFacts, the Department proposes to amend 34 CFR 76.720 to provide the Secretary with discretion to establish a transition period of up to two years following the date a State otherwise would be required to report the data in the electronic format prescribed by the Secretary (i.e., two years following the first reporting deadline established for the data collection through the PRA process). During this period, a State would not be required to submit reports in the electronic format prescribed by the Secretary if the State meets certain requirements. However, the Secretary may require the State to submit data in an alternative electronic format within the State's current capacity. This provision would permit those States that meet the requirements specified in proposed 34 CFR 76.720(c)(3)(i) through (iii) with a transition period, not to exceed two years following the reporting deadline for the data collection, to comply with any requirement to submit reports electronically in the manner prescribed by the Secretary. Regardless of whether a State has been authorized a transition period, the Secretary appreciates that from time to time a State may have temporary technical circumstances that would prevent it from making timely submission of data to EDFacts. Such a situation would not trigger the Secretary taking enforcement action against a State.

### Significant Proposed Regulations

#### Section 76.720 State Reporting Requirements

Current § 76.720(a) states that § 76.720 applies to State reports required under 34 CFR 80.40 (Monitoring and reporting of program performance) and 34 CFR 80.41 (Financial reporting).

Proposed § 76.720(a) would clarify that § 76.720 applies to reports required under 34 CFR 80.40 and 34 CFR 80.41, as well as other State reports that the Secretary requires under program statutes or regulations if the reports are approved by OMB under the PRA. Pursuant to the PRA, the Department must give interested parties an opportunity to comment on, and must obtain OMB approval for, any data collection that requests data from more than nine entities, unless the collection meets one of the narrow exceptions to the PRA.

Proposed § 76.720(b)(1) and (2) would not substantively change current § 76.720(b) and (c), which specify the frequency with which States must submit reports to the Secretary.

Proposed § 76.720(c)(1) would be added to § 76.720 to clarify that States must submit any reports required under § 76.720 in the manner prescribed by the Secretary, including, if so prescribed, through electronic submission. Proposed § 76.720(c)(1) is necessary because it states in very clear terms that States must comply with the Secretary's requirements concerning the manner in which reports are submitted to the Department. The Secretary establishes submission requirements for Departmental data collection requests through the PRA clearance process. The language in proposed § 76.720(c)(1), therefore, essentially states in a single regulatory provision that States must comply with requirements established through the PRA clearance process.

Proposed § 76.720(c)(2) would be added to § 76.720 to provide that a State's failure to submit reports in the manner prescribed by the Secretary (such as electronic submission) constitutes a failure to comply substantially with a requirement of law applicable to the funds made available under the program for which the reports are submitted. Under section 454 of the General Education Provisions Act, 20 U.S.C. 1234c, if the Secretary has reason to believe that any recipient of funds under an applicable program is failing to comply substantially with any requirement of law applicable to those funds, the Secretary may take administrative action to compel compliance. Proposed § 76.720(c)(2) is necessary because it establishes that reporting requirements, such as electronic submission of reports, are substantial requirements of law such that failure to comply with these requirements would constitute a violation of section 454 of the General Education Provisions Act (20 U.S.C. 1234c). The Department proposes § 76.720(c)(2) because failure of a recipient to comply with the Department's reporting requirements, including submitting reports electronically, harms the Federal interest in establishing what the Department deems is an efficient and effective means of obtaining accurate, reliable, and valid information on the performance of the Department's programs and the success of States in meeting their goals under such laws as NCLB. The Federal interest would be harmed because States would not be using a system that was specifically designed to reduce their burden and the

Department would not be able to collect and use data as efficiently and easily. In addition, the data would not be in the form and of the quality necessary for the Department to assess program effectiveness. Moreover, States that do not comply with the Department's submission requirements would be using funds to submit reports that do not meet the Department's needs for accurate, reliable, and valid data.

Proposed § 76.720(c)(3) would be added to § 76.720 to address difficulties that States may have in reporting data electronically in a manner prescribed by the Secretary on the date States otherwise would be required to report the data electronically. Proposed § 76.720(c)(3) would provide that the Secretary has the discretion to establish a transition period of up to two years following the date by which a State otherwise would be required to report the data in the electronic manner prescribed by the Secretary. During this transition period, a State would not be required to comply with the electronic submission requirement as prescribed by the Secretary, such as the requirement to submit electronic reports through *EDFacts*, if the State submits the following to the Secretary: (a) Evidence satisfactory to the Secretary that the State is unable to comply with the electronic submission requirement specified by the Secretary in the data collection instrument on the first date the State otherwise would be required to report the data electronically; (b) any information requested in the report through an alternative means that is deemed acceptable to the Secretary, which may require submission in an alternative electronic format that is better suited to a State's current capacity; and (c) a plan showing how the State would come into compliance with the electronic submission and data quality requirements specified in the data collection instrument no later than two years following the date by which the State otherwise would be required to submit the data in the electronic manner prescribed by the Secretary.

The following example describes how this regulatory provision would work.

*Example:* The Department obtains approval for a new data collection instrument through the PRA process that would, for the first time, require States to submit data in an electronic format prescribed by the Secretary. The first date that States would be required to submit reports in this electronic format would be November 1, 2007. A State does not have the capacity to submit reports in the electronic format prescribed by the Secretary by November 1, 2007. The State would

submit to the Secretary the following: (1) A request for a transition period, that includes evidence that the State is not able to comply with the electronic submission requirements; (2) the information requested in the report in an alternative means that is acceptable to the Secretary; and (3) a plan explaining the steps the State will take to submit the report in the electronic format prescribed by the Secretary no later than November 1, 2009.

The Department proposes § 76.720(c)(3) because, while it believes requiring electronic submission of reports ultimately will help reduce State reporting burden and streamline the Department's data management system, it recognizes that, at this time, States have varying capabilities to report information through electronic means.

Therefore, with respect to *EDFacts*, the Department plans to use the discretion established under proposed § 76.720(c)(3) to allow States that demonstrate that they do not have the capability to submit reports as specified through *EDFacts*, a period of up to two years following the dates the States otherwise would be required to report data through *EDFacts* (*i.e.*, until the reporting deadlines established for the 2008–09 school year data through the PRA process) to phase in their compliance with the reporting requirements. For those States, the Department plans to accept the required data through alternative means approved by the Department, which may include alternative electronic submissions, if those States provide the Department with, and the Department approves, a plan to submit the required reports through *EDFacts* no later than the reporting deadlines established for the 2008–09 school year reports through the PRA process.

With respect to proposed § 76.720(c)(3), the Department is particularly interested in receiving comment on: (a) Whether the proposed two-year transition period to phase in the electronic submission requirements prescribed by the Secretary for *EDFacts* is a sufficient period of time for States that cannot comply with these requirements to come into compliance; and (b) what kind of alternative electronic collection format would most help States that cannot comply with the requirement to submit reports electronically through *EDFacts*.

#### *Section 76.722 Subgrantee Reporting Requirements*

Current § 76.722 allows States to require subgrantees to furnish reports to the States that the States need to carry

out their obligations under the program for which the subgrantees receive funds.

Proposed § 76.722 would add language to § 76.722 to allow States to require subgrantees to submit, in the format and manner designated by the States, any reports that the States need to comply with the requirements under proposed § 76.720 and to carry out other responsibilities under the program. The proposed changes to current § 76.722 are intended to make it easier for States to comply with the requirements under proposed § 76.720 that the States submit reports to the Department in the manner prescribed by the Secretary.

#### Executive Order 12866

##### 1. Potential Costs and Benefits

The Department has determined that these proposed regulations are a significant regulatory action under Executive Order 12866 and OMB has reviewed them. In accordance with the Executive Order, the Department has also assessed the potential costs and benefits of this regulatory action. The potential costs associated with the proposed regulations are those resulting from statutory requirements and those we have determined to be necessary for administering the Department's State-administered programs effectively and efficiently. These regulations are generally not expected to require undue additional State resources because they do not require States to report more data than they currently are required to report to the Department. However, a potential new cost related to these regulations is the acquisition of the necessary technology for those States that do not currently have the capability to report information through electronic means. The Department expects that most States currently have this technology and that this cost would apply to very few (if any) States. For those States to which the cost is applicable, the cost is likely to be minimal.

The potential benefits of these proposed regulations have been identified above, but briefly include: more timely and accessible data for accountability and decision-making; reduced State reporting burden; and, ultimately, improved implementation of the requirements of the Nation's education laws.

In assessing the potential costs and benefits of this regulatory action, we have determined that the benefits would justify the costs. The potential costs and benefits of the Department's information collection requests are identified in notices published in accordance with the PRA.

##### 2. Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Could the description of the proposed regulations in the

**SUPPLEMENTARY INFORMATION** section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

##### Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Because the regulation would affect only States and State agencies, the regulations would not have an impact on small entities.

##### Paperwork Reduction Act of 1995

These proposed regulations do not contain any new information collection requirements.

##### Intergovernmental Review

These proposed regulations affect State-administered programs of the Department that are subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive Order is to foster an intergovernmental partnership and to strengthen federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of the Department's specific plans and actions for these programs.

##### Assessment of Educational Impact

The Secretary requests comments on whether these proposed regulations

would require transmission of information that any other agency or authority of the United States gathers or makes available.

##### Electronic Access to This Document

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

To use PDF you must have Adobe Acrobat Reader, which is available free at the site listed above. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), 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>.

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

##### List of Subjects in 34 CFR Part 76

Elementary and secondary education, Reporting and recordkeeping requirements.

Dated: April 24, 2006.

**Margaret Spellings,**

*Secretary of Education.*

For the reasons discussed in the preamble, the Secretary proposes to amend part 76 of title 34 of the Code of Federal Regulations as follows:

#### **PART 76—STATE-ADMINISTERED PROGRAMS**

1. The authority citation for part 76 is revised to read as follows:

**Authority:** 20 U.S.C. 1221e-3 and 3474, unless otherwise noted.

2. Section 76.720 is revised to read as follows:

##### **§ 76.720 State reporting requirements.**

(a) This section applies to a State's reports required under 34 CFR 80.40 (Monitoring and reporting of program performance) and 34 CFR 80.41 (Financial reporting), and other reports required by the Secretary and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520.

(b) A State must submit these reports annually unless—

(1) The Secretary allows less frequent reporting; or

(2) The Secretary requires a State to report more frequently than annually,

including reporting under 34 CFR 80.12 (Special grant or subgrant conditions for "high-risk" grantees) or 34 CFR 80.20 (Standards for financial management systems).

(c)(1) A State must submit these reports in the manner prescribed by the Secretary, including submitting any of these reports electronically and at the quality level specified in the data collection instrument.

(2) Failure by a State to submit reports in accordance with paragraph (c)(1) of this section constitutes a failure, under section 454 of the General Education Provisions Act, 20 U.S.C. 1234c, to comply substantially with a requirement of law applicable to the funds made available under that program.

(3) For reports that the Secretary requires to be submitted in an electronic manner, the Secretary may establish a transition period of up to two years following the date the State otherwise would be required to report the data in the electronic manner, during which time a State will not be required to comply with that specific electronic submission requirement, if the State submits to the Secretary—

(i) Evidence satisfactory to the Secretary that the State will not be able to comply with the electronic submission requirement specified by the Secretary in the data collection instrument on the first date the State otherwise would be required to report the data electronically;

(ii) Information requested in the report through an alternative means that is acceptable to the Secretary, such as through an alternative electronic means; and

(iii) A plan for submitting the reports in the required electronic manner and at the level of quality specified in the data collection instrument no later than the date two years after the first date the State otherwise would be required to report the data in the electronic manner prescribed by the Secretary.

(Authority: 20 U.S.C. 1221e-3, 1231a, and 3474)

3. Section 76.722 is revised to read as follows:

**§ 76.722 Subgrantee reporting requirements.**

A State may require a subgrantee to submit reports in a manner and format that assists the State in complying with the requirements under 34 CFR 76.720 and in carrying out other responsibilities under the program.

(Authority: 20 U.S.C. 1221e-3, 1231a, and 3474)

[FR Doc. E6-6355 Filed 4-26-06; 8:45 am]

BILLING CODE 4000-01-P

**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 201**

[Docket No. 2006-2]

**Electronic Payment of Royalties**

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Copyright Office is proposing to amend its rules governing the submission of royalty fees to the Copyright Office to require such payments to be made by electronic funds transfer.

**DATES:** Written comments are due June 12, 2006. Reply comments are due July 11, 2006.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of a comment or reply comment should be brought to Room LM-401 of the James Madison Memorial Building between 8:30 a.m. and 5 p.m. and the envelope should be addressed as follows: Office of the General Counsel, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE, Washington, DC 20559-6000. If delivered by a commercial courier, an original and five copies of a comment or reply comment must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, NE, between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE, Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of a comment or reply comment should be addressed to U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Southwest Station, Washington, DC 20024. Comments and reply comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

**FOR FURTHER INFORMATION CONTACT:**

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**SUPPLEMENTARY INFORMATION:** Cable systems and satellite carriers that retransmit broadcast signals in accordance with the provisions governing the statutory licenses set forth

in sections 111 and 119 of the Copyright Act, title 17 of the United States Code, respectively, are required to pay royalty fees to the Copyright Office. The Copyright Office also receives statutory fees from manufacturers and importers of digital audio recording devices and media who distribute these products in the United States. 17 U.S.C. chapter 10. Payments made under the cable and satellite carrier statutory licenses are remitted semiannually to the Copyright Office. Payments made under the Audio Home Recording Act of 1992 are made quarterly. The Copyright Office invests the royalties in United States Treasury securities pending distribution of these funds to those copyright owners who are entitled to receive a share of the fees.

The current Copyright Office regulations permit payment by three different methods: electronic funds transfer ("EFT"), certified or cashier's check, or money order. 37 CFR 201.11 (f), (g) and (h); 37 CFR 201.17 (i) and (j); and 37 CFR 201.28 (e). A mechanism for electronic payments was added in 1991, since it was thought that use of electronic payments would facilitate the process and lessen the administrative burden on the Office and on the filer. See 56 FR 29588 (June 28, 1991). An electronic payment option provides advantages to the payor and the Copyright Office as the agency responsible for the collection and distribution of the royalty fees. EFTs can be transmitted either as an Automated Clearing House ("ACH") credit or a Fedwire ("Wire") transaction depending upon how you arrange the transfer through your financial institution, or as an ACH debit by using the U. S. Department of the Treasury, Financial Management Service's web based remittance system, Pay.gov. In an ACH credit, your financial institution sends the remittance to the U. S. Treasury; whereas, in an ACH debit, you authorize the U. S. Treasury to take the funds out of the account at your financial institution.

Use of an electronic payment option offers specific advantages over payment via a check or money order. First, the remitters gain more time to transfer funds without fear of incurring interest assessments for late payments. In the case of a Wire transaction, the remitter may make a payment up until and including the due date (provided the financial institution is open that day and is still processing wire transfers), whereas an ACH transaction requires more time. It must be completed one or two banking days before the due date to ensure interest for late payments are not assessed. Second, electronic payments avoid the problems associated with lost