



Friday
May 28, 1999

Part V

**Department of
Education**

**34 CFR Part 685
William D. Ford Federal Direct Loan
Program; Final Rule**

DEPARTMENT OF EDUCATION

34 CFR Part 685

RIN 1840-AC57

William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the William D. Ford Federal Direct Loan (Direct Loan) Program regulations, 34 CFR Part 685. This amendment deletes Appendix A of these regulations and cross-references to Appendix A within Part 685. Future updates to the information in Appendix A of 34 CFR Part 685 will be published in the **Federal Register** as an annual notice.

EFFECTIVE DATE: These regulations take effect July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Watson, U.S. Department of Education, Room 3045, ROB-3, 400 Maryland Avenue, SW, Washington, DC 20202-5400. Telephone: (202) 708-8242. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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SUPPLEMENTARY INFORMATION: The Direct Loan regulations (34 CFR Part 685) are amended to delete Appendix A "Income Contingent Repayment," and to delete all references to Appendix A. All references to Appendix A are currently in § 685.209, which implements provisions of the income contingent repayment (ICR) plan. The calculation of monthly payments under the ICR plan utilizes a factor that varies with the amount of the borrower's income. This number is called the income percentage factor and is affected by annual changes in the Consumer Price Index (CPI). Appendix A contains a table of the income percentage factors; therefore, Appendix A must be revised annually to reflect the updated income percentage factors.

In addition to the income percentage factors, Appendix A provides supplementary charts and information illustrating how the ICR payments are calculated. Specifically, it includes case examples of the calculation of a borrower's monthly payment based on individual borrower information, a

constant multiplier chart that shows various interest rates factors, and a chart of sample first-year monthly repayment amounts for borrowers at various income and debt levels. Because these charts use data derived from the income percentage factors, the charts, and therefore Appendix A, must be revised annually.

Appendices included with regulations may only be revised by amending the regulations. Since 1996, the amendments to Appendix A have been published annually as final rules.

The regulations for implementing the ICR plan are in § 685.209. The information in Appendix A merely gives the data necessary to calculate a monthly ICR payment and provides examples illustrating the requirements prescribed in § 685.209. Therefore, the Secretary has concluded that the information contained in Appendix A need not be included in the Code of Federal Regulations. Consequently, the Secretary has decided to delete Appendix A and all references to it in the Direct Loan Program regulations. Beginning in 1999, the Secretary will publish the income percentage factors, case examples of calculations, a constant multiplier chart, and sample first year monthly repayment tables for various income and debt levels in an annual notice in the **Federal Register**.

This change to the regulations does not have a substantive effect on the Direct Loan Program regulations; it simply provides interested parties with updates of ICR plan information in an annual notice, rather than in the Code of Federal Regulations. Because publication of a notice is not as complex a process as publishing amendments to the Direct Loan Program regulations, this change ensures that annual updates will be provided to the public in a more timely and cost-effective manner.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the practice for the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the changes in this document do not establish any new substantive rules. The regulatory changes in this document are procedural amendments only. Therefore, the Secretary has determined that publication of a notice of proposed rulemaking is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B) and is also exempt under 5 U.S.C. 553(b)(A). For the same reasons, the Secretary has determined, under section 492(b)(2) of the Higher Education Act of 1965, as amended, that

these regulations should not be subject to negotiated rulemaking.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities. The regulations provide illustrative information about repaying Direct Loans and will not affect institutions participating in the Direct Loan Program. The Regulatory Flexibility Act does not include individuals in its definition of "small entities." Thus, the changes will not have a significant economic impact on any small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.268 William D. Ford Federal Direct Loan Program)

Dated: May 24, 1999.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 685 of title 34 of the Code of Federal Regulations as follows:

**PART 685—WILLIAM D. FORD
FEDERAL DIRECT LOAN PROGRAM**

1. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

Appendix A to part 685—[Removed]

2. Appendix A to part 685 is removed.

§ 685.209 [Amended]

3. In § 685.209, paragraph (a)(2)(i) is amended by removing “appendix A to this part” and adding, in its place, “a notice published annually by the Secretary in the **Federal Register**”; paragraph (a)(4) is amended by removing “Appendix A”, and adding, in its place, “the annual notice published

by the Secretary”; paragraph (a)(5) is amended by removing “appendix A” and adding, in its place, “the annual notice published by the Secretary”; and paragraph (a)(9) is amended by removing “appendix A to this part”, and adding, in its place, “the annual notice published by the Secretary”.

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