

DEPARTMENT OF AGRICULTURE**Cooperative State Research,
Education, and Extension Service****7 CFR Part 3400****Special Research Grants Program**

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Special Research Grants Program Administrative Regulations to replace references to section 2 of the Act of August 4, 1965, with references to the Competitive, Special, and Facilities Research Grant Act (CSFRGA), to apply to competitive and noncompetitive grants, to include extension and educational activities under the regulation, to shorten the maximum potential grant award period, to require grantees to arrange for scientific peer review of their proposed research activities and merit review of their proposed extension and education activities prior to award, in accordance with subsection (c)(5) of CSFRGA, as amended by section 212 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 450i(c)(5)), and to require an annual report of the results of the research, extension, or education activity and the merit of the results.

EFFECTIVE DATE: June 24, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Sally Rockey, Deputy Administrator, Competitive Research Grants and Awards Management, USDA Cooperative State Research, Education, and Extension Service, Mail Stop 2240, 1400 Independence Avenue, SW, Washington, DC 20250-2240; telephone, (202) 401-1761; e-mail, srockey@reeusda.gov.

SUPPLEMENTARY INFORMATION: The Cooperative State Research, Education, and Extension Service (CSREES) published a Notice of Proposed Rulemaking (NPRM) to amend the administrative provisions to the Special Research Grants Program in the **Federal Register** on March 24, 1999 (64 FR 14348).

Background and Purpose

Under the authority of subsections (c)(1)(A) and (B) of the Competitive, Special, and Facilities Research Grants Act, as amended (7 U.S.C. 450i), the Secretary of Agriculture is authorized to make special grants for the conduct of research, extension or education activities to facilitate or expand

promising breakthroughs in areas of food and agricultural sciences; promote excellence in research, extension or education on a regional and national level; promote the development of regional research centers; promote the research partnership between the Department of Agriculture, colleges and universities, research foundations, and State agricultural experiment stations for regional research efforts; and facilitate coordination and cooperation of research, extension, or education among States through regional grants.

On June 23, 1998, President Clinton signed into law the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA) (Pub. L. No. 105-185). The Competitive, Special, and Facilities Research Grants Act, CSFRGA (formerly section 2 of the Act of August 4, 1965, Pub. L. No. 89-106, as retitled by Section 401(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (FACT Act Amendments), Pub. L. No. 102-237), as amended by section 212(2) of AREERA, states in subsection (c)(5) that the Secretary shall make a grant under this authority for a research activity only if the activity has undergone scientific peer review arranged by the grantee in accordance with regulations promulgated by the Secretary. Likewise, subsection (c)(5) of CSFRGA, as amended by section 212(2) of AREERA, states that the Secretary shall make a grant under this authority for an extension or education activity only if the activity has undergone merit review arranged by the grantee in accordance with regulations promulgated by the Secretary.

This rule revises section 3400.1 to expand the scope of the current regulations to apply to all subsection (c) awards, including both competitive and noncompetitive awards made under this authority. The rule also revises these regulations to address extension and education activities in addition to research activities.

Subpart C of the rule specifies the basic parameters for scientific peer and merit review, and not detailed procedures, to provide applicants with maximum flexibility in determining the timing and use of resources. Applicants are free to change peer or merit review protocols as deemed appropriate, as long as the peer or merit review continues to meet the requirements of this rule. CSREES, however, has reserved the right under this rule to specify the timing of submission of the notice of completion of review.

Section 3400.20 requires that applicants provide notice acting as certification prior to an award by

CSREES that the review has been completed. Having applicants submit only a notice of compliance, and not the actual review documentation or results, aims to minimize the administrative burden on the applicants. The regulations, however, do require that the applicant retain the review documentation and, consistent with agency assistance regulations, such documentation may be subject to agency inspection.

Subpart D of the rule requires that recipients submit annual reports describing the results of the research, extension, or education activity. The agency currently requires that recipients submit annual and final performance reports as a term and condition of each award. The agency believes that this meets the reporting requirements added by section 212 of AREERA.

This rule also makes technical amendments to Part 3400 to change references to the Act of August 4, 1965, to the Competitive, Special, and Facilities Research Grant Act as retitled by Section 401(a) of the FACT Act Amendments. The rule also changes the maximum potential award period for Special Grants from five (5) years to three (3) years to conform with the amendments in section 212 of AREERA.

Public Comments and Statutory Changes

In the NPRM, CSREES invited comments on the proposed regulations for consideration in the formulation of a final rule. Three commenters responded.

One commenter supported efforts aimed at ensuring accountability and the best possible return on research investments. The commenter also encouraged the development of appropriate review mechanisms for all U.S. agricultural research efforts. CSREES believes the rule establishes the necessary accountability requirements to ensure that the proposed work is reviewed for technical quality and relevance while still allowing applicants latitude and flexibility in determining who performs the review.

One commenter questioned the necessity of implementing many of the requirements being imposed under the regulation, i.e., the inclusion of extension and educational activities under the rule; the shortening of the maximum grant period from five to three years; the requirement to have grantees arrange for scientific peer review of proposed research activities and merit review of proposed extension and educational activities; and the necessity to submit an annual report within 30 days of the project's

anniversary date. The regulation promulgates the legislatively mandated requirements added by the Agricultural Research, Extension, and Education Reform Act of 1998 (AREERA); therefore the imposed requirements are mandatory. Although the program authority now requires recipients to submit annual reports, the timing and nature of the reports are not legislatively specified, consequently the requirement in the final rule has been changed to be consistent with current agency policy as set forth in the terms and conditions of the grant.

One commenter requested that the requirement for peer or merit review not apply to competitive special grant programs since such a review would duplicate efforts at the agency level. The statute makes no provision distinguishing competitive and non-competitive grants; therefore the agency has no discretion. However, if the institution believes that their established organizational review process meets the CSREES definition of peer review, then the institution may certify that requirements for peer review have been met. The commenter suggested that in lieu of requiring a separate notice of completion of review, the regulation be changed so that approval by an applicant's authorized organizational representative constitutes notice of completion of institutional review. CSREES believes that at this point in time it should retain the ability to designate when the notice of completion should be submitted. However, the suggestion has merit, and CSREES intends to facilitate the submission of the notice of completion process by incorporating procedures into program requests for proposals. Finally, the commenter suggested that the proposed rule at § 3400.20 be revised to allow recipients to delegate to the agency the conduct of peer review. The legislation requires that recipients arrange for the performance of a distinct and separate review; consequently, CSREES cannot assume that responsibility on behalf of the applicants.

Classification

Executive Order No. 12866

This rule has been reviewed under Executive Order No. 12866, and it has been determined that it is not a "significant regulatory action" rule because it will not have an annual effect on the economy of \$100 million or more or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local,

or tribal governments or communities. This rule will not create any serious inconsistencies or otherwise interfere with any actions taken or planned by another agency. It will not materially alter the budgetary impact of entitlements, grants, user fees or loan programs and does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order No. 12866. In addition, the Department certifies that the rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. No. 96-354 (5 U.S.C. 601-612).

Executive Order No. 12988

This rule has been reviewed under Executive Order No. 12988, Civil Justice Reform. No retroactive effect is to be given to this rule. This rule does not require administrative proceedings before parties may file suit in court.

National Environmental Policy Act

This rule does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

Paperwork Reduction Act

Under the provisions of the Paperwork Reduction Act of 1995, as amended, 44 U.S.C. chapter 35, and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320, the collection of information requirements for research activities contained in this rule have been approved under OMB Document Nos. 0524-0022 and 0524-0033. When appropriations are made available for extension and education activities under this program, CSREES will fully comply with the Paperwork Reduction Act and submit a revision to the collection of information requirements to include these activities. Comments from potential applicants on the collection of information may be submitted to CSREES-USDA; Office of Extramural Programs; Policy and Program Liaison Staff; Mail Stop 2299; 1400 Independence Avenue, S.W.; Washington, D.C. 20250-2299 by June 23, 1999, or to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20502. Reference should be made to the volume, page, and date of this **Federal Register** publication.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For reasons set forth in the Final Rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

List of Subjects in 7 CFR Part 3400

Grants programs—agriculture, Grants administration.

For the reasons set forth above, Part 3400 of Chapter XXXIV of Title 7 of the Code of Federal Regulations is amended as follows:

PART 3400—SPECIAL RESEARCH GRANTS PROGRAM

1. The authority citation for part 3400 is revised to read as follows:

Authority: 7 U.S.C. 450i(c);

2. Revise § 3400.1 to read as follows:

§ 3400.1 Applicability of regulations.

(a) The regulations of this part apply to special research grants awarded under the authority of subsection (c) of the Competitive, Special, and Facilities Research Grant Act, as amended (7 U.S.C. 450i (c)), to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States. Subparts A and B, excepting this section, apply only to special research grants awarded under subsection (c)(1)(A). Subpart C, Peer and Merit Review Arranged by Grantees, and Subpart D, Annual Reports, apply to all grants awarded under subsection (c).

(b) Each year the Administrator of CSREES shall determine and announce through publication of a Notice in such publications as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, research program areas for which proposals will be solicited competitively, to the extent that funds are available.

(c) The regulations of this part do not apply to research, extension or education grants awarded by the Department of Agriculture under any other authority.

3. Revise § 3400.7(c) to read as follows:

§ 3400. Use of funds; changes.

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(c) *Changes in project period.* The project period determined pursuant to § 3400.5(b) may be extended by the

Administrator without additional financial support for such additional period(s) as the Administrator determines may be necessary to complete or fulfill the purposes of an approved project. Any extension, when combined with the originally approved or amended project period shall not exceed three (3) years (the limitation established by statute) and shall be further conditioned upon prior request by the grantee and approval in writing by the Department, unless prescribed otherwise in the terms and conditions of a grant award.

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4. Subpart C of Part 3400 is added to read as follows:

**Subpart C—Peer and Merit Review
Arranged by Grantees**

3400.20 Grantee review prior to award.

3400.21 Scientific peer review for research activities.

3400.22 Merit review for education and extension activities.

**Subpart C—Peer and Merit Review
Arranged by Grantees**

§ 3400.20 Grantee review prior to award.

(a) *Review requirement.* Prior to the award of a standard or continuation grant by CSREES, any proposed project shall have undergone a review arranged by the grantee as specified in this subpart. For research projects, such review must be a scientific peer review conducted in accordance with § 3400.21. For education and extension projects, such review must be a merit review conducted in accordance with § 3400.22.

(b) *Credible and independent.* Review arranged by the grantee must provide for a credible and independent assessment of the proposed project. A credible review is one that provides an appraisal

of technical quality and relevance sufficient for an organizational representative to make an informed judgment as to whether the proposal is appropriate for submission for Federal support. To provide for an independent review, such review may include USDA employees, but should not be conducted solely by USDA employees.

(c) *Notice of completion and retention of records.* A notice of completion of review shall be conveyed in writing to CSREES either as part of the submitted proposal or prior to the issuance of an award, at the option of CSREES. The written notice constitutes certification by the applicant that a review in compliance with these regulations has occurred. Applicants are not required to submit results of the review to CSREES; however, proper documentation of the review process and results should be retained by the applicant.

(d) *Renewal and supplemental grants.* Review by the grantee is not automatically required for renewal or supplemental grants as defined in § 3400.6. A subsequent grant award will require a new review if, according to CSREES, either the funded project has changed significantly, other scientific discoveries have affected the project, or the need for the project has changed. Note that a new review is necessary when applying for another standard or continuation grant after expiration of the grant term.

§ 3400.21 Scientific peer review for research activities.

Scientific peer review is an evaluation of a proposed project for technical quality and relevance to regional or national goals performed by experts with the scientific knowledge and technical skills to conduct the proposed research work. Peer reviewers may be

selected from an applicant organization or from outside the organization, but shall not include principals, collaborators or others involved in the preparation of the application under review.

§ 3400.22 Merit review for education and extension activities.

Merit review is an evaluation of a proposed project or elements of a proposed program whereby the technical quality and relevance to regional or national goals are assessed. The merit review shall be performed by peers and other individuals with expertise appropriate to evaluate the proposed project. Merit reviewers may not include principals, collaborators or others involved in the preparation of the application under review.

5. Subpart D of Part 3400 is added to read as follows:

Subpart D—Annual Reports

§ 3400.23 Annual reports.

(a) *Reporting requirement.* The recipient shall submit an annual report describing the results of the research, extension, or education activity and the merit of the results.

(b) *Report type and content.* Unless otherwise stipulated, grant recipients will have met the reporting requirement under this subpart by complying with the reporting requirements as set forth in the terms and conditions of the grant at the time of award.

Done at Washington, D.C., on this 3rd day of June, 1999.

Colien Hefferan,

*Acting Administrator, Cooperative State
Research, Education, and Extension Service.*
[FR Doc. 99-16016 Filed 6-23-99; 8:45 am]

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