

OEPNU's plan to award only one or two continuation grants should facilitate a national education program with a consistent message. It should also ease the implementation process and allow OEPNU to monitor the Program more effectively. If the Agency were to make numerous smaller awards, this could result in multiple education programs with different emphases and goals, as well as competition for program participants and human resources to conduct the Program.

Continuation grants are necessary to ensure that the program follows an orderly and consistent transition from one year to the next over the five-year funding period. A successful Biodiesel Fuel Education Program will be sequential in nature, *i.e.*, conducted in several dependent work phases. For example, phase one might focus on identifying program participants and designing educational tools. Phase 2 might develop a strategy for putting a system and infrastructure in place to reach the targeted audience. Phase 3 could focus on scheduling and travel logistics. The work phases are interdependent, so selecting new grantees each year would cause disruptions and create the potential for repetitive efforts. Authorizing continuation grants will allow the grantees to develop and conduct long-term plans, preserve program continuity, and benefit from learning experiences over the funding period.

The Proposed Rule is divided into subparts. Subpart A contains general information about the Program prescribed by the authorizing legislation, including the purpose of the Program and eligibility restrictions established by the legislation. Subpart A limits indirect costs to the rate that an applicant has negotiated with the cognizant Federal negotiating agency, and explains that there are no matching funds requirements for the Program. Subpart B describes the continuation grant instrument that OEPNU plans to use and outlines objectives for projects funded by the Program. Subpart C provides information about the publication of program announcements, instructs applicants regarding the minimum content requirements for applications, and directs them to the program announcement for specific instructions regarding application requirements and the order of application contents. Subpart C also lists the application submission information that will appear in program announcements and describes the process for acknowledging the receipt of applications. In Subpart D of the rule, the process for selecting reviewers is

described, and the evaluation criteria applied to applications are enumerated. Subpart D also contains a discussion of the measures employed by OEPNU to protect against conflicts of interest and safeguard applicant and reviewer confidentiality. General award administration guidelines are outlined in Subpart E. Subpart E also delineates the one-time requirement that applicants submit organizational management information and lists the minimum contents of the award document. The last subpart of the rule, Section F, includes supplementary information. This subpart tells grantees how they can obtain review information, what uses of funds and changes to projects are permissible, where they can find instructions about reporting requirements, and other Federal statutes and regulations that apply to the Biodiesel Fuel Education Program. It describes the process for handling confidential aspects of applications and awards and defines terms that are used elsewhere in the rule.

Paperwork Reduction Act of 1995— Information Collection

OEPNU currently is using the services of CSREES to administer this Program. CSREES obtained information collection approval for the "Generic Application Kit" (OMB Approval No. 0524-0039), which encompasses the use of required forms to administer another USDA agency's grant program. Should OEPNU decide to administer this program directly in the future, OEPNU will comply independently with information collection requirements.

Regulatory Flexibility Act

USDA certifies that this proposed rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96-354, as amended (5 U.S.C. 601, *et seq.*) because it is a Federal assistance program, not a regulatory regime, and awards will be made to fewer than ten entities.

Executive Order 12866

This rule has been reviewed under Executive Order 12866 and has been determined to be nonsignificant as it will not create a serious inconsistency or otherwise interfere with an action planned by another agency; will not materially alter the budgetary impact of entitlement, grants, user fees, or loan programs, or rights and obligations of the recipients thereof; and will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in this

Executive Order. This rule will not have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health, or safety, or State, local, or tribal governments or communities.

Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), the Department assessed the effects of this rulemaking action on State, local, and Tribal government, and the public. This action does not compel the expenditure of \$100 million or more by any State, local, or Tribal governments, or anyone in the private sector. Therefore, a statement under section 202 of the Unfunded Mandates Reform Act of 1995 is not required.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. In accordance with that Executive Order: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) no administrative proceedings are required before bringing any judicial action regarding this rule.

Executive Order 13132

In accordance with Executive Order 13132, this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies contained in this rule do not have any substantial direct effect on the policymaking discretion of the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule impose substantial direct compliance costs on State and local governments.

Executive Order 12372

For the reasons set forth in the Final Rule Related Notice for 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of the Executive Order 12372 which requires intergovernmental consultation with State and local officials. This program does not directly affect State and local governments.

Executive Order 13175

The policies contained in this rulemaking do not have tribal implications and thus no further action is required under Executive Order 13175.