

# Special Meeting on Procedures for Information Exchange

---

November 7, 2007

Geneva

Session 1

Anne Meininger

United States

USA WTO TBT Enquiry Point

# Agenda

---

- Informing the Publication of USA Notifications
  - U.S. Regulatory Process
  - Relevant U.S. Laws
  - U.S. Publication Process

# U.S. Regulatory Process

---

## □ Transparency

- Participation
- Access
- Cooperation
- Accountability

---

## **□ Benefits**

- Better regulations
- Public understanding
- Public confidence
- Public acceptance

---

## □ U.S. Congress

- Bills
- Laws
- Authority for rule making is passed to Federal regulatory agencies (ministries)

---

## **□ Federal Regulatory Agencies**

- Consumer Product Safety Commission (CPSC)
- Department of Agriculture (USDA)
- Department of Energy (DOE)
- Department of Transportation (NHTSA)
- Environmental Protection Agency (EPA)
- Food and Drug Administration (FDA)

# Relevant U.S. Laws

---

- ❑ Executive Order No. 12866
- ❑ National Technology Transfer and Advancement Act (NTTAA)
- ❑ Office of Management and Budget (OMB) Circular A-119
- ❑ Administrative Procedure Act (APA)

---

**□ Executive Order No. 12866**

**Regulatory Planning and Review**



---

**□ National Technology Transfer and Advancement Act (NTTAA)**

**□ Office of Management and Budget (OMB) Circular A-119**

Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities

---

# □ **Administrative Procedure Act (APA)**

Federal Regulatory Agency Rules for Creation of Regulations to Implement Legislation

# U.S. Publication Process

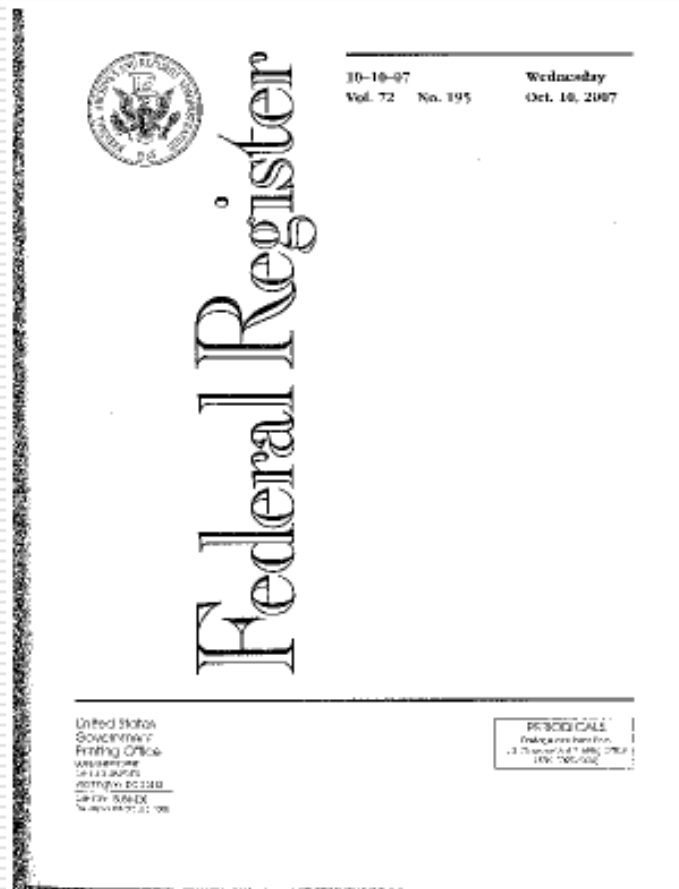
---

## Notice and Comment

- Notice
- Comments
- Final Rule (Regulation)

# U.S. *Federal Register*

---



# Notice

---

**A notice is published in the  
*Federal Register.***

## **Components include:**

- Identification and significance of the problem to be addressed
- Assessment of any existing regulations
- Identification of alternatives to regulation
- Cost effectiveness based on
  - Cost and benefit analysis of alternative resolutions
- Risk assessment of alternative resolutions

---

□ **And . . .**

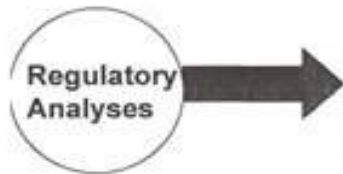
- Definition of the proposed regulation, including its purpose, legal authority, and technical content
- Definition of performance objectives (least burdensome, simple, clearly stated)
- Impact statements (which address potential effects on the economy and private markets, on public health and safety, on the environment)

---

## □ **And . . .**

- Harmonization, consistency and compatibility with related State, local, and tribal regulatory functions (not duplicative)
- Where, when, and how comments may be submitted
- Contact information for a responsible department official (usually an expert in the subject area and often the person who drafted the regulation).

# Proposed Rule Document Regulatory Analyses & Proposed Text



the program are not sufficient to allow for all eligible applicants to receive the total amount for which they qualify.

Retroactive eligibility to on or after May 1, 1992 will continue for the dependents of Federal law enforcement officers killed in the line of duty. The dependents of Federal law enforcement officers, who were permanently and totally disabled in the line of duty, are entitled to receive benefits under this program if the disability occurred on or after October 1, 1996, the date of the enactment of the original authorizing legislation for FLEDA. The dependents of all other public safety officers, consistent with the authorization, will be eligible for benefits on a retroactive basis if the public safety officer was killed in the line of duty on or after October 1, 1997. The regulations are being proposed to be amended at section 32.35(a) to reflect this allowance.

This program will continue to recognize the sacrifices and invaluable contributions made to the nation's safety by all public safety officers through the availability of this assistance. The program authorizes the payment of benefits to eligible dependents for attendance only at an approved program of education at institutions for higher education. The standards regarding eligible institutions and the calculation of education benefits remain unchanged from the standards currently used under the FLEDA program, and readers are encouraged to consult the preamble to the FLEDA final rule at 62 FR 37713, July 15, 1997, for a detailed discussion of the operation and mechanics of the program.

While the regulation, on the whole, remains very much unchanged, comments are sought from all interested persons on any of the information contained herein, and particularly on the use of a sliding scale to ensure benefits are paid to those with the greatest financial need. All comments received on or before the closing date will be carefully considered.

In order to implement the PSEOEA program promptly to provide financial assistance to qualified dependents, the public comment period for this rule is forty-five days.

#### Executive Order 12866

This regulation has been written and reviewed in accordance with Executive Order 12866, Sec. 1(b), Principles of Regulation. The Office of Justice Programs has determined that this rule is not a "significant regulatory action" under Executive Order 12866, Sec. 3(b), Regulatory Planning and Review, and

accordingly this rule has not been reviewed by the Office of Management and Budget.

#### Executive Order 12612

This regulation will not have substantial direct effects on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Office of Justice Programs, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: The FLEDA program will be administered by the Office of Justice Programs, and any funds distributed under it shall be distributed to individuals, not entities, and the economic impact is limited to the Office of Justice Program's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by Sec. 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### Paperwork Reduction Act

The collection of information requirements contained in the proposed regulation have been approved by the

Office of Management and Budget (OMB) for review under the Paperwork Reduction Act (44 U.S.C. 3504(b)). In accordance with 5 CFR 1320.5(b), the OMB control number pertaining to the collection of information is 1121-0220.

#### List of Subjects in 28 CFR Part 32

Administrative practice and procedure, Claims, Disability benefits, Law enforcement officers.

For the reasons set out in the preamble, the Bureau of Justice Assistance proposes to amend 28 CFR part 32 as follows:

#### PART 32—PUBLIC SAFETY OFFICER'S DEATH AND DISABILITY BENEFITS

1. The authority citation for Part 32 continues to read as follows:

**Authority:** Part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (42 U.S.C. 3711 et seq.)

#### Subpart B—[Amended]

2. The heading of Subpart B is amended by revising "Federal Law Enforcement Dependents" to read "Public Safety Officers' Educational".

3. Section 32.31 is revised to read as follows:

#### § 32.31 Purpose.

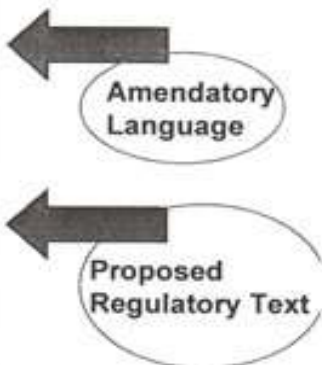
This subpart implements the Federal Law Enforcement Dependents Assistance Act of 1996, as amended by the Police, Fire, and Emergency Assistance Act of 1998, which authorizes the payment of financial assistance for the purpose of higher education to the dependents of public safety officers who are found, under the provisions of subpart A of this part, to have died as a direct and proximate result of a personal injury sustained in the line of duty, or to have been permanently and totally disabled as the direct result of a catastrophic injury sustained in the line of duty.

4. Section 32.32 is amended by revising paragraphs (a), (b)(3), (c), (d), and (f) to read as follows:

#### § 32.32 Definitions.

(a) The Act means the Federal Law Enforcement Dependents Assistance Act of 1996, Pub. L. 104-238, Oct. 3, 1996, as amended by the Police, Fire, and Emergency Assistance Act of 1998, Pub. L. 104-238, codified as Subpart 2 of Part I of title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3795a et seq.

(3) PSEOEA means the Public Safety Officers' Educational Assistance program administered by the Bureau under this subpart.





# Proposed Rule Document -- Preamble

Headings for:  
 Agency + Sub-agency  
 CFR part(s) affected  
 Docket number  
 Regulatory Information  
 Number (RIN)  
 Subject matter



Action caption  
 identifies category  
 of document



Date caption  
 for comment  
 due date



Addresses caption for  
 how and where to send  
 comments



**DEPARTMENT OF JUSTICE**  
**Bureau of Justice Assistance**  
**28 CFR Part 32**  
**(DJP (BJA)-1216)**  
**RIN 1121-AA01**  
**Public Safety Officers' Educational Assistance Program**

**AGENCY:** Office of Justice Programs, Bureau of Justice Assistance, Public Safety Officers' Benefits Office, Justice.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Amendments are being proposed to regulations on Federal Law Enforcement Dependents Assistance (FLEDA), to comply with the changes made to the authorizing statute, and by the Police, Fire, and Emergency Officers' Educational Assistance Act of 1998. The amendments expand the FLEDA program to authorize financial educational assistance to the dependents of all public safety officers whose death or permanent disabilities resulted in the payment of benefits under the Public Safety Officers' Benefits (PSOB) Program.

**DATE:** Comments will be received no later than 5:00 pm on July 9, 1999.

**ADDRESSES:** All comments must be written and should be sent to: Ashton Flemmings, Chief, Public Safety Officers' Benefits Office, 810 7th Street, NW, Washington DC 20531.

**FOR FURTHER INFORMATION CONTACT:** Ashton Flemmings, Chief, Public Safety Officers' Benefits Office, 810 7th Street, NW, Washington, DC 20531. Telephone: (202) 307-0635 or toll free at 1-888-744-6513.

**SUPPLEMENTARY INFORMATION:** The Bureau of Justice Assistance (BJA) proposes to amend the regulations governing the Federal Law Enforcement Dependents' Assistance (FLEDA) program, found at 28 CFR part 32, Subpart B, to comply with the amendments to its authorizing statute, 42 U.S.C. 3796 et seq., enacted by the Police, Fire, and Emergency Officers' Educational Assistance Act of 1998, Pub. L. No. 104-238, 112 Stat. 2495, (November 13, 1998). Hereinafter the Public Safety Officers' Educational Assistance Act or PSOE Act. The PSOE Act expands the scope of eligibility for financial assistance for higher education to the dependents of all public safety officers, including Federal firefighters and state and local officers, who are killed or permanently and totally disabled in the line of duty. Previously, the FLEDA program only made available financial assistance for higher education to the dependents of Federal law enforcement officers who were killed or permanently and totally disabled in the line of duty. The amendments being proposed to this subpart, in accordance with the PSOE Act, will allow the spouses and children of all public safety officers who are killed or permanently and totally disabled in the line of duty, and with respect to whom a claim has been approved under the Public Safety Officers' Benefits (PSOB) program, to receive these educational benefits.

To reflect the expansion of the program, therefore, the name of the program is proposed to be changed from the "Federal Law Enforcement Dependents' Assistance" (FLEDA) program to the "Public Safety Officers' Educational Assistance" (PSOE) program. Likewise, the references in subpart B to "Civilian federal law enforcers" or "Federal law enforcers" are proposed to be changed to "public safety."

Section 32.37 of the regulation is proposed to be amended to comply with the mandate of section 210) of the PSOE Act, which requires the issuance of regulations regarding the use of "sliding scale based on financial need to ensure that an eligible dependent who is in financial need receives priority in receiving funds" under this program. In accordance with this section, BJA intends to calculate the amount of assistance, if needed, in such a manner so to ensure those applicants who are in the greatest financial need, i.e., would be unable to attend a program of study at a qualified institution of higher education in the absence of some measure of assistance, receive an amount that would allow them to do so and to which they would otherwise be entitled to under this provision. While the PSOE Act requires, if needed, reduction of the total amount of assistance by the amount calculated using the sliding scale, it is anticipated that no such reduction will be necessary, and that all eligible dependents will be able to receive the total amount of benefits for which they qualify. In order to do this, applicants may submit a statement of financial need, with documentation of such need, including information regarding all assets and sources of income, such as the Internal Revenue Service's form 1040. If the student is dependent on his or her parents for support, information regarding the parents income and assets may be required. This information will only be used to give priority in awarding funds in the event that it appears that amounts appropriated for

# Comments

---

## Comments are accepted.

- No restrictions
- Equal treatment
- Open and fair
- Full consideration to substantive comments
- May impact the final regulation

- 
- Process is clear and predictable.
  - Comments from interested parties enhance the department's knowledge of general and specific technical information related to the subject of a proposed regulation.

# Final Rule

---

## A regulation is issued.

- Comments are addressed
- Basis and purpose
- Justification for decisions
- Date of effect
- Codification into law

- 
- ❑ Final Federal regulations must be published in the *Federal Register*.
  - ❑ Regulations take effect 30 days after publication.
  - ❑ Notice and comment procedure may be used to solicit additional input from stakeholders during future regulatory actions.

---

## □ **Regulations summary**

- Federal regulatory departments and interested parties collaborate to ensure balance.
- The open publication process of notice and comment ensures transparency.
- Unnecessary obstacles to trade are not created for global trading partners.

# Online Resources

---

☐ **E. O. No. 12866**

[http://www.access.gpo.gov/uscode/title5/parti\\_chapter5\\_.html](http://www.access.gpo.gov/uscode/title5/parti_chapter5_.html)

☐ **NTTAA**

<http://www.access.gpo.gov/nara/publaw/104publ.html>

☐ **Circular A-119**

<http://www.whitehouse.gov/omb/circulars/a119/a119.html>

☐ **APA**

<http://www.archives.gov/federal-register/laws/administrative-procedure/>

☐ **Federal Register**

<http://www.archives.gov/federal-register/>

# Thank you.

---

USA WTO TBT Enquiry Point  
NCSCI / NIST  
100 Bureau Drive  
Gaithersburg, MD USA 20899-2100

E-mail: [ncsci@nist.gov](mailto:ncsci@nist.gov)  
Telephone: 301-975-4040  
Telefax: 301-926-1559