

### §316.3

### 13 CFR Ch. III (1-1-01 Edition)

EDA as early as possible, for possible use by EDA in the 208 study or report.

(d) A section 208 report will form an acceptable basis on which to make a section 208 compliance finding when the beneficiary's projected new or additional annual output is less than one percent of the last recorded annual output in the market area, or when it is otherwise apparent that a 208 study is not required to determine that the project will not violate section 208.

(e) Unless EDA determines that circumstances require a section 208 study or report, EDA will make a finding of compliance with section 208 without doing a section 208 report or study for those projects with known beneficiaries, and which have one or more of the following characteristics:

(1) The project is primarily for the use and benefit of the community as a whole without significantly expanding the output of commercial products or services;

(2) The project is primarily to be used for non-production or non-distribution purposes;

(3) The project will replace or restore capacity recently destroyed by flood, fire, wind, or other natural disaster, without contributing to significant expansion of the previously existing supply of the same kinds of commercial products or services;

(4) The project will assure the retention of physical capacity and/or employment without significantly expanding the existing supply of the same kinds of commercial products or services;

(5) The project will assure the re-opening of facilities closed within two years of the date of reopening, if the facility will provide the same kinds of products or services as previously provided, without a significant increase in output;

(6) The project will replace, rebuild or modernize, within the same commuting area, facilities which within the previous two years have been, or are to be, displaced by official governmental action, without a change in the kind or significant increase in output of the commercial product or service previously provided;

(7) The project assures completion of a project previously assisted by EDA,

where further funding is required because of revised project cost estimates, rather than for additional productive capacity;

(8) The project is wholly or primarily for planning, technical assistance, research, evaluation, other studies, or for the training of workers, and not for the direct benefit of a firm or an industry that produces a commercial product or service; or

(9) No firm benefitted by the project will use 50 percent or more of any EDA-financed service or facility.

[64 FR 5482, Feb. 3, 1999, as amended at 64 FR 69879, Dec. 14, 1999]

#### §316.3 Nonrelocation.

(a) General requirements for non-relocation for funding under PWEDA are as follows:

(1) EDA financial assistance will not be used to assist employers who transfer jobs from one commuting area to another. A commuting area ("area") is that area defined by the distance people travel to work in the locality of the project receiving EDA financial assistance;

(2) Every applicant for EDA financial assistance has an affirmative duty to inform EDA of any employer who will benefit from such assistance who will transfer jobs (not persons) in connection with the EDA grant;

(3) EDA will determine compliance with this requirement prior to grant award based upon information provided by the applicant during the project selection process; and

(4) Each applicant and identified primary beneficiary of EDA assistance, which for purposes of this section means an entity providing economic justification for the project, must submit its certification of compliance with this section, and other applicable information as determined by EDA.

(b) The nonrelocation requirements stated in paragraph (a) of this section shall not apply to businesses which:

(1) Relocated to the area prior to the date of the applicant's request for EDA assistance;

(2) Have moved or will move into the area primarily for reasons which have no connection to the EDA assistance;

(3) Will expand employment in the area where the project is to be located

substantially beyond employment in the area in which the business had originally been located;

(4) Are relocating from technologically obsolete facilities to be competitive;

(5) Are expanding into the new area by adding a branch, affiliate, or subsidiary while maintaining employment levels in the old area or areas; or

(6) Are determined by EDA to be exempt.

**§316.4 Procedures in disaster areas.**

When non-statutory EDA administrative or procedural conditions for financial assistance awards cannot be met by applicants under PWEDA as the result of a disaster, EDA may waive such conditions.

**§316.5 Project servicing for loans and loan guarantees.**

EDA will provide project servicing to borrowers and lenders who received EDA loans and/or guaranteed loans under any programs administered by EDA. This includes but is not limited to loans under PWEDA prior to the effective date of Public Law 105-393, the Trade Act and the Community Emergency Drought Relief Act of 1977.

(a) EDA will continue to monitor such loans and guarantees in accordance with the loan or guarantee program.

(b) Borrowers/lenders shall submit to EDA any requests for modifications of their agreements with EDA. EDA shall, in accordance with applicable laws and policies, including the Federal Credit Reform Act of 1990 (2 U.S.C. 661c(e)), consider and respond to such modification requests.

(c) In the event that EDA determines it necessary or desirable to take actions to protect or further the interests of EDA in connection with loans or guarantees made or evidences of indebtedness purchased, EDA may:

(1) Assign or sell at public or private sale, or otherwise dispose of for cash or credit, in its discretion and upon such terms and conditions as it shall determine to be reasonable, any evidence of debt, contract, claim, personal or real property, or security assigned to or held by it in connection with financial assistance extended;

(2) Collect or compromise all obligations assigned to or held by it in connection with EDA financial assistance projects until such time as such obligations may be referred to the Attorney General for suit or collection; and

(3) Take any and all other actions determined by it to be necessary or desirable in purchasing, servicing, compromising, modifying, liquidating, or otherwise administratively dealing with or realizing on loans or guaranties made or evidences of indebtedness purchased.

**§316.6 Public information.**

The rules and procedures regarding public access to the records of the Economic Development Administration are found at 15 CFR part 4.

**§316.7 Relocation assistance and land acquisition policies.**

Recipients of EDA financial assistance under PWEDA and the Trade Act (States and political subdivisions of States and non-profits as applicable) are subject to requirements set forth at 15 CFR part 11.

**§316.8 Additional requirements; Federal policies and procedures.**

Recipients, as defined under §314.2 of this chapter, are subject to all Federal laws and to Federal, Department of Commerce, and EDA policies, regulations, and procedures applicable to Federal financial assistance awards, including 15 CFR part 24, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, or 15 CFR part 14, Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Other Non-Profit and Commercial Organizations, whichever is applicable.

**§316.9 Amendments and changes.**

(a) Requests by recipients for amendments to a grant shall be submitted in writing to EDA for approval, and shall contain such information and documentation necessary to justify the request.

(b) Any changes made without approval by EDA are made at grantee's own risk of suspension or termination of the project.