

requires either under or overestimating the number of small businesses affected by the proposed rule. For example, for many construction establishments the SBA defines small businesses as having revenues of less than \$12 million. With respect to those establishments, the U.S. Economic Census data groups all establishments with revenues of \$10 million or more into one revenue bracket. On the one hand, using data for the entire industry would overestimate the number of small businesses affected by the proposed rule and would defeat the purpose of estimating impacts on small business. It would also underestimate the proposed rule's impact on small businesses because the impacts would be calculated using the revenues of large businesses in addition to small businesses. On the other hand, applying the closest, albeit lower, revenue bracket would underestimate the number of small businesses affected by the proposed rule while at the same time overestimating the impacts. Comments on the Economic Analysis should be submitted to the docket for the proposed rule. The comment period on the proposed rule (and therefore this Economic Analysis) currently ends on April 10, 2006.

#### List of Subjects in Part 745

Environmental protection, Housing renovation, Lead, Lead-based paint, Reporting and recordkeeping requirements.

Dated: February 24, 2006.

**Susan B. Hazen,**

*Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.*

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## CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

### 45 CFR Part 2522

RIN 3045-AA46

### AmeriCorps Grant Applications From Professional Corps

**ACTION:** Proposed rule.

**SUMMARY:** The Corporation for National and Community Service is proposing to amend title 45 Code of Federal Regulations, part 2522.240(b)(2)(ii), to remove the restriction on certain professional corps programs from applying through State Commissions for AmeriCorps State competitive funds. The proposed amendment would realign the regulations with the authorizing statutory language. In the

Rules Section of this **Federal Register**, the Corporation is taking direct final action on the proposed amendment because we view the amendments as non-controversial and anticipate no adverse comments. The Corporation has provided a detailed rationale for the amendment in the direct final rule. If the Corporation receives no adverse comments, the amendment set forth in the direct final action will become effective and we will take no further action on this proposed rule. If the Corporation receives adverse comments on the amendment, we will publish a timely withdrawal in the **Federal Register** of the direct final rule informing the public that the direct final rule will not take effect, and we will address public comments received in a subsequent final rule based on the proposed rule. The Corporation will not institute a second comment period on the subsequent final rule. Any one interested in commenting on this document should do so at this time.

**DATES:** To be sure your comments are considered, they must reach the Corporation on or before April 3, 2006.

**ADDRESSES:** You may mail or deliver your comments to Nicola Goren, Associate General Counsel, Corporation for National and Community Service, 1201 New York Avenue NW., Room 10611, Washington, DC 20525. You may also send your comments by facsimile transmission to (202) 606-3467, or send them electronically to [professionalcorpscomments@cns.gov](mailto:professionalcorpscomments@cns.gov) or through the Federal government's one-stop rulemaking Web site at <http://www.regulations.gov>. Members of the public may review copies of all communications received on this rulemaking at the Corporation's Washington DC headquarters.

During and after the comment period, you may inspect all public comments about this rule in suite 10600, 1201 New York Avenue, NW., Washington, DC, between the hours of 9 a.m. and 4:30 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this rule. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Nicola Goren, Associate General Counsel, Corporation for National and

Community Service, (202) 606-6676. T.D.D. (202) 606-3472. Persons with visual impairments may request this rule in an alternative format.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the direct final rule, which is published in the Rules section of this **Federal Register**.

### Statutory and Executive Order Reviews

#### *Executive Order 12866*

The Corporation has determined that this proposed rule, while a significant regulatory action, is not an "economically significant" rule within the meaning of E.O. 12866 because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866. As a "significant" regulatory action, this proposed rule was reviewed by the Office of Management and Budget (OMB).

#### *Regulatory Flexibility Act*

The Corporation has determined that this regulatory action, if promulgated, will not result in a significant impact on a substantial number of small entities. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

#### *Other Impact Analyses*

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

**List of Subjects in 45 CFR Part 2522**

Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

For the reasons stated in the preamble, the Corporation for National and Community Service proposes to amend chapter XXV, title 45 of the Code of Federal Regulations as follows:

**PART 2522—AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS**

1. The authority citation for part 2522 continues to read as follows:

**Authority:** 42 U.S.C. 12571–12595.

2. Amend § 2522.240 by revising paragraph (b)(2)(ii) to read as follows:

**§ 2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?**

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) The program must be operated directly by the applicant, selected on a competitive basis by submitting an application to the Corporation, and may not be included in a State's application for AmeriCorps program funds distributed by formula under § 2521.30(a)(2) of this chapter.

\* \* \* \* \*

Dated: February 24, 2006.

**Frank R. Trinity,**

*General Counsel.*

[FR Doc. E6–2935 Filed 3–1–06; 8:45 am]

**BILLING CODE 6050--SS-P**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

**RIN 1018–AU58**

**Endangered and Threatened Wildlife and Plants; Reinstated Proposed Rule To List the Flat-Tailed Horned Lizard as Threatened**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the reinstated proposed rule to list the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). On November 17, 2005, the U.S. District

Court for the District of Arizona vacated the January 3, 2003, withdrawal of the proposed rule to list the flat-tailed horned lizard, remanded the matter to us for further consideration in accordance with its August 30, 2005, and November 17, 2005, orders, and ordered us to make a new listing decision by April 30, 2006. Pursuant to the Court's November 17, 2005, order, on remand we "need only address the matters on which the court's August 30, 2005, Order \* \* \* found the January 3, 2003, Withdrawal unlawful, which may summarily be identified as whether the lizard's lost historical habitat renders the species in danger of extinction in a significant portion of its range." To ensure our new final listing decision is based on the best scientific and commercial data currently available, we are reopening the public comment period on the 1993 proposed listing rule to solicit information and comment regarding the flat-tailed horned lizard's lost historical habitat.

**DATES:** We will accept comments from all interested parties until March 16, 2006. Comments received after the closing date may not be considered in the final decision on this action.

**ADDRESSES:** If you wish to comment on the specific issue identified by the District Court in its November 17, 2005, order for remand of the January 3, 2003, withdrawal of the proposed rule to list the flat-tailed horned lizard, you may submit your comments and materials by any one of several methods:

1. You may submit written comments and information to Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office (CFWO), 6010 Hidden Valley Road, Carlsbad CA 92011.

2. You may hand-deliver written comments to the CFWO, at the address given above.

3. You may send comments by electronic mail (e-mail) to [fw8CFWOCOMMENTS@fws.gov](mailto:fw8CFWOCOMMENTS@fws.gov). Please submit Internet comments in ASCII format and avoid the use of special characters or any form of encryption. Please also include "ATTN: Flat-Tailed Horned Lizard" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our CFWO at phone number 760–431–9440. Please note that this Internet address will be closed at the termination of the public comment period.

4. You may fax your comments to 760–431–9624.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours.

Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the CFWO at the above address.

**FOR FURTHER INFORMATION CONTACT:** Jim Bartel, Field Supervisor, at the above address, by telephone at 760–431–9440, or by facsimile at 760–431–9624.

**SUPPLEMENTARY INFORMATION:****Public Comments Solicited**

To assist us in making a final listing determination based on the best scientific and commercial data available, we are reopening the public comment period on the proposed rule to list the flat-tailed horned lizard for 14 days to accept public comment on the specific issue identified in the District Court's November 17, 2005, order, namely whether the flat-tailed horned lizard's lost historical habitat renders the species likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range.

Comments relevant to the identified issue for consideration during the remand of the January 3, 2003, withdrawal of the proposed rule to list the flat-tailed horned lizard that were previously submitted during prior comment periods on the proposed rule need not be resubmitted as they have been incorporated into the public record and will be fully considered in preparation of the final determination.

**Background**

On November 29, 1993, we published a proposed rule to list the flat-tailed horned lizard as a threatened species pursuant to the Act (58 FR 62624). On July 15, 1997, we withdrew the 1993 proposed rule (62 FR 37852). Defenders