program. Based on its findings, a monitoring panel may determine that the lead agency has not accomplished the purposes of the Act and that there is good cause for redesignation of the agency and the temporary loss of funds by the State under Title I of the Act. The Secretary, based on the findings and recommendations of the monitoring panel, and after providing to the public notice and an opportunity for comment, makes a final determination regarding whether to order the Governor to redesignate the lead agency.

—Redesignation of protection and advocacy services provider (§ 345.63):

The protection and advocacy services provider in each State also is subject to redesignation if it has not met the protection and advocacy service needs of individuals with disabilities within the State. Under these circumstances, the Governor of the State would redesignate, but only after determining that good cause exists, providing public notice and opportunity for comment, and allowing the current protection and advocacy services provider the opportunity to appeal the determination to the Secretary. To redesignate, the Governor would hold an open competition within the State, consistent with section 105(d) of the Act.

—Information and technical assistance:

The Secretary will provide information and technical assistance to participating States, as well as to individuals with disabilities.

• Major Regulatory Provisions

The Secretary would implement the following regulatory provisions in these proposed regulations:

—Control and administration of amounts received under the grant (§§ 345.4 and 345.5(b)):

Each State is required under section 102(d) of the Act to designate a lead agency to be eligible for a grant under this program. The lead agency may be a (1) commission appointed by the Governor; (2) public-private partnership or consortium; (3) university-affiliated program; (4) public agency; (5) council established under Federal or State law; or (6) another appropriate office, agency, entity, or individual.

For purposes of the Act, obligations and responsibilities of the State are the same as those of the lead agency with two exceptions. Section 102(e)(12) requires a State to assure in its application that a public agency will be responsible for the control and administration of amounts received under the grant and that a public agency or an individual with a disability will hold title to property purchased with

grant funds and administer this property. Thus, if the lead agency is an entity other than a public agency, a public agency will be responsible for controlling and administering amounts received under the grant and may be responsible for holding title to and administering property purchased with grant funds.

—Allowable expenses (§ 345.20(d)): Section 101(b)(4) of the Act provides that a State may use program funds to pay for expenses, including travel expenses, and support services, including services of qualified interpreters, readers, and personal assistants services, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need.

The Secretary would limit these expenses to those incurred by participants in activities associated with the state technology program. Participants would include, for example, individuals with disabilities, parents, family members, advocates, authorized representatives, advisory board members, consumer consultants, and consumer attendees at State sponsored conferences. Participants would not include, for example, consumers seeking direct services such as assessment and training and associated support such as transportation to an evaluation/ demonstration site.

The Secretary would interpret allowable expenses to include, for example, travel, lodging, meals, childcare, eldercare, interpreters, and readers. In order to limit the costs allowed under the program, the Secretary believes it is necessary to pay for only those costs that would support the inclusion of eligible participants.

The Secretary solicits comments on whether any other participants or expenses should be included as examples, and whether a list should be included in the final regulations.

—Protection and advocacy services

Section 102(e)(20) of the Act provides that a State has the option to (1) make a grant to, or enter into a contract with, an entity to support protection and advocacy services through the systems established to provide protection and advocacy services; or (2) request that the Secretary do so on behalf of the State. If the State decides to enter into this grant or contract itself, the Secretary would require that each State that seeks a development or an extension grant must include in its application, and

annually thereafter in its progress report, a copy of the protection and advocacy contract or grant agreement entered into by the State, or evidence of ongoing negotiations if it has not yet entered into a new contract or agreement. This is necessary to ensure that the State has entered into this contract or grant agreement.

If the State decides to request that the Secretary enter into this agreement with the entity established to provide protection and advocacy services, the Secretary would award a grant—not a contract—for protection and advocacy services. The Secretary would reduce the amount of the State's grant to carry out this activity. If a State makes this request, the State would be required to include the request in its application for a development grant or an extension grant and annually thereafter in its progress report. This is necessary to ensure that the Department has sufficient time to negotiate and enter into this agreement.

—Limitation on indirect costs (§ 345.30(b)(14):

Section 102(e)(22) of the Act provides that a State must provide an assurance in its application that the percentage of funds received under the grant that is used for indirect costs shall not exceed 10 percent. The indirect cost limitation would apply to the total amount of the State's grant.

The indirect cost limitation does not ensure a subcontractor or subgrantee an indirect cost rate. This rate must be negotiated by the State and the subcontractor or subgrantee.

-- Mandated activities and significant progress (§ 345.30(b)(1)):

Section 102(e)(7) of the Act provides States with the option of (1) performing the six activities listed in section 102(e)(7)(B) of the Act in carrying out systems change and advocacy activities; or (2) performing other activities and demonstrating through progress reports that "significant progress" has been made in the development and implementation of a consumerresponsive comprehensive statewide program of technology-related assistance. Section 104(a) of the Act requires that the Secretary develop guidelines to be used in assessing the extent to which a State is making "significant progress." The Secretary is developing these guidelines. The Secretary would disseminate these guidelines on an annual basis to all

grantees.
Each year, the Secretary will send to all States and entities either performance guidelines or a first or a second extension grant application packet that includes performance