necessary to allow the applicant to provide a level of education equivalent to that provided by its generally

comparable LEAs.
(b) The increase in the LCR referred to in paragraph (a) of this section may not exceed the per pupil share (computed with regard to all children in ADA), as determined by the Secretary, of the increased current expenditures necessitated by the unusual geographical factors identified under § 222.64(b)(2).

(c) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA.

(Authority: 20 U.S.C. 7703(f))

§ 222.74 How does the Secretary identify generally comparable local educational agencies for purposes of section 8003(f)?

(a) Except as otherwise provided in paragraph (b) of this section, the Secretary identifies generally comparable LEAs for purposes of this subpart in accordance with the LCR procedures described in §§ 222.39-

(b) For applicant LEAs described in § 222.62(a), to identify the three generally comparable LEAs referred to in § 222.72(a)(1)(iii), the Secretary uses

the following procedures:

(1) The Secretary asks the SEA of the applicant LEA to identify generally comparable LEAs in the State by first following the directions in $\S 222.39(a)(4)$, using data from the preceding fiscal year. The SEA then removes from the resulting list any LEAs that are significantly impacted, as described in § 222.39(b)(1), except the applicant LEA.

(2) If the remaining LEAs are not in rank order by total ADA, the SEA shall

list them in that order.

(3) The LEA may then select as its generally comparable LEAs, for purposes of section 8003(f) only, three LEAs from the list that are closest to it in size as determined by total ADA (e.g., the next three larger LEAs, the next three smaller, the next two larger and the next one smaller, or the next one larger and the next two smaller).

(Authority: 20 U.S.C. 7703(f))

§ 222.75 How does the Secretary compute the average per pupil expenditure of generally comparable local educational agencies under this subpart?

The Secretary computes APPE under

this subpart by

(a) Dividing the sum of the total current expenditures for the preceding fiscal year for the identified generally comparable LEAs by the sum of the total

ADA of those LEAs for the same fiscal year and performing this calculation again using data for the second

preceding year; and (b) Increasing or decreasing the APPE for the preceding fiscal year by the percentage the APPE of the generally comparable LEAs increased or decreased from the second preceding fiscal year to the preceding fiscal year. (Authority: 20 U.S.C. 7703(f))

§ 222.76 What does the Secretary do if appropriation levels are insufficient to pay in full the amounts calculated under §§ 222.72 and 222.73?

Payments under section 8003(f) for eligible LEAs will be ratably reduced if the funds available for assistance under that section are insufficient to pay the full amounts determined under §§ 222.72 and 222.73.

(Authority: 20 U.S.C. 7703(f))

§§ 222.77-222.79 [Reserved]

Subpart F—[Reserved]

Subpart G—Special Provisions for **Local Educational Agencies That Claim** Children Residing on Indian Lands

General

§ 222.90 What definitions apply to this subpart?

In addition to the definitions in § 222.2, the following definitions apply to this subpart

Indian children means children residing on Indian lands who are recognized by an Indian tribe as being

affiliated with that tribe.

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(Authority: 20 U.S.C. 7713, 7881, 7938, 8801)

§ 222.91 What requirements must a local educational agency meet to receive a payment under section 8003 of the Act for children residing on Indian lands?

To receive a payment under section 8003 of the Act for children residing on Indian lands, a local educational agency (LEA) must-

(a) Meet the application and eligibility requirements in section 8003 and

subparts A and C of these regulations; (b) Develop and implement policies and procedures in accordance with the provisions of section 8004(a) of the Act; and

(c) Include in its application for payments under section 8003-

(1) An assurance that the LEA established these policies and

procedures in consultation with and based on information from tribal officials and parents of those children residing on Indian lands who are Indian children; and

(2) A copy of the policies and procedures or documentation that the LEA has received a waiver in accordance with the provisions of section 8004(c).

(Authority: 20 U.S.C. 7703(a), 7704(a), (c), and (d)(2))

§ 222.92 What additional statutes and regulations apply to this subpart?

(a) The following statutes and regulations apply to LEAs that claim children residing on Indian lands for payments under section 8003:

(1) The General Education Provisions Act (GEPA) in 20 U.S.C. 1221 et seq.,

unless otherwise noted.

(2) Other relevant regulations in this part.

(b) The following statutes, rules, and regulations do not apply to any hearing proceedings under this subpart:

(1) Administrative Procedure Act.

(2) Federal Rules of Civil Procedure. (3) Federal Rules of Evidence.

(4) GEPA, Part E.

(5) 34 CFR Part 81.

(Authority: 20 U.S.C. 1221 et seq. unless otherwise noted, 7703, and 7704)

§ 222.93 [Reserved]

Indian Policies and Procedures

§ 222.94 What provisions must be included in a local educational agency's Indian policies and procedures?

(a) An LEA's Indian policies and procedures (IPPs) must include a description of the specific procedures for how the LEA will-

(1) Give the tribal officials and parents of Indian children an opportunity to comment on whether Indian children participate on an equal basis with non-Îndian children in the education programs and activities provided by the LEĂ;

(2) Assess the extent to which Indian children participate on an equal basis with non-Indian children served by the

(3) Modify, if necessary, its education program to ensure that Indian children participate on an equal basis with non-Indian children served by the LEA

(4) Disseminate relevant applications, evaluations, program plans and information related to the education programs of the LEA in sufficient time to allow the tribes and parents of Indian children an opportunity to review the materials and make recommendations on the needs of the Indian children and how the LEA may help those children realize the benefits of the LEA's education programs and activities;

(5) Gather information concerning Indian views, including those regarding