natural or adoptive parent to whom the stepparent is married, dies. The commenter indicated that a situation may arise where, if the other natural parent is still alive, the student will not become an independent student. The commenter indicated that the student's relationship with the surviving stepparent may be more akin to a parental bond than is the student's relationship with the surviving parent.

Another commenter suggested that the language of the regulations be amended to provide that a stepparent would be eligible to borrow on behalf of a stepchild if the stepparent's income was not used to determine the expected family contribution (EFC) of the stepchild. The commenter indicated that a parent could marry after the Free Application for Federal Student Aid (FAFSA) had been filed. The commenter believed that the new stepparent should be eligible to borrow a PLUS loan on behalf of the student.

Discussion: The Secretary appreciates the mostly positive comments he received on his proposal to allow stepparents to borrow under the FFEL and Direct Loan PLUS programs. While the Secretary agrees that the situation suggested by the commenter could, on rare occasions happen, he points out that he would expect that, in most instances, the financial aid officer would use professional judgement and make the student independent, while perhaps assessing some amount of untaxed income to the student as a result of support received from the stepparent. In this instance the student would be considered eligible for additional unsubsidized loans to replace whatever PLUS proceeds are not available. For these reasons, the Secretary does not believe there is need to make additional changes to the eligibility criteria for stepparents to borrow under the title IV PLUS programs.

The Secretary acknowledges, as pointed out by the second commenter, that the proposed language could have been interpreted to exclude certain stepparents from participation in PLUS Loan Programs because their income and assets were not taken into account when determining the student's EFC. Such a condition could exist when the student did not complete a FAFSA or in the case cited by the commenter when the natural parent married after the FAFSA was filed. The Secretary will change the eligibility requirement under which a stepparent may borrow a PLUS loan to include the income and assets "that would have been taken into account" rather than "are taken into

account" when determining the student's EFC.

Changes: Sections 682.201 and 685.200 are changed to allow a stepparent to borrow under the FFEL and Direct Loan PLUS programs "if that spouse's income and assets would have been taken into account when calculating a dependent student's expected family contribution."

Section 682.600 Agreement Between an Eligible School and the Secretary for Participation in the FFEL Programs

Comments: All commenters supported the proposal to eliminate the provisions of § 682.600 (a) through (c) and to include the provisions that deal with foreign schools (§ 682.600(d)) in a new § 682.611. One commenter requested clarification of the Secretary's intent to eliminate § 682.600.

Discussion: The Secretary noted in the preamble of the NPRM (60 FR 49118) that the provisions of § 682.600(a) through (c) are unnecessary because they duplicate existing provisions found in 34 CFR Part 600 (Institutional Eligibility Under the Higher Education Act of 1965, As Amended) and 34 CFR Part 668 (Student Assistance General Provisions). The Secretary also noted that the provisions included in § 682.600(d) that deal with foreign schools are needed and would be retained in a new section, § 682.211.

Changes: None.

Section 682.602 Schedule Requirements for Courses of Study by Correspondence

Comments: All commenters supported the proposal to eliminate the provisions contained in § 682.602.

Discussion: Commenters agreed with the Secretary that the provisions of \$682.602 are no longer needed since students enrolled in correspondence programs are not eligible to receive FFEL Program loans unless they are enrolled in a program that leads to an associate, bachelor, or graduate degree.

Changes: None.

Federal Pell Grant Program

Comments: Various commenters expressed support for the proposed changes to the Federal Pell Grant Program.

Discussion: The Secretary appreciates the commenters' support of efforts to eliminate duplicative provisions from the regulations.

Changes: None.

Executive Order 12866

These regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of the regulatory action.

The potential costs associated with the regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering the title IV, HEA programs effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in the preamble under the heading *Paperwork Reduction Act of 1995*.

In assessing the potential costs and benefits—both qualitative and quantitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes*.

Regulatory Flexibility Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. Small entities affected by these regulations are small institutions of higher education.

Waiver of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education provisions Act, 20 U.S.C. 1232(b)(2)(A), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed rules and regulations. However, the Secretary amends § 668.163(a)(2) and (3) as a final rule to revise the procedure for presenting cash requests to the Department under the exemption from rulemaking requirements in 5 U.S.C. 553(b)(A) for rules of agency procedure.

Assessment of Educational Impact

In the NPRM published September 21, 1995, the Secretary requested comment on whether the proposed regulations in this document would require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.