

percent of the last recorded annual output in the market area;

(3) The project will replace or restore capacity recently destroyed by flood, fire, wind, or other natural disaster;

(4) The project will assure the retention of the physical capacity and/or employment;

(5) The project will replace, rebuild or modernize, within the same labor market area, facilities displaced by official governmental action;

(6) 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;

(7) When the purpose of research or evaluation grants or cooperative agreements is to determine the causes of or to assist in the formulation of programs to address, or to provide personnel needed to conduct programs concerning unemployment, underemployment, underdevelopment, or chronic depression;

(8) When the purpose of planning grants to state or local governments, or regional or area organizations is to fund administrative expenses of a planning process or for the preparation of economic development plans or programs;

(9) When a technical assistance grant is not designed to assist a specific firm or group of firms or lead directly to expanded productive capacity or output of specific goods or services for sale in a designated market area; and

(10) PWIP projects.

[60 FR 49678, Sept. 26, 1995, as amended at 61 FR 7984, Mar. 1, 1996; 61 FR 45738, Aug. 29, 1996]

§ 316.4 Nonrelocation.

(a) General requirements for nonrelocation 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 the 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 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.

§ 316.5 Electric and gas facilities.

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

(1) Except for those types of facilities listed in paragraph (a)(2), (b) and (c) of this section, no financial assistance authorized under PWEDA will be used to finance:

(i) The cost of facilities for the generation, transmission, or distribution of electrical energy; or

(ii) For the production or transmission of natural, manufactured or mixed gas.

(2) Electric or gas facilities are eligible to receive EDA funding under