

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 9 and 46

[FRL-7476-2]

RIN 2030-AA77

### Fellowships

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Interim final rule.

**SUMMARY:** This rule revises EPA's current fellowship regulation to provide greater flexibility and clarify requirements in order to aid in the administration and monitoring of the EPA fellowships. EPA's fellowship programs provide financial assistance to individuals to further their education in environmental fields, such as environmental engineering and science. EPA is also amending certain approved information collection requirements.

**DATES:** This regulation is effective May 5, 2003, and applies to fellowship agreements awarded after May 5, 2003. Comments on this interim final rule must be submitted by June 3, 2003.

**ADDRESSES:** Comments must be submitted to W. Scott McMoran, Office of Grants and Debarment (3903R), United States Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** W. Scott McMoran at (202) 564-5376.

### SUPPLEMENTARY INFORMATION:

#### I. Regulated Entities

Entities eligible to receive the environmental fellowships listed in 40 CFR part 46 are regulated by this rule. Regulated categories and entities include:

Category	Regulated entities
Persons ..... Institutions of Higher Education.	Individuals. Colleges and Universities.

Only individuals may apply for fellowships under this regulation. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### II. Comments and Record

The record of this interim final rule includes a copy of the previous version of this rule. It is available for inspection from 9 a.m. to 4 p.m. (eastern time), Monday through Friday, excluding legal holidays, by contacting the person listed in the **ADDRESSES** section.

Comments on this interim final rule must be submitted by June 3, 2003, to the person listed in the **ADDRESSES** section.

### III. Background

EPA last updated its fellowship regulation (40 CFR part 46) on October 18, 1984. Since that time, EPA's legal authorities, practices and policies have changed, and, as a result, the regulation is out of date. Also, the General Accounting Office reviewed the EPA fellowship program and found that, in order to award fellowships in compliance with the regulation, the agency was relying on approved exceptions from the regulation. For these reasons, EPA is revising the regulation to update and clarify requirements. In particular, we have:

- Generally eliminated references to EPA's Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations regulation (40 CFR part 30). Fellowships are awards made to individuals and that regulation applies to organizations (*see* 40 CFR 30.1).
- Added new provisions based on part 30 to assure the regulation addresses all appropriate requirements, including: § 46.125 which authorizes EPA to approve exceptions from this regulation, where necessary; § 46.130 which makes clear that fellows are subject to the government-wide suspension and debarment program; § 46.145 which requires fellows to fly on American Carriers when involved in foreign travel under fellowships; § 46.210 and § 46.215 which provide termination and enforcement provisions; and § 46.220 which establishes a dispute process for fellowships. We also added § 46.205 which establishes requirements for handling intangible property such as documents and computer software developed under a fellowship. It incorporates the intangible property provisions of part 30 (40 CFR 30.36) rather than repeating them. That rule is complex and its form would not change if it were included in this rule, so there was no reason to repeat it.

- Eliminated monetary limits on the amount EPA can award for benefits. The amounts that will be awarded for various purposes under fellowships will be determined by the EPA program offices making the awards.

- Revised the list of EPA's statutes (§ 46.105) under which EPA awards fellowships to bring it up to date.

- Deleted the definitions of full time fellow and part time fellow. We will

rely on the policy of the institution involved to make that determination.

- Added a requirement that fellows annually submit copies of transcripts and publications (§ 46.175(b)), when required by the fellowship agreement.

In compliance with the Paperwork Reduction Act, EPA is also amending 40 CFR part 9 to add the list of currently approved information collection request numbers related to information collected under the Fellowships regulation (40 CFR part 46).

### Statutory and Regulatory Reviews

#### Regulatory Flexibility Act

This interim final rule is not subject to the Regulatory Flexibility Act (RFA), which generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which notice and comment rulemaking is required under the Administrative Procedure Act (APA) or any another statute. Grant award and administration matters, such as this rule, are explicitly exempt from the notice and comment requirements of the APA (5 U.S.C. 553(a)(1)). Nor is this rule required to undergo notice and comment rulemaking under any other statute.

#### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, 2 U.S.C. 1501 *et seq.*, 109 Stat. 48 (1995), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year. This regulation contains no Federal mandates (under the regulatory provisions of title II of the UMRA) for State, local, or tribal governments or the private sector. The UMRA excludes from the definitions of "Federal intergovernmental mandate" and "Federal private sector mandates" duties that arise from conditions of Federal assistance.

#### National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act (NTTAA), EPA is required to use voluntary consensus standards in its