

drafted, which contained fiscal and administrative requirements for grants and cooperative agreements to State and local governments (grantees) and subrecipients which are State and local governments (subgrantees). At the same time, OMB and the agencies drafted a revised Circular A-102 containing guidance to Federal agencies on how they should manage the award and administration of Federal grants.

Consequently, two governmentwide documents were issued. On March 11, 1988, a revised OMB Circular A-102—directed solely to Federal agencies—was published in the **Federal Register** (53 FR 8028). On the same date, a common rule was published (53 FR 8033). Consistent with a March 12, 1987, Presidential memorandum, affected agencies adopted the grants management Common Rule verbatim, except where inconsistent with statutory requirements. The circular became effective immediately while the Common Rule did not become effective until October 1, 1988.

The grants management Common Rule sets forth consistent and uniform standards among Federal agencies in the management of grants and cooperative agreements with State, local, and federally recognized Indian tribal governments. HHS implements the provisions of the grants management Common Rule through its regulations at 45 CFR part 92. Prior to March 31, 1995, SSA was an operating component of HHS. As a result of Public Law 103-296, SSA became an independent agency on March 31, 1995. However, pursuant to section 106(b) of that law, the HHS regulations at 45 CFR part 92 remain applicable to SSA. In order to implement our own set of grants regulations, we are essentially adopting the text of the governmentwide grants management Common Rule. The result is the SSA grants administration regulations, 20 CFR part 437. HHS regulations at 45 CFR part 92 will cease to be applicable to SSA on the effective date of these regulations, in accordance with section 106(b) of Pub. L. 103-296.

II. Differences Between Part 437 and Common Rule

We have made several minor editorial corrections to the language in the common rule.

1. In § 437.20(a), in the first sentence, we have replaced the word “expand” with the word “expend.” The sentence correctly reads: “A State must *expend* and account for grant funds in accordance with State laws and procedures for expending and accounting for its own funds.”

2. In § 437.30(f)(1), we have replaced the word “formal” with the word “format.” The sentence correctly reads: “A request for prior approval of any budget revision will be in the same budget *format* the grantee used in its application and shall be accompanied by a narrative justification for the proposed revision.”

3. In § 437.42(f), we have included a period after the word “records” so that a new sentence begins with the word “unless.” The sentences correctly read: “The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records. Unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.”

In addition to these changes, throughout new part 437, we have replaced, where appropriate, references to “awarding agency(ies)” to SSA. We have also made numerous nonsubstantive changes to make these rules easier for the public to read and understand.

III. Differences Between Part 437 and 45 CFR Part 92

We have also modified our rules from the HHS rules at part 92 in two ways:

1. We have not included the language at §§ 92.4(a)(2)–(10) and 92.4(b) in our regulations. These provisions, which list block grants and entitlements that are non-SSA programs, do not apply to SSA.

2. We have modified the language in § 92.30(a)(1), which appears in our regulations at § 437.30(a)(1), to show that approvals regarding revision of budget and program plans should be signed by the responsible SSA Grants Management Officer; or the SSA Commissioner or subordinate official with proper delegated authority from the Commissioner. SSA regional offices are not involved with grant administration activities. Therefore, language dealing with the delegation of approval authority to the regional offices is unnecessary.

Regulatory Procedures

Justification for Final Rule

This rule is being published as a final instead of as a proposed rule. Section 702(a)(5) of the Social Security Act (Act) makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553. These procedures generally require publication of notice of the proposed rulemaking and the solicitation of comments from interested persons. However, the APA provides

exceptions to notice and comment procedures when an agency finds that there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest.

After due consideration, we have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiver of notice of proposed rulemaking because such procedure would be unnecessary. These final regulations adopt as SSA regulations the provisions of the governmentwide grants management Common Rule without substantive change. Pursuant to section 106(b) of Public Law 103-296, the HHS regulations at 45 CFR part 92, which implement the provisions of the grants management Common Rule, remain applicable to SSA until such time as these regulations become effective. The differences in these regulations over those of the grants management Common Rule or those of 45 CFR part 92 are not substantive. Accordingly, promulgation of these regulations pursuant to notice and comment rulemaking is unnecessary and may be dispensed with pursuant to 5 U.S.C. 553(b)(B).

Waiver of 30-Day Delay in Effective Date

These regulations are effective on publication, rather than effective 30 days after publication. As indicated above, section 702(a)(5) of the Act makes the regulations we prescribe subject to the rulemaking procedures established under section 553 of the APA. Section 553(d) of the APA requires that the effective date of a substantive rule be no less than 30 days after its publication, except in cases of: rules which grant or recognize an exemption or relieve a restriction; interpretative rules and statements of policy; or as otherwise provided by the agency for good cause found and published with the rule.

Under 5 U.S.C. 553(d)(3), good cause exists for dispensing with the minimum 30-day period between publication date and effective date. As indicated above, these regulations adopt without change the substantive provisions of the governmentwide grants management Common Rule. A 30-day delay in the effective date of these regulations would serve no purpose since, during such delay, the identical provisions of Part 92, which implement the provisions of the grants management Common Rule, would remain applicable. Accordingly, these regulations are effective on publication.