

Dated: August 28, 2003.

Jeffrey R. Holmstead,

Assistant Administrator for the Office of Air and Radiation.

■ For the reasons stated in the preamble, 40 CFR part 82 is amended as follows:

PART 82—PROTECTION OF STRATOSPHERIC ZONE

■ 1. The authority citation for part 82 continues to read as follows:

Authority: 42 U.S.C. 7414, 7601, 7671–7671q.

Subpart A—Production and Consumption Controls

■ 2. In the **Federal Register** of July 18, 2003, page 42891, third column, amendatory instruction 3.c. is corrected to read “Adding and reserving paragraph (l)(5) and adding paragraph (l)(6)” and paragraph (l)(5) in the third column at the end of amendatory instruction 3. is redesignated as (l)(6).

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Parts 74 and 92

Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, Other Nonprofit Organizations, and Commercial Organizations; and Certain Grants and Agreements with States, Local Governments and Indian Tribal Governments and Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments

AGENCY: Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services (HHS) is revising its grants management regulations in order to bring the entitlement grant programs it administers under the same regulations that already apply to non-entitlement programs for grants and cooperative agreements to State, local, and tribal governments.

DATES: This rule is effective September 8, 2003. Implementation shall be phased in by incorporating the provisions into awards made after the start of the next Federal entitlement program year.

FOR FURTHER INFORMATION CONTACT:

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Acquisition Management, HHS, Room 336–E, 200 Independence Avenue, SW., Washington, DC 20201; FAX (202) 690–6902; Telephone (202) 690–8554. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background and Purpose

On March 11, 1988, HHS joined other Federal agencies in publishing a final grants management “common rule” which provides a uniform system for the administration of grants and cooperative agreements, and by subawards thereunder, to State, local, and tribal governments. Prior to that date, administrative requirements for awards and subawards under all HHS programs were codified under 45 CFR part 74. HHS implemented the Common Rule at 45 CFR part 92. At the time, entitlement grant programs of the Social Security Act (the Act) administered by HHS and the Department of Agriculture were excepted from the common rule, because it was believed that the States operated entitlement programs differently than non-entitlement programs. Therefore, subpart E was reserved in the rule to subsequently address provisions specific to entitlement programs. Pending the publication of subpart E to part 92, the HHS entitlement programs have remained under part 74. As cited in 45 CFR 92.4, these programs included:

- (1) Aid to Needy Families with Dependent Children (Title IV-A of the Act, not including the Work Incentive Program (WIN) authorized by section 402(a)(19)(G));
- (2) Child Support Enforcement and Establishment of Paternity (Title IV-D of the Act);
- (3) Foster Care and Adoption Assistance (Title IV-E of the Act);
- (4) Aid to the Aged, Blind, and Disabled (Titles I, X, XIV, and XVI-AABD of the Act);
- (5) Medical Assistance (Medicaid) (Title XIX of the Act) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B);
- (6) State Children’s Health Insurance Program (Title XXI of the Act); and
- (7) Certain grant funds awarded under subsection 412(e) of the Immigration and Nationality Act and subsection 501(a) of the Refugee Education Assistance Act of 1980.

Experimental, pilot, or demonstrations involving the above programs also remained under Part 74.

This rule will expand the scope of 45 CFR part 92 to include the entitlement grant programs cited above and remove such programs from the scope of part 74. Therefore, both entitlement and non-entitlement awards to State, local, and

tribal governments will be under the same administrative rules. This will enable State, local, and tribal grantees and other affected parties, such as auditors, to use the same administrative rules for the vast majority of their Federal programs. This action will also reduce unnecessary confusion and inefficiency in program administration.

On November 15, 2000, HHS published a Notice of Proposed Rulemaking (Proposed Rule) (65 FR 68969) as the first step in developing a single set of grant and subgrant administrative rules for all types of organizations operating HHS entitlement programs. HHS received no comments on the proposed rule.

Technical Amendments

Section 92.4(a)

HHS is making a technical change in § 92.4(a) to recognize the revisions made to the USDA grants management regulations at 7 CFR part 3016 bringing USDA administered entitlement grant programs under the common rule.

Regulatory Impact Analysis

Executive Order 12866

In accordance with the provisions of Executive Order 12866, the Office of Management and Budget did not review this rule because it is not a significant regulatory action as defined in Executive Order 12866.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Secretary has reviewed this rule before publication and, by approving it, certifies that it will not have a significant impact on a substantial number of small entities. This rule does not affect the amount of funds provided in the covered programs but, instead, modifies and updates the administrative and procedural requirements.

Unfunded Mandates Reform Act

The Department has determined that this rule is not a significant regulatory action within the meaning of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501, *et seq.*, because it will not result in State, local, or tribal government expenditures of \$100 million or more.

Paperwork Reduction Act of 1995

The reporting and recordkeeping requirements of this rule are the same as those required by OMB Circulars A–102 and A–110 and have already been cleared by OMB. Therefore, HHS believes this rule will not impose additional information collection