

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).

[FR Doc. 03–22639 Filed 9–5–03; 8:45 am]

**BILLING CODE 6560–50–M**

## **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:** Marc R. Weisman, Acting Deputy Assistant Secretary for Grants and

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

requirements on grantees and subgrantees.

### List of Subjects

#### 45 CFR Part 74

Accounting, Administrative practice and procedure, Colleges and universities, Grant programs, Hospitals, Indians, Intergovernmental relations, Nonprofit organizations, and Reporting and recordkeeping requirements.

#### 45 CFR Part 92

Accounting, Grant programs, Indians, Intergovernmental relations, Reporting and record keeping requirements.

(Catalog of Federal Domestic Assistance number does not apply.)

Dated: July 29, 2003.

**Tommy G. Thompson,**  
*Secretary.*

■ For the reasons discussed in the preamble, the Department amends title 45 of the Code of Federal Regulations as follows:

#### **PART 74—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR AWARDS AND SUBAWARDS TO INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS, OTHER NONPROFIT ORGANIZATIONS, AND COMMERCIAL ORGANIZATIONS**

■ 1. The authority citation for part 74 is revised to read as follows:

**Authority:** 5 U.S.C. 301.

■ 2. Revise the heading for part 74 to read as shown above.

■ 3. In § 74.1 remove paragraph (a)(3).

#### **PART 92—UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE, LOCAL, AND TRIBAL GOVERNMENTS**

■ 1. The authority citation for part 92 continues to read as follows:

**Authority:** 5 U.S.C. 301.

■ 2. Revise the heading for part 92 to read as shown above.

■ 3. In § 92.4:

■ a. Paragraphs (a)(3) through (8) are removed and paragraphs (a)(9) and (10) are redesignated as (a)(3) and (4).

■ b. Paragraph (b) is removed and reserved.

■ 4. Remove Subpart E, Entitlement. [FR Doc. 03–22513 Filed 9–5–03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Parts 105, 107 and 171

[Docket No. RSPA–03–15372 (RSP–5)]

RIN 2137–AD71

#### **Hazardous Materials Regulations: Penalty Guidelines and Other Procedural Regulations**

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Final rule.

**SUMMARY:** In this final rule, we (RSPA) are increasing to \$32,500 and \$275, respectively, the maximum and minimum civil penalties for a knowing violation of Federal hazardous materials transportation law or a regulation issued under that law. We are publishing revised baseline assessments for frequently cited violations to provide the regulated community and the general public with more current information on RSPA's hazardous material penalty assessment process. The revisions to RSPA's baseline penalty assessments consider the increase in the maximum civil penalty to \$32,500. We are also advising the public that, in proposing or assessing a civil penalty, we will not normally consider a prior violation in a case that was initiated in a calendar year more than six years prior to the year in which the current proceeding is initiated.

In addition, we are updating the address to which civil penalty payments must be sent, and we are making editorial changes to our procedural regulations for issuing an administrative determination of preemption.

**EFFECTIVE DATE:** This rule is effective on September 30, 2003.

**FOR FURTHER INFORMATION CONTACT:** John J. O'Connell, Jr., Office of Hazardous Materials Enforcement, (202) 366–4700; or Frazer C. Hilder, Office of the Chief Counsel, (202) 366–4400, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Increase in Maximum and Minimum Civil Penalties**

The Federal Civil Penalties Inflation Adjustment Act of 1990 (the Act) as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134) requires each Federal agency to periodically adjust civil penalties it administers to consider the effects of

inflation. (The Act is set forth in the note to 28 U.S.C. 2461.) According to Section 5 of the Act, a maximum civil penalty (or the range of minimum and maximum civil penalties) must be increased based on a “cost-of-living adjustment” determined by the increase in the Consumer Price Index (CPI–U) for the month of June of the calendar year preceding the adjustment as compared to the CPI–U for the month of June of the calendar year in which the last adjustment was made. The Act also specifies that the amount of the adjustment must be rounded to the nearest multiple of \$5,000, for a penalty between \$10,000 and \$100,000, and that the first adjustment to a civil penalty is limited to 10%. Any increased civil penalty amount applies only to violations that occur after the date the increase takes effect.

In a final rule published in the **Federal Register** on January 21, 1997, RSPA increased the maximum civil penalty from \$25,000 to \$27,500 for a knowing violation of the Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, or RSPA's regulations in subchapters A and C of 49 CFR, Chapter I. 62 FR 2970.

Accordingly, we are now increasing the maximum civil penalty by \$5,000, to \$32,500, based on the increase in the CPI–U from June 1997 (160.3) to June 2002 (179.9), or 12.2%, times \$27,500 equals \$3,355, which must be rounded to \$5,000. We have not previously adjusted the \$250 minimum penalty amount specified in 49 U.S.C. 5123(a)(1), so we are increasing the minimum civil penalty by \$25, to \$275, because of the 10% limitation for the first adjustment.

To implement these adjustments, we are amending 49 CFR 107.329 and 171.1(c) to specify that the higher maximum and minimum civil penalties will apply to a violation of the Federal hazardous materials transportation law, a regulation or order issued under that law, or an exemption issued under subpart B of 49 CFR Part 107 that occurs after September 30, 2003. We are also making a similar change to the reference to the maximum penalty in Section IV.C. of Appendix A to Part 107, subpart D.

##### **II. Revisions to Civil Penalty Guidelines**

RSPA's hazardous material transportation enforcement civil penalty guidelines are published in Appendix A to 49 CFR Part 107, subpart D. These guidelines were first published in the **Federal Register** on March 6, 1995, in response to a request contained in Senate Report 03–150 that accompanied the Department of Transportation and