

Note to paragraph (a)(47): Dates in parenthesis indicate the effective date of the federal rules that have been adopted by and delegated to the state or local air pollution control agency. Therefore, any amendments made to these delegated rules after this effective date are not delegated to the agency.

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DEPARTMENT OF HEALTH AND HUMAN SERVICE

42 CFR Part 50

Rin 0930-2A00

Simplification of Grant Appeals Process

AGENCY: Health and Human Services Department.

ACTION: Final rule.

SUMMARY: Pursuant to 42 CFR part 50, subpart D, the Indian Health Service (IHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) (formerly, the Alcohol, Drug Abuse and Mental Health Administration) have provided an informal level of appeal on those grant related disputes subject to the departmental appeal procedures codified at 45 CFR part 16.¹ The Department of Health and Human Services is amending its regulations to remove IHS and ADAMHA (now SAMHSA) from the list of agencies to which those informal appeal procedures apply and thus permit aggrieved grantees direct access to the Departmental Appeals Board and that Board's original jurisdiction.

DATES: The regulation is effective December 31, 1998.

FOR FURTHER INFORMATION: For the Indian health Service, Ms. M. Kay Carpentier, (301) 443-5204; for the Substance Abuse and Mental Health Services Administration, Thomas M. Reynolds, (301) 443-0179.

SUPPLEMENTARY INFORMATION: The notice of proposed rulemaking (NPRM) was published in the **Federal Register** on February 25, 1998 (Vol. 63, No. 37, pages 9499-9500). That Notice proposed to amend 42 CFR part 50, subpart D, to eliminate the requirement that grantees must exhaust their appeal rights at the IHS or SAMHSA level prior to bringing a grant dispute before the Departmental

Appeals Board. Accordingly, this proposed change would permit affected grantees immediate access to the Departmental Appeals Board. No comments were received.

Consequently, the Department is amending 42 CFR part 50, subpart D, to remove IHS and ADAMHA (now SAMHSA) from the list of agencies to which the regulations apply as proposed by the NPRM. As a result, grantees wishing to appeal IHS's and SAMHSA's eligible adverse determinations will be entitled to appeal such determinations directly to the Departmental Appeals Board. In addition, 42 CFR part 50, subpart D, is revised to reflect organizational changes in the Department, particularly that pertaining to the public Health Service.

Economic Impact

This rule does not have cost implications for the economy of \$100 million or otherwise meet the criteria for a major rule under Executive Order 12291, and therefore does not require a regulation impact analysis. Further, this regulation will not have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of the Executive Order 12866 and does not require an assessment of the potential costs and benefits under section 6(a)(3) of that Order and so has been exempted from review by the Office of Management and Budget under that Order.

Paperwork Reduction Act

There are no new paperwork requirements subject to the Office of Management and Budget approval under the Paperwork Reduction Act of 1980.

List of Subjects in 42 CFR Part 50

Administrative practice and procedure, Grant programs—Health, Health care.

Approved: November 20, 1998.

Donna E. Shalala,
Secretary.

For the reasons set forth in the preamble, sub part D of part 50 of Title 52 of the Code of Federal Regulations is amended as follows:

PART 50—[AMENDED]

1. The authority citation for part 42, Subpart D, continues to read as follows:

Authority: Sec. 215, Public Health Service Act, 58 Stat. 690 (42 U.S.C. 216); 45 CFR 16.3(c).

2. Section 50.401 is revised to read as follows:

§ 50.401 What is the purpose of this subpart?

This subpart establishes an informal procedure for the resolution of certain postaward grant and cooperative agreement disputes within the agencies and offices identified in § 50.402.

3. Section 50.402 is revised to read as follows:

§ 50.402 To what programs do these regulations apply?

This subpart applies to all grant and cooperative agreement programs, except block grants, which are administered by the National Institutes of Health; the Health Resources and Services Administration; the Centers for Disease Control and Prevention; the Agency for Toxic Substances and Disease Registry; the Food and Drug Administration; and the Office of the Assistant Secretary for Public Health and Science. For purposes of this regulation, the entities are hereinafter referred to as "agencies."

4. The third sentence of § 50.403 is revised to read as follows:

§ 50.403 What is the policy basis for these procedures?

* * * This subpart provides such an informal preliminary procedure for resolution of disputes in order to preclude submission of cases to the Departmental Appeals Board before an agency identified in § 50.402 has had an opportunity to review decisions of its officials and to settle disputes with grantees.

5. In § 50.404, paragraph (a) introductory text and the first sentence of paragraph (b) are revised to read as follows:

§ 50.404 What disputes are covered by these procedures?

(a) These procedures are applicable to the following adverse determinations under discretionary project grants and cooperative agreements (both referred to in this subpart as grants) issued by the agencies identified at § 50.402;

* * * * *

(b) A determination subject to this subpart may not be reviewed by the review committee described in § 50.405 unless an officer or employee of the agency has notified the grantee in writing of the adverse determination.

* * *

6. In § 50.405, the second sentence is removed and the first sentence is revised to read as follows:

¹ Section 161 of the ADAMHA Reorganization Act, Pub. L. 102-321 (July 10, 1992), provides that references in any regulations to ADAMHA shall be deemed to refer to SAMHSA and, accordingly, the informal level of appeal was available to SAMHSA's grantees.

§ 50.405 What is the structure of review committees?

The head of the agency, or his or her designee, shall appoint review committees to review adverse determinations made by officials for programs under their jurisdiction. * * *

7. § 50.406, paragraphs (a), (c), (d) and (g) and the first sentence of (e) are revised to read as follows:

§ 50.406 What are the steps in the process?

(a) A grantee with respect to whom an adverse determination described in § 50.404(a) above has been made and who desires a review of that determination must submit a request for such review to the head of the appropriate agency or his or her designee no later than 30 days after the written notification of the determination is received, except that if the grantee shows good cause why an extension of time should be granted, the head of the appropriate agency or his or her designee may grant an extension of time.

* * * * *

(c) When a request for review has been filed under this subpart with respect to an adverse determination, no action may be taken by the awarding agency pursuant to such determination until the request has been disposed of, except that the filing of the request shall not affect any authority which the agency may have to suspend assistance or otherwise to withhold or defer payments under the grant during proceedings under this subpart. This paragraph does not require the awarding agency to provide continuation funding during the appeal process to a grantee whose noncompeting continuation award has been denied.

(d) Upon receipt of a request for review, the head of the agency or his or her designee will make a decision as to whether the dispute is reviewable under this subpart and will promptly notify the grantee and the office responsible for the adverse determination of this decision. If the head of the agency or his or her designee determines that the dispute is reviewable, he or she will forward the matter to the review committee appointed under § 50.405.

(e) The agency involved will provide the review committee appointed under § 50.405 with copies of all relevant background materials (including applications(s), award(s), summary statement(s), and correspondence) and

any additional pertinent information available. * * *

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(g) The review committee may, at its discretion, invite the grantee and/or the agency staff to discuss the pertinent issues with the committee and to submit such additional information as the committee deems appropriate.

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CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 2500, 2501, 2502, 2503, 2504, 2505, and 2506

RIN 3045-AA20

Removal of Regulations for the Former Commission for National and Community Service

AGENCY: Corporation for National and Community Service.

ACTION: Final rule.

SUMMARY: The Corporation for National and Community Service hereby removes obsolete regulations. These regulations are related to the programs of its predecessor agency, the Commission on National and Community Service, and are no longer needed. The part numbers of the removal regulations are being reserved for future Corporation for National and Community Service regulations.

DATES: The removal of these regulations is effective on December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas H. Hilton, (202) 606-5000, ext. 396.

SUPPLEMENTARY INFORMATION: The National and Community Service Act of 1990, Public Law 101-610, 104 Stat. 3127, created the Commission on National and Community Service and authorized a number of programs to provide federal financial assistance to organizations that conducted national service programs. Pursuant to Public Law 101-610, the Commission adopted regulations to implement its programs as 45 C.F.R. Parts 2500, to 2506.

Subsequently the National and Community Service Trust Act of 1993, Public Law 103-82, 107 Stat. 785, amended the 1990 Act by: substituting new provisions replacing the programs originally authorized under the 1990 Act; creating the Corporation for

National and Community Service to carry out the new programs; and transferring the functions and personnel of the Commission to the Corporation. The Corporation has published its own regulations implementing national service programs as authorized under the 1993 amendments to the 1990 Act. Because the Corporation does not implement programs under the terms of the original 1990 Act and former Commission regulations, these regulations are being removed. However, the part numbers for those regulations are being reserved for future Corporation regulations.

List of Subjects

45 CFR Part 2500

Grant programs—social programs, Volunteers.

45 CFR Part 2501

Elementary and secondary education, Grant programs—social programs, Volunteers, Youth.

45 CFR Part 2502

Colleges and universities, Grant programs—social programs, Volunteers.

45 CFR Part 2503

Grant programs—social programs, Natural resources, Volunteers, Youth.

45 CFR Part 2504

Community action programs, Grant programs—social programs, Volunteers.

45 CFR Part 2505

Community development, Grant programs—social programs, Volunteers.

45 CFR Part 2506

Administrative practice and procedure, Grant programs—social programs, Reporting and recordkeeping requirements, Volunteers.

PARTS 2500 THROUGH 2506 [REMOVED AND RESERVED]

For reasons stated in the preamble, the Corporation for National and Community Service, under the authority of 43 U.S.C. 12501 *et seq.*, hereby amends 45 CFR Chapter XXV by removing and reserving Parts 2500, 2501, 2502, 2503, 2504, 2505, and 2506.

Dated: November 25, 1998.

Kenneth L. Klothen,
General Counsel.

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