leveraging incentive funds awarded to them by HHS.

Incentive funds are awarded during the course of each award period, rather than at the beginning, since grantees' leveraging reports are to be submitted two months after each fiscal year begins, and since Federal review of these reports will follow. (Also, in fiscal years 1992 and 1993, Congress required HHS to make leveraging incentive fund awards in late September, at the end of the fiscal year/award period.) We therefore determine that leveraging incentive funds are not subject to the statutory and regulatory carryover and reallotment requirements that apply to regular LIHEAP funds. (Section 2607(b) of the LIHEAP statute provides that grantees may carry forward for use in the succeeding fiscal year no more than 10 percent of their regular LIHEAP funds payable for the prior fiscal year.) Instead, the interim rule provided that all leveraging incentive funds are available for obligation from the date they are awarded to a grantee until the end of the succeeding fiscal year. Thus, grantees could use these funds during the remainder of the fiscal year in which they were awarded, and throughout the following fiscal year.

Comments and Response

We received one written comment on this section in the interim rule: a State supported the exemption of leveraging incentive funds from the carryover limit applied to regular LIHEAP funds.

Based on informal grantee comments urging that we allow use of leveraging incentive funds to pay for appropriate activities carried out during the entire award period, this final rule changes § 96.87(k) to provide that leveraging incentive funds "are available for obligation during both the award period and the fiscal year following the award period, without regard to limitations on carryover of funds in section 2607(b)(2)(B)" of the LIHEAP statute. Grantees therefore can use leveraging incentive funds to reimburse themselves for appropriate obligations made in the award period before the leveraging award was made.

Any leveraging incentive funds not obligated for allowable purposes by the end of this obligation period must be returned to HHS. HHS will return such funds to the U.S. Treasury.

Paperwork Reduction Act of 1980

There are no new information collection requirements in this final rule which require approval under the Paperwork Reduction Act. The information collection requirements affected by this final rule have previously been approved.

Section 96.87 of this final rule contains information collection requirements relating to applications for leveraging incentive funds. Section 2607A of the Low-Income Home Energy Assistance Act requires grantees to submit these leveraging reports in order to qualify for leveraging incentive funds. These reports are the only source of the information HHS needs in order to allocate leveraging incentive funds among grantees. ACF estimates the reporting burden on applicants for leveraging incentive funds to be 40 hours per applicant. As required by the Paperwork Reduction Act, HHS submitted these information collection requirement to the Office of Management and Budget (OMB) for its review. OMB approved these requirements and the LIHEAP leveraging report form (form no. ACF-119) through May 1995 (OMB clearance no. 0970-0121).

Section 96.83 of this final rule requires grantees to submit a waiver request if they wish to obligate more than 15 percent of their LIHEAP funds allotted or funds available in any fiscal year for weatherization activities. We expect to receive less than 10 waiver requests per year, and thus this provision is not subject to the Paperwork Reduction Act. We received only one waiver request in FY 1991, and no waiver requests in FY 1992 and FY 1993. We received seven waiver requests in FY 1994.

Regulatory Impact Analysis

Executive Order 12866 requires that regulations be reviewed to ensure that they are consistent with the priorities and principles set forth in the Executive Order. The Department has determined that this rule is consistent with these priorities and principles. An assessment of the costs and benefits of available regulatory alternatives (including not regulating) demonstrated that the approach taken in the regulation is the most cost-effective and least burdensome while still achieving the regulatory objectives.

Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) requires the Federal government to anticipate and reduce the impact of regulations and paperwork requirements on small entities. The primary impact of these regulations is on State, tribal, and territorial governments. Therefore, the Department of Health and Human Services certifies that this final rule will not have a significant economic impact on a

substantial number of small entities because it affects payments to States, tribes, and territories. Thus, a regulatory flexibility analysis is not required.

Catalog of Federal Domestic Assistance Program Number

The Catalog of Federal Domestic Assistance program number for the lowincome home energy assistance program (LIHEAP) is 93.568.

List of Subjects in 45 CFR Part 96

Energy, Grant programs-energy, Grant programs-Indians, Income assistance, Leveraging incentive program, Low and moderate income housing, Reporting and recordkeeping requirements, Weatherization.

Approved: April 4, 1995.

Mary Jo Bane,

Assistant Secretary for Children and Families.

For the reasons set forth in the preamble, part 96 of Title 45 of the Code of Federal Regulations as amended in the interim rule published in the **Federal Register** issue of January 16, 1992 (57 FR 1960) is adopted as final with the following changes and part 96 is further amended as set forth below:

PART 96—[AMENDED]

1. The authority citation for part 96 continues to read as follows:

Authority: 42 U.S.C. 300w *et seq.*; 42 U.S.C. 300x *et seq.*; 42 U.S.C. 300y *et seq.*; 42 U.S.C. 300y *et seq.*; 42 U.S.C. 8621 *et seq.*; 42 U.S.C. 9901 *et seq.*; 42 U.S.C. 1397 *et seq.*; 31 U.S.C. 1243 note.

Subpart B—General Procedures

2. Section 96.14(a)(2) is revised as follows:

§ 96.14 Time period of obligation and expenditure of grant funds.

(a) * * *

(2) Low-income home energy assistance. Regular LIHEAP block grant funds authorized under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)) are available only in accordance with section 2607(b)(2)(B) of Public Law 97-35 (42 U.S.C. 8626(b)(2)(B)), as follows. From allotments for fiscal year 1982 through fiscal year 1984, a maximum of 25 percent may be held available for the next fiscal year. From allotments for fiscal year 1985 through fiscal year 1990, a maximum of 15 percent of the amount payable to a grantee and not transferred to another block grant according to section 2604(f) of Public Law 97-35 (42 U.S.C. 8623(f)) may be held available for the next fiscal year. From allotments for fiscal year 1991 through fiscal year 1993, a maximum of 10 percent of the amount payable to a