its response to States concerning the State plan submission. The Secretary will ensure that the Department establishes internal procedures in order to facilitate the notification process. The Department will establish a method of formal notification to States when the documents specified in guidance provided by the Department have been received for review. If a State submits an incomplete State plan, the Department will informally notify the State regarding the missing pieces. Also, the Department will develop internal procedures to include both formal and informal means (phone and fax messages) of notifying the States concerning the status of the review during the process. The Department officially notifies a State regarding the issuance of its grant through a notification of grant award (NGA). Some program offices may provide cover letters prior to or accompanying the NGA. It is mutually beneficial to all parties for the Department to conduct a timely review which includes periodic contact with the State.

*Change:* A new paragraph (c)(3) has been added to § 76.703 that will require the Department to inform States when all documents specified in Departmental guidance have been received by the Department.

Should the Department change the proposed rule about who may sign for changes to a State plan?

*Comment:* Two commenters expressed concern about the requirement in proposed § 76.703(e)(2) that would require a State that submits additional information to bring the State plan into substantially approvable form to secure signatures for required changes from the original submitter of the plan or an authorized delegate of that officer.

One commenter suggested that since changes to the plan often are faxed to the Department for review, the State should be allowed to supply the Department with the names of individuals who are authorized to sign the State plan.

One commenter suggested that the Department should consider not requiring signatures from other agencies (i.e. Drug Free Communities) and allow the State agency receiving the grant to submit its plan separately.

*Discussion:* The Secretary appreciates the difficulties that arise in securing appropriate signatures in a very short turn-around time. The Secretary agrees that submitting a list of staff authorized to sign-off on changes to the plan would be appropriate. The Department does not have the authority to waive the signature required of the Governor for the drug-free program.

The Department will work with States to develop procedures for submitting documents by electronic transmittal and appropriate means of verifying signatures.

Change: None

Should the Department establish a rule permitting waiver of the § 76.703 regulation in certain circumstances?

Comment: Several commenters requested that the regulations provide for a waiver authority or other discretion by the Department to allow pre-award costs when submission of a State plan is late. The reasons commenters felt might justify exceptions to the general rule included circumstances beyond a State's control, such as a natural disaster, absence of State program personnel due to serious medical problems or death and instances when the Federal interest in the timely beginning or continuation of a State's program would be adversely affected, or when significant impairment to the achievement of a program's objectives would result.

Discussion: The Secretary agrees with commenters that there is a need to allow the Department the discretion to allow pre-award costs for expenditures under the Federal program in some limited circumstances. However, the Secretary believes that instances in which preaward costs are allowed under these regulations should be clear, susceptible to consistent application across programs, and narrowly tailored to situations that are truly outside the control of the State. Some programs may need to permit discretion in granting pre-award costs in program-specific situations. This authority should be addressed, as appropriate, in individual program regulations.

*Change:* A new paragraph (b) has been added to § 76.703 to cover deferrals for the date that a State plan must be submitted to the Department. Paragraph (b)(1) provides that the Secretary, at a State's request, may extend the submission date for a State plan and, if necessary, approve pre-award costs for a particular grant based on a Presidentially-declared disaster in the State that significantly impairs the ability of the State to submit a timely application.

Should the Department have a special rule when there is a delay in program appropriations or implementing regulations?

*Comment:* Several commenters noted that there are instances when, due to changing Federal statutes and regulations, States do not have notice of what the State plan requirements are in

enough time to enable them to complete the development of the plan and submit it on time. One commenter noted that for one program an April 1 submission date would mean that they would have to begin preparation of the plan 12 to 15 months prior to the start of the fiscal year to which the grant applies. Commenters indicated that States should not be penalized for late submissions in circumstances where there has been a late appropriation or the Department has not notified the States in a timely manner regarding the State plan requirements for a program.

*Discussion:* Regarding late appropriations, the Treasury Department regulations at 31 CFR 205.11(b) already provide that if a State pays out its own funds for program purposes due to a delay in the passage of a Federal appropriations act, the Federal Government will incur an interest liability if the appropriations act covers the period of the State's expenditure and permits payment for expenditures already incurred by the State. The Secretary does not have authority to change the result under the Treasury regulations.

Regarding program regulations, as a general rule, the requirements that apply to a grant are the statutes and regulations that are in effect on the day that the grant is made. Often, legislation that imposes significant new responsibilities on States has a delayed effective date so that States have time to make the changes necessary for implementation. Similarly, the Federal rulemaking process generally incorporates a delayed effective date, although that delay may not be sufficient in some cases to allow States to make necessary changes in their State plans. Therefore, the Secretary agrees with commenters that these regulations should be modified to allow States a reasonable period of time to make needed changes in State plans.

In many instances, under current practice, if new program requirements take effect at a time that the Department determines is too close to the date on which grants are to be made to allow the State to make needed changes, the Department obtains an assurance from the State that the State is operating the program consistent with all applicable requirements, including those that are newly effective. Other assurances and documentation that the new requirements are being followed may be required by particular programs. Revisions to the State plan to incorporate changes needed as a result of the new requirements must be completed as soon as possible but generally not later than the expected