

Pt. 82

Transition provisions: (a) The amendments herein shall become effective upon publication in the FEDERAL REGISTER.

(b) These rules shall apply to any proceeding or part thereof to which Part 80 of this title as amended effective October 19, 1967 (published in the FEDERAL REGISTER for October 19, 1967), and as the same may be hereafter amended, applies. In the case of any proceeding or part thereof governed by the provisions of part 80 as that part existed prior to such amendment, and rules in this part 81 shall apply as if these amendments were not in effect.

PART 82—GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (FINANCIAL ASSISTANCE)

Subpart A—Purpose and Coverage

- Sec.
- 82.100 What does this part do?
- 82.105 Does this part apply to me?
- 82.110 Are any of my Federal assistance awards exempt from this part?
- 82.115 Does this part affect the Federal contracts that I receive?

Subpart B—Requirements for Recipients Other Than Individuals

- 82.200 What must I do to comply with this part?
- 82.205 What must I include in my drug-free workplace statement?
- 82.210 To whom must I distribute my drug-free workplace statement?
- 82.215 What must I include in my drug-free awareness program?
- 82.220 By when must I publish my drug-free workplace statement and establish my drug-free awareness program?
- 82.225 What actions must I take concerning employees who are convicted of drug violations in the workplace?
- 82.230 How and when must I identify workplaces?

Subpart C—Requirements for Recipients Who Are Individuals

- 82.300 What must I do to comply with this part if I am an individual recipient?
- 82.301 [Reserved]

Subpart D—Responsibilities of HHS Awarding Officials

- 82.400 What are my responsibilities as an HHS awarding official?

45 CFR Subtitle A (10–1–07 Edition)

Subpart E—Violations of This Part and Consequences

- 82.500 How are violations of this part determined for recipients other than individuals?
- 82.505 How are violations of this part determined for recipients who are individuals?
- 82.510 What actions will the Federal Government take against a recipient determined to have violated this part?
- 82.515 Are there any exceptions to those actions?

Subpart F—Definitions

- 82.605 Award.
- 82.610 Controlled substance.
- 82.615 Conviction.
- 82.620 Cooperative agreement.
- 82.625 Criminal drug statute.
- 82.630 Debarment.
- 82.635 Drug-free workplace.
- 82.640 Employee.
- 82.645 Federal agency or agency.
- 82.650 Grant.
- 82.655 Individual.
- 82.660 Recipient.
- 82.665 State.
- 82.670 Suspension.

AUTHORITY: 41 U.S.C. 701 *et seq.*

SOURCE: 68 FR 66557, 66632, Nov. 26, 2003, unless otherwise noted.

Subpart A—Purpose and Coverage

§ 82.100 What does this part do?

This part carries out the portion of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701 *et seq.*, as amended) that applies to grants. It also applies the provisions of the Act to cooperative agreements and other financial assistance awards, as a matter of Federal Government policy.

§ 82.105 Does this part apply to me?

- (a) Portions of this part apply to you if you are either—
 - (1) A recipient of an assistance award from the HHS; or
 - (2) A(n) HHS awarding official. (See definitions of award and recipient in §§ 82.605 and 82.660, respectively.)
- (b) The following table shows the subparts that apply to you:

If you are . . .	see subparts . . .
(1) A recipient who is not an individual	A, B and E.
(2) A recipient who is an individual	A, C and E.
(3) A(n) HHS awarding official	A, D and E.

§ 82.110 Are any of my Federal assistance awards exempt from this part?

This part does not apply to any award that the HHS Official or designee determines that the application of this part would be inconsistent with the international obligations of the United States or the laws or regulations of a foreign government.

§ 82.115 Does this part affect the Federal contracts that I receive?

It will affect future contract awards indirectly if you are debarred or suspended for a violation of the requirements of this part, as described in § 82.510(c). However, this part does not apply directly to procurement contracts. The portion of the Drug-Free Workplace Act of 1988 that applies to Federal procurement contracts is carried out through the Federal Acquisition Regulation in chapter 1 of Title 48 of the Code of Federal Regulations (the drug-free workplace coverage currently is in 48 CFR part 23, subpart 23.5).

Subpart B—Requirements for Recipients Other Than Individuals

§ 82.200 What must I do to comply with this part?

There are two general requirements if you are a recipient other than an individual.

(a) First, you must make a good faith effort, on a continuing basis, to maintain a drug-free workplace. You must agree to do so as a condition for receiving any award covered by this part. The specific measures that you must take in this regard are described in more detail in subsequent sections of this subpart. Briefly, those measures are to—

- (1) Publish a drug-free workplace statement and establish a drug-free awareness program for your employees (see §§ 82.205 through 82.220); and
- (2) Take actions concerning employees who are convicted of violating drug statutes in the workplace (see § 82.225).

(b) Second, you must identify all known workplaces under your Federal awards (see § 82.230).

§ 82.205 What must I include in my drug-free workplace statement?

You must publish a statement that—

- (a) Tells your employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in your workplace;
- (b) Specifies the actions that you will take against employees for violating that prohibition; and
- (c) Lets each employee know that, as a condition of employment under any award, he or she:
 - (1) Will abide by the terms of the statement; and
 - (2) Must notify you in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace and must do so no more than five calendar days after the conviction.

§ 82.210 To whom must I distribute my drug-free workplace statement?

You must require that a copy of the statement described in § 82.205 be given to each employee who will be engaged in the performance of any Federal award.

§ 82.215 What must I include in my drug-free awareness program?

You must establish an ongoing drug-free awareness program to inform employees about—

- (a) The dangers of drug abuse in the workplace;
- (b) Your policy of maintaining a drug-free workplace;
- (c) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (d) The penalties that you may impose upon them for drug abuse violations occurring in the workplace.