aircraft operating in visual weather conditions. The area would be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

Paragraph 6005 The Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL SD E5 Miller, SD [New]

Miller Municipal Airport, SD
(Lat. 44°31′31″N, long. 98°57′29″)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Miller Municipal Airport and that airspace extending upward from 1,200 feet above the surface bounded on the west and northwest by V–263, on the south by V–120, and on the east by V–15 excluding the Aberdeen, SD; the Pierre, SD; the Mitchell, SD; and the Huron, SD, 1,200 foot Class E airspace areas and all federal airways.

* * * * *

Issued in Des Plaines, Illinois on June 17, 1996.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 96–17041 Filed 7–2–96; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

28 CFR Part 31

[OJP No. 1091]

RIN 1121–AA39

OJJDP Formula Grants Regulation

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Proposed rule and request for public comment.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) is publishing for public comment proposed amendments to its Formula Grants Regulation, 28 CFR Part 31. The Formula Grants Regulation implements Part B of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended by the Juvenile Justice and Delinquency Prevention Amendments of 1992. The proposed amendments to the existing Regulation provide further clarification and guidance to States in the formulation, submission and implementation of State Formula Grant plans and determinations of State compliance with plan requirements. They are intended to provide additional flexibility and greater clarity to participating States with respect to key provisions related to the core requirements of the JJDP Act.

DATES: Interested persons are invited to submit written comments which must be received on or before August 19, 1996.

ADDRESSES: Address all comments to Mr. Shay Bilchik, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Room 742, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Ms. Roberta Dorn, Director, State Relations and Assistance Division, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Room 543, Washington, DC 20531; (202) 307–5924.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention is proposing revisions to the existing Regulation, codified at 28 CFR Part 31, and inviting public comment on the proposed changes. The proposed changes in the regulatory text accomplish the following:

(1) Revise § 31.303(d)(1)(i) to clarify the level of contact that is prohibited between juveniles in a secure custody status within an institution and incarcerated adults;

(2) Revise § 31.303(d)(1)(i) by providing an exception to the core requirement of separation with respect to brief, and inadvertent contact between juveniles in a secure custody status within an institution and incarcerated adults in nonresidential areas;

(3) Revise § 31.303(d)(1)(v) to permit the placement of an adjudicated delinquent in an institution with adults once the adjudicated delinquent reaches the State's age of full criminal responsibility, when authorized by State law;

(4) Revise § 31.303(e)(2) to permit the placement of an accused or adjudicated delinquent juvenile in an adult jail or lockup for up to six hours immediately before or after a court appearance for processing and transportation purposes;

(5) Revise § 31.303(e)(3) by eliminating the requirement for OJJDP concurrence in State approved collocated juvenile facilities, the requirement that a needs-based analysis precede a jurisdiction's request for State approval, and to permit time-phased use of nonresidential areas of collocated facilities;

(6) Revise § 31.303(f)(2) to expressly provide that accused status offenders can be placed in a secure juvenile detention facility for up to twenty-four hours, exclusive of weekends and holidays, prior to an initial court appearance and up to twenty-four hours, exclusive of weekends and holidays, following an initial court appearance;

(7) Revise § 31.303(f)(3)(vi) to eliminate the regulatory recommendation that a multi disciplinary team may be used to satisfy the ''public agency'' requirement, under the valid court order exception even if some members represent court or law enforcement agencies;

(8) Revise § 31.303(f)(4)(vi) to eliminate the requirement that States document and describe in their annual monitoring report to OJJDP the specific circumstances surrounding each use of distance/ground transportation and weather exceptions to the jail and lockup removal requirement;

(9) Revise § 31.303(f)(5)(i)(C) to define and clarify the scope of the exception to the deinstitutionalization of status offenders requirement for offenses under ''§ 922(x) of Title 18 or other similar State law'' (relating to possession of handguns by juveniles);

(10) Revise § 31.303(f)(6)(i) to eliminate portions of the section related to funding eligibility for fiscal year 1993 and prior years that are no longer applicable;

(11) Revise § 31.303(f)(6)(ii) to permit States that do not have a law, regulation, or court rule prohibiting the incarceration of all juvenile offenders in circumstances that would be in violation of the separation requirement to be eligible for a finding of compliance if reported violations do not constitute a pattern or practice and mechanisms are in place to prevent such violations from recurring in the future; and

(12) Revise § 31.303(j) to clarify the purpose of the Disproportionate Minority Confinement core requirement.

Contact With Incarcerated Adults

OJJDP recognizes that there has been a lack of clarity surrounding the issue of contact between juveniles and incarcerated adults in secure facilities. OJJDP finds that the term ''sight and sound contact'' needs to be clarified. In the 1992 amendments to the JJDP Act, Congress amended the existing ''regular'' contact standard that defined the level of permissible contact between juveniles and incarcerated adults by deleting the word ''regular''. OJJDP interpreted Congress' intent to be that ''haphazard and accidental contact'' between juveniles and incarcerated adults should be prohibited because this was the level of contact permitted under the regulation implementing the no ''regular contact'' prohibition in effect prior to the 1992 amendments. After further review, OJJDP believes that the no contact prohibition should be interpreted to preclude the systematic, procedural, and condoned contact between juveniles and incarcerated adults in secure areas of facilities. Consequently, OJJDP would not consider brief and inadvertent or accidental contact between juveniles and incarcerated adults in nonresidential areas of a secure facility to be a violation of the separation requirement. Specifically, OJJDP proposes to amend the regulation to provide that brief and inadvertent contact between juveniles and incarcerated adults in secure nonresidential areas of a facility such as dining, recreational, educational, vocational, health care, sallyports and passageways (hallways) should not be considered a violation of the JJDP Act separation requirement. However, in any secure residential area of a facility, any contact between juvenile offenders and adult inmates is prohibited.

Further, the regulation would provide definitions for sight and sound contact to assist in understanding what is permitted under § 223(a)(13). Sight contact is defined as clear visual contact between incarcerated adults and juveniles in close proximity of each other. For example, a detained juvenile who sees an adult inmate who is several hundred feet away is not in close proximity to the incarcerated adult. In this scenario, the juvenile is not exposed to any conceivable harm as a consequence of seeing an adult inmate several hundred feet away. A rule of reason should be exercised by jurisdictions in assessing whether a juvenile who is exposed visually to an incarcerated adult is in close proximity to that adult.

With respect to sound contact, the regulation would state that ''direct'' oral communication between incarcerated adults and juveniles is prohibited. This addition is intended to alleviate concerns over misinterpretation of this provision. The purpose of the provision is to prevent incarcerated adults from having direct oral communication with juveniles, thereby reducing the likelihood of intimidation and harassment. A rule of reason should also be exercised with sound contact. Direct oral communication such as conversations and yelling in close proximity is clearly prohibited. However, an incarcerated adult yelling at a juvenile who is several hundred feet away may not be engaged in direct oral communication with the juvenile.

Placement of Juveniles in Adult Facilities

Under the current regulation, States are prohibited from administratively reclassifying and transferring adjudicated delinquents to adult (criminal) correctional institutions. OJJDP recognizes that State laws are increasingly providing for the mandatory or permissible transfer of adjudicated delinquents to adult facilities once the delinquent has attained the age of full criminal responsibility under State law. Consequently, OJJDP proposes to amend the regulation to provide that it is not a violation of the separation requirement to transfer an adjudicated delinquent to an adult correctional institution once the adjudicated delinquent has reached the age of full criminal responsibility established by State law. The proposed regulation would permit the placement of an adjudicated delinquent who reaches the age of full criminal responsibility in an adult correctional facility only when such transfers are required or authorized by State law.

OJJDP also proposes to amend the regulation to permit the placement of an alleged or adjudicated delinquent in an adult jail or lockup for up to six hours immediately before or after a court appearance. Several States have advised OJJDP that the detention of a juvenile prior to a court appearance and the immediate transport of a juvenile after a court appearance creates a difficulty if there is more than one juvenile before the court on a given day or where separate facilities are not available. The secure detention of an alleged or adjudicated delinquent in a jail or lockup for up to six hours immediately before or after a court appearance would be permissible when circumstances warrant such a detention, and provided that such juveniles are separated from adult offenders.

Collocated Facilities

OJJDP currently requires that a needs-based analysis precede a jurisdiction's request for State approval and OJJDP's concurrence in order for a juvenile detention facility that is collocated with an adult jail or lockup to qualify as a separate juvenile detention facility. OJJDP finds that this requirement is best left to the State to determine whether a needs-based analysis should be required. In addition, OJJDP's concurrence with a State agency's decision to approve a collocated facility would no longer be required. The elimination of the needs-based analysis and OJJDP's concurrence does not negate the separation criteria set forth in § 31.303(e)(3)(D). The regularly scheduled review of State monitoring systems would insure that the facility continues to meet the separate juvenile detention facility criteria. Consequently, OJJDP proposes to modify § 31.303(e)(3) to reflect the elimination of the needs-based analysis and OJJDP's concurrence.

Under the current regulation, collocated facilities are prohibited from sharing common use nonresidential areas. Based on State and local input, OJJDP finds that common use nonresidential areas should be permissible in collocated facilities. This would require the utilization of time-phasing in order to allow both juveniles and adults access to available educational, vocational, and recreational areas of collocated facilities. The allowance of time-phased use would apply only to nonresidential areas in collocated facilities.

Deinstitutionalization of Status Offenders

OJJDP has found that confusion exists over the secure detention of accused status offenders and non-offenders. For purposes of clarification, OJJDP is adding a paragraph at the end of § 31.303(f)(2) to state clearly that it is permissible to hold an accused status

offender or a nonoffender in a secure juvenile detention facility for up to twenty-four hours, exclusive of weekends and holidays, prior to an initial appearance and up to twenty-four hours, exclusive of weekends and holidays, after an initial court appearance.

Valid Court Order

Under the current statute and regulation, an independent public agency (other than a court or law enforcement agency) is required to prepare and submit a written report to a court that is considering an order that directs or authorizes the placement of a status offender in a secure facility for the violation of a valid court order. A multi disciplinary review team that operates independently of a court is described in the regulation as one option for meeting the requirement, even where some members of the team may be law enforcement or court agency staff. Pretrial Service agencies are another option for jurisdictions to consider to meet the criteria of ''other than a court or law enforcement agency.'' These offices operate in various jurisdictions to assess and evaluate individuals who are before the court for a determination on pretrial release or custody. The intent of this multi disciplinary provision was to provide States with an example of a public agency that would meet the criteria where some members of a team were employed by the courts and/or law enforcement. Because the wording of this provision had led some States to the conclusion that multi disciplinary teams are required, the provision would be deleted from the regulation.

Removal Exception

States are required to document and describe, in their annual monitoring report to OJJDP, the specific circumstances surrounding each individual use of the distance/ground transportation and weather exceptions to the jail and lockup removal requirement. OJJDP finds this requirement to be overly burdensome on the States and therefore proposes that it be deleted from the regulation.

Reporting Requirement

The JJDP Act provides that juveniles may be securely detained or confined pursuant to 18 U.S.C. 922(x) or a similar State law. Section 922(x) was added to the Federal Criminal Code by the Youth Handgun Safety Act that was passed as a part of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103–322, 108 Stat. 1796 (1994), codified as amended at 42 U.S.C. 13701 et seq. Specifically, § 922(x) makes it a Federal delinquent offense for a juvenile to possess a handgun. The possession of a handgun by a juvenile is, however, a status offense in those States where possession of a handgun by an adult is permitted. Consequently, the Youth Handgun Safety Act specifically amended the JJDP Act to exclude from the deinstitutionalization of status offenders requirement a juvenile who has violated § 922(x) or a similar State law. For the purpose of clarification, where § 922(x) initially appears in the regulation, it is described as a federal law prohibiting the possession of a handgun by a juvenile and specifically excluding such a violation, or the violation of a similar State law, from the coverage of the deinstitutionalization of status offenders requirement.

Compliance

OJJDP would delete the first two sentences of § 31.303(f)(6)(i) because it pertains to States substantially complying with the deinstitutionalization of status offenders core requirement in fiscal year 1993 and prior years. The substantial compliance criteria allowed States to be eligible for formula grant funding during these years if the State had achieve a seventy five percent reduction in the aggregate number of status offenders and nonoffenders held in secure detention or correctional facilities and had made an unequivocal commitment to achieving full compliance. Because this standard does not apply to fiscal years beyond 1994, OJJDP would remove it from the regulation. However, the portion of the section that defines full compliance would remain.

Under the current regulation, compliance with the separation requirement is considered to be achieved when a State can demonstrate that in the last monitoring report, covering a full 12 months of data, no juveniles were incarcerated in circumstances in violation of the separation requirement. Also, compliance can be achieved where a State has a law, regulation, court rule, or other established executive or judicial policy clearly prohibiting the incarceration of juvenile offenders in circumstances that would be in violation of the separation requirement, and violations reported do not constitute a pattern or practice in the State. However, a State that has no law or policy that mirrors the JJDP Act separation requirement could not be in compliance if any juvenile was held in violation of the separation requirement. OJJDP proposes to modify this policy in order not to unfairly penalize States that have not enacted laws, rules, regulations or policies prohibiting the incarceration of all juvenile offenders under circumstances that would be in violation of the separation requirement. OJJDP proposes a single standard applicable to all States regardless of whether a law, regulation, rule or policy exists that prohibits the detention of juveniles with incarcerated adults. Specifically, compliance can be established under circumstances in which the instances do not indicate a pattern or practice and mechanisms or plans to address exist within the State to ensure that such instances are unlikely to recur in the future.

Minority Detention and Confinement

Several States have expressed concern over the Disproportionate Minority Confinement (§ 223(a)(23)) core requirement of the JJDP Act. Specifically, this core requirement has been criticized as requiring the establishment of numerical standards or quotas in order for a State to achieve or maintain compliance. This is not the purpose of the statute or its implementing regulation. In order to respond to this concern, two sentences have been added to § 31.303(j) of the regulation to state specifically that the purpose of the statute and regulation is to encourage States to address, programmatically, any features of its justice system that may account for the disproportionate detention or confinement of minority juveniles. The section states clearly that the Disproportionate Minority Confinement core requirement neither requires nor establishes numerical standards or quotas in order for a State to achieve or maintain compliance.

Executive Order 12866

This proposed rule is not a ''significant regulatory action'' for purposes of Executive Order 12866 because it does not result in: (1) An annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with action taken or planned by another agency; (3) materially alter the budgetary impact of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; and (4) does not raise novel legal or policy issues arising out of legal mandates, the President's priorities or the principles of Executive Order No. 12866. The Office of Management and

Budget has waived its review process for this rule under Executive Order 12866.

Regulatory Flexibility Act

This proposed rule, if promulgated, will not have a ''significant'' economic impact on a substantial number of small ''entities'' as defined by the Regulatory Flexibility Act. This action is intended to relieve existing requirements in the Formula Grants program and to clarify other provisions so as to promote compliance with its provisions by States participating in the program.

Paperwork Reduction Act

No collections of information requirements are contained in or affected by this regulation pursuant to the Paperwork Reduction Act, codified at 44 U.S.C. 3504(H).

Intergovernmental Review of Federal Programs

In accordance with Executive Order 12372 and the Department of Justice's implementing regulation 28 CFR Part 30, States must submit Formula Grant Program applications to the State ''Single Point of Contact,'' if one exists. The State may take up to 60 days from the application date to comment on the application.

List of Subjects in 28 CFR Part 31

Grant programs—law, Juvenile delinquency, Grant programs.

For the reasons set forth in the preamble, it is proposed to amend the OJJDP Formula Grants Regulation, 28 CFR Part 31, as follows:

PART 31—[AMENDED]

1. The authority citation for Part 31 would continue to read as follows:

Authority: 42 U.S.C. 5601 et seq.

2. Section 31.303 is amended by revising paragraphs (d)(1)(i) and (v) to read as follows:

§ 31.303 Substantive requirements.

* * * * *

(d)(1) * * *

(i) Separation. Describe its plan and procedure, covering the three-year planning cycle, for assuring that the requirements of this section are met. The term ''contact'' includes any physical or sustained sight or sound contact between juveniles in a secure custody status and incarcerated adults, including inmate trustees. A juvenile in a secure custody status is one who is physically detained or confined in a locked room or other area set aside or used for the specific purpose of securely detaining persons who are in law enforcement custody. Secure detention or confinement may result either from being placed in such a room or area and/or from being physically secured to a cuffing rail or other stationary object. Sight contact is defined as clear visual contact between incarcerated adults and juveniles within close proximity to each other. Sound contact is defined as direct oral communication between incarcerated adults and juveniles. Separation must be accomplished in all secure areas of the facility which include, but are not limited to, admissions, sleeping, toilet and shower, and other areas, as appropriate. Brief and inadvertent or accidental contact between juveniles in a secure custody status and incarcerated adults, in secure nonresidential areas of a facility such as dining, recreational, educational, vocational, health care, sally ports or other entry areas, and passageways (hallways) would not require a State to document or report such contact as a violation. However, any contact in a residential area of a secure facility between juveniles and incarcerated adults would be a reportable violation.

* * * * *

(v) Assure that adjudicated delinquents are not reclassified administratively and transferred to an adult (criminal) correctional authority to avoid the intent of separating juveniles from adult criminals in jails or correctional facilities. A State is not prohibited from placing or transferring an alleged or adjudicated delinquent who reaches the State's age of full criminal responsibility to an adult facility when required or authorized by State law. However, the administrative transfer, without statutory direction or authorization, of a juvenile offender to an adult correctional authority, or a transfer within a mixed juvenile and adult facility for placement with adult criminals, either before or after a juvenile reaches the age of full criminal responsibility, is prohibited. A State is also precluded from transferring adult offenders to a juvenile correctional authority for placement in a juvenile facility. This neither prohibits nor restricts the waiver or transfer of a juvenile to criminal court for prosecution, in accordance with State law, for a criminal felony violation, nor the detention or confinement of a waived or transferred criminal felony violator in an adult facility.

* * * * *

3. Section 31.303(e) is amended by revising paragraphs (e)(2), (e)(3) introductory text and (e)(3)(i) to read as follows:

§ 31.303 Substantive requirements.

* * * * *

(e) * * *

(2) Describe the barriers that a State faces in removing all juveniles from adult jails and lockups. This requirement excepts only those alleged or adjudicated juvenile delinquents placed in a jail or a lockup for up to six hours from the time they enter a secure custody status or immediately before or after a court appearance, those juveniles formally waived or transferred to criminal court and against whom criminal felony charges have been filed, or juveniles over whom a criminal court has original or concurrent jurisdiction and such court's jurisdiction has been invoked through the filing of criminal felony charges.

(3) Collocated facilities. (i) Determine whether or not a facility in which juveniles are detained or confined is an adult jail or lockup. The JJDP Act prohibits the secure custody of juveniles in adult jails and lockups, except as otherwise provided under the Act and implementing OJJDP regulations. Juvenile facilities collocated with adult facilities are considered adult jails or lockups unless paragraphs (e)(3)(i)(C)(*1*) through (*4*) criteria established in this section are complied with.

(A) A collocated facility is a juvenile facility located in the same building as an adult jail or lockup, or is part of a related complex of buildings located on the same grounds as an adult jail or lockup. A complex of buildings is considered ''related'' when it shares physical features such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer), or the specialized services that are allowable under paragraph (e)(3)(i)(C)(*3*) of this section.

(B) The State must determine whether a collocated facility qualifies as a separate juvenile detention facility under the four criteria set forth in paragraphs (e)(3)(i)(C)(*1*) through (*4*) of this section for the purpose of monitoring compliance with § 223(a)(12)(A), (13) and (14) of the JJDP Act.

(C) Each of the following four criteria must be met in order to ensure the requisite separateness of a juvenile detention facility that is collocated with an adult jail or lockup:

(*1*) Separation between juveniles and adults such that there could be no sight or sound contact between juveniles and incarcerated adults in the facility. Separation can be achieved architecturally or through time-phasing of common use nonresidential areas; and

(*2*) Separate juvenile and adult programs, including recreation, education, vocation, counseling, dining, sleeping, and general living activities. There must be an independent and comprehensive operational plan for the juvenile detention facility which provides for a full range of separate program services. No program activities may be shared by juveniles and incarcerated adults. Time-phasing of common use nonresidential areas is permissible to conduct program activities. Equipment and other resources may be used by both populations subject to security concerns; and

(*3*) Separate staff for the juvenile and adult populations, including management, security, and direct care staff. Staff providing specialized services (medical care, food service, laundry, maintenance and engineering, etc.) who are not normally in contact with detainees, or whose infrequent contacts occur under conditions of separation of juveniles and adults, can serve both populations (subject to State standards or licensing requirements). The day to day management, security and direct care functions of the juvenile detention center must be vested in a totally separate staff, dedicated solely to the juvenile population within the collocated facilities; and

(*4*) In States that have established standards or licensing requirements for juvenile detention facilities, the juvenile facility must meet the standards (on the same basis as a free-standing juvenile detention center) and be licensed as appropriate. If there are no State standards or licensing requirements, OJJDP encourages States to establish administrative requirements that authorize the State to review the facility's physical plant, staffing patterns, and programs in order to approve the collocated facility based on prevailing national juvenile detention standards.

* * * * *

4. Section 31.303 is amended by revising paragraphs (f)(2), (3)(vi), and (4)(vi) to read as follows:

§ 31.303 Substantive requirements.

* * * * *

(f) * * *

(2) For the purpose of monitoring for compliance with section 223(a)(12)(A) of the Act, a secure detention or correctional facility is any secure public or private facility used for the lawful custody of accused or adjudicated juvenile offenders or non-offenders, or used for the lawful custody of accused or convicted adult criminal offenders. Accused status offenders or non offenders in lawful custody can be held in a secure juvenile detention facility for up to twenty-four hours, exclusive of weekends and holidays, prior to an initial court appearance and for an additional twenty-four hours, exclusive of weekends and holidays, following a court appearance.

(3) * * *

(vi) In entering any order that directs or authorizes the placement of a status offender in a secure facility, the judge presiding over an initial probable cause hearing or violation hearing must determine that all the elements of a valid court order (paragraphs (f)(3)(i), (ii) and (iii) of this section) and the applicable due process rights (paragraph (f)(3)(v) of this section) were afforded the juvenile and, in the case of a violation hearing, the judge must obtain and review a written report that: reviews the behavior of the juvenile and the circumstances under which the juvenile was brought before the court and made subject to such order; determines the reasons for the juvenile's behavior; and determines whether all dispositions other than secure confinement have been exhausted or are clearly inappropriate. This report must be prepared and submitted by an appropriate public agency (other than a court or law enforcement agency).

* * * * *

(4) * * *

(vi) Pursuant to section 223(a)(14) of the JJDP Act, the non-MSA (low population density) exception to the jail and lockup removal requirement as described in paragraphs (f)(4)(i) through (v) of this section will remain in effect through 1997, and will allow for secure custody beyond the twenty-four-hour period described in paragraph (f)(4)(i) of this section when the facility is located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within twenty-four hours, so that a brief (not to exceed an additional forty-eight hours) delay is excusable; or the facility is located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until twenty-four hours after the time that such conditions allow for reasonably safe travel. States may use these additional statutory allowances only where the precedent requirements set forth in paragraphs (f)(4)(i) through (v) of this section have been complied with. This may necessitate statutory or judicial (court rule or opinion) relief within the State from the twenty-four hours initial court appearance standard required by paragraph (f)(4)(i) of this section.

* * * * *

5. Section 31.303(f)(5)(i)(C) is revised to read as follows:

§ 31.303 Substantive requirements.

* * * * *

(f) * * *

(5) * * *

(i) * * *

(C) The total number of accused status offenders and nonoffenders, including out-of-State runaways and Federal wards, held in any secure detention or correctional facility for longer than twenty-four hours (not including weekends or holidays), excluding those held pursuant to the valid court order provision as set forth in paragraph (f)(3) of this section or pursuant to section 922(x) of Title 18, United States Code (which prohibits the possession of a handgun by a juvenile), or a similar State law. A juvenile who violates this statute, or a similar state law, is excepted from the deinstitutionalization of status offenders requirement;

* * * * *

6. Section 31.303 is amended by revising paragraphs (f)(6)(i) and (ii) to read as follows:

§ 31.303 Substantive requirements.

* * * * *

(f) * * *

(6) * * *

(i) Full compliance with section 223(a)(12)(A) is achieved when a State has removed 100 percent of status offenders and nonoffenders from secure detention and correctional facilities or can demonstrate full compliance with de minimis exceptions pursuant to the policy criteria contained in the Federal Register of January 9, 1981 (46 FR 2566–2569).

(ii) Compliance with section 223(a)(13) has been achieved when a State can demonstrate that:

(A) The last submitted monitoring report, covering a full 12 months of data, demonstrates that no juveniles were incarcerated in circumstances that were in violation of section 223(a)(13); or

(B)(*1*) The instances reported under paragraph (f)(6)(ii)(A) of this section do not indicate a pattern or practice but rather constitute isolated instances; and

(*2*) Existing mechanisms or plans to address these incidences are such that they are unlikely to recur in the future.

* * * * *

7. Section 31.303 is amended by inserting the following sentences after the 2nd sentence of paragraph (j) introductory text:

§ 31.303 Substantive requirements.

* * * * *

(j) * * * The purpose of the statute and regulation is to encourage States to address, programmatically, any features of its justice system, and related laws and policies, which may account for the disproportionate detention or confinement of minority juveniles in secure detention facilities, secure correctional facilities, jails and lockups. The Disproportionate Minority Confinement core requirement neither establishes nor requires numerical standards or quotas in order for a State to achieve or maintain compliance.

* * *

* * * * *

Dated: June 26, 1996.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 96–16842 Filed 7–2–96; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 154 and 155

[CGD 94–032 and 94–048]

RIN 2115–AE87 and 2115–AE88

Tank Vessel and Facility Response Plans, and Response Equipment for Hazardous Substances

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearings.

SUMMARY: The Coast Guard is holding two public meetings on its proposed regulations under the Oil Pollution Act of 1990 (OPA 90) relating to the preparation of hazardous substance response plans to minimize the impact of a discharge or release of hazardous substances into the navigable waters of the United States. There is substantial public interest in the rulemaking. The Coast Guard is conducting the public meetings to receive view on what should be regulated and what appropriate regulations should be.

DATES: The meetings will be held on July 30, 1996, and August 5, 1996. The meetings will begin at 9:00 a.m. Comments must be received on or before September 3, 1996.

ADDRESSES: The July 30, 1996, meeting will be held in room 6200, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. The August 5, 1996, meeting will be held in the lecture hall of the Center for Advanced Space Studies, 3600 Bay Area Boulevard, Clear Lake, TX 77058. Written comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 94–032 and 94–048), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001 or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number if (202) 267–1477

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: LT Cliff Thomas, Project Manager, Office of Standards Evaluation and Development, at (202) 267–1099. This number is equipped to record messages on a 24-hour basis. Copies of the advanced notice of proposed rulemaking (ANPRM) may be obtained by submitting a request by facsimile at (202) 267–4547.

SUPPLEMENTARY INFORMATION:

Background Information

Response Plans for Hazardous Substances

The advanced noticed of proposed rulemaking (ANPRM) (61 FR 20084), published on May 3, 1996, solicited comments on 96 questions to assist in the development of a notice of proposed rulemaking for vessels and a notice of proposed rulemaking for marine transportation-related facilities (MTR).

Section 311(j)(5) of the Federal Water Pollution Control Act (FWPCA) [33 U.S.C. 1321(j)(5)], as amended by section 4202(a) of OPA 90, requires owners and operators of tank vessels, offshore facilities, and onshore facilities that could reasonably be expected to cause harm to the environment to prepare and submit plans for responding, to the maximum extent practicable, to a worst case discharge, or a substantial threat of such a discharge, of oil or hazardous substance. Section 4202(b)(4) of OPA 90 establishes an implementation schedule for these requirements with regard to oil. However, section 4202(b)(4) did not establish a compliance date requiring response plans for hazardous substances.

The Coast Guard issued two separate final rules: one requiring response plans for tank vessels carrying oil in bulk and another requiring response plans for marine transportation-related facilities (MTR) that handle, store, or transport oil in bulk. These final rules define many concepts such as ''marine transportation-related facility,'' ''maximum extent practicable,'' and ''worst case discharge.'' The rules also provide a specific format for these response plans; however, they allow for deviations from this format as long as the required information is included and there is a cross reference sheet identifying its location. The Coast Guard is considering using these concepts or modifying them as necessary in the regulations for response plans for hazardous substances.

Public Meeting

The Coast Guard will hold two public meetings, the first on July 30, 1996, and the second on August 5, 1996. The public is invited to comment on the issues discussed in the 96 questions listed in the ANPRM. The general areas in which the Coast Guard seeks public comment are response plan contents and format, carriage of response equipment, training requirements, and economic impacts.

Attendance is open to the public. Persons who are hearing impaired may request sign translation by contacting the person under **FOR FURTHER INFORMATION CONTACT** at least one week before the meeting. With advance notice, and as time permits, members of the public may make oral presentations during the meeting. Persons wishing to make oral presentations should notify the person listed above under **FOR FURTHER INFORMATION CONTACT** no later than the day before the meeting. Written material may be submitted prior to, during, or after the meeting. Persons unable to attend the public meetings are encouraged to submit written comments as outlined in the ANPRM prior to September 3, 1996.

Dated: June 27, 1996.

Joseph J. Angelo,

Director, of Standards, Marine Safety and Environmental Protection.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–5531–1]

Use of Alternative Analytical Test Methods in the Reformulated Gasoline Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.