

National Center for State Courts



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### A Compilation of Documents Pertaining to The Denial of Federal Benefits Under the Anti-Drug Abuse Act of 1988



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**A Compilation of Documents Pertaining to  
The Denial of Federal Benefits Under the Anti-Drug  
Abuse Act of 1988**

**H. Clifton Grandy  
with  
Steven E. Hairston**

**State Judicial Participation in the Denial of Federal Benefits Project**

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## ***INTRODUCTION***

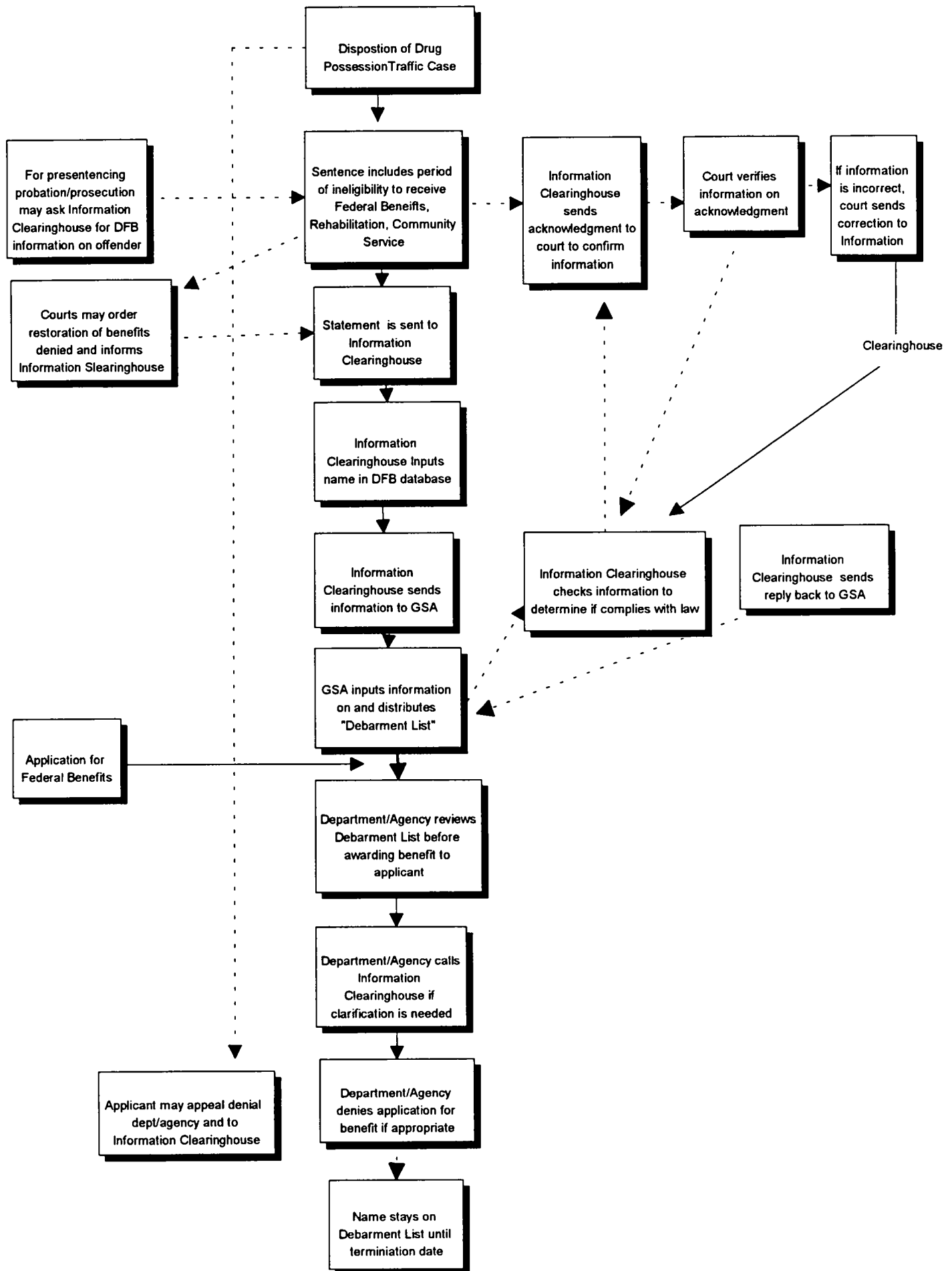
As part of the Anti-Drug Abuse Act of 1988 ("ADAA") the United States Congress passed legislation that authorizes state and federal court judges to include as part of a sentence for certain types of drug convictions a recommendation that the federal government deny applications for certain benefits by drug offenders. The State Judicial Participation in the Denial of Federal Benefits Project of the National Center for State Courts is responsible for informing state courts about this provision.

This manual is a compendium of legal resources and background material, forms, and other documents pertaining to the "Denial of Federal Benefits to Drug Traffickers and Possessors" title of the ADAA. This compilation is designed to be used in conjunction with *The Denial of Federal Benefits Under the Drug Abuse Act of 1988: Implementation Issues for State Courts*. That implementation manual is designed to help the court manager and the judge familiarize themselves with the statute's various provisions as well as implementation issues and the policy implications of making recommendations to the federal government that a drug offender be denied access to federal benefits.

This compilation is divided into four parts. The first section contains a flowchart of the denial of federal benefits process. The second section includes the statutes and regulations related to the denial of federal benefits. The third section has copies of forms and documents used by the demonstration projects, state courts, and federal courts that have implemented the denial of federal benefits procedure. The final section is a collection of the reports that are either part of the program's legislative history, implementation, or evaluation.

# ***I. FLOWCHART***

## Generic Denials Process





## ***II. STATUTES AND REGULATIONS***

# **THE FEDERAL DENIAL OF BENEFITS STATUTE**

**The Anti-Drug Abuse Act of 1988, Public Law 100-690, Title V - User Accountability, Subtitle G Denial of Federal Benefits to Drug Traffickers and Possessors, Section 5301, 102 Stat 4310, as amended and as recodified as 21 United States Code Section 862**

## **(a) Drug traffickers**

(1) Any individual who is convicted of any Federal or State offenses consisting of the distribution of controlled substances shall --

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

## **(b) Drug possessors**

(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act [21 U.S.C.A. § 801 et seq. 1]) shall -

(A) upon the first conviction for such an offense and at the discretion of the court -

(i) be ineligible for any or all Federal benefits for up to one year,

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service;  
or

(iv) any combination of clauses (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that

the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) Suspension of period of ineligibility

The period of ineligibility referred to in subsections (a) and (b) of this section shall be suspended if the individual -

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B) has otherwise been rehabilitated; or

(C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

(d) Definitions - As used in this section -

(1) the term "Federal benefit" -

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term "veterans benefit" means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(e) Inapplicability of This Section to Government Witnesses

The penalties provided by this section shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.

(f) Indian Provision

Nothing in this section shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subsection shall exempt any individual Indian from the sanctions provided for in this section, provided that no

individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subsection (d)(1)(B) or (d)(2) above.

(g) Presidential Report

(1) On or before May 1, 1989, the President shall transmit to the Congress a report -

(A) delineating the role of State courts in implementing this section;

(B) describing the manner in which Federal agencies will implement and enforce the requirements of this section;

(C) detailing the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of Federal benefits; and

(D) recommending any modifications to improve the administration of this section or otherwise achieve the goal of discouraging the trafficking and possession of controlled substances.

(2) No later than September 1, 1989, the Congress shall consider the report of the President and enact such changes as it deems appropriate to further the goals of this section.

(h) Effective Date

The denial of Federal benefits set forth in this section shall take effect for convictions occurring after September 1, 1989.

## **§812. Schedules Of Controlled Substances**

### **Establishment**

(a) There are established five schedules of controlled substances, to be known as schedules I, II, III, IV, and V. Such schedules shall initially consist of the substances listed in this section. The schedules established by this section shall be updated and republished on a semiannual basis during the two-year period beginning one year after October 27, 1970 and shall be updated and republished on an annual basis thereafter.

### **Placement on schedules; findings required**

(b) Except where control is required by United States obligations under an international treaty, convention, or protocol, in effect on October 27, 1970, and except in the case of an immediate precursor, a drug or other substance may not be placed in any schedule unless the findings required for such schedule are made with respect to such drug or other substance. The findings required for each of the schedules are as follows:

#### **(1) Schedule I**

- (A) The drug or other substance has a high potential for abuse.
- (B) The drug or other substance has no currently accepted medical use in treatment in the United States.
- (C) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

#### **(2) Schedule II.—**

- (A) The drug or other substance has a high potential for abuse.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.
- (C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

#### **(3) Schedule III.—**

- (A) The drug or other substance has a potential for abuse less than the drugs or other substances in schedules I and II.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

#### **(4) Schedule IV.—**

- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule III.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

#### **(5) Schedule V.—**

- (A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in schedule IV.
- (B) The drug or other substance has a currently accepted medical use in treatment in the United States.
- (C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule IV.

### **Initial schedules of controlled substances**

(c) Schedules I, II, III, IV, and V shall, unless and until amended pursuant to section 811 of this title, consist of the following drugs or other substances, by whatever official name, common or usual name, chemical name or brand name designated:

### Schedule I

(a) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetylmethadol.
- (2) Allylprodine.
- (3) Alphacetylmethadol.
- (4) Alphameprodine.
- (5) Alphamethadol.
- (6) Benzethidine.
- (7) Betacetylmethadol.
- (8) Betameprodine.
- (9) Betamethadol.
- (10) Betaprodine.
- (11) Clonitazene.
- (12) Dextromoramide.
- (13) Dextrophan.
- (14) Diampromide.
- (15) Diethylthiambutene.
- (16) Dimenoxadol.
- (17) Dimepheptanol.
- (18) Dimethylthiambutene.
- (19) Dioxaphetyl butyrate.
- (20) Dipipanone.
- (21) Ethylmethylthiambutene.
- (22) Etonitazene.
- (23) Etoxidine.
- (24) Furethidine.
- (25) Hydroxypethidine.
- (26) Ketobemidone.
- (27) Levomoramide.
- (28) Levophenacymorphan.
- (29) Morpheridine.
- (30) Noracymethadol.
- (31) Norlevorphanol.
- (32) Normethadone.
- (33) Norpipanone.
- (34) Phenadoxone.
- (35) Phenampromide.
- (36) Phenomorphan.
- (37) Phenoperidine.
- (38) Piritramide.
- (39) Proheptazine.
- (40) Properidine.
- (41) Racemoramide.
- (42) Trimeperidine.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine.
- (2) Acetyldihydrocodeine.
- (3) Benzylmorphine.
- (4) Codeine methylbromide.

- (5) Codeine-N-Oxide.
- (6) Cyprenorphine.
- (7) Desomorphine.
- (8) Dihydromorphine.
- (9) Etorphine.
- (10) Heroin.
- (11) Hydromorphanol.
- (12) Methyldesorphine.
- (13) Methylhydromorphine.
- (14) Morphine methylbromide.
- (15) Morphine methylsulfonate.
- (16) Morphine-N-Oxide.
- (17) Myrophine.
- (18) Nicocodeine.
- (19) Nicomorphine.
- (20) Normorphine.
- (21) Pholcodine.
- (22) Thebacon.

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine.
- (2) 5-methoxy-3,4-methylenedioxy amphetamine.
- (3) 3,4,5-trimethoxy amphetamine.
- (4) Bufotenine.
- (5) Diethyltryptamine.
- (6) Dimethyltryptamine.
- (7) 4-methyl-2,5-dimethoxyamphetamine.
- (8) Ibogaine.
- (9) Lysergic acid diethylamide.
- (10) Marihuana.
- (11) Mescaline.
- (12) Peyote.
- (13) N-ethyl-3-piperidyl benzilate.
- (14) N-methyl-3-piperidyl benzilate.
- (15) Psilocybin.
- (16) Psilocyn.
- (17) Tetrahydrocannabinols.

## Schedule II

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate.
- (2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), except that these substances shall not include the isoquinoline alkaloids of opium.
- (3) Opium poppy and poppy straw.
- (4) Coca leaves except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed; cocaine, its salts, optical and geometric isomers, and salts of isomers; ecgonine, its derivatives, their salts, isomers, and salts of isomers; or any compound, mixture, or preparation which

contains any quantity of any of the substances referred to in this paragraph.

(b) Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Alphaprodine.
- (2) Anileridine.
- (3) Bezitramide.
- (4) Dihydrocodeine.
- (5) Diphenoxylate.
- (6) Fentanyl.
- (7) Isomethadone.
- (8) Levomethorphan.
- (9) Levorphanol.
- (10) Metazocine.
- (11) Methadone.
- (12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4diphenyl butane.
- (13) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid.
- (14) Pethidine.
- (15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine.
- (16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate.
- (17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine 4-carboxylic acid.
- (18) Phenazocine.
- (19) Piminodine.
- (20) Racemethorphan.
- (21) Racemorphan.

(c) Unless specifically excepted or unless listed in another schedule, any injectable liquid which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

### **Schedule III**

(a) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

- (1) Amphetamine, its salts, optical isomers, and salts of its optical isomers.
- (2) Phenmetrazine and its salts.

(3) Any substance (except an injectable liquid) which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers.

- (4) Methylphenidate.

(b) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid.

- (2) Chorexadol.
- (3) Glutethimide.
- (4) Lysergic acid.
- (5) Lysergic acid amide.
- (6) Methyprylon.
- (7) Phencyclidine.
- (8) Sulfondiethylmethane.



(9) Sulfonethylmethane.

(10) Sulfonmethane.

(c) Nalorphine.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, or any salts thereof:

(1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium.

(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium.

(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams, or not more than 25 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams with one or more active, nonnarcotic ingredients in recognized therapeutic amounts.

(e) Anabolic steroids.

#### **Schedule IV**

(1) Barbitol.

(2) Chloral betaine.

(3) Chloral hydrate.

(4) Ethchlorvynol.

(5) Ethinamate.

(6) Methohexital.

(7) Meprobamate.

(8) Methylphenobarbital.

(9) Paraldehyde.

(10) Petrichloral.

(11) Phenobarbital.

#### **Schedule V**

Any compound, mixture, or preparation containing any of the following limited quantities of narcotic drugs, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.



# Guideline

September 11, 1990

Subject: DENIAL OF FEDERAL BENEFITS FOR CERTAIN DRUG OFFENDERS

1. PURPOSE. The purpose of this Guideline is to provide information to supplement the President's implementation plan of August 30, 1989, on the Denial of Federal Benefits Program.
2. SCOPE. This Guideline is of interest to all persons involved in any aspect of the Denial of Federal Benefits Program.
3. AUTHORITY. Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub.L. 100-690), (21 U.S.C. 853a).
4. POLICY. Administration and Enforcement of the Act.
  - a. The administration and enforcement of the Denial of Federal Benefits to Drug Traffickers and Possessors provisions of Pub.L. 100-690 Subtitle G, Section 5301, is subject to the general supervision and direction of the Attorney General, as assigned by the President. The Attorney General has assigned these duties to the Assistant Attorney General for the Office of Justice Programs (OJP).
  - b. Copies of the statutory provision, guidelines, and forms prepared to implement the statute, and information concerning the foregoing, may be obtained upon request without charge from the Denial of Federal Benefits Project (DFBP), Office of Justice Programs (OJP), Department of Justice, 633 Indiana Avenue, N.W., Washington, D.C. 20531, phone (202) 307-0630.
  - c. The Comptroller, Office of Justice Programs, is authorized to prescribe such forms and instructions in addition to, or in lieu of, those specified in this Guideline as may be necessary to carry out the purposes of this program.
5. DEFINITIONS.
  - a. Federal benefit means (1) the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States, and (2) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments

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or services are required for eligibility. Appendix 1 contains a partial list of benefits covered.

- b. *Veterans benefit* means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.
- c. *Controlled substance* means a drug or other substance as defined in the Controlled Substances Act, 21 U.S.C. 801, et seq., particularly in 21 U.S.C. 802(6), listed in schedules I through V of the Controlled Substances Act in 21 U.S.C. 812, or a controlled substance analog as provided in 21 U.S.C. 813.
- d. *Trafficking offense* means any offense that includes manufacturing, distributing, importing, dispensing, cultivating, or creating a controlled or counterfeit substance; or possession with intent to do any of the above; or conspiracy to commit any of the above offenses.
- e. *Deemed to be Rehabilitated and Long-Term Treatment Program* for purposes of carrying out the provisions of Section 5301 of the Anti-Drug Abuse Act of 1988 are defined pursuant to rules established by the Secretary of the Department of Health and Human Services in Part 78 of Title 45 of the Code of Federal Regulations.
- f. The definitions of "has otherwise been rehabilitated" and "supervised drug rehabilitation" that follow are nonbinding and are shown here merely for informational purposes so that the courts may take judicial notice thereof.

1. *Has otherwise been rehabilitated* for purposes of carrying out the provisions of Section 5301 (c)(B) of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a (c)(B), means that an individual has abstained from the illegal use of a controlled substance for a period of at least 180 days, provided that such abstinence is documented by the results of periodic urine drug testing conducted during that period; and provided further that such drug testing is conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State offense, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.

2. *Supervised Drug Rehabilitation* is a program supervised and/or maintained by a State, local, or private organization licensed to conduct or supervise rehabilitation services that incorporates a system for regular monitoring through drug testing and reporting on the progress of individual treatment subjects, and that provides written reports to the appropriate governmental authority at regular intervals during the course of

treatment and at the completion or termination of treatment.

g. State means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, and the Canal Zone (21 U.S.C. 802 (26)).

6. DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS. Any individual who is convicted of any State or Federal offense consisting of the distribution of a controlled substance (as such term is defined for purposes of the Controlled Substances Act. 21 U.S.C. 801 et seq.) shall:

- a. At the discretion of the court, upon the first conviction for such an offense, be ineligible for any or all Federal benefits for up to 5 years after such conviction;
- b. At the discretion of the court, upon a second conviction for such an offense, be ineligible for any or all Federal benefits for up to 10 years after such conviction; and
- c. Upon a third or subsequent conviction for such an offense, be permanently ineligible for all Federal benefits. (This provision is mandatory.)

7. EXCLUSIONS FOR DENIAL OF BENEFITS TO DRUG TRAFFICKERS. The benefits that are denied under Section 5301 shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

8. DENIAL OF FEDERAL BENEFITS TO DRUG POSSESSORS. Any individual who is convicted of any State or Federal offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act (21 U.S.C. 801 et seq.)) shall:

(a) upon the first conviction for such an offense, and at the discretion of the court:

- (1) Be ineligible for any or all Federal benefits for up to one year;
- (2) Be required to complete successfully an approved drug treatment program that includes periodic testing to insure that the individual remains drug-free;
- (3) Be required to perform appropriate community service; or
- (4) Any combination of clauses 8(a)(1), (2) or (3).

(b) upon a second or subsequent conviction for such an offense, be ineligible for all Federal benefits for up to five years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (a) in imposing penalties and conditions. The court may require that the completion of the conditions imposed by clause (a)(2) or (a)(3) be a requirement for the reinstatement of benefits under clause 8(a)(1).

9. WAIVER AND SUSPENSION OF DENIAL OF FEDERAL BENEFITS TO DRUG POSSESSORS; PENALTIES AND CONDITIONS. The penalties and conditions that may be imposed under paragraph 8 shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.
10. SUSPENSION OF PERIOD OF INELIGIBILITY. The period of ineligibility referred to in paragraphs 6 and 8 shall be suspended by the court upon a showing that the individual (1) has completed a supervised drug rehabilitation program after becoming ineligible under Section 5301; (2) has otherwise been rehabilitated; or (3) has made a good faith effort to gain admission into supervised drug rehabilitation programs, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.
11. INAPPLICABILITY.
  - a. Government Witnesses. The penalties provided by Section 5301 shall not apply to any individual who cooperates or testifies on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government shall identify by motion any individual who has cooperated or testified on behalf of the government in the prosecution of a State or Federal offense or who is in a government witness protection program. The government may submit the motion under seal for the safety of a person or to avoid disclosure of an ongoing investigation.
  - b. Indian Provision. Nothing in this Guideline shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive Order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subparagraph shall exempt any individual Indian from the sanctions provided for in Section 5301 provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subparagraphs 5(a)(2) and (b).
12. EFFECTIVE DATE. The Denial of Federal Benefits provision

September 11, 1990

may only be applied to convictions occurring after September 1, 1989, that arise from offenses occurring on or after November 18, 1988.

13. JUDICIAL ACTION.

- a. In pronouncing sentence, the court shall determine the range and scope of benefits to be denied. Recommendations regarding sentencing can be made to the court with respect to this law in accordance with all other sentencing recommendation requirements.
- b. The court, at its discretion, may deny some or all benefits or suspend eligibility on a benefit-specific basis. There are no restrictions on the number or range of benefits for which the court may deny eligibility, other than those benefits specifically excepted from judicial denial by Section 5301. Appendix 1 contains a partial listing of benefits that may be denied.
- c. The court, at its discretion, may sentence an individual to be ineligible for all Federal benefits. Accordingly, a court could order a blanket denial of all benefits for a specified period of time not to exceed the periods described in paragraphs 6 and 8 along with any exclusions to that blanket denial as stated above. This mechanism maximizes the flexibility of the judicial branch in determining sentences in particular cases.

14. CLEARINGHOUSE. The Denial of Federal Benefits Project (DFBP), Office of Justice Programs (OJP), Department of Justice (DOJ), will be the "information clearinghouse" for information provided by all State courts and Federal courts regarding sentences of drug traffickers or possessors that include denial of benefits and individuals who have been convicted of a third or subsequent drug trafficking offense. The DFBP will collect this information regarding those individuals to whom benefits are to be denied and forward this information to the General Services Administration (GSA) for inclusion in the publication, "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs," more commonly known as the "Debarment List." Each agency should consult the Debarment List to ensure compliance with the provisions of the statute.

15. STATE COURT AND FEDERAL COURT SUBMISSION OF STATEMENTS. "Statements" include, but are not limited to, copies of Judicial Orders issued by State courts and Federal courts, "Denial of Federal Benefits" forms, or "Judicial Notice of Restoration" forms. State courts and Federal courts are requested to send statements to DFBP after sentencing of an offender to denial of Federal benefits, or when the offender's criminal history indicates the individual has been convicted of a third or subsequent drug trafficking offense, or completion of action qualifying the offender for reinstatement of benefits.

16. CONTENTS OF STATEMENTS. All documents submitted to the clearinghouse should set forth the name and date of birth of the offender and any other identification available as specified on the statement Denial of Federal Benefits Form. See Appendix 2, OJP Form 3500/2.
  - a. *Denied Benefits.* Document should state specific benefits to be denied, period of denial, nature of offense (trafficking or possession), existence of a previous drug conviction record, and any other conditions associated with the denial.
  - b. *Benefit Denial Reinstatement.* Any reinstatement of a denial of benefits to an individual should indicate the basis under Section 5301 for the reinstatement and attach materials evidencing completion of a rehabilitation program or other activities qualifying for reinstatement.
  - c. The court shall then complete and forward to the Department of Justice a "Judicial Notice of Restoration" form as provided in paragraphs 15, 16, and 18.
  - d. *Documentation and Exhibits.* The Denial of Benefits Form or an attached court order should be a certified true copy and signed by the sentencing judge.
17. DEFICIENT STATEMENT FILINGS. Documents submitted with incomplete data may be returned to the sender for additional information.
18. SUPPLEMENTAL STATEMENT FILINGS. Documents submitted after the original filing should include all identification information included in the original statement and should indicate that the statement is an update of a previously filed denial. Supplemental information may be provided on Block 15 of the Denial of Federal Benefits for Drug Offenders Form (see Appendix 2, OJP Form 3500/2), or as a narrative statement.
19. FILING OF A STATEMENT.
  - a. State Court Denial of Federal Benefits Form (OMB 1121-0148, approved pursuant to the Paperwork Reduction Act), Federal court forms, and all statements, exhibits, amendments, and other documents and papers filed under the statute or under this Guideline should be submitted to the U.S. Department of Justice, Denial of Federal Benefits Project, Office of Justice Programs, 633 Indiana Avenue, N.W., Room 942, Washington, D.C. 20531.
  - b. Filing of such documents may be made in person or by mail, and they are deemed to be filed upon their receipt by the Project. Courts seeking to deny Federal benefits to convicted drug traffickers and possessors pursuant to Pub.L. 100-690, Section 5301, should execute a statement

and address it to DFBP, Office of Justice Programs, 633  
Indiana Avenue, N.W., Washington, D.C. 20531.

20. ACKNOWLEDGEMENT. All statements will be acknowledged in writing by the Denial of Federal Benefits Project office.
21. PRIVACY ACT MATTERS.
  - a. Consistent with the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), and DOJ regulation 28 CFR 20.30, DOJ will maintain records of all information received from State court and Federal court officials, and forward data to the General Services Administration (GSA) for inclusion in the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" (Debarment List). As required, the clearinghouse will provide other Federal agencies with information on specific benefits that have been denied to an individual.
  - b. Upon notification from a State court or Federal court, DOJ will notify GSA, and others as required, of an individual's renewed eligibility for Federal benefits.
  - c. DOJ will also provide information requested by a State court or Federal court regarding current or prior Denial of Federal Benefits sanctions or restoration of benefits determinations.
22. PROCESSING OF STATEMENTS - GSA. To add an exclusionary action to the Debarment List, a letter enumerating the Denial of Federal Benefits actions will be forwarded by DFBP to GSA. The cover letter will include the following information:
  - a. Name and complete address of the excluded participants in alphabetical order.
  - b. Cause for the action, citing the appropriate Cause and Treatment Codes. The Cause and Treatment Codes, including definitions, that are now included in the Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs are contained in Appendix 3.
  - c. The date the period of benefits suspension ends.
  - d. To delete an action that does not have a definite termination date, a brief letter requesting removal of the participant from the Debarment List will be forwarded by DFBP to GSA. GSA is not otherwise authorized to remove an action that does not have a definite termination date from the Debarment List without written notification from the DFBP.
  - e. Prior to submitting any information to GSA for inclusion in the Debarment List, DFBP will determine if GSA's

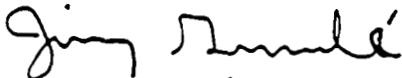


publication of any of the data elements pertaining to a participant is consistent with the Privacy Act of 1974, Pub.L. 93-579, as amended, 5 U.S.C. 552a et seq. If there are data elements that cannot be published, such data will be deleted.

- f. To insure the accuracy of entries on the Debarment List, the DFBP will review and verify the entry(ies) in each edition of the monthly debarment list publication. If an entry is found to be incorrect, GSA will be notified in writing.
  - g. All requests for exclusion from the Debarment List should be submitted to DFBP for forwarding to the GSA.
23. RELEASE OF INFORMATION CONCERNING STATEMENTS AND INQUIRIES CONCERNING APPLICATION OF THE ACT. Any inquiries concerning application of the law to any person should be addressed to the U. S. Department of Justice, Office of Justice Programs, Denial of Federal Benefits Project, 633 Indiana Avenue, N.W., Room 942, Washington, D.C. 20531, (202) 307-0630. Information will only be released in accordance with the Privacy Act, the Freedom of Information Act (5 U.S.C. 552), and DOJ regulation 28 CFR 20.30.
24. FEDERAL AGENCY ACTION. The President's implementation procedures of August 30, 1989, direct the Federal agencies to do the following:
- a. As currently required by regulation and Executive Order, each Federal agency should be responsible for checking the contents of the Debarment List for Section 5301 violations prior to the award of any Federal benefit.
  - b. Language contained in the current certification procedure in the Federal Acquisition Regulation for procurement programs, and in the common rule established among the Federal agencies for nonprocurement programs, provides for individuals who apply for Federal grants, contracts, or benefits to certify that they have not been debarred, suspended, or otherwise declared ineligible for participation in such programs. We interpret this language to apply to denials that occur as a result of a judicial order, or for a third or subsequent conviction for a drug trafficking offense pursuant to paragraph 6(c).
  - c. In those instances where denial of an existing benefit is at issue, each Federal department or agency having administrative authority to disburse Federal benefits under this provision should determine the manner and timeframe for benefit termination. Applicable agency rules pertaining to benefit payments and other administrative matters vary considerably according to the agency and the benefit involved. For instance, termination of a Federal license may be conducted in a fashion

separate from termination of other grants or contracts. Additionally, agency rules governing disbursement of educational grants vary according to the requirements of particular programs, as do regulations concerning Federally insured loans. Accordingly, each agency should ensure that benefit termination occurs in an effective and expeditious manner appropriate to the targeted benefit and reasonable under the circumstances.

25. APPEAL OF DENIAL OF BENEFITS. When any individual denied a benefit under this program believes that the denial is based on false identification, or that the basis for the denial is no longer valid, the individual may appeal the denial to the Federal agency denying the benefit, consistent with any procedures established by that agency or by DFBP. In such event, the clearinghouse will make available to the denying agency documentation relating to the basis for the denial.



JIMMY GURULÉ  
Assistant Attorney General

APPENDIX 1. BENEFITS

1. PROCUREMENT PROGRAMS WHICH MAY BE DENIED UNDER SECTION 5301. All Contracts or Purchase Orders issued by Federal agencies or by others using monies appropriated by the Federal government. This will include all Federally awarded acquisition and personal property sales contracts.
2. NON-PROCUREMENT PROGRAMS WHICH MAY BE DENIED UNDER SECTION 5301. This is a partial list of non-procurement benefits as of September 11, 1990. The number preceding each benefit is either the number assigned that benefit in the Federal Domestic Assistance Catalogue or (when a letter appears) by the Denial of Federal Benefits Project. This list will be modified as Agencies add or delete benefits covered under this project.

**DEPARTMENT OF AGRICULTURE**

Non-License Benefits:

- 10.001 Agricultural Research - Basic and Applied
- 10.028 Animal Damage Control (only grants awarded to individuals)
- 10.051 Commodity Loans and Purchases
- 10.052 Cotton Production Stabilization
- 10.053 Dairy Indemnity Program
- 10.054 Emergency Conservation Program
- 10.055 Feed Grain Production Stabilization
- 10.058 Wheat Production Stabilization
- 10.059 National Wool Act Payments
- 10.062 Water Bank Program
- 10.063 Agricultural Conservation Program
- 10.064 Forestry Incentives Program
- 10.065 Rice Production Stabilization
- 10.066 Emergency Livestock Assistance
- 10.067 Grain Reserve Program
- 10.068 Rural Clean Water Program
- 10.069 Conservation Reserve Program
- 10.070 Colorado River Salinity Control
- 10.163 Market Protection and Promotion
- 10.206 Grants for Agricultural Research - Competitive Research Grants
- 10.212 Small Business Innovation Research
- 10.213 Competitive Research Grants for Forest and Rangeland Renewable Resources
- 10.404 Emergency Loans
- 10.405 Farm Labor Housing Loan and Grants
- 10.406 Farm Operating Loans
- 10.407 Farm Ownership Loans
- 10.410 Very Low and Low Income Housing Loans
- 10.411 Rural Housing Site Loans
- 10.415 Rural Rental Housing Loans
- 10.416 Soil and Water Loans
- 10.417 Very Low-Income Housing Repair Loan and Grants
- 10.420 Rural Self-Help Housing Technical Assistance
- 10.429 Guaranteed Rural Housing Loans - Demonstration Program
- 10.433 Rural Housing Preservation Grants
- 10.437 Interest Rate Reduction Program
- 10.438 Farm Credit System Farm Land Acquisition Program
- 10.450 Federal Crop Insurance
- 10.551 Food Stamps (research grants to individuals and cooperative agreements for research when the agreement is with an individual rather than an institution)
- 10.557 Special Supplemental Food Program for Women, Infants, and Children (cooperative agreements for research when the agreement is with an individual rather than an institution)

- 10.652 Forestry Research (research grants)
- 10.664 Cooperative Forestry Assistance
- 10.900 Great Plains Conservation
- 10.901 Resource Conservation and Development
- 10.902 Soil and Water Conservation
- 10.903 Soil Survey
- 10.904 Watershed Protection and Flood Prevention
- 10.905 Plant Materials for Conservation
- 10.910 Rural Abandoned Mine Program
- 10.960 Technical Agricultural Assistance
- 10.961 International Agricultural Research - Collaborative Program
- 10.962 International Training- Foreign Participant
- 10.963 Scientific and Technical Cooperation
- 10.A02 Child Nutrition Program (cooperative agreements for research when the agreement is with an individual rather than an institution)

**Licenses:**

- 10.025 Plant and Animal Diseases, Pest Control, and Animal Care (only Licenses issued to individuals under the Animal Welfare and Virus-Serum-Toxin Acts)
- 10.162 Inspection Grading and Standardization
- 10.A01 Licenses under the U.S. Grain Standards Act and the Agricultural Marketing Act of 1946
- 10.A63 Market Protection and Promotion (individuals for grading, inspection, and cottonseed and oilseed testing)

**DEPARTMENT OF COMMERCE**

**Non-Licensed Benefits:**

- 11.301 Economic Development - Business Development Assistance
- 11.312 Research and Evaluation Program
- 11.408 Fishermen's Contingency Fund
- 11.409 Fishing Vessel and Gear Damage Compensation Fund
- 11.417 Sea Grand Support
- 11.427 Fisheries Development and Utilization Research and Development Grants and Cooperative Agreements Program
- 11.430 Undersea Research
- 11.431 Climate and Atmospheric Research
- 11.432 Environmental Research Laboratories Joint Institutes
- 11.612 Advanced Technology Program
- 11.613 State Technology Program
- 11.800 Minority Business Development Centers

**Licenses:**

- 11.C01 Professional and Commercial Licenses, Permits and Leases

**DEPARTMENT OF DEFENSE**

**Non-License Benefits:**

- 12.D01 Graduate Fellowship Programs -- Science and Engineering
- 12.D02 Health Professions Scholarship
- 12.D03 Defense Mapping Agency Sales Agent Program

**DEPARTMENT OF EDUCATION**

**Non-License Benefits:**

- 84.002 Adult Education - State Administered Basic Grant Program (Stipends)
- 84.003 Bilingual Education - Fellowship Program
- 84.007 Supplemental Educational Opportunity Grants
- 84.015 National Resource Centers and Fellowships Program for Language and Area or Language and International Studies
- 84.017 International Research and Studies
- 84.018 Fulbright-Hays Seminars Abroad - Bilateral Projects

84.019 Fulbright-Hays Training Grants - Faculty Research Abroad  
 84.021 Fulbright-Hays Training Grants - Group Projects Abroad  
 84.022 Fulbright-Hays Training Grants - Doctoral Dissertation Research Abroad  
 84.032 Guaranteed Student Loans  
 84.033 College Work-Study Program (Student Assistance)  
 84.036 Library Career Training  
 84.037 National Defense/National Direct/Perkins Loan Cancellations  
 84.038 Perkins (formerly National Direct) Student Loans  
 84.047 Upward Bound  
 84.048 Vocational Education - Basic Grants to States  
 84.051 National Vocational Education Research  
 84.063 Pelt Grant Program  
 84.069 Grants to States for State Student Incentives  
 84.077 Bilingual Vocational Training  
 84.083 Women's Educational Equity  
 84.094 Patricia Roberts Harris Fellowships  
 84.099 Bilingual Vocational Instructor Training  
 84.100 Bilingual Vocational Materials, Methods, and Techniques  
 84.117 Educational Research and Development  
 84.136 Legal Training for the Disadvantaged  
 84.141 Migrant Education - High School Equivalency Program  
 84.149 Migrant Education - College Assistance Migrant Program  
 84.164 Mathematics and Science Education (Teacher Grants)  
 84.170 Jacob K. Javits Fellowships  
 84.176 Paul Douglas Teacher Scholarships  
 84.185 Robert C. Byrd Honors Scholarships  
 84.190 Christa McAuliffe Fellowship  
 84.191 National Adult Education Research  
 84.200 Graduate Assistance in Areas of National Need (Fellowships)  
 84.206 Jacob K. Javits Gifted and Talented Students  
 84.219 Student Literacy Corps  
 84.226 Income Contingent Loan Program (ICL)  
 84.E01 Grant and Aid Programs Directly to Individuals  
 84.E02 National Adult Literacy Volunteer Training Program  
 84.E03 Grant/Aid Programs in which State and Local Education Agencies Provide Directly to Individuals  
 84.E04 Allen J. Ellender Fellowships  
 84.E05 Bilingual Education - Personnel Training Program

## **DEPARTMENT OF ENERGY**

### Non-License Benefits:

81.036 Energy-Related Inventions  
 81.041 State Energy Conservation  
 81.047 Pre-Freshman Engineering  
 81.048 Priorities and Allocations for Energy Programs and Projects  
 81.065 Nuclear Waste Disposal Siting  
 81.084 Minority Honors Training and Industrial Assistance Program  
 81.089 Fossil Energy Research and Development  
 81.095 Nuclear Energy, Reactor System, Development, and Technology  
 81.096 Innovative Clean Coal Technology  
 81.097 Science and Engineering Research Semester  
 81.E18 Strategic Petroleum Reserve  
 81.E19 Naval Petroleum and Oil Shale Reserves  
 81.E20 Minority Undergraduate Training in Energy-Related Careers Program  
 81.E22 Liquefied Gaseous Fuel Spill Test Facility  
 81.E24 Health Physics Fellowship Program  
 81.E27 Environment, Safety and Health Oversight  
 81.E29 Fuels Programs  
 81.E30 Bonneville Power Administration

- 81.E32 Conservation and Renewable Energy
- 81.E33 Defense Programs
- 81.E34 Energy Information Administration
- 81.E35 Energy Research
- 81.E36 Environmental Restoration and Waste Management
- 81.E37 Environment, Safety and Health
- 81.E39 Fossil Energy
- 81.E40 Minority Economic Impact
- 81.E41 New Production Reactors
- 81.E43 Nuclear Energy
- 81.E44 Nuclear Safety
- 81.E45 Southeastern Power Administration
- 81.E46 Southwestern Power Administration
- 81.E48 Western Area Power Administration

Licenses:

- 81.003 Granting of Patent Licenses

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Non-License Benefits:

- 13.108 Health Education Assistance Loans
- 13.142 NIEHS Hazardous Waste Worker Health and Safety Training
- 13.161 Health Program for Toxic Substances and Disease Registry
- 13.180 Medical Treatment Effectiveness Research
- 13.184 Disabilities Prevention
- 13.186 National Research Services Awards
- 13.217 Family Planning - Services
- 13.244 Mental Health Clinical or Service Related Training Grants
- 13.263 Occupational Safety and Health - Training Grants
- 13.272 Alcohol National Research Service Awards for Research Training
- 13.273 Alcohol Research Programs
- 13.277 Drug Abuse Scientist Development Award for Clinicians - Scientist Development Awards and Research Scientist Awards
- 13.278 Drug Abuse National Research Service Awards for Research Training
- 13.281 Mental Research Scientist Development Award and Research Scientist Development Awards for Clinicians
- 13.361 Nursing Research
- 13.393 Cancer Cause and Prevention Research
- 13.394 Cancer Detection and Diagnosis Research
- 13.395 Cancer Treatment Research
- 13.396 Cancer Biology Research
- 13.399 Cancer Control
- 13.790 Work Incentive Program/WIN Demonstration Program
- 13.792 Community Service Block Grant
- 13.793 Community Service Block Grant - Discretionary Awards
- 13.821 Biophysics and Physiological Sciences
- 13.822 Health Careers Opportunity Program
- 13.837 Heart and Vascular Diseases Research
- 13.838 Lung Diseases Research
- 13.839 Blood Diseases and Resources Research
- 13.846 Arthritis, Musculoskeletal and Skin Diseases Research
- 13.847 Diabetes, Endocrinology and Metabolism Research
- 13.848 Digestive Diseases and Nutrition Research
- 13.849 Kidney Diseases, Urology and Hematology Research
- 13.855 Allergy, Immunology and Transplantation Research
- 13.856 Microbiology and Infectious Diseases Research
- 13.859 Pharmacological Sciences
- 13.862 Genetics Research

- 13.863 Cellular and Molecular Basis of Disease Research
- 13.864 Population Research
- 13.865 Research for Mothers and Children
- 13.866 Aging Research
- 13.867 Retinal and Choroidal Diseases Research
- 13.868 Anterior Segment Diseases Research
- 13.871 Strabismus, Amblyopia and Visual Processing
- 13.880 Minority Access to Research Careers
- 13.973 Special Loans for National Health Service Corps Members to Enter Private Practice
- 13.982 Mental Health Disaster Assistance and Emergency Mental Health
- 13.989 Senior International Fellowships
- 13.995 Adolescent Family Life - Demonstration Projects

## **DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

### Non-license Benefits:

- 14.141 Section 106(b) Nonprofit Sponsor Assistance Program
- 14.179 Nehemiah Housing Opportunity Grant Program
- 14.218 Community Development Stock Grants
- 14.219 Community Development Block Grants (except for public services)
- 14.220 Section 312 Rehabilitation Loans
- 14.221 Urban Development Action Grants
- 14.222 Urban Homesteading
- 14.230 Rental Housing Rehabilitation
- 14.H01 Neighborhood Development Demonstration Grants

## **DEPARTMENT OF THE INTERIOR**

### Non-license Benefits:

- 15.222 Cooperative Inspection Agreements with States and Tribes
- 15.904 Historic Preservation Fund Grants-In-Aid/Acquisition or Development Assistance
- 15.910 National Natural Landmarks Program

### Licenses:

- 15.101 Licenses for Commercial Outfitters
- 15.102 Professional and Commercial Licenses, Permits and Leases

## **DEPARTMENT OF JUSTICE**

### Non-License Benefits:

- 16.541 Juvenile Justice and Delinquency Prevention - Special Emphasis
- 16.542 National Institute of Juvenile Justice
- 16.560 Justice Research and Development Project Grants
- 16.582 Crime Victim Assistance/Discretionary Grants
- 16.J01 NIJ - Fellowship and Research Grants
- 16.J02 BJA - Anti Drug Grants

### Licenses:

- 16.J03 Narcotics Practitioners Registration

## **DEPARTMENT OF LABOR**

### Non-License Benefits:

- 17.248 Employment and Training Research and Development Project Contracts and Grants (ETA)
- 17.250 Job Training Partnership Act
- 17.A01 Miner Training Instructor Approval (MSHA)
- 17.A02 Miner Certification and Qualification (MSHA)

### Licenses:

- 17.202 Certification of Foreign Workers for Temporary Agricultural and Logging Employment
- 17.203 Labor Certification for Alien Workers
- 17.308 Farm Labor Contractor Registration

## **DEPARTMENT OF TRANSPORTATION**

### Non-License Benefits:

20.001 Boating Safety  
20.106 Airport Improvement Program  
20.215 Highway Training and Education  
20.600 State and Community Highway Safety  
20.800 Construction - Differential Subsidies  
20.802 Title XI - Federal Ship Financing Guarantees  
20.804 Operating - Differential Subsidies  
20.805 Ship Sales  
20.806 State Marine Schools  
20.807 U.S. Merchant Marine Academy  
20.808 Capital Construction Fund  
20.810 Supplementary Training  
20.812 Construction Reserve Fund  
20.T13 Essential Air Service Program  
20.T14 Merchant Mariner's Document

### Licenses:

20.T01 Professional or Commercial Airmen Certificates  
20.T02 Designation as Representatives of the FAA  
20.T03 Aviation Operating Certificates  
20.T04 Merchant Marine Licenses  
20.T05 Merchant Marine Certificates of Registration  
20.T06 License, Vessel activity: Fishing, Recreation  
20.T07 Commercial Motor Vehicle Drivers Disqualification  
20.T08 Grants for Research Fellowships granted by FHWA  
20.T09 Locomotive Operator Disqualification  
20.T10 Exemptions to individual carriers and shippers of hazardous materials  
20.T11 Certificates for Schools and Other Air Agencies  
20.T12 Air Carrier Fitness Certificates

## **DEPARTMENT OF THE TREASURY**

### Licenses:

21.T01 Import Brokerage Licenses  
21.T02 Alcohol, Tobacco and Firearms Licenses and Permits  
21.T03 Banking Licenses

## **DEPARTMENT OF VETERANS AFFAIRS**

### Non-License Benefits:

64.001 Medical Research Support  
64.005 Grants to States for Construction of State Homes  
64.018 Sharing Specialized Medical Resources  
64.203 State Cemetery Grants

## **ADMINISTRATIVE CONFERENCE OF THE UNITED STATES**

### Non-License Benefits:

25.A01 Other Services (Research Grant Program)

## **AGENCY FOR INTERNATIONAL DEVELOPMENT**

### Non-License Benefits:

26.A01 Participant Training Grants  
26.A02 Science Advisor's Small Research Program Grants  
26.A03 Intermediate Foreign Credit Institution Loan Portfolios



## **APPALACHIAN REGIONAL COMMISSION**

### Non-License Benefits:

23.005 Appalachian Housing Project Planning Loan, Technical Assistance Grant and Site Development and Off-site Improvement Grant: State Appalachian Housing Programs

## **COMMISSION OF FINE ARTS**

### Non-License Benefits:

91.A01 National Capital Arts and Cultural Affairs Program

## **COMMISSION ON THE BICENTENNIAL OF THE U.S. CONSTITUTION**

### Non-License Benefits:

90.001 Bicentennial Educational Grant Program

### Licenses:

90.B01 Commercial Logo Licensing Program

## **CONSUMER PRODUCT SAFETY COMMISSION**

### Non-License Benefits:

92.S01 Grants

## **ENVIRONMENTAL PROTECTION AGENCY**

### Non-License Benefits:

66.456 National Estuary Program  
66.500 Environmental Protection - Consolidated Research  
66.501 Air Pollution Control Research  
66.502 Pesticides Control Research  
66.504 Solid Waste Disposal Research  
66.505 Water Pollution Control - Research, Development, and Demonstration  
66.506 Safe Drinking Water Research and Demonstration  
66.507 Toxic Substances Research  
66.E01 Special Studies, Investigations, and Surveys  
66.E02 Chesapeake Bay Program  
66.E07 Nonpoint Source Implementation

## **FEDERAL COMMUNICATIONS COMMISSION**

### Licenses:

32.F01 Television Broadcast Licenses  
32.F02 Radio Broadcast Licenses  
32.F03 FM and TV Booster Licenses  
32.F04 FM and TV Translator Licenses (Including Low Power TV)  
32.F05 Instructional Television Fixed Service Licenses  
32.F06 Cable Television Relay Service Licenses  
32.F07 Broadcast Auxiliary Service Licenses  
32.F08 Direct Broadcast Satellite Licenses  
32.F09 High Frequency (International) Broadcast Licenses  
32.F10 Public Land Mobile Radio Licenses  
32.F11 Cellular System Licenses  
32.F12 Rural Radio Licenses  
32.F13 Offshore Radio Licenses  
32.F14 Point-to-Point Microwave and Local Television Radio Service Licenses  
32.F15 Multipoint Distribution Service Licenses  
32.F16 Digital Electronic Message Service Licenses  
32.F17 International Fixed Public Radio Licenses  
32.F18 Transmit and/or Receive Satellite Earth Station Licenses  
32.F19 Section 214 Certificates for Construction of Facilities  
32.F20 Telephone Equipment Registrations  
32.F21 Aviation Service Licenses  
32.F22 Maritime Service Licenses

- 32.F23 Land Mobile Radio Licenses
- 32.F24 Private Operational Fixed Microwave Licenses
- 32.F25 Equipment Certifications
- 32.F26 Equipment Type Acceptance
- 32.F27 Equipment Type Approvals
- 32.F28 Equipment Notifications
- 32.F29 Radio Telephone Operator's Certificates (1st, 2nd, and 3rd Class) (including endorsements)
- 32.F30 General Radio Telephone Operator's Licenses (including endorsements)
- 32.F31 Marine Radio Operator's Permits
- 32.F32 Restricted Radiotelephone Operator's License
- 32.F33 Permits to Deliver Programs to Foreign Broadcast Stations
- 32.F34 Cable Landing Licenses
- 32.F35 Space Station Licenses
- 32.F36 General Mobile Radio Service Licenses
- 32.F37 Experimental and Developmental Radio Licenses (all services)

## **FEDERAL EMERGENCY MANAGEMENT AGENCY**

### Non-License Benefits:

- 83.516 Disaster Assistance

## **FEDERAL ENERGY REGULATORY COMMISSION**

### Non-License Benefits:

- 28.F03 Exemption for Small Hydroelectric Projects
- 28.F05 Qualifying Facilities Status for Cogeneration and Small Power Production

### Licenses:

- 28.F01 Preliminary Permit for Hydroelectric Projects
- 28.F02 License for Hydroelectric Projects
- 28.F04 Certificate of Public Convenience and Necessity Under Section 7 of the Natural Gas Act

## **FEDERAL MARITIME COMMISSION**

### Non-License Benefits:

- 33.F02 Non-attorney admissions to practice

### Licenses:

- 33.001 Ocean Freight Forwarder Licenses

## **FEDERAL MEDIATION AND CONCILIATION SERVICE**

### Non-License Benefits:

- 34.F03 Grants

## **HARRY S. TRUMAN SCHOLARSHIP FOUNDATION**

### Non-License Benefits:

- 85.001 Harry S. Truman Scholarship Program

## **INTERSTATE COMMERCE COMMISSION**

### Licenses:

- 41.I03 Certificate to operate as motor, water or rail carriers
- 41.I04 Licenses to operate as motor, water or rail carriers
- 41.I06 Permits to operate as motor, water or rail carriers
- 41.I07 Certificates for household goods freight forwarders
- 41.I08 Licenses for household goods freight forwarders
- 41.I09 Permits for household goods freight forwarders
- 41.I10 Certificates to property brokers
- 41.I11 Licenses for property brokers
- 41.I12 Permits for property brokers
- 41.I13 Practitioner's License

## **NATIONAL ARCHIVES AND RECORDS ADMINISTRATION**

### Non-License Benefits:

89.003 National Historical Publications and Records Grants

## **NATIONAL CREDIT UNION ADMINISTRATION**

### Licenses:

44.001 Credit Union Charter (License)

## **NATIONAL ENDOWMENT FOR THE ARTS**

### Non-License Benefits:

- 45.001 Design Arts Program - Design Advancement, USA Fellowships
- 45.002 Dance Program - Choreographers' Fellowships, Dance/Film/Video, General Services to the Field, Special Projects
- 45.004 Literature Program - Assistance to Literary Magazines, Fellowships for Creative Writers, Fellowships for Translators, Senior Fellowships for Literature, Small Press Assistance
- 45.005 Music Program - Collaborative Fellowships, Composers Fellowships, Fellowships for American Jazz Masters, Jazz Composition, Jazz Performance, Jazz Special Projects, Jazz Study, Music Recording, Solo Recitalists
- 45.006 Media Arts Program - Film/Video Production, Radio Production
- 45.008 Theater Program - Distinguished Theater Artist Fellowships, Fellowships for Playwrights, Fellowships for Solo Performance Theater Artists and Mimes
- 45.009 Visual Arts Program - Visual Artists Fellowships
- 45.012 Museum Program - Fellowships for Museum Professionals
- 45.014 Opera - Musical Theater Program - New American Works/Individuals as Producers, Special Projects
- 45.015 Folk Arts Program - National Heritage Fellowships
- 45.021 Promotion of the Arts - Arts Administration Fellows Program
- 45.023 Promotion of the Arts - Locals Program

## **NATIONAL ENDOWMENT FOR THE HUMANITIES**

### Non-License Benefits:

- 45.104 Promotion of the Humanities - Humanities Projects in Media
- 45.113 Promotion of the Humanities - Public Humanities Projects
- 45.115 Promotion of the Humanities - Younger Scholars
- 45.116 Promotion of the Humanities - Summer Seminars for College Teachers
- 45.121 Promotion of the Humanities - Summer Stipends
- 45.122 Promotion of the Humanities - Re-grants/Centers for Advanced Study
- 45.124 Promotion of the Humanities - Reference Materials/Access
- 45.125 Promotion of the Humanities - Humanities Projects in Museums and Historical Organizations
- 45.127 Promotion of the Humanities - Elementary and Secondary Education in the Humanities
- 45.132 Promotion of the Humanities - Texts/Publication Subvention
- 45.133 Promotion of the Humanities - Interpretive Research/Humanities, Science and Technology
- 45.134 Promotion of the Humanities - Re-grants/Conferences
- 45.137 Promotion of the Humanities - Humanities Projects in Libraries and Archives
- 45.140 Promotion of the Humanities - Interpretive Research/Projects
- 45.142 Promotion of the Humanities - Fellowships for University Teachers
- 45.143 Promotion of the Humanities - Fellowships for College Teachers and Independent Scholars
- 45.145 Promotion of the Humanities - Reference Materials/Tools
- 45.146 Promotion of the Humanities - Texts/Editions
- 45.147 Promotion of the Humanities - Texts/Translations
- 45.148 Promotion of the Humanities - Re-grants Program/International Research
- 45.149 Promotion of the Humanities - Office of Preservation
- 45.150 Promotion of the Humanities - Higher Education in the Humanities
- 45.151 Promotion of the Humanities - Summer Seminars for School Teachers
- 45.152 Promotion of the Humanities - Travel to Collections
- 45.153 Promotion of the Humanities - Re-grants Program/Selected Areas
- 45.154 NEH/Reader's Digest Teacher - Scholar Program

## **NATIONAL SCIENCE FOUNDATION**

### Non-License Benefits:

- 47.009 Graduate Research Fellowships
- 47.041 Engineering Grants
- 47.049 Mathematical and Physical Sciences
- 47.050 Geosciences
- 47.051 Biological, Behavioral, and Social Sciences
- 47.053 Scientific, Technological, and International Affairs
- 47.066 Teacher Preparation and Enhancement
- 47.067 Materials Development, Research, and Informal Science Education
- 47.068 Studies and Program Assessment
- 47.069 Research Initiation and Improvement
- 47.070 Computer and Information Science and Engineering
- 47.071 Undergraduate Science, Engineering, and Mathematics Education
- 47.072 Young Scholars

## **NUCLEAR REGULATORY COMMISSION**

### Licenses:

- 77.N01 Nuclear Operators License
- 77.N02 Material Licenses (to individuals and corporate entities)

## **SMALL BUSINESS ADMINISTRATION**

### Non-License Benefits:

- 59.002 Economic Injury Disaster Loans (EIDL)
- 59.003 Loans for Small Businesses
- 59.007 Management and Technical Assistance for Socially and Economically Disadvantaged Businesses
- 59.008 Physical Disaster Loans
- 59.011 Small Business Investment Companies (SBICs)
- 59.012 Small Business Loans
- 59.013 State and Local Development Company Loans
- 59.016 Bond Guarantees for Surety Companies
- 59.021 Handicapped Assistance Loans
- 59.038 Veterans Loan Program
- 59.041 Certified Development Company Loans
- 59.042 Business Loans for 8(a) Program Recipients
- 59.043 Women's Business Ownership Assistance
- 59.044 Veterans Entrepreneurial Training Assistance

## **SMITHSONIAN INSTITUTION**

### Non-License Benefits:

- 98.S01 Fellowships

## **TENNESSEE VALLEY AUTHORITY**

### Non-License Benefits:

- 62.004 Tennessee Valley Region - Economic Development
- 62.005 Tennessee Valley Region - Natural Resource Development
- 62.006 Tennessee Valley Region - Valley Agricultural Institute
- 62.T01 Power Research
- 62.T03 Development Programs

## **UNITED STATES INFORMATION AGENCY**

### Non-License Benefits:

- 82.001 Educational Exchange - Graduate Students
- 82.002 Educational Exchange - University Lecturers (Professors) and Research Scholars
- 82.C03 Educational Exchange - Secondary School Teachers
- 82.I01 Educational Exchange - Elementary School Teachers

## OJP Denial of Federal Benefits for Drug Offenders INSTRUCTIONS

NOTE: If all the information requested in this form is included in court documents *submitted with this form*, complete only items 1-10 and use this form as a transmittal sheet attached to the signed court documents. This form may also be used to restore benefits and as a rescission of the denial of benefits by using item 18. This form and appropriate court documents must be forwarded to:

U.S. Department of Justice  
Office of Justice Programs  
Denial of Federal Benefits Project  
633 Indiana Avenue, N.W.  
Washington, D.C. 20531

1. The name of the offender to be denied benefits, listing last, first, and middle names.
2. Indicate sex of the offender to aid in identification.
3. Enter date on which a judge rendered sentence calling for the denial of Federal benefits.
4. Other names used by the offender (aliases).
8. Last known address of the offender. (This should not be a prison or jail address.)
9. Date of birth of the offender.
10. Social Security Number of the offender.
11. Case or document identification number of the court order or other document upon which the denial of Federal benefits is based.
12. Federal or State offense of which the offender is convicted.
13. Terms of the sentence of the offender under statute and other conditions.
14. Name of the judge sentencing the offender to denial of Federal benefits.
15. If denied, the duration of the denial of Federal benefits, including the starting date and the ending date.
16. Indicate whether under 21 U.S.C. 83a all Federal benefits are to be denied or whether selected benefits are to be denied, and specify which benefits are selected.
17. Additional Information:
  - a. If known, list other identification numbers assigned to the offender by the incarcerating State or local police department or FBI.
  - b. Indicate whether the offender has been convicted of prior drug offense(s). The court may submit records of prior drug convictions.
  - c. Indicate whether the offender will receive drug treatment. Give the starting date and the completion date of the drug treatment.
18. Indicate if benefits have been restored, or other rescissions. State the date that eligibility for Federal benefits is restored by action of the court. (This item is to be completed and further action taken by the court.)
19. Signature of an official of the court. This may be the signature of the sentencing judge if no other court order of denial of benefits is signed, or, it may be signed by another court official authorized to supply information.
20. Name of the court issuing the sentence.
21. Indicate the phone number of the court issuing the sentence.
25. Address of the court issuing the sentence.



U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
WASHINGTON, D.C. 20531

Denial of Federal Benefits for Drug Offenders

This requirement is pursuant to authority of 21 U.S.C. 853a. Courts may use this form or submit court documents. If the information requested below is included in court documents, complete only items 1-10, and submit this form as a transmittal sheet.

1. INDICATE NAME (last, first, middle):		2. SEX: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	3. SENTENCING DATE:								
4. OTHER NAMES USED (AKA):											
5. STREET ADDRESS:											
6. CITY:		7. STATE:	8. ZIP CODE:								
9. DATE OF BIRTH:	10. SOCIAL SECURITY NUMBER:	11. CASE/DOCKET NUMBER:									
12. OFFENSE: <input type="checkbox"/> DRUG TRAFFICKER <input type="checkbox"/> DRUG POSSESSOR		13. SENTENCE BY COURT: A. STATUTORY CRITERIA: <table border="0"><thead><tr><th>TRAFFICKER</th><th>POSSESSOR</th></tr></thead><tbody><tr><td><input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 5 years)</small></td><td><input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 1 year)</small></td></tr><tr><td><input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 10 years)</small></td><td><input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 5 years)</small></td></tr><tr><td><input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED</td><td><input type="checkbox"/> SUBSEQUENT OFFENSE ____ YEAR(S) <small>(up to 5 years)</small></td></tr></tbody></table>		TRAFFICKER	POSSESSOR	<input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>	<input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 1 year)</small>	<input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 10 years)</small>	<input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>	<input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED	<input type="checkbox"/> SUBSEQUENT OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>
TRAFFICKER	POSSESSOR										
<input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>	<input type="checkbox"/> FIRST OFFENSE ____ YEAR(S) <small>(up to 1 year)</small>										
<input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 10 years)</small>	<input type="checkbox"/> SECOND OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>										
<input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED	<input type="checkbox"/> SUBSEQUENT OFFENSE ____ YEAR(S) <small>(up to 5 years)</small>										
14. NAME OF SENTENCING JUDGE:		B. OTHER CONDITIONS:									
15. DURATION OF DENIAL: A. STARTING DATE _____ B. ENDING DATE _____											
16. BENEFITS DENIED: <input type="checkbox"/> ALL BENEFITS ARE DENIED <input type="checkbox"/> SELECTED BENEFIT(S) ARE DENIED AS SPECIFIED BELOW:											
17. ADDITIONAL INFORMATION:											
18. RESCISSIONS: THE PERIOD OF INELIGIBILITY FOR FEDERAL BENEFITS WHICH WAS IMPOSED BY THE COURT IN THE ABOVE REFERENCED CASE IS HEREBY SUSPENDED FOR THE REASON THAT: <input type="checkbox"/> DEFENDANT HAS SUCCESSFULLY COMPLETED A DRUG REHABILITATION PROGRAM. <input type="checkbox"/> OTHER (specify):											
19. SIGNATURE AND TITLE OF AUTHORIZED COURT OFFICIAL:											
20. COURT NAME:		21. TELEPHONE (Area Code):									
22. STREET ADDRESS:											
23. CITY:		24. STATE:	25. ZIP CODE:								

# **PARTIES EXCLUDED FROM PROCUREMENT PROGRAMS**

## **AA**

### **CAUSE**

Denial of ALL Federal contracts by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for Federal or State offense relating to the distribution or possession of controlled substances.

### **TREATMENT**

Listed persons shall not be issued any contract provided by an agency of the United States or by appropriated funds of the United States Subcontracts awarded with appropriated Federal funds shall also be denied. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

## **BB**

### **CAUSE**

PARTIAL denial of Federal Contracts by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

### **TREATMENT**

Listed persons shall not be issued contracts or subcontracts as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to determine the extent to which benefits have been denied. The denial shall terminate on the date included in the listing. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

### **NOTE**

A denial of Federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.

## **PARTIES EXCLUDED FROM NON-PROCUREMENT PROGRAMS**

### **PP**

#### **CAUSE**

Denial of ALL Federal benefits by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

#### **TREATMENT**

Listed persons shall not be issued any grant, contract, loan, professional license, commercial license, provided by an agency of the United States or by appropriated funds of the United States. The denial DOES NOT include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

### **QQ**

#### **CAUSE**

PARTIAL denial of Federal benefits by a sentencing judge pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988 on the basis of a conviction(s) for a Federal or State offense relating to the distribution or possession of controlled substances.

#### **TREATMENT**

Listed persona shall not be issued grants, contracts, loans, and/or professional or commercial licenses as specified by the sentencing judge which are provided by an agency of the United States or by appropriated funds of the United States. Contract the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue. The denial DOES NOT include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility. Veterans benefits include all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Services of the United States. The denial shall terminate on the date shown. Persons convicted for a third offense relating to distribution of controlled substances after the effective date of the Act shall be denied benefits permanently. Therefore, the termination date for such denials shall be listed as "permanent" (Perm.).

#### **NOTE**

A denial of Federal benefits under Section 5301 of the Anti-Drug Abuse Act of 1988 does not include benefits relating to long-term drug treatment programs for addiction for any person who declares himself an addict, provides a reasonable body of evidence to substantiate this declaration, and submits to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services. The denial of benefits may also be suspended on the basis of the person's participation or good faith effort to participate in a supervised rehabilitation program. Contact the U.S. Department of Justice's Denial of Federal Benefits Project liaison shown under the heading "For Further Information" in the front of this issue to verify any assertions that the denial of benefits does not apply, or has been waived or suspended on this basis.



## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

### GENERAL INFORMATION.

#### Sec.

- 1308.01 Scope of Part 1308.
- 1308.02 Definitions.
- 1308.03 Administration Controlled Substances Code Number.
- 1308.04 Submission of information by manufacturers.

### SCHEDULES

- 1308.11 Schedule I.
- 1308.12 Schedule II.
- 1308.13 Schedule III.
- 1308.14 Schedule IV.
- 1308.15 Schedule V.

### EXCLUDED NONNARCOTIC SUBSTANCES

- 1308.21 Application for exclusion of a non-narcotic substance.
- 1308.22 Excluded substances.

### EXEMPT CHEMICAL PREPARATIONS

- 1308.23 Exemption of certain chemical preparations; application.
- 1308.24 Exemption chemical preparations.

### EXCLUDED VETERINARY ANABOLIC STEROID IMPLANT PRODUCTS

- 1308.25 Exclusion of a veterinary anabolic steroid implant product; application.
- 1308.26 Excluded veterinary anabolic steroid implant products.

### EXEMPTED PRESCRIPTION PRODUCTS

- 1308.31 Application for exemption of a nonnarcotic prescription product.
- 1308.32 Exempted prescription products.

### EXEMPT ANABOLIC STEROID PRODUCTS

- 1308.33 Exemption of certain anabolic steroid products; application.
- 1308.34 Exempt anabolic steroid products.

### HEARINGS

- 1308.41 Hearings generally.
- 1308.42 Purpose of hearing.
- 1308.43 Waiver or modification of Rules.
- 1308.44 Initiation of proceeding; for rulemaking.
- 1308.45 Request for hearing or appearance; waiver.
- 1308.46 Burden of proof.
- 1308.47 Time and place of hearing.

- 1308.48 Final order.
- 1308.49 Control required under international treaty.
- 1308.50 Control of immediate precursors.
- 1308.51 Pending proceedings.
- 1308.52 Emergency scheduling.

AUTHORITY: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

Source: 38 FR 8254, Mar. 30, 1973, unless otherwise noted. Redesignated at 38 FR 26609, Sept. 24, 1973.

### GENERAL INFORMATION

#### § 1308.01 Scope of Part 1308.

Schedules of controlled substances established by section 202 of the Act (21 U.S.C. 812), as they are changed, updated, and republished from time to time, are set forth in this part.

#### § 1308.02 Definitions.

As used in this part, the following terms shall have the meanings specified:

(a) The term *Act* means the Controlled Substance Act (84 Stat. 1242; 21 U.S.C. 801) and/or the Controlled Substances Import and Export Act (84 Stat. 1285; 21 U.S.C. 951).

(b) The term *anabolic steroid* means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (1) Boldenone;
- (2) Chlorotestosterone (4-chlortestosterone);
- (3) Clostebol;
- (4) Dehydrochlormethyltestosterone;
- (5) Dihydrotestosterone (4-dihydrotestosterone);
- (6) Drostanolone;
- (7) Ethylestrenol;
- (8) Fluoxymesterone;
- (9) Formebolone (formebolone);
- (10) Mesterolone;
- (11) Methandlenone;
- (12) Methandranone;
- (13) Methandriol;
- (14) Methandrostenolone;
- (15) Methenolone;
- (16) Methyltestosterone;
- (17) Mibolerone;
- (18) Nandrolone;

(19) Norethandrolone;  
 (20) Oxandrolone;  
 (21) Oxymesterone;  
 (22) Oxymetholone;  
 (23) Stanolone;  
 (24) Stanozolol;  
 (25) Testolactone;  
 (26) Testosterone;  
 (27) Trenbolone; and  
 (28) Any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth. Except such term does not include an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the Secretary of Health and Human Services for such administration. If any person prescribes, dispenses, or distributes such steroid for human use, such person shall be considered to have prescribed, dispensed, or distributed an anabolic steroid within the meaning of this paragraph.

(c) The term *hearing* means any hearing held pursuant to this part for the issuance, amendment, or repeal of any rule issuable pursuant to section 201 of the Act.

(d) The term *isomer* means the optical isomer, except as used in § 1308.11(d) and § 1308.12(b)(4). As used in § 1308.11(d), the term *isomer* means the optical, positional, or geometric isomer. As used in § 1308.12(b)(4), the term *isomer* means the optical or geometric isomer.

(e) The term *interested person* means any person adversely affected or aggrieved by any rule or proposed rule issuable pursuant to section 201 of the Act.

(f) The term *narcotic drug* means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(2) Poppy straw and concentrate of poppy straw.

(3) Coca leaves, except coco leaves and extracts of coca leaves from which cocaine, ecgonine and

derivatives of ecgonine or their salts have been removed.

(4) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(5) Ecgonine, its derivatives, their salts, isomers and salts of isomers.

(6) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in subparagraphs (1) through (5).

(g) The term *proceeding* means all actions taken for the issuance, amendment, or repeal of any rule issued pursuant to section 201 of the Act, commencing with the publication by the Administrator of the proposed rule, amended rule, or repeal in the FEDERAL REGISTER.

(h) Any term not defined in this section shall have the definition set forth in section 102 and 1001 of the Act (21 U.S.C. 802 and 951) and § 1301.02 of this chapter.

[38 FR 8254, Mar. 30, 1973. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 51 FR 15317, Apr. 23, 1986; 56 FR 5754, Feb. 13, 1991]

#### **§ 1308.03 Administration Controlled Substances Code Number.**

(a) Each controlled substance, or basic class thereof, has been assigned an "Administration Controlled Substances Code Number" for purposes of identification of the substances or class on certain Certificates of Registration issued by the Administration pursuant to §§ 1301.44 and 1311.43 of this chapter and on certain order forms issued by the Administration pursuant to § 1305.05(d) of this chapter. Applicants for procurement and/or individual manufacturing quotas must include the appropriate code number on the application as required in §§ 1303.12(b) and 1303.22(a) of this chapter. Applicants for import and export permits must include the appropriate code number on the application as required in §§ 1312.12(a) and 1312.22(a) of this chapter. Authorized registrants who desire to import or export a controlled substance for which an import or export permit is not required must include the appropriate Administration Controlled Substances Code Number beneath or beside the name of each controlled substance listed

on the DEA Form 236 (Controlled Substance Import/Export Declaration) which is executed for such importation or exportation as required in §§ 1312.18(c) and 1312.27(b) of this chapter.

(b) Except as stated in paragraph (a) of this section, no applicant or registrant is required to use the Administration Controlled Substances Code Number for any purpose.

[38 FR 8254, Mar. 30, 1973. Redesignated at 38 FR 26609, Sept. 24, 1973 and amended at 51 FR 15318, Apr. 23, 1986]

#### § 1308.04 Submission of information by manufacturers.

(a) Each person who manufactures, packages, repackages, labels, relabels, or distributes under his own label any product (including any compound, mixture, or preparation, diagnostic, reagent, buffer, or biological) containing any quantity of any controlled substance (whether such product is itself controlled or is excepted, exempted, or excluded from some or all controls pursuant to § 1308.21-24 or § 1308.31-32) shall submit information required in paragraph (b) of this section for each such product being manufactured or sold on July 1, 1972. The information should be submitted by registered mail, return receipt requested, to the Regulatory Support Section, Attention: Project Label, Drug Enforcement Administration, Department of Justice, Washington, DC 20537, by August 31, 1972. In the case of new products manufactured after July 1, 1972, or new dosage forms or other unit forms manufactured after July 1, 1972, or changes in information submitted by August 31, 1972, the registrant shall submit the information regarding such item within 30 days after the date on which the manufacture commences or information change occurs. In the case of products, the manufacture of which is discontinued after July 1, 1972, the registrant shall submit notice of such discontinuance within 30 days after the date on which manufacture ceases. In the case of products the manufacture of which was discontinued before July 1, 1972, which are still being sold, the registrant shall submit a notice of such discontinuance with his initial submission.

(b) Two labels or other documents reflecting the

following information shall be submitted with reference to each dosage form or other unit form of each item containing any quantity of any controlled substance:

(1) The trade name, brand name, or other commercial name of the product;

(2) The generic or chemical name and quantity of each active ingredient, including both controlled and noncontrolled substances (if any of this information is a proprietary trade secret, please indicate those portions);

(3) The National Drug Code Number assigned to the product, if any; and

(4) The weight (in metric measure) of each dosage unit or the weight (in metric measure) of the controlled substance per 100 grams of finished product for all items containing any quantity of any narcotic controlled substance in solid dosage forms.

(21 U.S.C. 821 and 871(b))

[38 FR 8254, Mar. 30, 1973. Redesignated at 38 FR 26609, Sept. 24, 1973, and amended at 46 FR 28841, May 29, 1981]

### SCHEDULES

#### § 1308.11 Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Opiates*. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of paragraph (b)(34) only, the term isomer includes the optical and geometric isomers):

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide)

9815

(2) Acetylmeperidine

9601

(3) Allylprodine

9602

(4) Alphacetylmethadol	9603
(5) Alphameprodine	9604
(6) Alphamethadol	9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine)	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide)	9832
(9) Benzethidine	9606
(10) Betacetylmethadol	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide)	9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-N-phenylpropanamide)	9831
(13) Betameprodine	9608
(14) Betamethadol	9609
(15) Betaprodine	9611
(16) Clonitazene	9612
(17) Dextromoramide	9168
(21) Dimenoxadol	9617
(22) Dimepheptanol	9618
(23) Dimethylthiambutene	9623
(27) Etonitazene	9625
(28) Etoxidine	9625
(29) Furethidine	9626
(30) Hydroxypethidine	9627
(31) Ketobemidone	9628
(32) Levomoramide	9629
(33) Levophenacetylmorphan (34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide)	9813
(35) 3-methylthiofentanyl (N-[3-methyl-1-(2-thienyl)ethyl-4-piperidyl]-N-phenylpropanamide)	9833
(36) Morpheridine	9632
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine)-	9661
(38) Noracymethadol	9633
(39) Norlevorphanol	9634
(40) Normethadone	9635
(41) Norpipanone	9636
(42) Para-fluorofentanyl (N-[4-(4-fluorophenyl)-1-(2-phenethyl)-4-piperidyl] propanamide)	9812
(43) PEPAP (1-(2-phenethyl)-4-phenyl-4-acetoxypiperidine)	9663
(44) Phenadoxone	9637
(45) Phenampromide	9638
(46) Phenomorphan	9647
(47) Phenoperidine	9641
(48) Piritramide	9642
(49) Proheptazine	9643

(50) Properidine	9644
(51) Propiram	9649
(52) Racemoramide	9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-pi-peridyl]-propanamide)	9835
(54) Tilidine	9750
(55) Trimeperidine	9646

(c) *Opium derivatives.* Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Aceylidihydrocodeine	9051
(3) Benzylmorphine	9052
(4) Codeine methylbromide	9070
(5) Codeine-N-Oxide	9053
(6) Cyprenorphine	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Drotebanol	9335
(10) Etorphine (except hydrochloride salt)	9056
(11) Heroin	9200
(12) Hydromorphenol	9301
(13) Methylidesorphine	9302
(14) Methylidihydromorphine	9304
(15) Morphine methylbromide	9305
(16) Morphine methylsulfonate	9306
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodeine	9309
(20) Nicomorphine	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacon	9315

(d) *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine 7391  
Some trade or other names: 4-bromo-2,5-dimethoxy- $\alpha$ -methylphenethylamine; 4-bromo-2,5-DMA
- (2) 2,5-dimethoxyamphetamine 7396  
Some trade or other names: 2,5 dimethoxy- $\alpha$ -methylphenethylamine; 2,5-DMA
- (3) 4-methoxyamphetamine 7411  
Some trade or other names: 4-methoxy- $\alpha$ -methylphenethylamine, paramethoxyamphetamine, PMA
- (4) 5-methoxy-3,4-methylenedioxy-amphetamine 7401
- (5) 4-methyl-2,5-dimethoxy-amphetamine 7395  
Some trade or other names: 4-methyl-2,5-dimethoxy- $\alpha$ -methylphenethylamine; "DOM"; and "STP"
- (6) 3,4 methylenedioxy-amphetamine 7400
- (7) 3,4-methylenedioxymethamphetamine (MDMA) 7405
- (8) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl- $\alpha$ -methyl-3,4 (methylenedioxy) phenethylamine, N-ethyl MDA, MDE, MDEA 7404
- (9) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy- $\alpha$ -methyl-3,4 (methylenedioxy) phenethylamine, and N-hydroxy MDA 7402
- (10) 3,4,5-trimethoxy amphetamine 7390
- (11) Bufotenine 7433  
Some trade and other names: 3-( $\beta$ -dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine
- (12) Diethyltryptamine 7434  
Some trade and other names: N,N-diethyltryptamine; DET
- (13) Dimethyltryptamine 7435  
Some trade or other names: DMT
- (14) Ibogaine 7260  
Some trade or other names: 7-Ethyl-6,6 $\beta$ ,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2]azepino [5,4-b] indole; Tabamanthe iboga
- (15) Lysergic acid diethylamide 7315
- (16) Marihuana 7360
- (17) Mescaline 7381
- (18) Parahexyl 7374  
Some trade or other names: 3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl
- (19) Peyote 7415  
Meaning all parts of the plant presently classified

botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant and every compound, manufacture, salts, derivatives, mixture, or preparation of such plant, its seeds or extracts (interprets 21 USC 812(c), Schedule 1(c)(12))

- (20) N-ethyl-3-piperidyl benzoate 7482
- (21) N-methyl-3-piperidyl benzoate 7484
- (22) Psilocybin 7437
- (23) Psilocin 7438
- (24) Tetrahydrocannabinols 7370

Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following

- $\Delta$ 1 cis or trans tetrahydrocannabinol, and their optical isomers
- $\Delta$ 6 cis or trans tetrahydrocannabinol, and their optical isomers
- $\Delta$ 3,4 cis or trans tetrahydrocannabinol, and their optical isomers  
(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered)
- (25) Ethylamine analog of phencyclidine 7455  
Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE
- (26) Pyrrolidine analog of phencyclidine 7458  
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.
- (27) Thiophene analog of phencyclidine 7470  
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP
- (28) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine 7473  
Some other names TCPy

(e) *Depressants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Mecloqualone 2572

(f) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Fenethylline	1503
(2) (±)cis-4-methylaminorex ((±)cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine	1590
(3) N-ethylamphetamine	1475
(4) N,N-dimethylamphetamine (also known as N,N-alpha-trimethyl-benzeneethanamine; N,N-alpha-trimethylphenethylamine)	1480

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers	9818
(2) N-[1-(thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers	9834

[39 FR 22141, June 20, 1974]

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting § 1308.11, see the list of CFR sections Affected in the Finding Aids section of this volume.

## § 1308.12 Schedule II.

(a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

(b) *Substances, vegetable origin or chemical synthesis* Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by

a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate excluding apomorphine, dextrophan, nalbuphine, nalmefine, nalaxone, and naltrexone, and their respective salts, but including the following:

(1) Raw Opium	9600
(2) Opium extracts	9610
(3) Opium fluid	9620
(4) Powdered Opium	9639
(5) Granulated Opium	9640
(6) Tincture of Opium	9630
(7) Codeine	9050
(8) Ethylmorphine	9190
(9) Etorphine hydrochloride	9059
(10) Hydrocodone	9193
(11) Hydromorphone	9150
(12) Metopon	9260
(13) Morphine	9300
(14) Oxycodone	9143
(15) Oxymorphone	9652
(16) Thebaine	9333

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, except that these substances shall not include the isoquinolone alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives, and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid, or powder form which contains the phenanthrene alkaloids of the opium poppy) 9670.

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts, and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers and salts is

possible within the specific chemical designation, dextrophan and levopropoxyphene excepted:

(1) Alfentanil	9737
(2) Alphaprodine	9010
(3) Anileridine	9020
(4) Benztiramide	9800
(5) Bulk dextropropoxyphene (non-dosage forms)	9273
(6) Carfentanil	9743
(7) Dihydrocodeine	9120
(8) Diphenoxylate	9170
(9) Fentanyl	9801
(10) Isomethodane	9226
(11) Levomethorphan	9210
(12) Levorphanol	9220
(13) Metazocine	9240
(14) Methadone	9250
(15) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane	9254
(16) Moramide-Intermediate, 2-methyl-3-morpholino-1,1-diphenylpropane-carboxylic acid	9802
(17) Pethidine (meperidine)	9230
(18) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine	9232
(19) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate	9233
(20) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid	9234
(21) Phenazocine	9715
(22) Piminodine	9730
(23) Racemethorphan	9732
(24) Racemorphan	9733
(25) Sufentanil	9740

(d) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers	1100
(2) Methamphetamine, its salts, isomers, and salts of its isomers	1105
(3) Phenmetrazine and its salts	1631
(4) Methylphenidate	1724

(e) *Depressants:* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system,

including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation.

(1) Amobarbital	2125
(2) Glutethimide	2550
(3) Pentobarbital	2270
(4) Phencyclidine	7471
(5) Secobarbital	2315

(f) *Hallucinogenic substances.*

(1) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a U.S. Food and Drug Administration approved drug product 7369

[Some other name for dronabinol: (6aR-trans)-6a,7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[b,d]pyran-1-ol, or (-)-delta-9-(trans)-tetrahydrocannabinol]

(2) Nabilone 7379

[Another name for nabilone: (±)-trans-3-1,1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d]pyran-9-one]

(g) *Immediate precursors.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:

(i) Phenylacetone 8501  
Some trade or other names: Phenyl-2-propanone; P2P; benzyl methyl ketone; methyl benzyl ketone;

(2) Immediate precursors to phencyclidine (PCP):

(i) 1-phenylcyclohexylamine 7460  
(ii) 1-piperidinocyclohexanecarbonitrile (PCC) 8603

[39 FR 22142, June 20, 1974]

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting § 1308.12, see the list of CFR Sections Affected in the Finding Aids section of this volume.

§ 1308.13 Schedule III

### § 1308.13 Schedule III

(a) Schedule III shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in Schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under § 308.32, and any other drug of the quantitative composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances
- |                      |      |
|----------------------|------|
|                      | 1405 |
| (2) Benzphetamine    | 1228 |
| (3) Chlorphentermine | 1645 |
| (4) Clortermine      | 1647 |
| (5) Phendimetrazine  | 1615 |

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture, or preparation containing:

- |                     |      |
|---------------------|------|
| (i) Amobarbital     | 2126 |
| (ii) Secobarbital   | 2316 |
| (iii) Pentobarbital | 2271 |

or any salt thereof and one or more active medicinal ingredients which are not listed in any schedule

(2) Any suppository dosage form containing:

- |                     |      |
|---------------------|------|
| (i) Amobarbital     | 2126 |
| (ii) Secobarbital   | 2316 |
| (iii) Pentobarbital | 2271 |

or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.

(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof

- |   |      |
|---|------|
|   | 2100 |
| (4) Chlorhexadol                                  | 2510 |
| (5) Lysergic Acid                                 | 7300 |
| (6) Lysergic Acid amide                           | 7310 |
| (7) Methylprylon                                  | 2575 |
| (8) Sulfondiethylmethane                          | 2600 |
| (9) Sulfonethylmethane                            | 2605 |
| (10) Sulfonmethane                                | 2610 |
| (11) Tiletamine and zolazepam or any salt thereof | 7295 |

Some trade or other names for a tiletamine-zolazepam combination product: Telazol

Some trade or other names for tiletamine: 2-(ethylamino)-2-(2-thienyl)-cyclohexanone

Some trade or other names for zolazepam: 4-(2-fluorophenyl)-6,8-dihydro-1,3,8-trimethylpyrazolo-[3,4-e] [1,4]-diazepin-7(1H)-one, flupyzapone

(d) Nalorphine 9400

(e) *Narcotic Drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium 9803
- (2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts. 9804
- (3) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium 9805
- (4) Not more than 300 milligrams of dihydrocodeinone (hydrocodone) per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9806
- (5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic



ingredients in recognized therapeutic amounts

9807

(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts

9808

(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts

9809

(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts

9810

(f) *Anabolic Steroids.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

(1) Anabolic Steroids

4000

[39 FR 22142, June 20, 1974, as amended at 41 FR 43401, Oct. 1, 1976; 43 FR 3359, Jan. 25, 1978; 44 FR 40888, July 13, 1979; 46 FR 52334, Oct. 27, 1981; 51 FR 5320, Feb. 13, 1986; 52 FR 2222, Jan. 21, 1987; 52 FR 5952, Feb. 27, 1987; 56 FR 5754, Feb. 13, 1991; 56 FR 11932, Mar. 21, 1991]

#### § 1308.14 Schedule IV.

(a) Schedule IV shall consist of the drugs and other substances by whatever name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin and not

less than 25 micrograms of atrophine sulfate per dosage unit

9167

(2) Dextropoxyphene (alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane

9278

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

(1) Alprazolam	2882
(2) Barbitol	2145
(3) Bromazepam	2748
(4) Camazepam	2749
(5) Choral betaine	2460
(6) Chloral hydrate	2465
(7) Chlordiazepoxide	2744
(8) Clobazam	2751
(9) Clonazepam	2737
(10) Clorazepate	2768
(11) Clotiazepam	2752
(12) Cloxazolam	2753
(13) Delorazepam	2754
(14) Diazepam	2765
(15) Estazolam	2756
(16) Ethchlorvynol	2540
(17) Ethinamate	2545
(18) Ethyl loflazepate	2758
(19) Fludiazepam	2759
(20) Flunitrazepam	2763
(21) Flurazepam	2767
(22) Halazepam	2762
(23) Haloxazolam	2771
(24) Ketazolam	2772
(25) Loprazolam	2773
(26) Lorazepam	2885
(27) Lormetazepam	2774
(28) Mebutamate	2800
(29) Medazepam	2836
(30) Meprobamate	2820
(31) Methohexital	2264
(32) Methylphenobarbital (mephobarbital)	2250
(33) Midazolam	2884
(34) Nimetazepam	2837
(35) Nitrazepam	2834
(36) Nordiazepam	2838
(37) Oxazepam	2835
(38) Oxazolam	2839
(39) Paraldehyde	2585
(40) Petrichloral	2591

(41) Phenobarbital	2285
(42) Pinazepam	2883
(43) Prazepam	2764
(44) Quazepam	2881
(45) Temazepam	2925
(46) Tetrazepam	2886
(47) Triazolam	2887

(d) *Fenfluramine*. Any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts, isomers, (whether optical, position or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine	1670
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(e) *Stimulants*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

(1) Cathine ((+)-norpseudoephedrine)	1230
(2) Diethylpropion	1610
(3) Fencamfamin	1760
(4) Fenproporex	1575
(5) Mazindol	1605
(6) Mefenorex	1580
(7) Pemoline (including organometallic complexes and chelates thereof)	1530
(8) Phentermine	1640
(9) Pipradrol	1750
(10) SPA ((-)-1-dimethylamino-1,2-diphenylethane)	1635

(f) *Other substances*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following, including its salts:

(1) Pentazocine	9709
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[39 FR 22143, June 20, 1974]

EDITORIAL NOTE: FOR FEDERAL REGISTER citations affecting § 1308.14, see the List of CFR Sections Affected in the Finding Aids section of this volume.

## § 1308.15 Schedule V.

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated in this section.

(b) *Narcotic drugs*. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs and their salts, as set forth below:

(1) Buprenorphine	9064
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(c) *Narcotic drugs containing nonnarcotic active ingredients*. Any compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

- (1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.
- (2) Not more than 100 milligrams of dihydrocodeine per 100 milliliters or per 100 grams.
- (3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.
- (4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atrophine sulphate per dosage unit.
- (5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.
- (6) Not more than 0.5 milligram of difenoxin and not less than 25 micrograms of atrophine sulphate per dosage unit.

(d) *Stimulants*. Unless specifically exempted or excluded or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers.

(1) Pyrovalerone	1485
(2) [Reserved]	

[39 FR 22143, June 20, 1974, as amended at 43 FR 38383, Aug. 28, 1978; 44 FR 40888, July 13, 1979; 47 FR 49841, Nov 3, 1982; 50 FR 8108, Feb. 28, 1985; 52 FR 5952, Feb. 27, 1987; 53 FR 10870, Apr. 4, 1988; 56 FR 61372, Dec. 3, 1991]

#### EXCLUDED NONNARCOTIC SUBSTANCES

##### **§ 1308.21 Application for Exclusion of a Nonnarcotic Substance**

(a) Any person seeking to have any nonnarcotic substance which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, excluded from any schedule, pursuant to § 201(g)(1) of the Act (21 U.S.C. 811(g)(1)), may apply to the administrator, Drug Enforcement Administration, Department of Justice, Washington, DC 20537.

(b) An application for an exclusion under this section shall contain the following information:

(1) The name and address of the applicant;

(2) The name of the substance for which exclusion is sought; and

(3) The complete quantitative composition of the substance.

(c) Within a reasonable period of time after the receipt of an application for an exclusion under this section, the Administrator shall notify the applicant of his acceptance or nonacceptance of his application, and if not accepted, the reason therefore. The Administrator need not accept an application for filing if any of the requirements prescribed in paragraph (b) of this section is lacking or is not set forth as to be readily understood. If the applicant desires, he may amend the application to meet the requirements of paragraph (b) of this

section. If the application is accepted for filing, the Administrator shall issue and publish in the FEDERAL REGISTER his order on the application, which shall include a reference to the legal authority under which the order is issued and the findings of fact and conclusions of law upon which the order is based. This order shall specify the date on which it shall take effect.

The Administrator shall permit any interested person to file written comments on or objections to the order within 60 days of the date of publication of his order in the FEDERAL REGISTER. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke, or amend his original order as he determines appropriate.

(d) The Administrator may at any time revoke any exclusion granted pursuant to § 201(g) of the Act (21 U.S.C. 811(g)) by following the procedures set forth in paragraph (c) of this section for handling an application for an exclusion which has been accepted for filing.

##### **§ 1308.22 Excluded Substances**

The following nonnarcotic substances which may, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301), be lawfully sold over the counter without a prescription, are excluded from all schedules pursuant to § 201 (g)(1) of the Act (21 U.S.C. 811(g)(1)):

**EXCLUDED NONNARCOTIC PRODUCTS**

COMPANY	TRADE NAME	NDC Code	FORM	CONTROLLED SUBSTANCE	mg or mg/ml
Bioline Laboratories	Theophed	00719-1945	TB	Phenobarbital	8.00
Goldline Laboratories	Guiaphed Elixir	00182-1377	EL	Phenobarbital	4.00
Goldline Laboratories	Tedrigen Tablets	00182-1034	TB	Phenobarbital	8.00
Hawthorne Products, Inc.	Choate's Leg Freeze		LQ	Chloral Hydrate	246.67
Parke-Davis & Co.	Tedral	00071-0230	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Elixir	00071-0242	EX	Phenobarbital	40.00
Parke-Davis & Co.	Tedral, S.A.	00071-0231	TB	Phenobarbital	8.00
Parke-Davis & Co.	Tedral Suspension	00071-0237	SU	Phenobarbital	80.00
Parmed Pharmacy	Asma-ese	00349-2018	TB	Phenobarbital	8.10
Rondex Labs	Azma-Aids	00367-3153	TB	Phenobarbital	8.00
Smith Kline Consumer	Benzedrex	49692-0928	IN	Propylhexedrine	250.00
Sterling Drug, Inc.	Bronkolixir	00057-1004	EL	Phenobarbital	0.80
Sterling Drug, Inc.	Bronkotabs	00057-1005	TB	Phenobarbital	8.00
Vicks Chemical Co.	Vicks Inhaler	23900-0010	IN	l-Desoxyephedrine	113.00
White Hall Labs	Primatene (P-tablets)	00573-2940	TB	Phenobarbital	8.00

**Public Health Service, HHS**  
**45 CFR Part 78**  
**Conditions for Waiver of Denial of Federal Benefits**

**56 FR 29591**

June 28, 1991

Final rule.

The Department suggests that this rule be read in conjunction with the Department of Justice Guidelines, Denial of Federal Benefits for Certain Drug Offenders, published in the Federal Register (55 FR 37424) on September 11, 1990.

This regulation is effective July 29, 1991.

On September 11, 1990, the Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, published in the Federal Register (55 FR 37436), a Notice of Proposed Rulemaking (NPRM) to add a new part 78 to title 45 of the Code of Federal Regulations. The rule proposed definitions and procedures to assist Federal and State courts in their determination whether to deny Federal benefits to persons convicted of drug trafficking or drug possession. The public comment period on the proposed regulations closed on October 11, 1990, and comments were received from one Federal agency. This document considers those comments, makes minor changes to the NPRM, and adopts a final rule.

#### Response to Comments

The respondent's principal comment related to the Department's definition of "deemed to be rehabilitated" provided in § 78.2(a). That term, in relevant part, means "an individual has abstained from the illicit use of a controlled substance for the period of at least 180 days immediately prior to the date of sentencing \* \* \*." According to 21 U.S.C. 853a (a)(2) and (b)(2), certain Federal benefits of drug traffickers and drug possessors will not be denied if the sentencing court determines that the individuals are "deemed to be rehabilitated."

The respondent requests modifications of the definition of "deemed to be rehabilitated" so that it can be applied consistently with the related term "has otherwise been rehabilitated" provided in 21 U.S.C. 853a(c)(B). Section 853a(c)(B) deals with the suspension of the period of ineligibility for Federal benefits, which

occurs following the court's original decision to deny such benefits, and provides that the period of ineligibility will, among other things, be suspended if the individual "has otherwise been rehabilitated."

Respondent is concerned that a court at a hearing for suspension of the period of ineligibility may wish to apply the definition of "deemed to be rehabilitated" to the term "has otherwise been rehabilitated," but will find itself unable to do so. This inability would result because the proposed definition of "deemed to be rehabilitated" requires the court to find that the individual was drug-free for 180 days prior to sentencing. Since the determination whether to suspend the period of ineligibility under section 853a(c)(B) occurs after sentencing, this means that the definition of "deemed to be rehabilitated" could not literally be applied in that situation.

While the Department recognizes the reasonableness of having consistent definitions for the court to follow for these two closely related terms, it is unable to make the change requested because its authority to issue rules is limited to sections 853a (a)(2) and (b)(2); thus, it cannot explicitly extend its definition to the term "has otherwise been rehabilitated." Nevertheless, we believe a court may use the Department's definition of "deemed to be rehabilitated" as guidance and accomplish the same result, simply by requiring that an individual be drug-free for the 180 day period preceding the date on which the court finds that he or she had "otherwise been rehabilitated."

This approach is consistent with the Department of Justice Guidelines (55 FR 37434) which defines the term "has otherwise been rehabilitated" to mean, among other things, that an "individual has abstained from the illegal use of a controlled substance for a period of at least 180 days \* \* \*." The Department of Justice Guidelines do not limit the 180 consecutive drug-free days to the date of sentencing; rather the individual must have abstained from drug use "for a period of at least 180 days." Thus, under the Department of Justice Guidelines and consistent with these regulations, a court can apply the 180 day drug-free period prior to the date of suspension of ineligibility of Federal benefits, rather than prior to sentencing.

The words "and including" were also added to § 78.2(a) to clarify that an individual may be "deemed to be rehabilitated" only if he or she were drug-free for at least 180 days immediately prior to and including the date of sentencing. This clarifies that the individual must be drug-free on the date of sentencing as well as the period preceding.

## **45 CFR Part 78**

**Approved: June 12, 1991.**

### **PART 78 - CONDITIONS FOR WAIVER OF DENIAL OF FEDERAL BENEFITS**

§ 78.1 Applicability.

§ 78.2 Definitions.

§ 78.3 Benefits not denied to rehabilitated offenders.

Authority: Section 5301 of Pub. L. 100-690, the Anti-Drug Abuse Act of 1988, 102 Stat. 4310, 21 U.S.C. 853a.

§ 78.1 Applicability.

This part is applicable to any decision to deny Federal benefits, under authority of 21 U.S.C. 853a, to an individual convicted of a Federal or State offense involving distribution or possession of a controlled substance as defined by the Controlled Substances Act, 21 U.S.C. 802.

§ 78.2 Definitions.

For the purposes of denying Federal benefits under 21 U.S.C. 853a:

(a) Deemed to be rehabilitated means that an individual has abstained from the illicit use of a controlled substance for the period of at least 180 days immediately prior to and including the date of sentencing provided that such abstinence is documented by the results of periodic urine drug testing conducted during that period; and provided further that such drug testing is conducted using an immunoassay test approved by the Food and Drug Administration for commercial distribution or, in the case of a State offense, either using an immunoassay test approved by the Food and Drug Administration for commercial distribution or pursuant to standards approved by the State.

(b) Long term treatment program or long-term drug treatment program means any drug abuse treatment program of 180 days or more where the provider has been accredited by the Joint Commission on Accreditation of Health Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation of Services for Families and Children, or licensed or otherwise approved by the State to provide drug abuse treatment.

§ 78.3 Benefits not denied to rehabilitated offenders.

(a) No individual convicted of any Federal or State offense involving the distribution of controlled substances shall be denied Federal benefits relating to long-term drug treatment programs for addiction under 21 U.S.C. 853a(a)(2) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(b), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).

(b) No individual convicted of any Federal or State offense involving the possession of controlled substances shall be denied any Federal benefit, or otherwise subject to penalties and conditions, under 21 U.S.C. 853a(b)(2) if:

(1) The individual declares himself or herself to be an addict and submits to a long-term treatment program for addiction as defined by § 78.2(b), provided that in the determination of the sentencing court there is a reasonable body of evidence to substantiate the individual's declaration that such individual is an addict; or

(2) The individual is, in the determination of the sentencing court, deemed to be rehabilitated as defined by § 78.2(a).



# **Federal Maritime Commission**

## **46 CFR Parts 502 and 510**

### **Denial of Federal Benefits to Drug Traffickers and Possessors**

**55 FR 42193**

October 18, 1990

Final Rule.

21 U.S.C. 853a, enacted as part of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), state that Federal benefits shall be withheld in certain circumstances from individuals who have been convicted of drug distribution or possession in Federal or State Courts. In this proceeding the Commission adopts a certification process to implement the requirements of 21 U.S.C. 853a. Because this matter involves agency practice and procedure, it is being issued as a final rule under 5 U.S.C. 553(b)(3)(A).

This regulation is effective October 18, 1990.

**FOR FURTHER INFORMATION CONTACT:** Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Room 11101, Washington, DC 20573-0001, (202) 523-5725.

**SUPPLEMENTARY INFORMATION.** Federal agencies must implement and enforce the requirements of 21 U.S.C. 853a, which provides that Federal benefits are not to be granted to certain individuals who are convicted in Federal or State courts of either distribution or possession of controlled substances, after September 1, 1989. A "Federal benefit" is defined in 21 U.S.C. 853a(d) as "the issuance of any grant, contract, loan, professional license, or commercial licenses provided by an agency of the United States or by appropriate funds of the United States." Licenses issued by the Federal Maritime Commission ("Commission" or "FMC") to operate as ocean freight forwarders under section 19 of the Shipping Act of 1994, 46 U.S.C. app. 1718, are "Federal benefits" as defined in 21 U.S.C. 853a(d). A grant of a non-attorney admissions to practice under 46 CFR 502.27 is also such a "Federal benefit."

To ensure that authority is not issued to individuals who have been convicted after September 1, 1989, of drug trafficking or possession and who are subject to the Federal benefits ban of 21 U.S.C. 853a, the Commission is establishing a procedure requiring applicants for FMC authority to certify that they are not ineligible to receive authority because of drug convictions. Because the statute only applies to

individuals, this certification requirement will only affect an individual applicant who applies for authority in his or her own name. Corporations, joint owners or partnerships will not be required to complete the certification. The certification will be required for all individual applications that involve requests for licenses as ocean freight forwarders and for all non-attorney applicants for admission to practice before the Commission. The certification will be incorporated in the FMC's application form (FMC-18REV.) and the application for admission to practice form (FMC-12) which are currently under revision.

The Federal Maritime Commission has determined that this proposed rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981 because it will not result in: (1) an annual effect on the economy 74 or \$100 million or more; (2) a major increase in cost or prices for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign bases enterprises in domestic or export markets.

The Chairman of the Commission certifies, pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., that this proposed rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

The Commission has determined to issue this rule as a final rule, without prior notice or opportunity to comment. If an individual is banned by 21 U.S.C. 853a from receiving Federal benefits, the Commission has no discretion in the matter. The rules adopted herein merely establish a practice and procedure for implementing the ban and are thereby exempt from notice and comment requirements pursuant to 5 U.S.C. 553(b)(3)(A). The Commission similarly finds good cause for making the rules effective upon publication pursuant to 5 U.S.C. 553(d)(3).

#### List of Subjects

46 CFR Part 502 Administrative practice and procedure.

46 CFR Part 510 Freight forwarders.

Section 502.27 Persons not attorneys at law.

(a)(2) All applicants must complete the following certification:

I. XXX (Name XXX, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, or any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a. . . .

## **Part 51**

### **Licensing of Ocean Freight Forwarders**

1. The authority citation for part 510 is revised to read as follows.

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1702, 1707, 1709, 1710, 1712, 1714, 1716, and 1718; 21 U.S.C. 853a.

2. Section 510.12 is amended by redesigning current paragraph (a) as (a)(1) and by adding a new paragraph (a)(2) to read as follows.

@ 510.12 Application for license.

(a)(2) An individual who is applying for a license in his or her own name must complete the following certification.

I. XXX (Name) XXX, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal benefits, either by court order or operation of law, pursuant to 21 U.S.C. 852a. . . .

By the Commission.

Joseph C. Polking,  
Secretary

# **Department of Education**

## **Notice**

### **Computer Matching Between the Department of Education and the Department of Justice**

**57 FR 4542**

Section 5301(a)(1) of the Anti-Drug Abuse Act of 1988, (now designated association 421(a)(1) or the Controlled Substances Act, 20 U.S.C. 862(a)(1) includes provisions regarding the judicial denial of federal benefits. Section 5301 authorizes federal and state judges to deny certain federal benefits (including student financial assistance under title IV of the Higher Education Act of 1965, as amended) to individuals convicted of drug trafficking or possession.

In order to ensure that title IV student financial assistance is not awarded to individuals subject to denial of benefits under court orders issued pursuant to section 5301, the Department of Education and the Department of Justice are implementing a computer-matching program. The Department of Education needs to obtain from the Department of Justice identifying information regarding individuals who are the subject of section 5301 denial of benefits court orders. The purpose of this notice is to announce the establishment of the computer-matching program and to provide certain required information concerning the computer-matching program.

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100-503), the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (see 54 FR at 25818, June 19, 1989), and OMB Bulletin 89-22, the following information is provided:

**1. Name of Participating Agencies**

The Department of Education (ED) and the Department of Justice (DOJ).

**2. Purpose of the Match**

This matching program is designed to assist ED in enforcing the sanctions imposed under section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690).

**3. Authority for Conducting the Matching Program**

Under section 5301 of the Anti-Drug Abuse Act of 1988, as amended (21 U.S.C.862), ED must deny federal benefits to any individual against whom a federal or state court order has imposed a penalty denying eligibility for those benefits. Student financial assistance under title IV of the Higher Education Act of 1965 is a federal benefit under section 5301 and ED must, in order to meet its obligations under the HEA, have access to information about individuals who have been declared ineligible under section 5301.

The President's Denial of Federal Benefits Implementation Procedures of August 30, 1989 direct DOJ to act as the information clearinghouse for federal agencies. While DOJ provides information about Section 5301 ineligible individuals to the General Services Administration (GSA) for inclusion in GSA's List of Parties Excluded from Federal Procurement and Nonprocurement Programs, DOJ and ED have determined that direct access to the DOJ data base would be more efficient and effective than access to the GSA List. The DOJ data base has specific information about the title IV, HEA programs for which individuals are ineligible and has more complete identifying information about those individuals. Both of these elements are essential to a successful match.

#### 4. Categories of Records and Individuals Covered

##### A. Department of Education Records

Federal Student Aid Application File (18-40-0014): Composed of records of students applying for federal student financial assistance under title IV of the Higher Education Act of 1965, as amended (HEA). The social security number and the first two letters of an applicant's last name will be used by ED for the match.

##### B. Department of Justice Records

Denial of Federal Benefits Clearinghouse System (DEBAR) (OJP-0013); contains the names, social security numbers, dates of birth, and other identifying information regarding individuals convicted of federal or state offenses involving drug trafficking or possession of a controlled substance who have been denied federal benefits by federal or state courts. This system of records also contains information concerning the specific program(s) for which benefits have been denied. The Department of Justice will make available to the matching program the records of only those individuals who have been denied federal benefits under one or more of the title IV, HEA programs.

#### 5. Effective Dates of the Matching Program

The matching program will begin 30 days after publication of this notice in the Federal Register and will continue for a period of 18 months from the date it becomes effective unless extended.

6. Address for Receipt of Public Comments or Inquiries

Ms. Joyce R. Coates, Program Specialist, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, S.W., (room 4318, ROB-3), Telephone: (202) 708-7888.

Dated: January 29, 1992

## DEPARTMENT OF EDUCATION

## Direct Grant Programs and Fellowship Programs

**AGENCY:** Department of Education.

**ACTION:** Notice of direct grant programs and fellowship programs under which the Secretary is making new awards for fiscal year 1992.

**SUMMARY:** The Secretary updates the list of the Department's direct grant programs and fellowship programs under which the Secretary is making new awards for fiscal year (FY) 1992 and estimates the deadline dates for the transmittal of applications for those programs for which application notices have not yet been published. The Secretary also revises the list of State Single Points of Contact (SPOCs) for programs subject to the requirements of Executive Order 12372

(Intergovernmental Review of Federal Programs). The notice is intended to help potential applicants in planning for the remainder of this fiscal year.

**DATES:** The actual or estimated deadline dates for transmitting applications under these programs are listed in column four of the chart contained in this notice. If a program will be announced at a later date, the actual deadline date will appear in the application notice published in the *Federal Register*.

For previously announced programs that are subject to Executive Order 12372, the deadline dates for the transmittal of State Process Recommendations by SPOCs and comments by other interested parties are listed in the application notices for those programs (see column three of the chart for the respective publication dates of—and *Federal Register* volume and page references to—those notices).

For programs yet to be announced that are subject to EO 12372, the deadline for the transmittal of State Process Recommendations and other comments will appear in the respective application notices for those programs (see column three of the chart for the estimated publication dates of those notices).

The date on which applications will be available for any given programs are in the application notice for that program.

**ADDRESSES:** The address and telephone number for obtaining applications for, or further information about, an individual program are in the application notice for that program.

Deaf and hearing impaired individuals may call the TDD number, if any, listed in the individual application notices. If a TDD number is not listed for a given

program, deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

The address for transmitting recommendations and comments under Executive Order 12372 is in the appendix to this notice. The appendix also contains the addresses of individual SPOCs.

**SUPPLEMENTARY INFORMATION:** On September 18, 1991, the Secretary published in the *Federal Register* (56 FR 47270) the Department's annual combined application notice (CAN). That notice listed almost all of the direct grant and fellowship programs under which the Secretary planned to make new awards in FY 1992 and included the application notices for many of those programs. The list included some programs for which application notices had not yet been published. Since publication of the CAN, application notices have been published for a number of those programs. Also, some new programs have been added, and some other programs have been withdrawn or replaced.

At a meeting with officials of the Department in December 1991, certain representatives of the higher education community recommended that the Department publish an update of the CAN at least once each year, preferably at or near the beginning of the second academic semester. These representatives recommended that the update include a listing of all application notices published to date for that fiscal year. They recommended further that the Secretary provide estimated dates for publication of future application notices and estimated deadlines for transmitting applications under those notices.

The Secretary determined that these actions would be helpful, not only to the higher education community but to all potential applicants under the Department's many direct grant programs and fellowship programs. This notice, therefore, lists all FY 1992 programs previously announced in the *Federal Register*, including those for which the deadline dates have already passed, as well as FY 1992 programs to be announced at a later date. As is the case with the CAN, this notice is designed to assist potential applicants in planning projects and activities. However, to expedite publication of this update, the Secretary has decided not to include any individual application notices. Application notices are published separately in the *Federal*

*Register*. If additional competitions are carried out in FY 1992 because of new legislation or other events not known at this time, the Secretary will announce those competitions in future issues of the *Federal Register*.

As an appendix to the CAN of September 18, 1991, the Secretary published a list of State Single Points of Contact (SPOCs) for programs subject to Executive Order 12372 and the regulations in 34 CFR part 79. Since publication of that list, two more States, Pennsylvania and Oregon, have voluntarily withdrawn from participation under the order, and the names or addresses of SPOCs in a number of other States have changed. The Secretary has determined that this information, which has been made available to the Department, should be available, as well, to entities affected by the order and its implementing regulations. Therefore, as an appendix to this update, the Secretary is publishing a revised listing of SPOCs.

#### Organization of Notice

The chart lists all direct grant programs and certain fellowship programs under which the Secretary is making new awards in FY 1992. The listings are organized under the following principal program offices of the Department:

Office of Bilingual Education and  
Minority Languages Affairs  
Office of Educational Research and  
Improvement  
Office of Elementary and Secondary  
Education  
Office of Postsecondary Education  
Office of Special Education and  
Rehabilitative Services  
Office of Vocational and Adult  
Education

The listing for each principal office includes two categories of application notices: Those already published and those to be published at a later date. The programs are listed in order of their Catalog of Federal Domestic Assistance (CFDA) number irrespective of category. An asterisk (\*) preceding a CFDA number indicates a program announced or listed since publication of the CAN and not included or referenced in that earlier combined notice.

The listing for each office contains the following information:

- The CFDA number of each program.
- The name of that program.
- A reference to the application notice; that is, either (1) the publication date of the application notice, with a reference to the volume and page number of the *Federal Register* in which

the announcement appeared, or (2) an estimated date for publication of the application notice.

- The deadline date or estimated deadline date for the transmission of applications.

#### Programs To Be Announced at a Future Date

For FY 1992 a number of programs will be governed by new regulations or funding priorities. This notice references these types of programs with estimated dates (est.) in columns three and four of

the chart. For further information regarding many of these programs, readers are referred to the following notices of proposed rulemaking and notices of proposed funding priorities that have been published in the Federal Register:

Foreign Periodicals Program—Notice of Proposed Rulemaking.....	52 FR 49122 (12/29/87)
Upward Bound Program—Math and Science Initiative—Notice of Proposed Priorities.....	56 FR 37620 (8/7/91)
Javits Gifted and Talented Students Education Grant Program—Notice of Proposed Rulemaking.....	56 FR 51122 (10/9/91)
Children and Youth with Disabilities—Notice of Proposed Priorities for Fiscal Years 1992 and 1993.....	56 FR 51766 (10/15/91)
Cooperative Demonstration Program (Correction Education)—Notice of Proposed Priorities for Fiscal Year 1992.....	50 FR 57774 (11/13/91)
Proposed Funding Priorities for the National Institute on Disability and Rehabilitation Research for Fiscal Years 1992-93.....	56 FR 58230 (11/10/91)
National English Literacy Demonstration Program for Individuals of Limited English Proficiency—Notice of Proposed Priorities for Fiscal Year 1992.....	56 FR 58480 (11/19/91)
Educational Partnerships Program—Notice of Proposed Rulemaking.....	56 FR 59158 (11/22/91)
Cooperative Demonstration Program (School-to-Work)—Notice of Proposed Priorities for Fiscal Year 1992.....	56 FR 64926 (12/12/91)
Demonstration Projects for the Integration of Vocational and Academic Learning Program (Model Tech-Prep Education Projects)—Notice of Proposed Priorities for Fiscal Year 1992.....	57 FR 154 (1/2/92)
Office of Special Education and Rehabilitative Services—Notice of Proposed Funding Priorities for Fiscal Years 1992 and 1993.....	57 FR 3250 (1/28/92)
Business and Education Standards—Notice of Proposed Priorities for Fiscal Year 1992.....	57 FR 3619 (1/30/92)
Transitional Bilingual Education Program; Special Alternative Instructional Program—Notice of Proposed Priorities for Fiscal Year 1992.....	57 FR 6818 (2/28/92)
Even Start—Notice of Proposed Rulemaking.....	57 FR 7300 (2/28/92)
Rehabilitation Short-Term Training—Notice of Proposed Priorities for Fiscal Year 1992.....	57 FR 8052 (3/5/92)
Protection and Advocacy of Individual Rights—Notice of Proposed Priority for Fiscal Year 1992.....	57 FR 8232 (3/6/92)

#### Applicability of Section 5301 of the Anti-Drug Abuse Act of 1988

A number of programs listed in the chart provide that a grant, fellowship, traineeship, or other monetary benefit may be awarded to an individual. This award may be made to the individual either directly by the Department or by a grantee that receives Federal funds for the purpose of providing, for example, fellowships, traineeships, or other awards to individuals.

Section 5301 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690; 21 U.S.C. 882) provides that a sentencing court may deny eligibility for certain Federal benefits to an individual convicted of drug trafficking or possession. Thus, an

individual who applies for a grant, fellowship, or other monetary benefit under a program covered by this notice should understand that, if convicted of drug trafficking or possession, he or she is subject to denial of eligibility for that benefit if the sentencing court imposes such a sanction.

This denial applies whether the Federal benefit is provided to the individual directly by the Department or is provided through a grant, fellowship, traineeship, or other award made available with Federal funds by a grantee.

Any persons determined to be ineligible for Federal benefits under the provisions of section 5301 are listed in the General Services Administration's

#### "List of Parties Excluded from Federal Procurement or Nonprocurement Programs."

#### Applicability of the Federal Debt Collection Procedures Act of 1990

The programs listed in the chart make discretionary awards subject to the eligibility requirements of the Federal Debt Collection Procedures Act of 1990 (Pub. L. 101-647; 28 U.S.C. 3201). The Act provides that if there is judgment lien against a debtor's property for a debt to the United States, the debtor is not eligible to receive a Federal grant or loan, except direct payments to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

#### List of Programs

CFDA No.	Name of program	Application notice	Application deadline date
<b>Office of Bilingual Education and Minority Languages Affairs</b>			
84.003A.....	Transitional Bilingual Education Program.....	9/18/91 (56 FR 47270).....	1/10/92.
*84.003C.....	Developmental Bilingual Education Program.....	1/30/92 (57 FR 3618).....	4/3/92.
84.003E.....	Special Alternative Instructional Program.....	9/18/91 (56 FR 47270).....	1/10/92.
84.003G.....	Academic Excellence Program.....	9/18/91 (56 FR 47270).....	1/21/92.
84.003J.....	Family English Literacy Program.....	9/18/91 (56 FR 47270).....	11/13/91.
84.003L.....	Special Populations Program.....	9/18/91 (56 FR 47270).....	11/13/91.
*84.003M.....	Transitional Bilingual Education Program (Recent Arrivals Priority).....	5/22/92 (est.).....	7/6/92 (est.).
*84.003N.....	Special Alternative Instructional Program (Recent Arrivals Priority).....	5/22/92 (est.).....	7/6/92 (est.).
84.003O.....	State Educational Agency Program.....	9/18/91 (56 FR 47270).....	11/29/91.
84.003R.....	Educational Personnel Training Program.....	9/18/91 (56 FR 47270).....	1/27/92.
84.003S.....	Training Development and Improvement Program.....	11/4/91 (56 FR 56452).....	1/23/92.
94.003T.....	Fellowship Program.....	9/18/91 (56 FR 47270).....	1/17/92.



CFDA No.	Name of program	Application notice	Application deadline date
84.003V	Short-Term Training Program	9/19/91 (56 FR 47270)	11/13/91.
<b>Office of Educational Research and Improvement</b>			
<i>Library Programs</i>			
84.036B	Library Career Training Program—Fellowship Awards	6/12/91 (56 FR 27157)	10/10/91.
84.091A	Strengthening Research Library Resources	6/12/91 (56 FR 27157)	10/28/91, 12/2/91, 2/91.
84.163A	Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants	6/12/91 (56 FR 27156)	10/1/91.
84.163B	Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants	6/12/91 (56 FR 27158)	4/3/92.
84.167A	Library Literacy Program	6/12/91 (56 FR 27156); 10/18/91 (56 FR 52260)	12/13/91.
84.197A	College Library Technology and Cooperation Grants Program	6/12/91 (56 FR 27157)	1/17/92.
*84.197E	Biotechnology Information Education Demonstration Project	2/11/92 (57 FR 4994)	4/28/92.
84.239A	Foreign Language Materials Acquisition Program	6/12/91 (56 FR 27157)	3/9/92.
<b>Fund for the Improvement and Reform of Schools and Teaching (First)</b>			
84.168	National Program for Mathematics and Science Education	Withdrawn.	Withdrawn.
*84.168A	National Program for Mathematics and Science Education—Curriculum Frameworks	6/5/92 (est.)	7/31/92 (est.).
*84.168R	National Program for Mathematics and Science Education—Regional Consortia	6/5/92 (est.)	7/31/92 (est.).
84.211A	FIRST—Schools and Teachers Program	12/19/91 (56 FR 65958)	3/6/92.
84.211B	FIRST—Schools and Teachers Program—School-Level Projects	12/19/91 (56 FR 65960)	3/6/92.
*84.211C	FIRST—Schools and Teachers Program	1/14/92 (57 FR 1632)	3/18/92.
84.212A	FIRST—Family-School Partnership Program	12/19/91 (56 FR 65946)	3/6/92.
84.215	Secretary's Fund for Innovation in Education (FIE)		
84.215A	FIE—Innovation in Education Program—Restructuring	3/17/92 (57 FR 8378)	5/22/92.
84.215B	FIE—Comprehensive School Health Education Program	12/19/91 (56 FR 65982)	2/14/92.
*84.215C	FIE—Technology Education Program	3/10/92 (57 FR 8564)	5/8/92.
*84.215G	FIE—Innovation in Education Program—Assessment	6/5/92 (est.)	7/31/92 (est.).
<b>Office of Research</b>			
84.117A	National Reading Research Center	7/8/91 (56 FR 31014)	10/18/91.
84.117E	Educational Research Grant Program—Field-Initiated Studies	9/18/91 (56 FR 47270); 11/19/91 (56 FR 58373)	1/22/92.
84.117J	OERI Fellows Program	2/7/92 (57 FR 4796)	4/17/92.
<b>Programs for the Improvement of Practice</b>			
84.073A	National Diffusion Network Program—New Developer Demonstrator Projects	9/18/91 (56 FR 47270)	4/10/92.
84.073C	National Diffusion Network Program—New State Facilitator Projects	12/12/91 (56 FR 64777)	3/9/92.
84.073E	National Diffusion Network Program—New Dissemination Process Projects	9/18/91 (56 FR 47270)	5/29/92.
*84.117H	Researcher Training Program	3/8/92 (57 FR 8236)	5/1/92.
84.203A	Star Schools—General	5/18/92 (est.)	7/2/92 (est.).
84.203B	Star Schools—Statewide	5/18/92 (est.)	7/2/92 (est.).
84.203C	Star Schools—Dissemination	5/18/92 (est.)	7/2/92 (est.).
84.206	Javits Gifted and Talented Students Education Grant Program	3/13/92 (57 FR 9002)	5/7/92.
84.228A	Educational Partnerships Program	4/10/92 (est.)	6/18/92 (est.).
<b>National Center for Education Statistics</b>			
84.999B	National Assessment of Educational Progress Data Reporting Program	9/18/91 (56 FR 47270)	11/15/91.
*84.999E	National Assessment of Educational Progress Program	11/25/91 (56 FR 59250); 1/6/92 (57 FR 402)	1/17/92.
<b>Office of Elementary and Secondary Education</b>			
84.004C	Desegregation of Public Education—State Educational Agency Desegregation Program	7/25/91 (56 FR 34056); 8/12/91 (56 FR 38132)	10/1/91.
84.014B	Follow Through Program—Local Projects	9/18/91 (56 FR 47270); 3/10/92 (57 FR 8444)	4/27/92.
84.014C	Follow Through Program—Sponsors	9/18/91 (56 FR 47270); 3/10/92 (57 FR 8444)	4/27/92.
84.061A	Educational Services for Indian Children	9/18/91 (56 FR 47270)	1/8/92.
84.061C	Planning, Pilot, and Demonstration Projects for Indian Children (Planning Projects)	2/21/92 (57 FR 6283)	5/1/92.
84.061D	Planning, Pilot, and Demonstration Projects for Indian Children (Pilot Projects)	2/21/92 (57 FR 6283)	5/1/92.
84.061E	Planning, Pilot, and Demonstration Projects for Indian Children (Demonstration Projects)	2/21/92 (57 FR 6283)	5/1/92.
84.061F	Indian Education—Educational Personnel Development	2/21/92 (57 FR 6283)	5/1/92.
84.062A	Educational Services for Indian Adults	9/18/91 (56 FR 47270)	1/8/92.
84.072A	Indian-Controlled Schools—Enrichment Projects	9/18/91 (56 FR 47270)	1/8/92.
84.083A	Women's Educational Equity Act	9/18/91 (56 FR 47270); 2/26/92 (57 FR 6599)	Withdrawn.

CFDA No.	Name of program	Application notice	Application deadline date
84.087A	Indian Fellowship Program	9/18/91 (56 FR 47270)	2/7/92
84.123A	Law-Related Education Program	9/18/91 (56 FR 47270)	3/2/92
84.184A	Drug-Free Schools and Communities Program—Demonstration Grants to Institutions of Higher Education	9/18/91 (56 FR 47270); 12/19/91 (56 FR 65690)	2/4/92
84.184B	Drug-Free Schools and Communities Program—Federal Activities Grants Programs	9/18/91 (56 FR 47270)	12/20/91
84.190A	Christa McAuliffe Fellowship Program	9/18/91 (56 FR 47270)	12/13/91
84.201	School Dropout Demonstration Assistance Program	1/17/92 (57 FR 2081); 2/21/92 (57 FR 6216)	4/3/92
84.207A	Drug-Free Schools and Communities—School Personnel Training Grants	9/18/91 (56 FR 47270)	12/4/91
84.214A	Migrant Educational Even Start Program	6/1/92 (est.) <sup>3</sup>	7/31/92 (est.)
84.233A	Drug-Free Schools and Communities—Emergency Grants	9/18/91 (56 FR 47270)	2/18/92
84.241A	Drug-Free Schools and Communities—Counselor Training Grants Program	9/18/91 (56 FR 47270); 12/19/91 (56 FR 65890)	2/4/92

## Office of Postsecondary Education

84.016A	Undergraduate International Studies and Foreign Language	8/8/91 (56 FR 37691)	11/4/91
84.017A	International Research and Studies Program	8/19/91 (56 FR 41124)	11/1/91
84.019A	Fulbright-Hays Faculty Research Abroad	8/26/91 (56 FR 42035)	11/1/91
84.021A	Fulbright-Hays Group Projects Abroad	8/8/91 (56 FR 37691)	10/21/91
84.022A	Fulbright-Hays Doctoral Dissertation Research Abroad	8/26/91 (56 FR 42035)	11/1/91
84.031A	Strengthening Institutions Program	9/16/91 (56 FR 46770)	1/24/92
84.031G	Endowment Challenge Grant Program	9/18/91 (56 FR 47270)	6/11/92
84.031H	Strengthening Institutions Program and Endowment Challenge Grant Program—Designation as an Eligible Institution (under 84.031A and 84.031G)	8/1/91 (56 FR 36780)	9/20/91
84.047A	Upward Bound Program	9/18/91 (56 FR 47270)	12/6/91
84.047A-3	Upward Bound Program—Math/Science Centers	4/10/92 (est.)	6/5/92 (est.)
84.055A	Cooperative Education Program—Administration Projects	9/18/91 (56 FR 47270)	12/13/91
84.055C	Cooperative Education Program—Research Projects	9/18/91 (56 FR 47270)	12/13/91
84.055D	Cooperative Education Program—Training and Resource Center Projects	9/18/91 (56 FR 47270)	12/13/91
84.094B	Patricia Roberts Harris Fellowships Program—Graduate and Professional Study Fellowships	9/18/91 (56 FR 47270); 10/29/91 (56 FR 55685)	11/29/91
84.094C	Patricia Roberts Harris Fellowships Program—Public Service Education Fellowships	8/19/91 (56 FR 41125)	10/11/91
84.097A	Law School Clinical Experience Program	9/18/91 (56 FR 47270)	1/21/92
84.120A	Minority Science Improvement Program—Institutional, Cooperative, and Design Projects	10/28/91 (56 FR 55493)	12/11/91
84.120B	Minority Science Improvement Program—Special Projects	10/28/91 (56 FR 55493)	12/11/91
84.136A	Assistance for Training in the Legal Profession	Withdrawn	Withdrawn
84.153	Business and International Education	8/8/91 (56 FR 37691)	11/8/91
84.170A	Jacob K. Javits Fellows Program	9/18/91 (56 FR 47270)	2/3/92
*84.172A	Graduate Academic Facilities Grant Program	4/15/92 (est.)	7/15/92 (est.)
84.200A	Graduate Assistance in Areas of National Need	9/13/91 (56 FR 46700)	10/28/91
84.202A	Minority Participation in Graduate Education	9/13/91 (56 FR 46684)	10/28/91
84.217A	Ronald E. McNair Post-Baccalaureate Achievement Program	5/11/92 (est.)	6/24/92 (est.)
84.219A	Student Literacy Corps Program	8/16/91 (56 FR 40880)	11/4/91
84.220A	Centers for International Business Education	12/2/91 (56 FR 81308)	2/28/92
*84.251	Foreign Periodicals	5/15/92 (est.)	7/31/92 (est.)
*84.252	Urban Community Services	4/6/92 (est.)	5/29/92 (est.)

## Fund for the improvement of Postsecondary Education (FIPSE)

84.116A	Comprehensive Program (Preapplications)	8/26/91 (56 FR 42036)	10/16/91
84.116B	Comprehensive Program (Applications) *	8/26/91 (56 FR 42036)	2/28/92
84.116F	Fund for the Improvement of Postsecondary Education—Innovative Projects for Student Community Service	9/18/91 (56 FR 47270)	12/18/91
84.116G	Fund for the Improvement of Postsecondary Education—Practitioner Scholars (Invitational Priority: Lecture Series)	9/18/91 (56 FR 47270)	12/10/91
84.116H	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: College-School Partnerships to Improve Learning of Essential Academic Subjects, Kindergarten through College)	1/14/92 (57 FR 1628)	3/18/92
84.116J	Fund for the improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Higher Education Cooperation and Exchange between the United States and the European Community)	Withdrawn	Withdrawn
84.116K	Fund for the Improvement of Postsecondary Education—Special Focus Competition (Invitational Priority: Projects in Science and the Humanities)	9/18/91 (56 FR 47270)	4/1/92
84.183A	Drug Prevention Programs in Higher Education—Institution-Wide Program	9/18/91 (56 FR 47270)	1/21/92
84.183B	Drug Prevention Programs in Higher Education—Special Focus Program Competition: National College Student Organizational Network Program	9/18/91 (56 FR 47270); 10/29/91 (56 FR 55665)	5/4/92
84.183D	Drug Prevention Programs in Higher Education—Special Focus Program Competition: Specific Approaches to Prevention Projects (Invitational Priority: Higher Education Consortia for Drug Prevention)	9/18/91 (56 FR 47270)	2/24/92

CFDA No.	Name of program	Application notice	Application deadline date
84.183E	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Dissemination of Successful Projects.	9/18/91 (56 FR 47270)	1/13/92
84.183F	Drug Prevention Programs in Higher Education—Analysis and Dissemination Program Competitions: Analysis Projects.	9/18/91 (56 FR 47270)	1/13/92.

## Office of Special Education and Rehabilitative Services

## Office of Special Education Programs

84.023A	Advancing and Improving the Research Knowledge Base	12/23/91 (56 FR 66436)	3/6/92
84.023B	Student-Initiated Research Projects	8/30/91 (56 FR 43005)	1/10/92
84.023C	Field-Initiated Research Projects	9/30/91 (56 FR 43005)	10/25/91
84.023J	Research on Self-Determination in Individuals with Disabilities	6/1/92 (est.)	7/6/92 (est.)
84.023M	Groundsmen Projects for Children and Youth with Disabilities	6/1/92 (est.)	7/6/92 (est.)
84.023N	Initial Career Awards	6/1/92 (est.)	7/1/92 (est.)
84.023R	Including Children with Disabilities as a Part of Systemic Efforts to Restructure Schools.	6/1/92 (est.)	7/6/92 (est.)
84.024B	Early Childhood Model Demonstration Projects	3/30/92 (est.)	6/1/92 (est.)
84.024D	Outreach Projects	3/30/92 (est.)	6/1/92 (est.)
84.024H	Experimental Projects	3/30/92 (est.)	6/1/92 (est.)
84.024P	Training of Early Intervention Service Providers through Training of Faculty from Institutions of Higher Education	3/30/92 (est.)	6/1/92 (est.)
84.024T	Early Childhood Research Institute—Service Implementation and Capacity for Providing Early Intervention Services	3/30/92 (est.)	6/1/92 (est.)
84.025A	State and Multi-State Services Projects for Children with Deaf-Blindness and Optional Pilot Projects for Children with Deaf-Blindness	3/30/92 (est.)	5/18/92 (est.)
84.025E	Technical Assistance for Transitional Services	10/11/91 (56 FR 51590)	1/17/92
84.025R	Research in Social Relationships for Children and Youth with Deaf-Blindness	3/30/92 (est.)	5/18/92 (est.)
*84.025U	National Clearinghouse for Children with Deaf-Blindness	10/11/91 (56 FR 51590)	1/17/92
84.026B	Descriptive Video	3/30/92 (est.)	5/18/92 (est.)
84.026R	Special Research, Development, and Evaluation Projects	3/30/92 (est.)	5/18/92 (est.)
84.026S	Closed-Captioned Daytime Programming	3/30/92 (est.)	5/18/92 (est.)
84.026T	Cultural Experiences for Deaf and Hard of Hearing Individuals	10/22/91 (56 FR 54706)	1/31/92
84.029A	Training Personnel To Serve Low-Incidence Disabilities	11/7/91 (56 FR 57205)	1/10/92
84.029B	Preparation of Personnel for Careers in Special Education	11/7/91 (56 FR 57205)	1/10/92
*84.029C	Personnel Development Partnerships	12/30/91 (56 FR 67380)	4/1/92
*84.029C3	Technical Assistance to Technical Development Partnerships	6/30/92 (est.)	7/30/92 (est.)
84.029D	Preparation of Leadership Personnel	11/7/91 (56 FR 57205)	1/10/92
84.029E	Minority Institutions	11/7/91 (56 FR 57205)	1/10/92
84.029F	Preparation of Related Services Personnel	11/7/91 (56 FR 57205)	1/10/92
84.029K	Special Projects	11/7/91 (56 FR 57205)	1/10/92
*84.029K3	Special Projects	6/30/92 (est.)	7/30/92 (est.)
84.029M	Parent Training and Information Centers	9/18/91 (56 FR 47296)	11/8/91
*84.029P	Urban and Rural Parent Centers	6/30/92 (est.)	7/30/92 (est.)
84.029Q	Training Early Intervention and Preschool Personnel	11/7/91 (56 FR 57205)	1/10/92
84.029R	Technical Assistance to Parent Projects	6/30/92 (est.)	7/30/92 (est.)
84.078C	Career Placement Opportunities for Students with Disabilities in Postsecondary Programs	3/30/92 (est.)	5/18/92 (est.)
84.086A	Social Relationships Research Institute for Children and Youth with Severe Disabilities	3/30/92 (est.)	5/18/92 (est.)
84.086D	Developing Innovations for Educating Children with Severe Disabilities Full-time in General Education Classrooms	3/30/92 (est.)	5/18/92 (est.)
84.086J	State-wide Systems Change	3/30/92 (est.)	4/30/92 (est.)
84.086R	Model Inservice Training Projects	3/30/92 (est.)	4/30/92 (est.)
84.086U	Outreach Serving Students with Severe Disabilities in Integrated Environments	3/30/92 (est.)	4/30/92 (est.)
*84.158	State Systems for Transition Services for Youth with Disabilities	12/20/91 (56 FR 66295)	3/13/92
84.158D	Model Demonstration Projects to Identify, Recruit, Train, and Place Youth with Disabilities Who Have Dropped Out of School	3/30/92 (est.)	4/30/92 (est.)
84.158G	Institute to Evaluate and Provide Technical Assistance to States Implementing Cooperative Projects to Improve Transition Services	3/30/92 (est.)	5/18/92 (est.)
84.158K	Model Demonstration Projects to Identify and Teach Skills Necessary for Self-Determination	3/30/92 (est.)	5/18/92 (est.)
84.158P	Research Projects on the Transition of Special Populations to Integrated Postsecondary Environments	3/30/92 (est.)	5/18/92 (est.)
84.159A	State Agency—Federal Evaluation Studies Projects	6/30/92 (est.)	8/7/92 (est.)
84.159F	State Agency—Federal Evaluation Studies Projects—Feasibility Studies of Impact and Effectiveness	6/30/92 (est.)	8/7/92 (est.)
84.159G	The Center for Special Education Finance	6/30/92 (est.)	8/7/92 (est.)
84.180D	Innovative Applications of Technology to Enhance Experiences in the Arts for Children with Disabilities	4/28/92 (est.)	6/11/92 (est.)
84.180E	Demonstrating and Evaluating the Benefits of Educational Innovations Using Technology	4/28/92 (est.)	6/11/92 (est.)
84.180F	Studying How the Design of Software and Computer-Assisted Media and Materials Can Enhance the Instruction of Preschool Children with Disabilities	4/28/92 (est.)	6/4/92 (est.)

CFDA No.	Name of program	Application notice	Application deadline date
*84 180G	Technology, Education Media, and Materials Research Projects that Promote Literacy.	3/24/92 (57 FR 10248)	5/26/92
*84.180H	Technology, Education Media, and Materials Demonstration Projects that Promote Literacy.	3/24/92 (57 FR 10248)	5/26/92
*84 18CN	Practice Improvement Center on the Effective and Efficient Use of Technology, Media, and Materials in the Provision of Education and Related Services to Children and Youth with Disabilities.	6/3/92 (est.)	7/20/92 (est.)
*84 237B	Facilitating Interagency and Private Sector Resource Pooling to Improve Services.	4/10/92 (est.)	6/16/92 (est.)
84.237C	School Preparedness for Promoting the Personal and Social Development of Students with Emotional and Behavioral Problems, including Those with Serious Emotional Disturbance.	4/28/92 (est.)	5/29/92 (est.)
*84.237D	Professional Development and Support	4/10/92 (est.)	6/16/92 (est.)
*84 237E	Family/Community Alliances to Increase the Use of Community Programs.	4/20/92 (est.)	6/16/92 (est.)

## National Institute on Disability and Rehabilitation Research

84.133A	Research and Demonstration Projects	4/10/92 (est.)	6/5/92 (est.)
84.133B	Rehabilitation Research and Training Centers	4/10/92 (est.)	6/24/92 (est.)
84.133C	Innovation Grants	7/31/91 (56 FR 36662)	3/16/92
*84.133D	Knowledge Dissemination and Utilization Project—Support of Implementation of the Americans with Disabilities Act.	11/25/91 (56 FR 59250)	1/31/92
84.133D	Knowledge Dissemination and Utilization	4/10/92 (est.)	6/5/92 (est.)
84.133E	Rehabilitation Engineering Centers	4/10/92 (est.)	6/24/92 (est.)
84.133F	Rehabilitation Research Fellowships	7/31/91 (56 FR 36662)	12/15/91
84.133G	Field-Initiated Research	7/31/91 (56 FR 36662)	10/15/91
84.133P	Research Training Grants	5/14/91 (56 FR 22282)	9/30/91
84.224A	State Grants for Technology-Related Assistance for Individuals with Disabilities.	8/22/91 (56 FR 38300)	10/15/91
84.231A	Innovation and Demonstration Technology Grants	10/18/91 (56 FR 51885)	12/13/91
84.236A	Technology Related Assistance for Individuals with Disabilities—Training and Public Awareness Projects.	10/18/91 (56 FR 51884)	12/13/91

## Rehabilitation Services Administration

4.128G	Vocational Rehabilitation Service Projects for Migratory Agricultural and Seasonal Farmworkers with Handicaps—Service Models to Expedite the Rehabilitation Process.	3/5/92 (57 FR 8049)	4/23/92
4.128K	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects in Rural Areas.	3/5/92 (57 FR 8045)	4/20/92
4.128L	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects for Individuals with Long Term Mental Illnesses.	3/5/92 (57 FR 8045)	4/20/92
4.128M	Special Projects and Demonstrations for Providing Supported Employment Services to Individuals with Severe Handicaps—Community-Based Projects for Unserved and Underserved Populations.	3/5/92 (57 FR 8045)	4/20/92
4.129	Rehabilitation Long-Term Training	9/20/91 (56 FR 47745)	11/22/91
4.129A	Rehabilitation Long-Term Training—Prosthetics and Orthotics.	9/20/91 (56 FR 47745); 1/17/92 (57 FR 2081)	2/14/92
4.129B	Rehabilitation Long-Term Training—Rehabilitation Counseling.	11/22/91 (56 FR 59164)	2/3/92
4.129B	Rehabilitation Long-Term Training—Rehabilitation Counseling—Doctoral Level Program.	3/12/92 (57 FR 8797)	5/8/92
4.129S	Rehabilitation Long-Term Training—National Clearinghouse of Rehabilitation Training Materials.	3/12/92 (57 FR 8797);	5/8/92
4.129S	Rehabilitation Long-Term Training—Client Assistance—Projects of National Scope.	3/12/92 (57 FR 8797)	5/8/92
4.129T	Experimental and Innovative Training	9/18/91 (56 FR 47275); 11/15/91 (56 FR 58053)	11/21/91
4.129V	State Vocational Rehabilitation Unit In-Service Training	11/25/91 (56 FR 59251)	3/9/92
132	Centers for Independent Living	Withdrawn	Withdrawn
4.177A	Independent Living Services for Older Blind Individuals	8/30/92 (est.)	8/21/92 (est.)
234H	Projects with Industry—Projects to Increase Placements in Occupations that Reflect Current and Future Employment Trends and Labor Market Needs.	3/10/92 (57 FR 8567)	4/30/92
234J	Projects with Industry—Projects to Increase the Wage-Earning Potential of Individuals with Handicaps.	3/10/92 (57 FR 8567)	4/30/92
235A	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Specific Learning Disabilities Residing in Remote or Rural Areas.	3/10/92 (57 FR 8551)	5/8/92
235G	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Traumatic Brain Injuries.	3/10/92 (57 FR 8551)	5/8/92
235H	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Individuals with Chronic, Progressive Diseases.	3/10/92 (57 FR 8551)	5/8/92

CFDA No.	Name of program	Application notice	Application deadline date
*84.235J	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Non-Priority.	3/10/92 (57 FR 8551)	5/8/92.
*84.235K	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Hearing Research Center.	6/30/92 (est.)	8/21/92 (est.).
*84.235L	Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps—Comprehensive Head Injury Rehabilitation and Prevention Centers.	2/19/92 (57 FR 6009)	4/15/92.
*84.240	Program of Protection and Advocacy of Individual Rights	6/30/92 (est.)	8/21/92 (est.).
84.246	Rehabilitation Short-Term Training	6/30/92 (est.)	8/15/92 (est.).
84.250A	Vocational Rehabilitation Service Projects for American Indians with Handicaps—Disabilities of High Prevalence on the Reservation or in the Tribal Village.	3/5/92 (57 FR 8039)	4/30/92.
84.250B	Vocational Rehabilitation Service Projects for American Indians with Handicaps—Individuals with Specific Learning Disabilities.	3/5/92 (57 FR 8039)	4/30/92.

## Office of Vocational and Adult Education

84.099	Bilingual Vocational Instructor Training Program	5/10/91 (56 FR 21784)	7/12/91.
84.101A	Indian Vocational Education Program	5/30/91 (56 FR 24634)	7/15/91.
84.101C	Native Hawaiian Vocational Education Program	9/18/91 (56 FR 47270)	4/5/92.
84.192A	Adult Education for the Homeless Program	4/2/91 (56 FR 13522)	6/14/91.
84.193A	Demonstration Centers for the Training of Dislocated Workers Program	6/7/91 (56 FR 26566)	8/2/91.
84.198A	National Workplace Literacy Program	6/4/91 (56 FR 25578)	7/19/91.
84.199D	Cooperative Demonstration Program (Correctional Education)	3/31/92 (est.)	5/29/92 (est.).
84.199E	Cooperative Demonstration Program (School-to-Work)	3/31/92 (est.)	5/29/92 (est.).
84.223A	National English Literacy Demonstration Program for Adults of Limited English Proficiency.	3/31/92 (est.)	5/29/92 (est.).
84.244A	Business and Education Standards Program	4/30/92 (est.)	6/26/92 (est.).
84.247A	Commercial Drivers Education Program	8/12/91 (56 FR 38274)	10/11/91.
84.248A	Demonstration Projects for the Integration of Vocational and Academic Learning Program.	4/10/92 (est.)	6/5/92 (est.).

<sup>1</sup> For institutions needing to establish eligibility.

<sup>2</sup> For all others.

<sup>3</sup> The program announcement published on 9/10/91 (56 FR 47270) is to be replaced by a new announcement.

<sup>4</sup> Applicants for 84.116B must submit preapplications under 84.116A by 10/16/91.

## Invitation to Comment

The Secretary welcomes comments on the usefulness of this update of the annual combined application notice and suggestions for improving this update or the combined application notice.

Please direct any comments and suggestions to Steven N. Schatken, Assistant General Counsel for Regulations, U.S. Department of Education, 400 Maryland Avenue, SW (room 4091, FOB-6), Washington, DC 20202-2110.

Dated: March 25, 1992.

Lamar Alexander,

Secretary of Education.

## Appendix

## Intergovernmental Review of Federal Programs

This appendix applies to each program that is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes

for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each of those States under the Executive order. A listing containing the Single Point of Contact for each State is included in this appendix.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, EO 12372—CFDA# (commenter must insert

number—including suffix letter, if any), U.S. Department of Education, room 4181, 400 Maryland Avenue, SW, Washington, DC 20202-0125.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS COMPLETED APPLICATION. DO NOT SEND APPLICATIONS TO THE ABOVE ADDRESS.

## State Single Points of Contact

## Alabama

Mrs. Moncell Thornell, State Single Point of Contact, Alabama Department of Economic & Community Affairs, 3485 Norman Bridge Road, Post Office Box 250347, Montgomery, Alabama 36125-0347, Telephone (205) 284-8905.

## Arizona

Ms. Janice Dunn, Arizona State Clearinghouse, 3800 N. Central Avenue, Fourteenth Floor, Phoenix, Arizona 85012, Telephone (602) 280-1315.

**Arkansas**

Mr. Joseph Gillespie, Manager, State Clearinghouse, Office of Intergovernmental Service, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Telephone (501) 371-1074.

**California**

Chris Kinne, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Telephone (916) 445-0613.

**Colorado**

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, room 520, Denver, Colorado 80203, Telephone (303) 856-2150.

**Connecticut**

Richard N. Symonds, Jr., Single Point of Contact Office, Office of Policy and Management, Policy Development and Planning Division, 80 Washington Street, Hartford, Connecticut 06106-4459, Telephone (203) 586-3410.

**Delaware**

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Telephone (302) 739-3328.

**District of Columbia**

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, room 418, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Telephone (202) 727-8111.

**Florida**

Janice L. Alcott, Director, Florida State Clearinghouse, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32399-0001, Telephone (904) 488-8114.

**Georgia**

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia 30334, Telephone (404) 656-3855.

**Hawaii**

Mary Lou Koayashi, Planning Program Manager, Office of State Planning, Office of the Governor, State Capitol—room 408, Honolulu, Hawaii 96813, Telephone (808) 548-5893, FAX (808) 548-8172.

**Illinois**

Jami Owens, State Single Point of Contact, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Telephone (217) 782-1671.

**Indiana**

Frank Sullivan, Budget Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Telephone (317) 232-5810.

**Iowa**

Steven R. McCann, Division for Community Progress, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309, Telephone (515) 281-3725.

**Kentucky**

Ronald W. Cook, Office of the Governor, Department of Local Government, Kentucky State Clearinghouse, 2nd Floor Capital Plaza Tower, Frankfort, Kentucky 40601, Telephone (502) 564-2362.

**Maine**

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Telephone (207) 289-3281.

**Maryland**

Mary Abrams, Chief, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2365, Telephone (301) 225-4490.

**Massachusetts**

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities & Development, 100 Cambridge Street, room 1803, Boston, Massachusetts 02202, Telephone (617) 727-7001.

**Michigan**

Milton O. Waters, Director of Operations, Michigan Neighborhood Builders Alliance, Michigan Department of Commerce, Telephone (517) 373-7111.

Please direct correspondence to: Manager, Federal Project Review, Michigan Department of Commerce, Michigan Neighborhood Builders Alliance, P.O. Box 30242, Lansing, Michigan 48909, Telephone (517) 373-6223.

**Mississippi**

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, Office of Policy Development, 421 West Pascagoula Street, Jackson, Mississippi 39203, Telephone (601) 960-4280.

**Missouri**

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, room 760, Truman Building, Jefferson City, Missouri 65102, Telephone (314) 751-4834.

**Montana**

Deborah Stanton, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of Budget and Program Planning, Capitol Station, Room 202—State Capitol, Helena, Montana 59620, Telephone (406) 444-5522.

**Nevada**

Department of Administration, State Clearinghouse, Capitol Complex, Carson City, Nevada 89710, Telephone (702) 885-4420, Attention: John B. Walker, Clearinghouse Coordinator.

**New Hampshire**

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process/James E. Bieber, 2½ Beacon Street, Concord, New Hampshire 03301, Telephone (603) 271-2155.

**New Jersey**

Richard J. Porth, Director, Division of Community Resources.

Please direct inquiries to: Andrew J. Jaskolka, State Review Process, Division of

Community Resources, CN 814, (room 602), Trenton, New Jersey 08625-0814, Telephone (609) 292-9025.

**New Mexico**

Aurelia M. Sandoval, State Budget Division, DFA, Room 190, Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone (505) 827-3640, FAX (505) 827-3006.

**New York**

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Telephone (518) 474-1605.

**North Carolina**

Mrs. Chrys Baggett, Director, Intergovernmental Relations, N.C. Department of Administration, 116 W. Jones Street, Raleigh, North Carolina 27611, Telephone (919) 733-0499.

**North Dakota**

Jim Boyd, State Single Point of Contact, Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505-0170, Telephone (701) 224-2094.

**Ohio**

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, 34th Floor, Columbus, Ohio 43268-0411, Telephone (614) 466-0698.

**Oklahoma**

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73118, Telephone (405) 843-9770.

**Rhode Island**

Kevin Nelson, Review Coordinator, Office of Strategic Planning, Division of Planning, 1 Capitol Hill—Fourth Floor, Providence, Rhode Island 02908-5870, Telephone (401) 277-2083.

**South Carolina**

State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, room 477, Columbia, South Carolina 29201, Telephone (803) 734-0494.

**South Dakota**

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Telephone (605) 773-3212.

**Tennessee**

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Telephone (615) 741-1678.

**Texas**

Tom Adams, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone (512) 463-1778.

**Utah**

Utah State Clearinghouse, Office of Planning and Budget, ATTN: Carolyn Wright,

room 116 State Capitol, Salt Lake City, Utah 84114. Telephone (801) 533-1535.

#### Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research & Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602. Telephone (802) 828-3328.

#### Washington

Marilyn Dawson, Washington Intergovernmental Review Process, Department of Community Development, 9th and Columbia Building, Mail Stop CH-51, Olympia, Washington 98504-4151. Telephone (206) 753-4978.

#### West Virginia

Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development,

Building #6, room 553, Charleston, West Virginia 25305. Telephone (304) 348-4010.

#### Wisconsin

William C. Carey, Federal/State Relations, ICA Relations, 101 South Webster Street, P.O. Box 7868, Madison, Wisconsin 53707. Telephone (608) 268-0287.

#### Wyoming

Theany McAfee, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002. Telephone (307) 777-6400.

#### Territories

##### Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of

the Governor, P.O. Box 2950, Agaña, Guam 96910. Telephone (671) 472-2285.

##### Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM, Northern Mariana Islands 96950, Puerto Rico

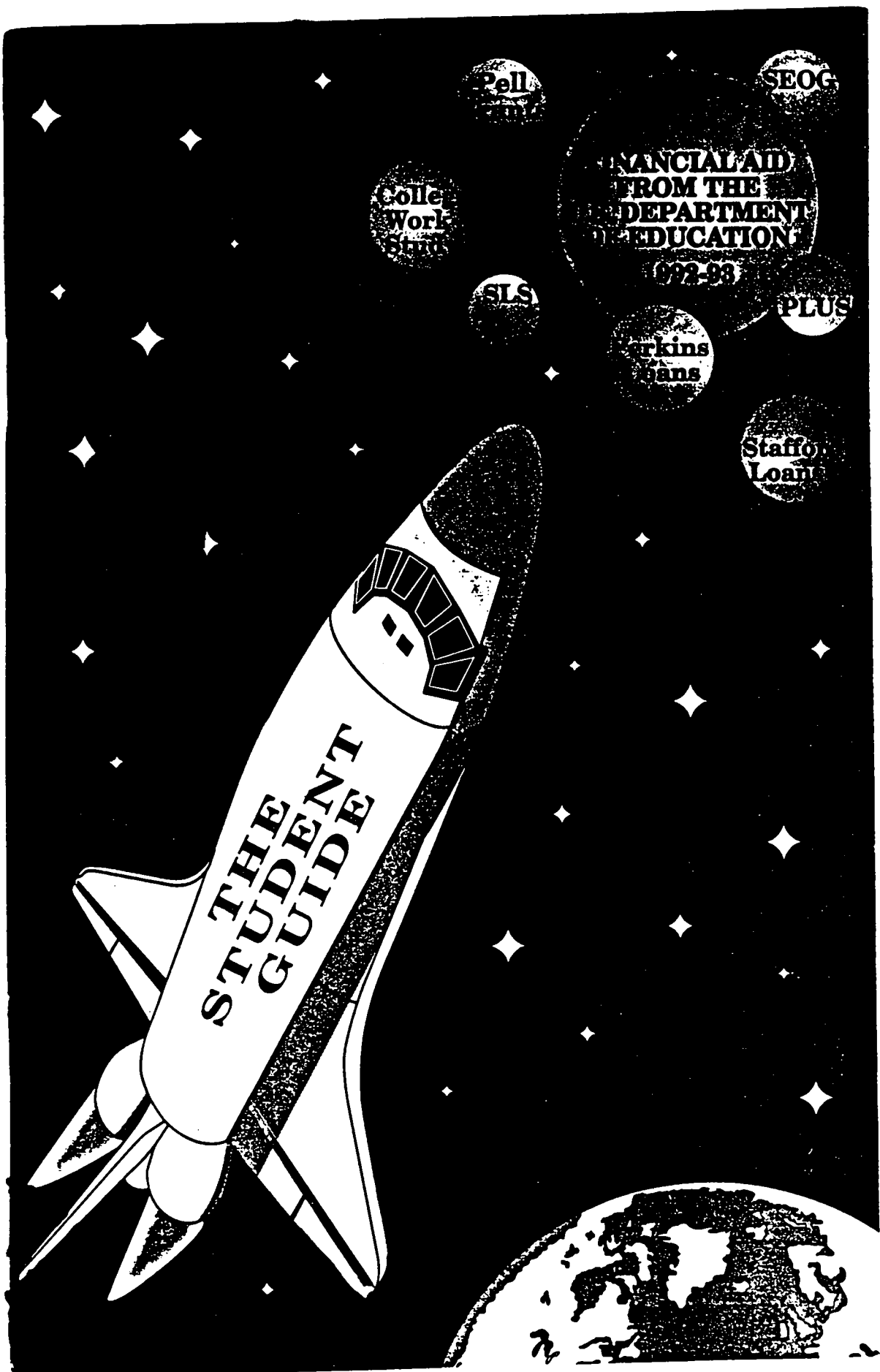
Patria Custodio/Israel Soto Marrero, Chairman/Director, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985. Telephone (809) 727-4444.

##### Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 & 33 Kongens Gade, Charlotte Amalie, V.I. 00802. Telephone (809) 774-0750.

[FR Doc. 92-7347 Filed 4-1-92; 8:45 am]

BILLING CODE 4000-01-M



**THE  
STUDENT  
GUIDE**

Pell

SEOG

College  
Work  
Study

**FINANCIAL AID  
FROM THE  
DEPARTMENT  
OF EDUCATION  
1992-93**

SLS

PLUS

Perkins  
Loans

Stafford  
Loans





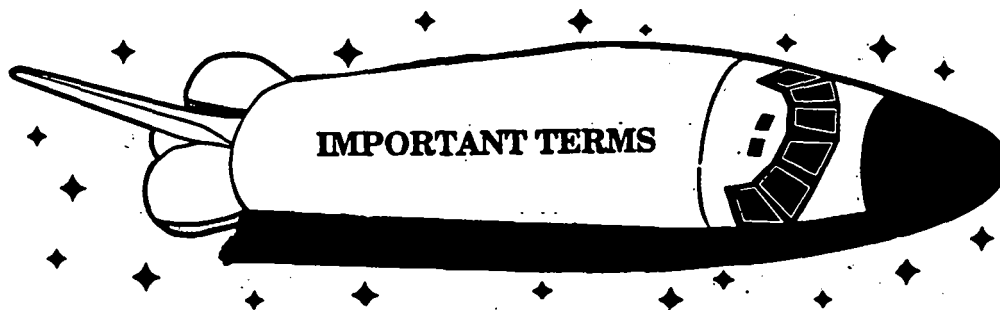
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## **STUDENT ELIGIBILITY REQUIREMENTS**

- Generally, have financial need (see page 9)
- Have a high school diploma, a GED,\* or—except for SLS—have passed an independently administered test approved by the U.S. Department of Education
- Be enrolled as a **regular student\*** in an **eligible program\***
- Be enrolled at least **half-time\***—except for the campus-based programs (see page 25)
- Be a U.S. citizen\* or eligible non-citizen\*
- Make **satisfactory academic progress\***
- Sign a **statement of educational purpose/ certification statement on refunds and default\***
- Sign an **Anti-Drug Abuse Act Certification\***
- Sign a **statement of updated information\***
- Sign a **statement of registration status\***

\*See "Important Terms," pages 50 to 58.



**Anti-Drug Abuse Act Certification:** To receive a Pell Grant, you must sign a statement certifying that you will not make, distribute, dispense, possess, or use illegal drugs during the period covered by the Grant. In addition, you are also certifying that if you are convicted of a drug-related offense committed during that period, you will report the conviction in writing to the U.S. Department of Education. Your Student Aid Report (SAR) will contain this certification statement, although in some cases, your school may ask you to sign instead a statement it has prepared.

 **NOTE:** Your eligibility for *any* of the programs covered in this *Guide* may be suspended or terminated by a court as part of a conviction for possessing or distributing illegal drugs.

**Citizen/Eligible Non-Citizen:** You must be one of the following to receive Federal student aid:

- ◆ U.S. citizen
- ◆ U.S. national (includes natives of American Samoa or Swain's Island)
- ◆ U.S. permanent resident who has an I-151, I-551, or I-551C (Alien Registration Receipt Card)

If you're not in one of these categories, you must have an Arrival-Departure Record (I-94) from the U.S. Immigration and Naturalization Service (INS) showing one of the following designations:

- ◆ "Refugee"
- ◆ "Asylum Granted"
- ◆ "Indefinite Parole" and/or "Humanitarian Parole"
- ◆ "Cuban-Haitian Entrant, Status Pending"
- ◆ "Conditional Entrant" (valid only if issued before April 1, 1980)
- ◆ Other eligible non-citizen with a Temporary Resident Card (I-688)

Also, you're eligible for Federal student aid if you have a suspension of deportation case pending before Congress.

## **PART 1103 - PRACTITIONERS**

### **Subpart A - General Information**

#### **§ 1103.1 Register of practitioners.**

The Commission maintains a register containing the names of all non-attorneys entitled to practice before it. The register is maintained according to the individual non-attorney practitioner's name and not by corporate or firm name. Corporations and firms are not admitted or recognized as practitioners before the Commission.

#### **§ 1103.2 Attorneys-at-law - qualifications and requirements to practice before the Commission.**

Any person who is a member in good standing of the bar of the highest court of any State, Commonwealth, possession, territory, or the District of Columbia may represent persons before the Commission.

#### **§ 1103.3 Persons not attorneys-at-law - qualifications and requirements for practice before the Commission.**

(a) *In general.* Any citizen or resident of the United States, not an attorney-at-law, who files an application for admission to practice, accompanied by the payment of the fee prescribed by rule or order of the Commission, and who successfully completes the practitioners' examination, and shows that applicant possesses the necessary legal and technical qualifications to enable applicant to render valuable service before the Commission and that applicant is competent to advise and assist in the presentation of matters before the Commission, may be permitted to practice before the Commission.

(b) *Qualifications standards.* A non-attorney applicant for admission to practice must meet one of the following requirements:

(1) An Applicant must have completed 2 years (60 semester hours or 90 quarter hours) of post secondary education and must possess technical knowledge, training or experience in the field of transportation which is regarded by the Commission as the equivalent of 2 additional years of college education;

(2) An applicant must have worked in the field of transportation for at least 10 years;

(3) An applicant must have received a bachelor's degree with at least 12 semester hours or 18 quarter hours in transportation or business; or

(4) An applicant must have received a bachelor's degree and worked in the field of transportation for at least one year. An applicant's statement of college education must be supported by a transcript of records attached to the original application. Transcripts from any college accredited by the U.S. Department of Education will be accepted without question. With all other institutions, the burden of proof is on the applicant to establish that the formal education satisfies the standards set forth above. The qualifications standards are intended as general guidelines. Individual situations that vary from the standards will continue to be evaluated on their own merits.

(c)(1) *Application for admission.* An application filed pursuant to this rule under oath for admission to practice shall be submitted between January and May 1 of the year in which the examination is to be take. The application is to be completed in full on the form provided by the commission, and shall be addressed to the Secretary, Interstate Commerce Commission, Washington, DC 20423, to the attention of the room number indicated on the form.

(2) *Certification;* All applicants must complete the following certification:  
I,       (Name)      , certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or state offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

(d) *Application fee.* Each application filed pursuant to this rule must be accompanied by the non-refundable fee in the amount set forth in 49 CFR 1002.2(f)(100). Payment must be made either by check or money order payable to the Interstate Commerce Commission. Cash payment will not be accepted.

(e) *Additional certification.* (1) When an application meets the required standards, a copy will be referred to the Association of Interstate Commerce Commission practitioners for a report to the Commission as to the reputation and character of the applicant. Inquiry also will be made by the Commission of the sponsors as tot heir knowledge of the applicant's legal and technical qualifications as contemplated by the Commission's Rules of Practice. If the Commission is satisfied as to the applicant's qualifications, reputation and character, then applicant will be considered eligible to take the examination.

(2) The Commission may require an applicant's sponsors to provide a detailed statement of the nature and extent of their knowledge of applicant's qualifications. Upon consideration of this material, if the Commission is not satisfied as to the adequacy of applicant's qualifications, the applicant will be notified by registered mail. Applicant may the request a hearing to prove his qualifications. If applicant makes such a request, the Commission will allow a hearing. In the absence of a request for a hearing within 20 days after receipt of the notice, the application will be considered withdrawn.

[47 FR 49549, Nov. 1, 1982, as amended at 49 FR 38614, Oct. 1, 1984; 52 FR 46483, Dec. 8, 1987; 54 FR 48250, Nov 22, 1989; 56 FR 1374, Jan. 14, 1991]

**§ 1103.4      Initial appearances.**

**§ 1103.5      Discipline**

## **Subpart B - Canons of Ethics**

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**§ 1103.12 The practitioner's duty to ad attitude toward the Commission.**

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**§ 1103.19 Advising upon the merits of a client's cause.**

**§ 1103.20 Practitioner's fees and related practices.**

**§ 1103.21 How far a practitioner may go in supporting a client's cause.**

**§ 1103.22 Restraining clients from improprieties.**

**§ 1103.23 Confidences of a client.**

#### **THE PRACTITIONER'S DUTIES AND RESPONSIBILITIES REGARDING WITNESSES, OTHER LITIGANTS AND THE PUBLIC**

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**§ 1103.27 Candor and fairness in dealing with other litigants.**

**§ 1103.28 Negotiations with opposing party.**

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**§ 1103.30 Acceptance of employment.**

**§ 1103.31 Responsibility for litigation.**

**§ 1103.32 Discovery of imposition and deception and duty to report corrupt or dishonest conduct.**

**§ 1103.33 Responsibility when proposing a person for admission to practice before the Commission.**

**§ 1103.34 Intermediaries**

**§ 1103.35 Partnership or professional corporation names and titles.**

**PART 1104 - FILING WITH THE COMMISSION - COPIES -  
VERIFICATION - SERVICE - PLEADINGS, GENERALLY**

**§ 1104.15     Certification of eligibility for Federal benefits under 21 U.S.C. 853a**

(a) An individual who is applying in his or her own name for a certificate, license or permit to operate as a motor, water, or rail carrier, household goods freight forwarder or property broker must complete the certification set forth in paragraph (b) of this section. This certification is required if the transferee in a finance proceedings under 49 U.S.C. 10926, § 11343, or § 11344 is an individual. The certification also is required if an individual applies for authorization to acquire, to construct, to extend, or to operate a rail line.

(b) Certification:

I,      (Name)     , certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offense involving the distribution or possession of a controlled substance, or that I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or by operation of law, pursuant to 21 U.S.C. 853a.

[54 FR 48250, Nov. 22, 1989]

# **PART 1182 - PURCHASE, MERGER, AND CONTROL OF MOTOR PASSENGER CARRIERS AND WATER CARRIERS**

## **Subpart A - Applications**

### **§ 1182.1 Applications covered by these rules.**

These rules govern applications for authority under 49 U.S.C. 11343-11344 to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier of passengers or a water carrier, or to acquire control of one or more motor carriers of passengers or water carriers through ownership of stock or otherwise.

### **§ 1182.2 Starting the application process.**

There is no application form for these proceedings. Applicants for authority under 49 U.S.C. 11343-11344 to consolidate, merge, purchase, or lease operating rights and properties of a motor carrier of passengers or a water carrier, or to acquire control of one or more motor carriers of passengers or water carriers, through ownership of stock, or otherwise, shall file a pleading containing the information described in 49 CFR 1182.3 See 49 CFR 1002.2(f)(21) for filing fees.

### **§ 1182.3 Content of applications.**

- (a) The application must contain the following information:
  - (1) Full name, address, and signature of each of the parties to the transaction.
  - (2) Copies or descriptions of the pertinent operating authorities of the parties.
  - (3) A description of the proposed transaction.
  - (4) Identification of any ICC-regulated carriers affiliated with the parties, a brief description of their operations, and a summary of the intercorporate structure of the corporate family from top to bottom.
  - (5) If applicants are motor carriers, a jurisdictional statement that the aggregate gross operating revenues from interstate operation conducted by them and their motor carrier affiliates, if any, exceeded \$2 million for a period of 12 consecutive months, ending not more than six months preceding the date of the parties' agreement covering the transaction. See 49 CFR part 1188.
  - (6) A statement indicating whether the transaction will or will not significantly affect the quality of the human environment and the conservation of energy resources.
  - (7) Information to demonstrate that the proposed transaction is consistent with the national transportation policy and the public interest, including particularly:
    - (i) The effect of the proposed transaction on competition within the involved transportation markets;



(ii) The effect of the proposed transaction on accommodating significant transportation needs; and

(iii) If the proceeding involves a motor passenger or rail carrier, the effect of the proposed transaction on the adequacy of transportation to the public; the effect on the public interest of including, or failing to include, other carriers in the area involved in the proposed transaction (if applicable); the total fixed charges that result from the proposed transaction; and the interest of carrier employees affected by the proposed transaction. See 49 U.S.C. 111344(b)(2).

(8) Certification of the U.S. Department of Transportation safety fitness rating of each motor passenger carrier involved in the transaction, whether that carrier is a party to the transaction or is affiliated with a party to the transaction.

(9) If motor passenger carriers are involved in the transaction, certification by the party acquiring any operating rights through the transaction that it has sufficient insurance coverage under 49 U.S.C. 10927 for the service it intends to provide.

(10) If water carriers are involved in the transaction, information to show that the acquiring party is fit, willing and able properly to perform the service authorized by the certificate or permit involved and to conform to the applicable statutory and administrative requirements.

(11) If motor passenger carriers are involved in a purchase of assets or merger transaction, certification by the party acquiring any operating rights through the transaction that it is not domiciled in Mexico nor owned or controlled by persons of that country.

(12) If the transaction involves the transfer of operating authority to an individual who will hold the authority in his or her name that individual must complete the following certification:

I,       (Name)      , certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of any Federal or State offenses involving the distribution or possession of a controlled substance, or that I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

(b) The application shall contain applicant's entire case unless:

(1) The Commission finds, on its own motion or that of a party to the proceeding, that additional evidentiary submissions are required to resolve the issues in a particular case; or

(2) The application contains an impediment. (See 49 CFR 1182.12.)

(c) Any statements submitted on behalf of an applicant supporting the transaction shall be verified. Pleadings consisting strictly of legal argument, however, need not be verified.

(d) If an application or supplemental pleading contains false or misleading information, the granted application is void *ab initio*.

## **PART 1186 - EXEMPTION OF CERTAIN TRANSACTIONS UNDER 49 U.S.C. 11343**

### **§ 1186.1 Scope of exemptions.**

Any transaction under 49 U.S.C. 11343(a)(1)-(5) among motor carriers of property or between them and non-carriers is exempt from the requirements of 49 U.S.C. 11242, 11344, and 11345a, subject to the right of employees and others to file complaints as set forth in § 1186.8.

[53 FR 4853, Feb. 19, 1988]

### **§ 1186.2 Notice of exemption.**

To qualify for an exemption under § 1186.1, the participants in the transaction must file an original and four copies of a joint Notice of Exemption with the Commission. The Notice of Exemption shall contain the following information:

- (a) Names and addresses of the carriers or other parties involved;
- (b) A brief, but specific description of the nature of the transaction;
- (c) Certification of the accuracy of the contents of the notice by, and signature of, the persons who control the carriers or other parties involved in the transaction; and

- (d) A jurisdictional statement stating why the transaction is subject to 49 U.S.C. 11343-11344.

- (e) In purchase of assets or merger transactions, certification by the party acquiring any motor carrier operating rights through the transaction that is not domiciled in Mexico nor owned or controlled by persons of that country.

- (f) If the transaction involves the transfer of operating authority to an individual who will hold the authority to an individual who will hold the authority in his or her name, that individual must complete the following certification:

I, \_\_\_\_\_ (Name) \_\_\_\_\_, certify under penalty of perjury under the laws of the United States, that I have not been convicted, after September 1, 1989, of and Federal or State offense involving the distribution or possession of a controlled substance, or that if I have been so convicted, I am not ineligible to receive Federal Benefits, either by court order or operation of law, pursuant to 21 U.S.C. 853a.

[53 FR 4853, Feb.. 18, 1988, as amended at 54 FR 35346, Aug. 25, 1989; 54FR 48251, Nov. 22, 1989]

### **§ 1186.3 Attachments.**

Attachments (an original and 10 copies) to the Notice of Exemption filed with the Commission should include:

- (a) A short summary of the transaction to be published as a notice to the public; and

- (b) If appropriate, draft certificates and permits reflecting the operating rights authorized to be acquired, retained, or issued.

[50 FR 6348, Feb.. 15, 1985, as amended at 53 FR 19303, May 27, 1988]

**§ 1186.4 Temporary authority.**

Parties may simultaneously request temporary authority during the pendency of the exemption proceeding by submitting Form OP-F-46 in accordance with the regulations at 49 CFR part 1187.

[54 FR 35346, Aug. 25, 1989]

**§ 1186.5 Filing fees.**

The filing fee required to file a Notice of Exemption is set forth in 49 CFR 1002.2(f)(27).

[53FR 4853, Feb.. 18, 1988]

**§ 1186.6 Publication of summary notice.**

The Commission will publish the summary of the Notice of Exemption describing the nature and scope of the transaction in the ICC Register.

[50 FR 6348, Feb. 15, 1985]

**§ 1186.7 Effective date of exemption.**

When a Notice of Exemption is filed, the exemption will be effective 60 days after a summary of the Notice of Exemption is published in the *ICC Register* except:

(a) Where consummation is contingent upon Commission approval of directly related applications involving the conversion of certificates of registration to certificates of public convenience and necessity; or

(b)(1) In the case of employee complaints, a decision will be served and effective 30 days after the receipt of the complaint unless the complaint is filed less than 30 days after publication of the summary of the Notice of Exemption, in which case the decision will be effective 60 days after publication of the summary of the Notice of Exemption; or

(2) In the case of a complaint on anticompetitive grounds, a decision will be served and effective 30 days after the due date for complaints.

[50 FR 6348, Feb.. 15, 1985]

limitations prescribed in paragraph (c) of this section may be used as articles or components of articles intended for use in contact with food as follows:

(1) Fluorocarbon resins that are identified in paragraphs (a)(1), (a)(2), and (a)(3) of this section and that comply only with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used when such use is limited to articles or components of articles that are intended for repeated use in contact with food or that are intended for one-time use in contact with foods only of the types identified in § 176.170(c) of this chapter, Table 1, under Types I, II, VI, VII-B, and VIII.

(2) Fluorocarbon resins that are identified in paragraph (a)(4) of this section and that comply with the extractive limitations prescribed in paragraphs (c)(1) and (c)(2) of this section may be used only when such use is limited to articles or components of articles that are intended for repeated use in contact with food.

(3) In accordance with current good manufacturing practice, those food-contact articles intended for repeated use shall be thoroughly cleansed prior to their first use in contact with food.

Dated: December 27, 1991.

Robert L. Spencer,

Acting Deputy Commissioner for Policy

[FR Doc. 92-55 Filed 1-2-92; 8:45 am]

BILLING CODE 4100-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[FR 4090-8]

### 40 CFR Part 281

#### Vermont; Final Approval of State Underground Storage Tank Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination on Vermont's application for final approval.

**SUMMARY:** The State of Vermont has applied for final approval of its underground storage tank program under subtitle I of the Resource Conservation and Recovery Act. The Environmental Protection Agency (EPA) has reviewed Vermont's application and has reached a final determination that Vermont's underground storage tank program satisfies all the requirements necessary to qualify for final approval. Thus, EPA is granting final approval to the State of Vermont to operate its program.

**EFFECTIVE DATE:** Final approval for Vermont shall be effective at 1 p.m. on February 3, 1992.

#### FOR FURTHER INFORMATION CONTACT:

Joan Coyle, Office of Underground Storage Tanks, HPU-1, U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203, (617) 573-9667.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

Section 9004 of the Resource Conservation and Recovery Act (RCRA) enables EPA to approve state underground storage tank programs to operate in a state in lieu of the Federal underground storage tank program. To qualify for final authorization, a state's program must: (1) Be "no less stringent" than the Federal program, and (2) provide for adequate enforcement. Section 9004 (a) and (b) of RCRA, 42 U.S.C. 6991c (a) and (b).

On July 3, 1991, as required by 40 CFR 281.50(c), EPA acknowledged receiving from the State of Vermont a complete official application requesting final approval to administer its underground storage tank program. On September 18, 1991, EPA published a tentative decision announcing its intent to grant Vermont final approval of its program. See 56 FR 46756 (1991). Further background on EPA's tentative decision to grant approval is included in that decision.

Along with the tentative determination, EPA announced the availability of the application for public comment and the date of a public hearing on the application. EPA requested advance notice for testimony and reserved the right to cancel for lack of public interest. Since there was no public interest, the public hearing was cancelled. No public comments were received regarding EPA's approval of Vermont's underground storage tank program.

##### B. Decision

I conclude that the State of Vermont's application for final approval meets all of the statutory and regulatory requirements established by subtitle I of RCRA. Accordingly, Vermont is granted final approval to operate its underground storage tank program. The State of Vermont now has the responsibility for managing all regulated underground storage tank facilities within its borders and carrying out all aspects of the Federal underground storage tank program except with regard to Indian lands, where EPA will continue to have regulatory authority. Vermont also has primary enforcement responsibility, although EPA retains the right to conduct inspections under

section 9005 of RCRA, 42 U.S.C. 6991d, and to take enforcement actions under section 9006 of RCRA, 42 U.S.C. 6991e.

Authority: Section 9004 of the Solid Waste Disposal Act as amended, 42 U.S.C. 6991c.

Dated: December 30, 1991.

Julie Belaga,

Regional Administrator.

[FR Doc. 92-81 Filed 1-2-92; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[Gen. Docket No. 90-312, FCC 91-397]

#### Denials of Federal Benefits

AGENCY: Federal Communications Commission.

ACTION: Final rule.

**SUMMARY:** The Commission is adopting final rules to implement the provisions of section 5301 of the Anti-Drug Abuse Act of 1988 concerning denial of federal benefits to persons convicted of drug related crimes. The rules require applicants for professional or commercial licenses to certify that they are not subject to a section 5301 denial of benefits. This will help ensure that applicants subject to a section 5301 denial are not granted licenses by the Commission. [Initiating document: NPRM 55 FR 37438 (Sept. 11, 1990)].

**EFFECTIVE DATE:** February 3, 1992.

**FOR FURTHER INFORMATION CONTACT:** Sharon Diskin, Office of General Counsel, Federal Communications Commission (202) 632-8990.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, adopted December 11, 1991 and released December 27, 1991. The full text of the Report and Order including a Final Regulatory Flexibility Analysis, is available for inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street NW., Washington, DC. The full text of this Report and Order may also be purchased from the Commission's contractor, Downtown Copy Center, 1114 21st Street, NW, Washington, DC 20036, (202) 452-1422.

#### Summary of Report and Order

1. These rules implement section 5301 of the Anti-Drug Abuse Act of 1988 with respect to professional and commercial licenses issued by the Commission. Section 5301 provides Federal and state court judges the discretion to deny Federal benefits to individuals

convicted of offenses consisting of the distribution or possession of controlled substances. 21 U.S.C. 853a. Federal benefits, as used in the statute, include licenses issued by the FCC. 21 U.S.C. 853a(d)(1).

2. The Office of National Drug Control Policy (ONDCP) plan for the implementation of section 5301 calls for agencies to use the General Services Administration (GSA) publication "Parties Excluded from Federal Procurement of Nonprocurement Programs" (commonly referred to as the "Debarment List") in determining which persons have been barred from Federal benefits under section 5301. In addition, the ONDCP plan calls for agencies to use an applicant certification. No rule changes are necessary to implement the use of the GSA Debarment List in connection with applications. The application forms used by the Commission do not, however, include the certification referred to in the ONDCP plan. We are therefore amending part 1 of the Commission's rules by adding a new subpart P, 47 CFR 1.2001 *et seq.*, that will require applicants to certify that neither they nor any parties to the application are subject to a section 5301 bar.

3. With one exception, the rules apply to applicants for all forms of Commission instruments of authority, including, for example, authorizations for the use of radio spectrum, radio operator authorizations, equipment certifications, type acceptances or type approvals, and certificates of authority to construct communications lines. Because section 5301 applies only to "professional" and "commercial" licenses, the rules exempt amateur authorizations which may not be used for professional and commercial purposes. Further, because they do not involve applications or the issuance of individual licenses by the Commission, the rules do not apply to individual users of a blanket license (e.g., cellular radio users). The certification requirement adopted in the final rule differs from that proposed in the NPRM in two respects: (1) In order to provide for an orderly transition to the certification requirement, the rules provide that, for authorizations that involve a specific form, until such time as the application form is amended to contain a certification provision, the applicant will be deemed to have certified as to its eligibility by signing the application; (2) The proposed rule stated that failure to certify would lead to automatic dismissal of the application. In order to give corporations and partnerships an

opportunity to seek the removal of parties to the application who are subject to a denial of benefits under section 5301, the adopted rules provide that an application will not be dismissed automatically for failure to certify. Rather, failure to certify will result in an application being ineligible for grant unless the applicant comes into compliance with section 5301 within 90 days of the filing of the application. In order to assure that applicants make a good faith attempt to determine whether any parties to the application are subject to a denial of Federal benefits, the rules provide that, in cases where a certification has been incorporated into the application, the application will be dismissed for failure to respond to the question.

4. The legislative history of section 5301 suggests that an applicant will not be eligible when an "individual" who is subject to the bar remains a party to the application. Thus, the rules apply the certification provision to all parties to applications including: officers, directors, non-limited partners, holders of 5% or more of the voting stock, and non-voting stockholders or limited partners with a similar (5% or more) interest in the applicant or licensee.

5. The NPRM proposed a rule requiring licensees to notify the Commission of any section 5301 bar imposed on the licensee or any principals during the license term. Consistent with the Commission's determination that section 5301 does not provide for revocation of existing benefits, the final rule eliminates this reporting requirement.

6. Pursuant to authority contained in sections 4(i), 4(j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j) and 303(r), and the Anti-Drug Abuse Act of 1988, 21 U.S.C. 823a, *it is ordered* that part 1 of the Commission's rules are amended as set forth below, effective February 3, 1992.

#### List of Subjects in 47 CFR Part 1

Denials of federal benefits (new),  
Administrative practice and procedure.  
Federal Communications Commission.  
William F. Caton,  
*Acting Secretary.*

#### Rule Changes

Part 1, title 47 of the Code of Federal Regulations is amended as follows:

#### PART 1—[AMENDED]

1. The authority citation for part 1 is revised to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1062, as amended; 47 U.S.C. 154, 303; Implement. 5

U.S.C. 552 and 21 U.S.C. 853a, unless otherwise noted.

2. A new subpart P is added to read as follows:

#### Subpart P—Implementation of the Anti-Drug Abuse Act of 1988

1.2001 Purpose.

1.2002 Applicants required to submit information.

1.2003 Applications affected.

#### Subpart P—Implement of the Anti-Drug Abuse Act of 1988.

##### § 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 853a.

##### § 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including but not limited to, authorizations issued pursuant to sections 214, 301, 302, 303(1), 308, 310(d), 318, 319, 325(b), 351, 381(b), 382(b), 381, and 385 of the Communications Act of 1934, as amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;

(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, or to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission.

#### § 1.2003 Applications affected.

The certification required by § 1.2002 must be filed with the following applications as well as any other requests for authorization filed with the Commission, regardless of whether a specific form exists.

- FCC 301 Application for Construction Permit for Commercial Broadcast Station;
- FCC 301-A Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization;
- FCC 302 Application for New Broadcast Station License;
- FCC 303-S Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station;
- FCC 307 Application for Extension of Broadcast Construction Permit or to Replace Expired Construction Permit;
- FCC 308 Application for Permit to Deliver Programs to Foreign Broadcast Stations;
- FCC 309 Application for Authority to Construct or Make Changes in an International or Experimental Broadcast Station;
- FCC 310 Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License;
- FCC 311 Application for Renewal of an International or Experimental Broadcast License;
- FCC 313 Application for Authorization in the Auxiliary Radio Broadcast Services;
- FCC 313-R Application for Renewal of Auxiliary Broadcast License;
- FCC 314 Application for Consent to Assignment of Broadcast Station Construction Permit or License;
- FCC 315 Application for Consent to Transfer of Control of Corporation Holding Broadcast Station Construction Permit or License;

FCC 316 Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License;

FCC 327 Application for Cable Television Relay Service Station Authorization;

FCC 330 Application for Authorization to Construct New or Make Changes in an Instructional Television Fixed and/or Response Station(s), or to Assign or Transfer Such Stations;

FCC 330-L Application for Instructional Television Fixed Station License;

FCC 330-R Application for Renewal of Instructional Television Fixed Station and/or Response Station(s) and Low Power Relay Station(s) License;

FCC 340 Application for Construction Permit for Noncommercial Educational Broadcast Station;

FCC 345 Application for Transfer of Control of a Corporate Licensee or Permittee, or Assignment of License or Permit, for an FM or TV Translator Station, or a Low Power Television Station;

FCC 346 Application for Authority to Construct or Make Changes in a Low Power TV, TV Translator or TV Booster Station;

FCC 347 Application for a Low Power TV, TV Translator or TV Booster Station License;

FCC 348 Application for Renewal of License for Translator or Low Power Television Broadcast Station;

FCC 349 Application for Authority to Construct or Make Changes in an FM Translator or FM Booster Station;

FCC 350 Application for an FM Translator or FM Booster Station License;

FCC 401 Application for New or Modified Common Carrier Radio Station Authorization Under Part 22 of this chapter.

FCC 402 Application for Station Authorization in the Private Operational Fixed Microwave Radio Service;

FCC 402-R Renewal Notice and Certification in the Private Operational Fixed Microwave Radio Service;

FCC 403 Application for Radio Station License or Modification Thereof Under Parts 23 or 25 of this chapter;

FCC 404 Application for Aircraft Radio Station License;

FCC 405 Application for Renewal of Radio Station License;

FCC 405-A Application for Renewal of Radio Station License and/or Notification of Change to License Information;

FCC 405-B Ship/Aircraft License Expiration Notice and/or Renewal Application;

FCC 406 Application for Ground Station Authorization in the Aviation Services;

FCC 407 Application for New or Modified Radio Station Construction Permit;

FCC 409 Airborne Mobile Radio Telephone License Application;

FCC 410 Registration of Canadian Radio Station Licensee and Application for Permit to Operate (Land Mobile);

FCC 442 Application for New or Modified Radio Station Authorization Under Part 5 of this chapter—Experimental Radio Service (Other than Broadcast);

FCC 490 Application for Assignment or Transfer of Control Under Part 22 of this chapter;

FCC 493 Application for Earth Station Authorization or Modification of Station License (Proposed);

FCC 494 Application for a New or Modified Microwave Radio Station License Under Part 21 of this chapter;

FCC 494-A Certification of Completion of Construction Under Part 21 of this chapter;

FCC 503 Application for Land Radio Station License in the Maritime Services;

FCC 506 Application for Ship Radio Station License;

FCC 574 Application for Private Land Mobile and General Mobile Radio Services;

FCC 574-R Application for Renewal of Radio Station License;

FCC 701 Application for Additional Time to Construct a Radio Station;

FCC 702 Application for Consent to Assignment of Radio Station Construction Permit or License;

FCC 703 Application for Consent to Transfer Control of Corporation Holding Station License;

FCC 704 Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License;

FCC 730 Application for Registration of Equipment to be Connected to the Telephone Network;

FCC 731 Application for Equipment Authorization;

FCC 753 Restricted Radiotelephone Operator Permit Application;

FCC 755 Application for Restricted Radiotelephone Operator Permit—Limited Use;

FCC 756 Application for Commercial Radio Operator License.

[FR Doc. 92-02 Filed 1-2-92; 8:45 am]

BILLING CODE 6712-01-01

#### 47 CFR Part 73

[MM Docket No. 91-261; RM-7789]

**Radio Broadcasting Services; Callahan, FL and St. Marys, GA**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document reallocates Channel 227C2 from St. Marys, Georgia, to Callahan, Florida, and modifies the license for Station WAIA(FM) to specify Callahan, Florida, as its community of license, in accordance with § 1.420(i) of the Commission's Rules. The allotment of Channel 227C2 to Callahan will provide that community with its first local FM transmission service, and will

# ***III. FORMS AND DOCUMENTS***

**OJIN**  
Release F 1.6

**LAW TABLES**  
(As of Jan. 30, 1991)

**DESCRIPTION ORDER**

Law Description	OJIN Code	Law Agency	Law Number	Law Class	Effective Date
Abandoning Vehicle	ABVE	ORS	819100	B INF	
Abandonment Of Child	ABCH	ORS	163535	C FEL	
Abuse Of Corpse	ABCO	ORS	166085	C FEL	
Abuse Venerated Obj	ABVO	ORS	166075	C MIS	
Accost For Deviate Purp	ACDP	ORS	163455	C MIS	
Act As Vehicle Dealer-No Cert	DWOC	ORS	822005	A MIS	
Agent Viol Temp Reg Permit	VTRP	ORS	803630	B INF	
Aggravated Murder	AGMR	ORS	163095	A DEA	2/06/84
Aggravated Murder	AGMR	ORS	163095	A LIF	
Aggravated Theft/1st Degree	AGTH	ORS	164057	B FEL	
Aid Commercial Fishing Viol	COFV	ORS	506895	A MIS	
Aid In Fish/Game Violation	AFGV	ORS	496695	U MIS	
Aid Unauth Departure	AUDP	ORS	162175	A MIS	
Aircraft/Land on Public Ground	AIRL	ORS	837090	A INF	
Aircraft/Operation Prohibited	AIRP	ORS	837080	B MIS	
All Terrain Veh Dealer-No Cert	TDNC	ORS	822415	A MIS	
All Terrain Veh Equip Viol	ATVE	ORS	821220	N INF	
All Terrain Veh W/O Light Equi	ATVL	ORS	821230	B INF	
Allow Illeg Oper Veh	ALOV	ORS	487095	B INF	
Allow Unlic Oper MC	ALUO	ORS	482198	B INF	
Allow Unlic Oper MC		ORS	482198XX	B INF	
Alter Remove Open Date Label	AODL	ORS	616830	B MIS	
Alteration of Voter Reg Card	FVRC	ORS	247125	C FEL	
Altered VIN	ALVN	ORS	4819906	A MIS	
Angle/Hunt For Compensation	AHCO	ORS	498032	A MIS	
Angling-False Appl Lic	ANFL	ORS	4974003	A MIS	
Angling-No Salmon Tag	ANST	ORS	4971212	A MIS	
Angling-On Fishway	ANFI	ORS	498216	A MIS	
Angling-With Explosives	ANEX	ORS	509130	A MIS	
Animal Abandonment	ANAB	ORS	167340	C MIS	
Animal Abuse1	AAB1	ORS	167320	A MIS	
Animal Abuse2	AAB2	ORS	167315	B MIS	
Animal Cruelty	ANCR	ORS	167850	B MIS	
Animal Cruelty Spec Acts	ANCA	ORS	167860	B MIS	
Animal Cruelty Spec Acts		ORS	167860XX	B MIS	
Animal Fighting	ANFT	ORS	167355	A MIS	
Animal Neglect I	ANG1	ORS	167330	A MIS	
Animal Neglect II	ANG2	ORS	167325	B MIS	
Arson-1	ARN1	ORS	164325	A FEL	
Arson-2	ARN2	ORS	164315	C FEL	
Assault Pub Safety Ofcr	ATOF	ORS	163208	A MIS	
Assault-1	ALT1	ORS	163185	A FEL	
Assault-2	ALT2	ORS	163175	B FEL	
Assault-3	ALT3	ORS	163165	C FEL	

**OJIN**

**LAW TABLES**

**DESCRIPTION ORDER**



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Law Description	OJIN Code	Law Agency	Law Number	Law Class	Effective Date
Assault-4	ALT4	ORS	163160	A MIS	
Attempt To Elude Police	AEPO	ORS	811540	A MIS	
Attempt To Elude-Boat	AEBT	ORS	488027	U VIO	

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**OJIN**  
Release F 1.6

**LAW TABLES**  
(As of Jan. 30, 1991)

**LAW NUMBER ORDER**

Law Agency	Law Number	Law Description	Law Class	OJIN Code	Effective Date
ORS	4687401	Dischg Waste/Estuary No Permit	U MIS	DSCW	
ORS	468775	Deposit Motor Vehicle In Water	A MIS	DMVW	
ORS	471135	False Statement Of Age	C MIS	FAGE	
ORS	471143	Impr Use OLCC Card	U MIS	IPOL	
ORS	471405	Unlic Sale Import Liquor	U MIS	USIL	
ORS	4714101	Furn Liquor Intox Person	A MIS	FLIP	
ORS	4714102	Furn Liquor Minor	A MIS	FLMN	
ORS	471425	Maintain Disord Estab	U MIS	MDE	
ORS	4714301	Minor In Poss Liquor	U VIO	MIPL	
ORS	4714303	Minor Enter Lic Prem	U VIO	MELP	
ORS	471440	Unlic Manuf Liquor	U MIS	UML	
ORS	471475	Unlic Serve Liquor	U MIS	USL	
ORS	471478	Removal Of Keg Identif	A MIS	RKI	
ORS	471990	Hinder OLCC Investigation	U MIS	HOLC	
ORS	475000	Controlled Substance Vio		CTSV	
ORS	475805	Provide Hypodermic Dev/Minor	A MIS	PHDM	
ORS	475950	Fail Rpt Precursor Sub Transac	A MIS	FRPS	
ORS	475955	Fail Rpt Missing Precursor Sub	A MIS	FRMS	
ORS	475960	Illegal Sale of Drug Equipment	A MIS	ISDE	
ORS	475965	False Info Precursor Sub Rpt	A MIS	FASR	
ORS	475991	Del Imitation Control Sub	A MIS	DICS	
ORS	4759921A	Manu/Del Cntrld sub-SC 1	A FEL	MCS1	
ORS	4759921B	Manu/Del Cntrld Sub-SC 2	B FEL	MCS2	
ORS	4759921C	Manu/Del Cntrld Sub-SC 3	C FEL	MCS3	
ORS	4759921D	Manu/Del Cntrld Sub-SC 4	B MIS	MCS4	
ORS	4759921E	Manu/Del Cntrld Sub-SC 5	C MIS	MCS5	
ORS	4759922A	Del Marijuana For Payment	B FEL	LMJP	
ORS	4759922B	Del Marij 1 oz-No Pay	A MIS	L1MN	
ORS	4759922X	Del Marij 5 grams	U VIO	L5MN	
ORS	4759923A	Mfg/Del Counterfeit Sub-SC 1	A FEL	MFS1	
ORS	4759923B	Mfg/Del Counterfeit Sub-SC 2	B FEL	MFS2	
ORS	4759923C	Mfg/Del Counterfeit Sub-SC 3	C FEL	MFS3	
ORS	4759923D	Mfg/Del Counterfeit Sub-SC 4	B MIS	MFS4	
ORS	4759923E	Mfg/Del Counterfeit Sub-SC 5	C MIS	MFS5	
ORS	4759924A	Poss Controlled Sub 1	B FEL	PCS1	
ORS	4759924B	Poss Controlled Sub 2	C FEL	PCS2	
ORS	4759924C	Poss Cntrld Sub-SC 3	A MIS	PCS3	
ORS	4759924D	Poss Cntrld Sub-SC 4	C MIS	PCS4	
ORS	4759924E	Poss Cntrld Sub-SC 5	U VIO	PCS5	
ORS	4759924F	Poss LT 1 oz Marijuana	U VIO	PIZM	
ORS	4759932A	Proh Acts/Ctr Sub/Sch I	C FEL	PAC1	
ORS	4759932B	Proh Acts/Ctr Sub/Sch II	A MIS	PAC2	
ORS	4759932C	Proh Acts/Ctr Sub/Sch III	B MIS	PAC3	
ORS	4759932D	Proh Acts/Ctr Sub/Sch IV or V	C MIS	PAC4	
ORS	475994	Obtain Cntrld Sub Unlaw	A MIS	OCSU	
ORS	4759951	Del Cont Sub To Minor I&II	A FEL	CSM2	
ORS	4759952	Del Cntrld Sub To Minor III	B FEL	CSM3	

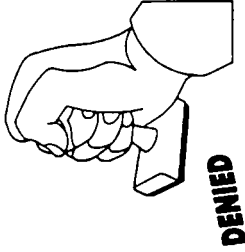
**OJIN**  
Release F 1.6

**LAW TABLES**  
(As of Jan. 30, 1991)

**LAW NUMBER ORDER**

Law Agency	Law Number	Law Description	Law Class	OJIN Code	Effective Date
ORS	4759953	Del Cntrld Sub Minor IV	A MIS	CSM4	
ORS	4759954	Del Cont Sub Minor V	B MIS	CSM5	
ORS	4759955	Del Marijuana To Minor	A FEL	DMJM	
ORS	475999	Del Cntrld Sub 1000 ft School	A FEL	DISS	
ORS	4763801	Fire-Burn W/out Permit	U MIS	BNWP	
ORS	4763802	Fail Follow Fire Permit Instr	A MIS	FFRP	
ORS	476715	Throw Lighted Material	U MIS	TLM	
ORS	477510	Unlawful Burning-Closed Season	U MIS	UBCS	
ORS	477515	Burn in Restricted Area	B MIS	BNRA	
ORS	477545	Entering Closed Forest	U MIS	ECFA	
ORS	477550	Enter Restr Forest Area	U VIO	ERFA	
ORS	477625	No permit opr pwr machinery	U MIS	NPMF	
ORS	477640	Improper Use Power Saw/Forest	U MIS	IPPF	
ORS	477645	Unlawful Opr Combust Engine	U MIS	UOCE	
ORS	477655	No Fire Equip In Forest	U MIS	NFEF	
ORS	477665	Fail Provide Watch-Closed Seas	U MIS	FWCS	
ORS	477710	Fire-FI Clear Area Around	U MIS	FFCA	
ORS	477740	Unlawful Use Of Fire	B MIS	UUF	01/11/71
ORS	477740	Unlawful Use Of Fire	C FEL	UUF	
ORS	478960	Unlaw Burning Commercial Waste	U MIS	UBCW	
ORS	479270	Fail to Maintain Smoke Alarms	U VIO	FMSA	
ORS	480060	Transport of explosives	C MIS	TEX	
ORS	480070	Poss Fire Bomb	U MIS	PFB	
ORS	480120	Unlawful Sale/Use Fireworks	B MIS	USFW	09/20/85
ORS	480120	Unlawful Sale/Use Fireworks	U VIO	USFW	
ORS	480210	Poss Explosive	U VIO	PEX	
ORS	480220	Poss Destr Device	U VIO	PDD	
ORS	481105	No/Invalid Veh Reg	C INF	NIVR	
ORS	481110	No Title	C INF	NTLE	
ORS	481115	No-Improper VIN	C INF	NIVN	
ORS	481125	Impr Reg Government Veh	B INF	IPRV	
ORS	481130	Impr Reg/Titl Recnst Veh	C INF	IPRR	
ORS	4811503	Fail Surrender Reg/Title	A MIS	FSRG	
ORS	481165	Unlaw Use Foreign Lic	C INF	UFLC	
ORS	481170	Fail Surrender Plates	D INF	FSPL	
ORS	481177	No Trip Permit	B INF	NTPT	
ORS	481205	No/Expired Reg-Other	D INF	NERG	
ORS	481215	No Trailer License	U INF	NTLC	
ORS	481220	No Weight Certificate	D INF	NWCT	
ORS	481225	Improper Farm License	B INF	IPFL	
ORS	4812304	Fail Sign Veh Reg	C INF	FLSR	
ORS	4812305	Fail Display Reg	C INF	FDRG	
ORS	481255	No-Impr Dis/Switch Plate	C INF	NIDP	
ORS	481260	No/Expired Temp Permit	B INF	NETP	
ORS	4812671A	Improper Sticker Display	D INF	IPSD	
ORS	481305	No Dealer License	A MIS	NDLL	
ORS	481325	Misuse Dealer Plate	B INF	MIDP	

# How the Program Works



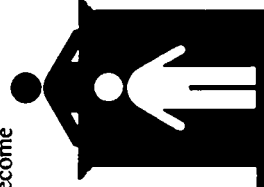
**A**ll aspects of sentencing regarding possession are at the discretion of the sentencing judge. Upon an offender's first or second conviction of distribution of a controlled substance, a judge may deny any or all listed federal benefits for up to five years and up to ten years, respectively. Similarly, upon an offender's first or second conviction of possession, a judge may deny eligibility for benefits for up to one year or up to five years, respectively. For possession convictions, the judge may also require the performance of appropriate community service and/or successful completion of an approved drug treatment program.

For a third or subsequent distribution offense, however, the act requires the judge to permanently deny all federal benefits to the convicted individual. In all cases except for the mandatory denial, the judge has the option of denying specific benefits or denying all enumerated benefits. The judge also has the option of suspending the denial upon rehabilitation, or for other discretionary reason.

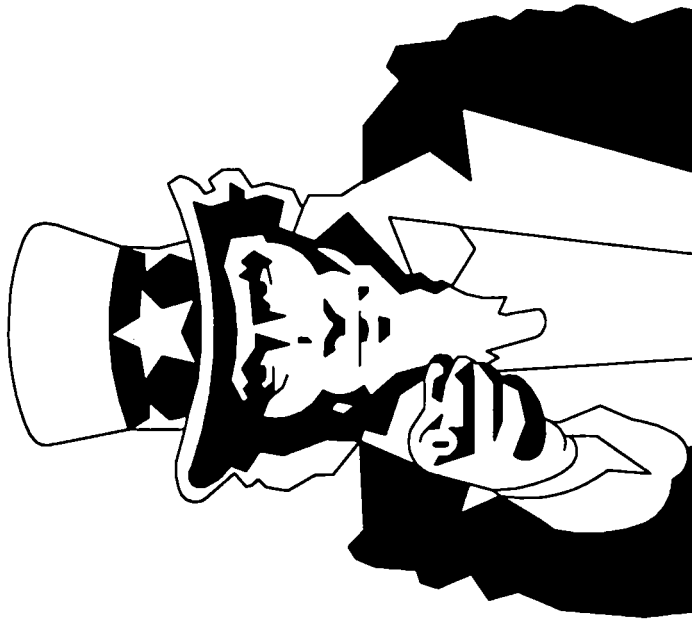
The act does not deny benefits relating to long-term drug treatment programs for addiction if the offender declares himself to be an addict, substantiates the declaration, and enters a long-term treatment program. Additionally, penalties are not applicable to an individual who cooperates or testifies on behalf of the government in the prosecution of a state or federal offense, or is in a government witness protection program.

Benefits not subject to denial include drug treatment programs, veterans' benefits, public housing, health, disability and Social Security benefits, and other types of benefits for which individuals have become eligible through payment or services rendered.

*All aspects of sentencing regarding possession are at the discretion of the sentencing judge.*



# Do Drugs & Kiss Your Federal Benefits Good-Bye



*under the*  
**Denial of Federal Benefits Program**

This project was supported by Grant # 90-00-CX-0014 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice.

The Assistant Attorney General, Office of Justice Programs coordinates the activities of the following program offices and bureaus:

the Bureau of Justice Assistance, the Bureau of Justice Statistics  
the National Institute of Justice  
the Office of Juvenile Justice and Delinquency Prevention,  
and the Office for Victims of Crime

Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

# DENIAL OF FEDERAL BENEFITS

## Benefits Likely to be Denied

### Department of Agriculture

Personal Income Housing Loans & Grants  
Rural Housing Site Loans  
Rural Rental Housing Loans  
Rural Self-Help Housing Technical Assistance  
Rural Housing Preservation Grants

### Department of Education

Pell Grant Program (BEOG)  
Guaranteed Student Loans  
College Work-Study Program (Student Assistance)  
Grant & Aid Programs Directly to Individuals  
Grant /Aid Programs which State & Local Education Agencies provide directly to Individuals  
Adult Education-State Administered Basic Grant Program & Stipends

Supplemental Education Opportunities Grants

Upward Bound Program

Vocational Education - Basic Grants to States

Migrant Education- High School Equivalency Program

Migrant Education-College Assistance Migrant Program

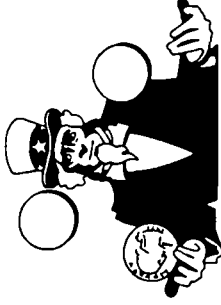
### Department of Commerce

Professional and Commercial Licenses & Permits  
Fishing Vessel and Gear Damage Compensation

### Department of Transportation

Professional or Commercial Airmen Certificates  
Aviation Operating Certificates (Pilot Licenses)  
Merchant Marine Licenses and Certificates of Registration  
Recreational and Fishing Vessel Licenses  
Commercial, Motor Vehicle Driver Disqualification  
Air Carrier Fitness Certificates

*This new federal statute means a drug conviction could mean more than a criminal record...*



**U**nder Section 5301 of the Anti-Drug Abuse Act of 1988, P.L. 100-690, an individual convicted of any state or federal offense consisting of the trafficking or possession of a controlled substance, as defined in the federal Controlled Substances Act (21 U.S.C. 801 et. seq.) may be denied, as part of his or her sentence, any or all of an extensive list of federal benefits for periods ranging from one to ten years, or even permanently in some cases.

Convicted drug offenders may lose their eligibility for a broad range of federal benefits, including grants, contracts, loans, and professional and commercial licenses. Specific benefits that may be denied under the law are listed in this pamphlet.

## Benefits Likely to be Denied

### Federal Communications Commission

Television Broadcast Licenses  
Public Land Mobile Radio Licenses  
Rural Radio Licenses  
Telephone Equipment Registrations  
Aviation and Maritime Service Licenses  
Land Mobile Radio Licenses  
Radio Telephone Operator's Certificates (1st, 2nd and 3rd Class, including endorsements)  
General Radio Telephone Operator's Licenses (including endorsements)

Marine Radio Operators Permits

Restricted Radio-telephone Operator's License

General Mobile Radio Service Licenses

### Interstate Commerce Commission

Certificates, Licenses and Permits to operate as motor, water or rail carriers  
Certificates, Licenses and Permits for household goods freight forwarders

### Small Business Administration

Loans for Small Business

### Dept. of Health & Human Services

Individual Grants and Contracts  
Research Grants and Contracts  
Health Careers Opportunity Program  
Work Incentive/WIN Demonstration Programs

### Dept. of Housing & Urban Development

Urban Homesteading  
Rental Housing Rehabilitation  
Professional & Commercial Licenses, Permits & Leases

POLICY AND PROCEDURES  
FOR  
THE DENIAL OF FEDERAL BENEFITS  
IN RHODE ISLAND

POLICY

It shall be the policy of the Rhode Island State Court System and the State of Rhode Island Department of the Attorney General to enforce P.L. 100-690, Sec. 5301 known as the Denial of Federal Benefits as part of its overall drug enforcement policy.

PROCEDURES

1. The Department of the Attorney General will review each new case involving the possession and/or trafficking of illegal drugs which is included in the attached summary of offenses which qualify for federal benefit denial.

2. A form will be completed and inserted into each qualifying defendant's file indicating the charge and the penalties for which the defendant is eligible under the law.

3. A recommendation will be made by the Department of Attorney General for federal benefit denial as part of the disposition of each identified case.

4. The sentencing judge will take the Attorney General's recommendation under advisement and include benefit denial as part of the defendant's sentence.

5. Exceptions may be made by either the Department of the Attorney General or the sentencing judge in those cases in which federal benefit denial would not be in the best interest of fairness and justice, and in those cases in which the denial of federal benefits would cause undue harm to the defendant and would not be in the best interest of the society.

---

Attorney General of the State  
of Rhode Island

Date: April 23, 1991

---

Chief Justice, Rhode Island  
Supreme Court

Date: April 5, 1991

**DENIAL OF FEDERAL BENEFITS IN DRUG CASES  
OUTLINE OF P.L. 100-690, SEC. 5301**

This law gives sentencing judges the option of denying some or all federal benefits to those convicted of federal or state drug trafficking and/or possession.

**OPTIONAL PENALTIES FOR POSSESSION:**

1st Offense:	Denial for up to 1 year Required drug treatment Community service
2nd and Subsequent Offense:	Denial for up to 5 years Required drug treatment Community service

**OPTIONAL PENALTIES FOR TRAFFICKING:**

1st Offense:	Denial for up to 5 years
2nd Offense:	Denial for up to 10 years
3rd and Subsequent Offense:	MANDATORY AND PERMANENT DENIAL OF ALL BENEFITS

*To obtain a copy of the Denial of Federal Benefits Manual\* contact:*

**Systems Development Associates**  
60 Balsam Street, Warwick RI 02886  
Phone & Fax (401) 463-8510

\*Manual includes the Act, the Federal Regulations, a list of benefits to be denied, and other background information.

Cite this page 11 RIL W 955

*Rhode Island Lawyers Weekly*, February 25, 1991

**P.L. 100-690, SEC. 5301  
ALLOWS FOR THE**

**DENIAL OF FEDERAL BENEFITS  
for those convicted of**

**DRUG POSSESSION  
and  
DRUG TRAFFICKING**

**THE LAW IS NOW BEING ENFORCED IN  
RHODE ISLAND**

**Be Prepared: Call**

**SYSTEMS DEVELOPMENT ASSOCIATES  
(401) 463-8510**

**FOR DENIAL OF FEDERAL BENEFITS MANUAL**

**Sponsored by a grant from the U.S. Dept. of Justice, Office of Justice programs  
and the R.I. Governor's Justice Commission**



## DISTRICT ATTORNEY FOR KLAMATH COUNTY

### DISTRICT ATTORNEY

Edwin I. Caleb

September 17, 1991

TO: Klamath County Judges

FROM: Markku A. Sario

RE: Denial of Federal Benefits

### CHIEF DEPUTY

Mark L. Runnels

### ADMINISTRATIVE DEPUTY

Cheryl A. Pellegrini

### DEPUTIES

Edwin N. Norton

Markku A. Sario

Neil D. Smith

Marci J. Warner

### LAW CLERK

Daniel T. Golden

### VICTIM/WITNESS

### SERVICES

Charlene F. Divine

### PARALEGAL

Debbie L. Stroup

### ADMINISTRATIVE SECRETARY

Melina C. Johnson

We recently received information on a federal program which has been in effect in the federal system for some two years.

Under federal law ( see copy attached ), the sentence of a defendant convicted in federal or state Court may include an order denying a host of federal benefits, including various professional and commercial licenses and permits, Pell grants, small business loans, student loans, etc. (The complete list of benefits runs some 14 printed pages.)

The benefits specifically excluded from the provisions of this law include welfare benefits, veteran's benefits, pensions, public housing, disability, and Social Security benefits.

The length of the denial of benefits is as follows:

a. Trafficking offenses (including manufacturing, distributing, importing, dispensing, cultivating, or creating a controlled or counterfeit substance; or possession with intent to do any of the above; or conspiracy to commit any of the above offenses):

First offense: [up to] 5 years  
Second offense: [up to] 10 years  
Third offense: Permanent denial

b. Possession offenses:

First offense: [up to] 1 year  
Second and subsequent: [up to] 5 years

It is the intention of the District Attorney to request the court to order a denial of federal benefits on all appropriate drug cases in the future. Accordingly, I have attached further information on

this program, including a sample sentencing form and a reporting form.

If you have any questions on this matter, please do not hesitate to contact me.

Very truly yours,

MARKKU A. SARIO  
Deputy District Attorney

Encl.

cc: Ed Caleb

## **DISTRICT ATTORNEY FOR KLAMATH COUNTY**

December 12, 1991

### **DISTRICT ATTORNEY**

Edwin I. Caleb

**\* \* \* PRESS RELEASE \* \* \***

### **STUDENT DRUG USERS TO LOSE FEDERAL BENEFITS**

#### **CHIEF DEPUTY**

Mark L. Runnels

#### **ADMINISTRATIVE DEPUTY**

Cheryl A. Pellegrini

#### **DEPUTIES**

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#### **PARALEGAL**

Debbie L. Stroup

#### **ADMINISTRATIVE SECRETARY**

Melina C. Johnson

The Klamath County District Attorney's office announced today that it intends to enforce federal drug laws which deny federal benefits to persons convicted of drug offenses in local courts.

The federal law applies to all persons convicted of drug offenses ranging "from simple possession to major trafficking," said Mark Runnels, Chief Deputy District Attorney.

"This denial of benefits would most immediately impact offenders who are students in college, or who expect to go to college, since it would make them ineligible for such things as federally-insured student loans, Pell grants, research grants, and various federal licenses and permits," explained Runnels.

Markku Sario, the drug enforcement Deputy District Attorney, stated, "I have been asking the judges to include a denial of federal benefits in virtually all drug sentences lately, and these requests have been routinely granted, for periods of one year to permanently."

Sario emphasized that he would not make exceptions for students. "With the recent publicity on drug-free zones around schools, it should come as no surprise to anyone that we are taking a hard-line approach to drug use by students. Presumably, college students are brighter than average, and should fully appreciate that if they can be kicked out of school for cheating, the consequences of committing a felony are going to be even more unpleasant."

When asked whether this would create a hardship for some students, Sario responded, "Of course it would. That's the whole idea."

Runnels pointed out that these harsh consequences can be easily avoided. "It's pretty simple," he said. "Don't do drugs."



In the Superior Court of the State of California  
In and for the County of Imperial

DEPT. COUNTY NUMBER 14809  
JAIL COURTROOM

THE PEOPLE OF THE STATE OF CALIFORNIA,  
*Plaintiff*

Vs.

JANE DOE

aka: Jane Roe, Jane Soto Roe Doe, and Jane  
Soto  
*Defendant*

TO THE ABOVE ENTITLED HONORABLE COURT:

Pursuant to the statute and the direction of this Court, the Probation Officer hereby respectfully submits the following report and recommendation concerning the application for release on probation of Jane Doe

after having pled no contest on March 11, 1992, to

the charge of POSSESSION OF CONTROLLED SUBSTANCE, a felony, in violation of Section 11377 of the Health and Safety Code.

DATES IN CASE

DATE COMMITTED February 26, 1992  
DATE ARRESTED February 26, 1992  
INFORMATION FILED N/A  
REFERRED TO PROBATION OFFICER March 11, 1992  
REPORT FILED April 22, 1992  
DAYS IN JAIL AT TIME OF HEARING 15 (11+4)

HISTORY

DATE OF BIRTH April 17, 1966  
BIRTHPLACE Mexicali, Mexico  
EDUCATION 6 Years  
OCCUPATION Field Laborer  
RESIDED IN CALIFORNIA since 1969  
LATEST ADDRESS 552 Olive #4, El Centro, California.

COUNTS DISMISSED/PENDING:

COUNT II, alleging violation Of Section 11364 of the Health and Safety Code, a Misdemeanor, dismissed.

SPECIFICATION OF PLEA:

1. Imposition of Sentence suspended;
2. Probation;
3. No additional jail.

RECOMMENDATION SUMMARY:

1. Imposition of Sentence Suspended;
2. 3 years formal probation;
3. 15 days Imperial County Jail.

CIRCUMSTANCES OF THE OFFENSE:

The following narrative is a summary of police reports and other documentation found in the District Attorney's file:

On February 26, 1992, at approximately 1615 hours, members of the Imperial County Narcotic Task Force and The Imperial County Probation Department conducted a probation search of the defendant's residence at 552 Olive, El Centro, California. The defendant was placed under arrest after a small amount of Methamphetamines was found. She was transported and booked at the Imperial County Jail.

CRIMINAL RECORD:

CII#: B111111111                      FBI#: 11111444                      SS#: 111-11-1111  
IMP.CO.R#: R-111111                      IMMIGRATION FILE#: F432564

<u>DATE</u>	<u>PLACE</u>	<u>OFFENSE</u>	<u>DISPOSITION</u>
08-10-87	El Centro	23152(a) V.C.	Misd. cony - 3 years probation. (Case #MV111)
04-21-88	El Centro	484/488 P.C.	Misd. conv - 180 days jail susp., 1 year prob., 6 days jail.(Case#M11168E)

06-13-88	El Centro	23152(a) V.C.	Misd. conv - 3 years probation, 4 days jail. (Case#MVI35111-E)
08-19-91	El Centro	11365 H&S	Misd. conv - 3 years probation, 90 days jail. (Case#F91-111)

DEFENDANT'S STATEMENT:

The defendant was interviewed at the Imperial County Probation Department on April 16, 1992.

The defendant admits having the methamphetamine residue in her apartment, but states that it was not hers. She agrees with the disposition indicated in this matter as being in her best interest.

VICTIM INFORMATION:

There is no victim in this matter.

SOCIAL HISTORY:

The following is summarized from information provided by the defendant:

Address: The defendant currently resides at 111 Branch Avenue, #A, in El Centro, California. The defendant has resided in Imperial County, California, since 1973.

Family: Jane Doe is a 26-year-old hispanic female who was born in Mexicali, Mexico, on April 17, 1966. She was raised by her parents, Gene Doe and Fulani Soto Roe, until their divorce in 1973. Thereafter, the defendant resided with her mother. The defendant has four sisters.

The defendant had a common-law relationship with John Doe from 1980 through 1986. She has two children from this relationship as follows: John Doe, age 10, and Rene Doe, age 9.

Education: The defendant states "that she completed

approximately 6 years of education, having last attended Ravenwood Elementary School in Calexico, California.

Employment and Income: The defendant states that she has worked as a field laborer, but is currently unemployed receiving AFDC benefits.

Military: None

Medical and Psychological: The defendant states that she is in good health, without disabilities.

Substance Abuse: The defendant denies any use of controlled substances. She admits drinking alcohol on an occasional basis.

COLLATERAL INFORMATION:

Pam Rodriguez, DPO II: This officer spoke with the defendant's supervising probation officer in Case #F91-111 on March 13, 1992. Ms. Rodriguez states that she is in agreement with the disposition in this matter.

PROBATION ELIGIBILITY RULE 413:

The court shall determine whether the defendant is eligible for probation. Rule 413 (a)

There do not appear to be any statutory provisions that would either limit or prohibit the granting of probation in this case. Rule 413 (b)

CRITERIA AFFECTING PROBATION RULE 414:

+The nature, seriousness, and circumstances of the crime are less severe as compared to other instances of the same crime, in that there was only a residue of methamphetamines found at the defendant's residence. Rule 414(a)(1)

-The defendant's prior record indicates a pattern of regular criminal conduct. Rule 414(b)(1)



-The defendant's prior and present performance on probation was unsatisfactory. Rule 414(b)(2)

+The defendant expresses a willingness to comply with the terms of probation. Rule 414(b)(3)

+The defendant's age, education, health, mental faculties, family background and ties indicate an ability to comply with reasonable terms of probation. Rule 414(b)(4)

CIRCUMSTANCES IN AGGRAVATION RULE 421:

The defendant was on probation when the crime was committed. Rule 421(b)(4)

The defendant's prior performance on probation was unsatisfactory. Rule 421(b)(5)

CIRCUMSTANCES IN MITIGATION RULE 423:

The defendant voluntarily acknowledged wrongdoing at an early stage of the criminal process. Rule 423(b)(3)

REGISTRATION OF CONTROLLED SUBSTANCE OFFENDERS:

Having been convicted of the offense herein, the defendant is a person required to register pursuant to the provisions of Section 11590 of the Health and Safety Code.

DENIAL OF FEDERAL BENEFITS:

The court is advised, pursuant to 21 USC 853(b), upon this conviction of a first offense involving possession of controlled substances, that the court may, at its discretion, order the defendant be ineligible for any or all federal benefits for a period of up to one year. The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

AIDS EDUCATION PROGRAM FINE:

The court is advised, pursuant to Section 11377(c) of the Health and Safety Code, that the judge may, in addition to any punishment otherwise provided, assess against the defendant a fine not to exceed \$70.00 with proceeds being used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the said fine.

CRIMINAL LABORATORY ANALYSIS FEE:

The court is advised, pursuant to Section 11372.5 of the Health and Safety Code, upon this conviction of a violation of Section 11377 of the Health and Safety Code, that the defendant is required to pay a Criminal Laboratory Analysis Fee in the amount of \$50.00.

DRUG PROGRAM FEE:

The court is advised, pursuant to Section 11372.7 of the Health and Safety Code, upon this conviction of violation of Section 11377 of the Health and Safety Code, that the defendant shall pay a Drug Program Fee in an amount not to exceed \$100.00. The court shall determine whether or not the defendant has the ability to pay said fee.

AIDS EDUCATION PROGRAM:

Pursuant to Penal Code Section 1001.10, the defendant is required, as a condition of probation, to agree to participate in an AIDS Education Program. Testing for AIDS antibodies shall be offered but the defendant shall not be required to be tested.

DISCUSSION AND EVALUATION:

Before the court for sentencing is Jane Doe, a 26year-old hispanic female who has entered a plea of no contest to a felony, to wit, POSSESSION OF CONTROLLED SUBSTANCE, in violation of Section 11377 of the Health and Safety Code. The defendant denies ownership of the controlled substance, but agrees with the disposition indicated by the court as being in her best interest. The conditions of plea appear appropriate and will be followed. Due to the type of offense, standard drug terms will be recommended as conditions of probation. Further, after review of circumstances in aggravation and mitigation, it is recommended that the middle term of two years in State Prison be designated as the base term herein.

REIMBURSEMENT OF APPOINTED COUNSEL:

The defendant does not appear to have the ability to pay for her court-appointed attorney.

STATUTORY PROVISIONS:

The maximum punishment for the convicted offense of POSSESSION OF CONTROLLED SUBSTANCE is 16 months, two years or three years in State Prison.

SUGGESTED PRISON TERM:

<u>CRIME</u>	<u>AGGRAVATED</u>	<u>MITIGATED</u>	<u>BASE TERM</u>	<u>ENHANCEMENTS</u>	<u>TOTAL TERM</u>
11377 H&S	NO	NO	2 YEARS	NONE	2 YEARS

CREDIT FOR TIME SERVED:

Local Time: 11 days (2-26-92 through 3-5-92)  
P.C. 4019 Time: 4 days  
Total Days Credited: 15 days

RECOMMENDATIONS:

IT IS RESPECTFULLY RECOMMENDED that imposition of sentence be suspended and that the defendant be placed on 3 years formal probation under the following terms and conditions:

1. Serve 15 days in the Imperial County Jail, with credit being given for 15 days already served, consisting of 11 days actual custody time and 4 days behavioral credits.
2. Participate in drug counseling/educational programs as directed by the probation officer, and not terminate said programs without the consent of the directors of the program and/or the probation officer.
3. Abstain from the possession or use of any drugs, narcotics, or other illicit substances not specifically prescribed for her by a licensed California physician.
4. Submit to chemical testing at the direction of the probation officer.
5. Submit her person and property, including vehicles and place of abode, to warrantless search and seizure at any time of the day or night, with or without probable cause, by the probation officer or by any law enforcement officer.
6. Not associate with any known users or sellers of narcotics.
7. Register as a drug offender pursuant to Section 11590 of the Health and Safety Code.
8. Pay a fine in the amount of \$70.00 to be used in accordance with Section 1463.23 of the Penal Code (Aids Education Program) pursuant to Section 11377(c) of the

Health and Safety Code.

9. Pay a \$50.00 Criminal Laboratory Analysis Fee pursuant to Section 11372.5 of the Health and Safety Code.
10. Pay a \$100.00 Drug Program Fee pursuant to Section 11372.7 of the Health and Safety Code.
11. Attend an AIDS Education Program pursuant to Section 1001.10 of the Penal Code.
12. Report to the Probation Department within one week after release from custody at the Imperial County Jail.
13. Report as directed to the probation officer and report any future arrests within seven days.
14. Seek and maintain gainful employment and/or education.
15. Immediately notify the probation officer of any change of address, telephone, or employment.
16. Not leave the county or state without permission of the probation officer.
17. Follow all standard terms and conditions of probation and obey all laws.

IT IS FURTHER RECOMMENDED that pursuant to 21 USC 853a(b), upon this conviction of a first offense involving possession of controlled substances, that the defendant be ordered ineligible for all federal benefits for a period of one year. The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

IT IS FURTHER RECOMMENDED that the defendant be found to lack the ability to pay for the services of her court-appointed

attorney.

IT IS FURTHER RECOMMENDED that the defendant pay a restitution fine in the amount of \$100.00 to the State Restricted Fine Fund, payable through the Probation Department, pursuant to the provisions of Section 13967 of the Government Code.

Respectfully submitted,

CHIEF PROBATION OFFICER

Deputy Probation Officer II

CERTIFICATION:

I do hereby certify that I have read and considered the foregoing report of the probation officer at the time of sentence.

\_\_\_\_\_  
DATED

\_\_\_\_\_  
JUDGE

**MEMORANDUM FROM THE DISTRICT ATTORNEY FOR IMPERIAL COUNTY,  
CALIFORNIA**

**DATE:** \_\_\_\_\_

**TO:** \_\_\_\_\_

**FROM:** District Attorney

**RE:** Advisement at Plea - Denial of Federal Benefits

Defendant is advised of the following potential  
consequence of federal benefits denial:

Possession (Including Possession for Sale and  
Transportation) Offenses

First Offense

The defendant is advised, pursuant to 21 U.S.C. 853a(b), upon this conviction of a first offense involving possession of controlled substances, that the Court may, at its discretion, order the defendant be ineligible for any or all federal benefits for a period of up to one year.

Federal benefits are defined to mean any grant, contract, loan, professional license, or commercial license provided by an agency or by funds of the United States; but do not include any retirement, welfare, social security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

Second and Subsequent Offenses

The defendant is advised, pursuant to 21 U.S.C. 853a(b), upon this conviction of a second offense involving possession of controlled substances, that the Court may, at

its discretion, order the defendant be ineligible for any or all federal benefits for a period of up to five years.

Federal benefits are defined to mean any grant, contract, loan, professional license, or commercial license provided by an agency or by funds of the United States; but do not include any retirement, welfare, social security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

#### Distribution Offenses (Including Sales, Attempted Sales and Conspiracy to Sell)

##### First Offense

The defendant is advised, pursuant to 21 U.S.C. 853a(a), upon this conviction of a first offense involving distribution of controlled substances, that the Court may, at its discretion, order the defendant be ineligible for any or all federal benefits for a period of up to five years.

Federal benefits are defined to mean any grant, contract, loan, professional license, or commercial license provided by an agency or by funds of the United States; but do not include any retirement, welfare, social security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

##### Second Offense

The defendant is advised, pursuant to 21 U.S.C. 853a(a), upon this conviction of a second offense involving distribution of controlled substances, that the Court may, at its discretion, order the defendant be ineligible for any or all federal benefit for a period of up to ten years.

Federal benefits are defined to mean any grant, contract, loan, professional license, or commercial license provided



by an agency or by funds of the United States; but do not include any retirement, welfare, social security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.

The period of ineligibility which is ordered may be suspended if the defendant completes, or attempts in good faith to gain admission to, a supervised drug rehabilitation program, or has otherwise been rehabilitated.

### Third Offense

The defendant is advised, pursuant to 21 U.S.C. 853a(a), upon this conviction of a third offense involving distribution of controlled substances, the defendant is *permanently ineligible for all federal benefits*.

Federal benefits are defined to mean any grant, contract loan, professional license, or commercial license provided by an agency or by funds of the United States; but do not include any retirement, welfare, social security, health, disability, veterans, benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required of eligibility.

THE STATE OF OREGON,	Plaintiff,	)	NO. _____
		)	
_____ , Attorney		)	_____
		)	_____
		)	
		)	
_____ , Defendant,		)	
		)	
_____ , Attorney		)	
_____		)	

NEGOTIATION

1. ( ) DEFENDANT SHALL BE COMMITTED TO THE CUSTODY OF OREGON STATE DEPARTMENT OF CORRECTIONS FOR \_\_\_\_\_ MONTHS. THE LENGTH OF POST PRISON SUPERVISION SHALL BE \_\_\_\_\_ MONTHS.  
If defendant violates the conditions of post prison supervision, the defendant shall be subject to sanctions including the possibility of additional imprisonment in accordance with rules of the State Sentencing Guidelines Board.
2. ( ) Firearm minimum pursuant to ORS 161.610 \_\_\_\_\_ years.
3. ( ) Dangerous Offender Minimum (ORS 161.725) \_\_\_\_\_ years.
4. ( ) The incarceration shall be served CONCURRENTLY with: ( ) The incarceration shall be served consecutively with:  
( ) any sentence the defendant is now serving ( ) \_\_\_\_\_
5. ( ) DEFENDANT SHALL BE PLACED ON **OPTIONAL PROBATION** (Grid 8G, 8H, and 8I ONLY), there being a presumptive prison term of \_\_\_\_\_ months.  
Defendant and State agree to the following findings:
- (1) An appropriate treatment program is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; the recommended treatment program is available and the offender can be admitted to it within a reasonable period of time; and the probationary sentence will serve community safety interests by promoting offender reformation; AND
- (2) The defendant was not under correctional supervision status at the time of the offense for a prior convictions; AND
- (3) No firearm was used in the commission of the offense.
- A. AND THE COURT SO FINDS: ( ) Yes ( ) No
6. ( ) SENTENCING SHALL BE DEFERRED on the terms and conditions specified. If the Defendant successfully completes all conditions, the case shall be dismissed with prejudice. If Defendant violates any of the probation requirements, then the Court shall enter a judgement of conviction and an appropriate sentence.
7. ( ) CONDITIONAL DISCHARGE is allowed pursuant to ORS 475.245.
8. ( ) DEFENDANT SHALL BE PLACED ON PROBATION, there being a presumptive probationary term of \_\_\_\_\_ months, on the following conditions:
9. ( ) DEFENDANT SHALL SERVE A TOTAL OF \_\_\_\_\_ (INSERT MAXIMUM) CUSTODY UNITS in the following manner:
- A. ( ) DEFENDANT SHALL BE COMMITTED TO THE CUSTODY OF THE KLAMATH COUNTY JAIL FOR \_\_\_\_\_ DAYS.
- ( ) Defendant shall NOT receive credit for presentence incarceration.
- ( ) Defendant shall receive credit \_\_\_\_\_ days served.
- ( ) To be served at the direction of the probation officer within \_\_\_\_\_ months of sentencing.
- ( ) Straight time commencing \_\_\_\_\_
- ( ) Weekends commencing \_\_\_\_\_
- ( ) The incarceration shall be served CONCURRENTLY with: ( ) The incarceration shall be served CONSECUTIVELY with:  
( ) any sentence the defendant is now serving ( ) \_\_\_\_\_
- ( ) Defendant may be release sooner to the Immigration and Naturalization Service for Purposes of deportation.

- B. (    ) DEFENDANT SHALL SERVE \_\_\_\_\_ CUSTODY UNITS UNDER HOUSE ARREST at direction of Probation Officer  
 C. (    ) DEFENDANT SHALL SERVE \_\_\_\_\_ CUSTODY UNITS AS COMMUNITY SERVICE WORK, consisting of \_\_\_\_\_ eight-hour days to be completed within one year at the direction of the probation officer. Defendant shall pay a \$15 Community Service fee.  
 D. (    ) DEFENDANT SHALL SERVE \_\_\_\_\_ CUSTODY UNITS IN RESIDENTIAL COUNSELING at the expense of the defendant.  
 E. ( X ) The balance of Custody units (the FORM of which are not specified herein) may be imposed in the Court's discretion.

10. (    ) Defendant shall obey all municipal, county, state and federal laws.
11. (    ) The defendant agrees and is ordered to take lie detector tests conducted by a qualified polygraph examiner at the request of his Probation Officer; the results of all such tests shall be forwarded immediately by the Probation Officer to the District Attorney; probable cause is not required; defendant agrees the results of any such lie detector tests shall be admissible in probation revocation proceedings; said tests shall cover probation violations; defendant agrees that a deceptive score will be grounds for revocation. Said tests shall be limited to the following activities: \_\_\_\_\_  
 \_\_\_\_\_
12. (    ) The defendant waives his Fourth Amendment rights, Art 1s9 rights, and statutory rights and consents to a search of any residence in which he is living, any vehicle in which he is travelling and to a search of his person without a search warrant; said search to be at the direction of his Probation Officer, and it is understood that police officers may assist in this search, probable cause is not required; the defendant agrees that any evidence seized during such search and any fruits of such evidence can be used in probation revocation proceedings and can be used in the prosecution of other charges which are separate and distinct from the probation revocation; said search to be limited to the following activities: \_\_\_\_\_  
 \_\_\_\_\_
13. (    ) Defendant is subject to Condition 4a - no intoxicants; blood urinalysis and/or breath testing at defendant's expense at the request of defendant's Probation Officer on less than probable cause. Defendant will take a GAMA/GT test at his own expense and at the request of his Probation Officer. Defendant is not to frequent any place where alcohol is the main item of sale.
14. (    ) Defendant shall be 4b as to alcohol (i.e., no alcohol to excess).
15. (    ) Defendants shall submit to an alcohol/drug evaluation and shall complete any program of treatment as directed pursuant to such evaluation and probation officer. Defendant shall pay for such treatment.
16. (    ) Antabuse if medically feasible at defendant's own expense. Probation Officer to select medical evaluator.
17. (    ) Defendant is not to associate with any person known to be on parole or felony probation or anyone who has been on probation within one year from the date of sentencing, except \_\_\_\_\_
18. (    ) Defendant is not to associate with any persons known to him or use or possess controlled substances illegally or to frequent any place where controlled substances are kept or used.
19. (    ) Defendant shall have no contact with the victim, \_\_\_\_\_ or co-defendant, \_\_\_\_\_, without the approval of Probation Officer.
20. (    ) Defendant shall have no contact with any juveniles under the age of eighteen years without the approval of his probation officer.
21. (    ) Defendant must meet with investigators and identify all known controlled substance suppliers and/or confess all crimes and defendant shall take a polygraph examination from a qualified polygrapher chosen by the District Attorney. Refusal to divulge such information or deceptive polygraph responses shall be grounds for revocation of probation. Defendant shall have immunity for all crimes confessed to, except: all crimes of violence, including homicide; all sexual offenses; assault of any degree; robbery; and any other specific crimes listed: \_\_\_\_\_  
 \_\_\_\_\_
22. (    ) Defendant shall pay a supervisory fee (\$25/mo. for \_\_\_\_\_ months = \$ \_\_\_\_\_)
23. (    ) Defendant shall not own, possess or control any firearm (ORS 166.270) or any other specified weapon, to-wit: \_\_\_\_\_
24. (    ) Defendant shall make himself available as a witness and shall truthfully provide relevant testimony in Court an statements to investigators in any investigation, prosecution or other criminal proceedings concerning \_\_\_\_\_
25. (    ) Defendant shall receive misdemeanor treatment upon successful completion of probation.
26. (    ) Other special conditions: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
27. (    ) Defendant shall pay to the Clerk of the Court the amounts designated under the Money Judgment section, which is set forth hereafter and by this reference incorporated herein.

\_\_\_\_\_  
 Attorney for Plaintiff

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Attorney for Defendant

\_\_\_\_\_  
 Date

DEFENDANT ACKNOWLEDGES THAT HE HAS READ AND UNDERSTANDS ALL CONDITIONS SET FORTH-HEREIN.

\_\_\_\_\_  
 Defendant

\_\_\_\_\_  
 Date



U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
WASHINGTON, D.C. 20531

**Denial of Federal Benefits for Drug Offenders**

This requirement is pursuant to authority of 21 U.S.C. 853a. Courts may use this form or submit court documents. If the information requested below is included in court documents, complete only items 1-10, and submit this form as a transmittal sheet.

<b>1 INDICATE NAME (last, first, middle):</b>		<b>2. SEX:</b> <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	<b>3. SENTENCING DATE:</b>								
<b>4 OTHER NAMES USED (AKA):</b>											
<b>5 STREET ADDRESS:</b>											
<b>6. CITY:</b>		<b>7. STATE:</b>	<b>8. ZIP CODE:</b>								
<b>9 DATE OF BIRTH:</b>	<b>10. SOCIAL SECURITY NUMBER:</b>	<b>11. CASE/DOCKET NUMBER:</b>									
<b>12 OFFENSE:</b> <input type="checkbox"/> DRUG TRAFFICKER <input type="checkbox"/> DRUG POSSESSOR		<b>13. SENTENCE BY COURT:</b> <b>A. STATUTORY CRITERIA:</b> <table style="width:100%; border: none;"><thead><tr><th style="text-align: center; border-bottom: 1px solid black;">TRAFFICKER</th><th style="text-align: center; border-bottom: 1px solid black;">POSSESSOR</th></tr></thead><tbody><tr><td><input type="checkbox"/> FIRST OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i></td><td><input type="checkbox"/> FIRST OFFENSE. ____ YEAR(S) <i>(up to 1 year)</i></td></tr><tr><td><input type="checkbox"/> SECOND OFFENSE. ____ YEAR(S) <i>(up to 10 years)</i></td><td><input type="checkbox"/> SECOND OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i></td></tr><tr><td><input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED</td><td><input type="checkbox"/> SUBSEQUENT OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i></td></tr></tbody></table> <b>B. OTHER CONDITIONS:</b>		TRAFFICKER	POSSESSOR	<input type="checkbox"/> FIRST OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i>	<input type="checkbox"/> FIRST OFFENSE. ____ YEAR(S) <i>(up to 1 year)</i>	<input type="checkbox"/> SECOND OFFENSE. ____ YEAR(S) <i>(up to 10 years)</i>	<input type="checkbox"/> SECOND OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i>	<input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED	<input type="checkbox"/> SUBSEQUENT OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i>
TRAFFICKER	POSSESSOR										
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<input type="checkbox"/> THIRD OFFENSE. PERMANENTLY DENIED	<input type="checkbox"/> SUBSEQUENT OFFENSE. ____ YEAR(S) <i>(up to 5 years)</i>										
<b>14 NAME OF SENTENCING JUDGE:</b>											
<b>15. DURATION OF DENIAL:</b> <b>A STARTING DATE</b> _____ <b>B ENDING DATE</b> _____											
<b>16 BENEFITS DENIED:</b> <input type="checkbox"/> ALL BENEFITS ARE DENIED <input type="checkbox"/> SELECTED BENEFIT(S) ARE DENIED AS SPECIFIED BELOW:											
<b>17 ADDITIONAL INFORMATION:</b>											
<b>18. RESCISSIONS: THE PERIOD OF INELIGIBILITY FOR FEDERAL BENEFITS WHICH WAS IMPOSED BY THE COURT IN THE ABOVE REFERENCED CASE IS HEREBY SUSPENDED FOR THE REASON THAT:</b> <input type="checkbox"/> DEFENDANT HAS SUCCESSFULLY COMPLETED A DRUG REHABILITATION PROGRAM. <input type="checkbox"/> OTHER (specify):											
<b>19 SIGNATURE AND TITLE OF AUTHORIZED COURT OFFICIAL:</b>											
<b>20 COURT NAME:</b>			<b>21. TELEPHONE (Area Code):</b>								
<b>22. STREET ADDRESS:</b>											
<b>23 CITY:</b>		<b>24 STATE:</b>	<b>25 ZIP CODE:</b>								

**RHODE ISLAND DEPARTMENT OF THE ATTORNEY GENERAL**  
**DENIAL OF FEDERAL BENEFITS - REPORT OF DENIAL**

1. NAME (L, F, M) _____ 2. OTHER NAME(S) USED: _____ 3. ADDRESS: _____ 4. CITY: _____ 5. STATE: _____ 6. ZIP _____	7. SEX: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE 8. DOB: _____ 9. BCI #: _____ 10. SSAN: _____ 11. CASE #: _____																																																
12. OFFENSE(S) & DATE: _____																																																	
13. POSSESSION-CHARGE CODE: _____ <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2"></th> <th colspan="2" style="text-align: center;">ELIGIBILITY</th> <th colspan="2" style="text-align: center;">DISPOSITION</th> </tr> <tr> <th colspan="2"></th> <th style="text-align: center;">Some</th> <th style="text-align: center;">All</th> <th style="text-align: center;">Some</th> <th style="text-align: center;">All</th> </tr> </thead> <tbody> <tr> <td style="width: 15%;">14. 1st Offense</td> <td style="width: 40%;">• DFB for up to 1 year</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>15.</td> <td>• Required Treatment</td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>16.</td> <td>• Community Service</td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>17. 2nd &amp; Sub-</td> <td>• DFB for up to 5 years</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>18. Sequent Off.</td> <td>• Required Treatment</td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>19.</td> <td>• Community Service</td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> <td></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>				ELIGIBILITY		DISPOSITION				Some	All	Some	All	14. 1st Offense	• DFB for up to 1 year	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	15.	• Required Treatment		<input type="checkbox"/>		<input type="checkbox"/>	16.	• Community Service		<input type="checkbox"/>		<input type="checkbox"/>	17. 2nd & Sub-	• DFB for up to 5 years	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	18. Sequent Off.	• Required Treatment		<input type="checkbox"/>		<input type="checkbox"/>	19.	• Community Service		<input type="checkbox"/>		<input type="checkbox"/>
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20. EXCEPTIONS - Benefits not denied due to: <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 45%;"><input type="checkbox"/></td> <td>Declaration of Addiction</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Deemed Rehabilitated</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Disposition Not A Conviction</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Other (Specify)</td> </tr> </table>		<input type="checkbox"/>	Declaration of Addiction	<input type="checkbox"/>	Deemed Rehabilitated	<input type="checkbox"/>	Disposition Not A Conviction	<input type="checkbox"/>	Other (Specify)																																								
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28. DURATION of Benefit Denial: Beginning: _____ Ending: _____ 29. BENEFITS DENIED (Complete if ALL Benefits NOT Denied) 30. _____ 31. _____																																																	
RECISSION The period of ineligibility for benefit denial imposed by the Court in the above case is hereby suspended due to: 32. <input type="checkbox"/> Defendant has completed drug rehabilitation 33. <input type="checkbox"/> Required period of benefit denial has elapsed. 34. <input type="checkbox"/> Other (specify) _____																																																	
SIGNATURE OF JUDGE: _____																																																	
35. Name of Judge (printed): _____ 36. Court: _____ 37. Name of Prosecutor (printed): _____ 38. Name of Defense: <input type="checkbox"/> Public _____ <input type="checkbox"/> Private _____ 39. Date of this Disposition: _____ 40. Other notes: _____																																																	

Defendant:  
Case Number:

Judgment—Page \_\_\_\_\_ of \_\_\_\_\_

**DENIAL OF FEDERAL BENEFITS**  
**(For Offenses Committed On or After November 18, 1988)**

**FOR DRUG TRAFFICKERS PURSUANT TO 21 U.S.C. § 853a(a)**

IT IS ORDERED that the defendant shall be:

☐ ineligible for all federal benefits for a period of \_\_\_\_\_ ending \_\_\_\_\_.

☐ ineligible for the following federal benefits for a period of \_\_\_\_\_ ending \_\_\_\_\_:

(specify benefits) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**OR**

☐ Having determined that this is the defendant's third or subsequent conviction for distribution of controlled substances, IT IS ORDERED that the defendant shall be permanently ineligible for all federal benefits.

**FOR DRUG POSSESSORS PURSUANT TO 21 U.S.C. § 853a(b)**

IT IS ORDERED that the defendant shall:

☐ be ineligible for all federal benefits for a period of \_\_\_\_\_ ending \_\_\_\_\_.

☐ be ineligible for the following federal benefits for a period of \_\_\_\_\_ ending \_\_\_\_\_:

(specify benefits) \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ successfully complete a drug testing and treatment program.

☐ perform community service, as specified in the probation or supervised release portion of this judgment.

☐ Having determined that this is the defendant's second or subsequent conviction for possession of a controlled substance, IT IS FURTHER ORDERED that the defendant shall complete any drug treatment program and community service specified in this judgment as a requirement for the reinstatement of eligibility for federal benefits.

Pursuant to 21 U.S.C. § 853a(d), this denial of federal benefits does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility.



Office of Justice Programs

Washington, D.C. 20531

08 APR 1992

Honorable  
Judge  
Klamath County Circuit Court  
316 Main Street  
Klamath Falls, OR 97601

Case Numbers:

Dear Judge

This is to inform you that the above referenced cases have been added to the Denial of Federal Benefits for Drug Offenders database. Please review the information and contact us if there are any modifications. Also, please advise us if the period of ineligibility for Federal benefits in these cases are suspended before the ending date. Attached find a copy of each record as it was entered into the system.

Do not hesitate to contact me at (202)307-0630 if I can be of further assistance.

Sincerely,

*Michael J. Dalich*  
*Stewart Legner*

Michael J. Dalich  
Director  
Denial of Federal Benefits Project



DENIAL OF FEDERAL BENEFITS FOR DRUG OFFENDERS  
U.S. DEPARTMENT OF JUSTICE  
OFFICE OF JUSTICE PROGRAMS  
WASHINGTON, DC 20531

1. Last, First and Middle Name:		2. Sex: MALE	3. Sentencing Date:
4. Other Names Used (AKA):			
5. Street Address:			
6. City: Klamath Falls		7. State: OR	8. Zip Code: 97603
9. Date of Birth:	10. Social Security Number:	11. Case/Docket Number:	
12. Offense: DRUG TRAFFICKER		13. Sentence by Court:	
11. Name of Sentencing Judge:		a. Statutory Criteria	
		TRAFFICKER	
		<input checked="" type="checkbox"/> First Offense, year(s) (up to 5 years)	<input type="checkbox"/> First Offense, year(s) (up to 1 year)
		<input type="checkbox"/> Second Offense, year(s) (up to 10 years)	<input type="checkbox"/> Second Offense, year(s) (up to 5 years)
		<input type="checkbox"/> Third Offense, Permanently denied	<input type="checkbox"/> Subsequent Offense, year(s) (up to 5 years)
12. Duration of Denial:		b. Other Conditions	
a. Starting Date: 03/24/1992			
b. Ending Date: 03/23/1997			
16. ALL BENEFITS DENIED			
17. Additional Information: other SSN:			
18. Rescissions: The period of ineligibility for Federal benefits which was imposed by the court in the above referenced case is hereby suspended starting on / / for the reason that:			
19. Name and Title of Authorized Court Official:			
20. Court Name:		21. Phone:	
22. Street Address: 316 Main St.			
23. City: Klamath Falls	24. State: OR	25. Zip code: 97601	



1993

FILED  
STATE OF OREGON  
CLERK OF COURT  
KLAMATH CO. DISTRICT 11

1993 MAR -4 AM 9:39

CLERK OF COURT

BY [Signature]

CIRCUIT COURT OF OREGON

COUNTY OF KLAMATH

STATE OF OREGON,

Plaintiff,

v.

Defendant.

No.

MOTION FOR AN ORDER  
SUSPENDING THE DENIAL OF  
FEDERAL BENEFITS

COMES NOW defendant by and through and  
moves the court for an order suspending the sentence of a denial of  
Federal Benefits imposed herein base upon the rehabilitation of the  
offender. This motion is base upon Federal law allowing for  
suspension of the denial and the statement of and the  
statement of attached hereto.

DATED this 4 day of March, 1993.

[Signature]  
Of Attorneys for Defendant

CRANE & FOLTYN  
ATTORNEYS AT LAW  
635 MAIN STREET

KLAMATH FALLS, OREGON 97601

FILED  
STATE OF OREGON  
CIRCUIT COURT OF OREGON

1993-5 COUNTY OF KLAMATH

STATE OF OREGON,

Plaintiff,

v.

Defendant.

No.


ORDER SUSPENDING DENIAL  
OF FEDERAL BENEFITS

RECEIVED  
MAR 11 1993

THIS MATTER having come before the Court upon the Motion of the Defendant. The Defendant appearing by and through his attorney and the State of Oregon appearing by and through the Klamath County District Attorney's Office. There being no objections to the Motion of Defendant and the Court being fully advised in the premises; now, therefore;

IT IS HEREBY ORDERED that the previously imposed denial of Federal benefits in the above-entitled matter is hereby suspended.

DATED this 5 day of <sup>April</sup> March, 1993.

  
Richard C. Beesley  
CIRCUIT COURT JUDGE

ROBERT J. FOLTYN  
ATTORNEY AT LAW  
635 MAIN STREET

KLAMATH FALLS, OREGON 97601

# United States District Court

\_\_\_\_\_ District of \_\_\_\_\_

## REINSTATEMENT OF FEDERAL BENEFITS

Case Number: \_\_\_\_\_  
Sentencing Date: \_\_\_\_\_

Defendant's Name: \_\_\_\_\_

Defendant's Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Defendant's Soc. Sec. No.: \_\_\_\_\_

Defendant's Date of Birth: \_\_\_\_\_

### SUSPENSION OF PERIOD OF INELIGIBILITY PURSUANT TO 21 U.S.C. § 853a(c)

The defendant's ineligibility for federal benefits which was imposed by the district court in the above case is hereby suspended because the defendant:

- ☐ has successfully completed a supervised drug rehabilitation program.
- ☐ has otherwise been rehabilitated.
- ☐ has made a good faith effort to gain admission to a supervised drug rehabilitation program, but has been unable to do so because of the inaccessibility or unavailability of such a program, or because of an inability to pay for such a program.

OR

### REINSTATEMENT OF BENEFITS FOLLOWING COMPLETION OF CONDITIONS IMPOSED PURSUANT TO 21 U.S.C. § 853a(b)(1)(B)

- ☐ The defendant has successfully completed a drug treatment and testing program and/or community service in accordance with the judgment in the above case. Accordingly, the defendant's eligibility for federal benefits which was denied in the case is hereby reinstated.

\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Judicial Officer

\_\_\_\_\_ Name & Title of Judicial Officer

## ***IV. REPORTS***

COMMUNICATION FROM THE PRESIDENT OF THE UNITED STATES  
Transmitting  
A Report Pertaining to Denial of Federal Benefits to Drug Traffickers and  
Possessors, Pursuant to Public Law 100-690, §5301(g)(1)(102 Stat 4312)  
(House Document 101-90)

The White House  
Washington, August 30, 1989

Hon .Thomas S. Foley,  
Speaker of the House of Representatives  
Washington, D.C.

Dear Mr. Speaker: (Dear Mr. President:)

The attached report sets forth a plan for the immediate implementation of section 5301 of P.L. 100-690, the Anti-Drug Abuse Act of 1988, pertaining to denial of Federal benefits for certain drug offenders. This report is submitted pursuant to the requirements of section 5301(g) of P.L. 100-690.

Effective for convictions occurring after September 1, 1989, section 5301 provides that an individual convicted of a State or Federal drug trafficking or possession offense may be denied Federal benefits for certain statutorily specified periods of time. Except for those individuals convicted of a third drug trafficking offense (in which case the exclusion from receipt of Federal benefits is both permanent and statutorily prescribed), the decision to deny any, some, or all of an individual's benefits in these instances rests solely with the sentencing judge. Certain benefits, such as welfare or disability payments, are statutorily exempted from coverage under this provision. In addition, benefits for government witnesses are exempted from suspension or denial, and benefits may not be denied an individual convicted of a drug possession offense who had been determined to be a drug addict and who has agreed to undergo long-term treatment or who may otherwise have been rehabilitated. In the case of an individual convicted of a drug trafficking offense, the range of benefits to be denied may not include those benefits related to long-term treatment. Section 5301 also requires that benefit eligibility be restored if an individual fulfills certain conditions relating to drug treatment and rehabilitation.

To implement section 5301, I am asking the United States Sentencing Commission to assist in the initial dissemination of information to the Federal courts, and the Department of Justice to assume the role of "information clearinghouse" for the Federal courts. Principal responsibility will rest with the Sentencing Commission to disseminate all necessary information concerning section 5301 to Article III Judges and other appropriate Federal personnel. An appropriate component in the Department of Justice will collect all incoming information generated by the courts regarding those individuals to whom benefits

are to be denied, and will forward such information to the General Services Administration (GSA) for inclusion on that agency's publication of "Parties Excluded from Federal Procurement or Nonprocurement Programs" -- more commonly known as the "Debarment List."

I am directing the Department of Justice (DoJ) to coordinate the participation of the State courts in this program. The DoJ will request the assistance of the chief judicial officer of each State in directing that State's courts to collect and transmit to DoJ the necessary data on State court denials. The DoJ will also serve as the repository or "clearinghouse" of information for State courts and will forward such data to GSA for inclusion on the Debarment List.

Appropriate and uniform documents designed to serve as judicial notices of denial or suspension of benefits shall be developed. Information collected on these forms will be sent on a regular basis by the DoJ "clearinghouse" to GSA and will be incorporated by GSA into the Debarment List. At present, the Debarment List contains approximately 6,500 entries, consisting of those parties excluded throughout the United States Government from receiving Federal contracts or federally approved subcontracts and from certain Federal benefits or other assistance. It is printed and distributed monthly to approximately 17,400 users, both in the Government as well as in the private sector. Under this proposal, the burden will rest with each agency to consult the Debarment List to ensure compliance with the provisions of the statute.

I understand that the statute permits a judge the discretion to deny all Federal benefits for a specified period of time (with the exclusion of those benefits exempted by statute from coverage under this provision). Utilizing the GSA Debarment List is the most efficient mechanism to implement such blanket suspensions, due to the thousands of different benefits -- including grants, guaranteed loans, contracts, and professional and commercial licenses -- that could be denied pursuant to section 5301. Additionally, an applicant for Federal benefits is required to certify that he/she is not subject to a judicial order that would bar their participation in Federal benefits.

The attached proposal is designed to be implemented September 1, 1989, or as soon thereafter as appropriate information materials are distributed to the Federal and State judiciary and suitable denial forms developed. In order to avoid any potential problems under the Ex Post Facto Clause of the Constitution, the statute shall be applied to convictions occurring after September 1, 1989, that arise from offenses occurring on or after November 18, 1988. November 18, 1988, is the date of enactment of P.L. 100-690. Finally, I am directing the Office of National Drug Control Policy to monitor implementation of this proposal, and to determine if additional changes or modifications are required after 6 months to carry out the legislative intent effectively.

Sincerely, George Bush

Note: Identical letters were sent to Thomas S. Foley, Speaker of the House of Representatives, and Dan Quayle, President of the Senate.

## **REPORT**

### **PROCEDURES FOR IMPLEMENTATION OF §5301 OF P.L. 100-690**

#### **PHASE I: Dissemination of Information to Federal and State Courts.**

##### **Federal Courts**

In order to inform the Federal Judiciary of the nature and scope of this program, the U.S. Sentencing Commission, in its dissemination of sentencing guidelines to the courts, will include information relating to denial of Federal benefits pursuant to §5301. The function of the U.S. Sentencing Commission is to formulate sentencing guidelines as well as other sentencing policies for the Federal criminal justice system. The Commission, in keeping with its mandate to develop means of measuring the effectiveness of its sentencing and other correctional practices, is the logical mechanism to assume responsibility for this effort.

The following procedures will be utilized:

- The Commission will inform all appropriate Federal officials in the Judiciary and Executive branches of government (Article III Judges, Chief Probation Officers, U.S. Attorneys, and Federal Defenders) of the provisions of the law and the administrative procedures adopted in conjunction with §5301.
- In coordination with the sentencing Commission, the Office of Management and Budget, (OMB), the Department of Justice (DoJ), Federal Judicial Center and members of the Judiciary, the Administrative Office of the United States Courts will develop a "Denial of Federal Benefits" form (Denial Form) suitable for use by the Federal courts and the Executive Branch, which will contain such information as: the name of the individual from which benefits are to be withheld, additional means of identification to ensure accuracy in any follow up matters, the nature of the conviction and the duration of denial, the signature of the sentencing judge and the court address. The Denial Form may be included as part of the Judgement and Commitment Order. An additional form will be developed to permit courts to reinstate Federal benefits pursuant to the statutory conditions relating to rehabilitation and treatment.

## State Courts

The Department of Justice will communicate information to State Courts. Various organizational units within the Department support the states in the development and analysis of state-level criminal justice data and statistics, and provide assistance to States and units of local government and other organizations which assist in data collection of this nature.

The following procedures will be utilized:

- DoJ will inform the Chief Justice and the Administrator of each State Court of the provisions of the law and administrative procedures adopted in conjunction with §5301. The State Court Administrator will be requested, at the Chief Justice's direction, to ensure timely dissemination of the information to all courts within their jurisdiction.
- DoJ will develop a "Denial of Federal Benefits" form in the same manner and with the same scope as the one to be developed for the Federal Courts.
- To assist in disseminating information regarding the Denial of Federal Benefits, the Associate Director for State and Local Affairs in the ONDCP will work closely with the offices of the Chief Court Administrators and other appropriate state and local judicial entities as needed.

### PHASE II: Judicial Action/Data Collection

- In pronouncing sentence, the judge shall determine the range and scope of benefits to be denied. Consultation will occur between the defendant's legal counsel, the prosecutor, probation officials, and other appropriate parties so that informed recommendations regarding sentencing can be made to the judge in these cases, as with all other sentencing recommendations.
- The judge, in his or her discretion, may deny or suspend eligibility on a benefit-specific basis. There are no restrictions on the range of benefits from which the judge may invoke the authority in this instance, other than those benefits specifically exempted from judicial denial by § 5301. Such exempted benefits include certain welfare, health, disability, and similar benefits. The following list of benefits are typical of the benefits that will probably be most often denied in these cases: Federally insured student loans, other educational grants issued by the Department of Education, individual loans or grants issued by the Small Business Administration, Federally insured mortgages and other housing loans authorized by the



Department of Housing and Urban Development, Federal airmen certificates for the operation of aircraft and performance of other aviation operations, and certain grants made to individuals by the National Endowments for the Arts and Humanities.

- A sentencing judge, in his or her direction, may deem an individual to be ineligible for all Federal grants and benefits. Accordingly, a judge could issue a blanket denial of all benefits for a specified amount of time, including within the judicial order any and all exclusions to that blanket denial. This mechanism maximizes the flexibility of the judicial branch in determining sentences in particular cases. As mentioned above, a blanket denial of benefits imposed by the judge could not include those Federal benefits statutorily exempted from judicial termination or denial.
- The Courts will forward copies of the Judicial Orders and Denial Forms to DoJ, as the clearinghouse for these matters, on a regular basis.

### PHASE III: Dissemination of Data to Relevant Federal Agencies

- Consistent with the provisions of the Privacy Act of 1974 (5 USC 552(a)), DoJ, by acting as the clearinghouse, will maintain records of all information received from Federal and State court officials, and will forward such data to GSA for inclusion on the "Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs" (Debarment List).
- GSA will add an additional "cause and treatment" code (with appropriate subcodes for implementation of partial benefit denials) to the Debarment List publication in both the procurement and nonprocurement lists, to reflect those individuals listed by virtue of §5301 violations. In serving as the clearinghouse for the judiciary, DoJ will serve as the lead contact point for any incoming questions or further information that may be needed pertaining to §5301 violations.
- GSA will be responsible for the timely and accurate input of all data received from the Clearinghouse into the monthly debarment list publication.
- GSA will continue in its current role of dissemination of the Debarment Lists to all interested parties. As currently required by regulation and Executive Order, each Federal agency will be responsible for checking the contents of the Debarment List for §5301 violations prior to the award to any Federal benefit.
- Language contained in the current certification procedure in the Federal Acquisition Regulation for procurement programs and in the common rule

established among the Federal agencies for nonprocurement programs, provides for individuals who apply for Federal grants, contracts, or benefits to certify that they have not been debarred, suspended, or otherwise declared ineligible for participation in such program. We interpret this language to apply to debarments that occur as a result of judicial order.

- In those instances where denial of an existing benefit is at issue, such Federal department or agency having administrative authority to disburse Federal benefits under this provision will determine the manner and timeframe for benefit termination. Applicable agency rules pertaining to benefit payments and other administrative matters vary considerably according to the agency and the benefit involved. For instance, termination of a Federal license may be conducted in a fashion separate from termination of other grants or contracts. Additionally, agency rules governing disbursement of educational grants vary according to the requirements of particular programs, as do regulations concerning Federally insured loans. Accordingly, each agency will ensure that benefit termination occurs in an effective and expeditious manner which is appropriate to the targeted benefit and is reasonable under the circumstances.
- Pursuant to §5301(b)(2) and (c), an individual may be reinstated for eligibility for Federal benefits, under certain conditions relating to drug treatment and rehabilitation. Once an individual is determined to again be eligible for such benefits, the court will note that fact on a "Judicial Notice of Restoration Form" and will forward a copy of such notice to the DoJ. DoJ will then notify GSA of the individual's renewed eligibility for Federal benefits, and that name will be removed from subsequent publications of the Debarment List.

# National Drug Control Strategy

## A Nation Responds to Drug Use

January 1992

The White House

---

### TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit today for the consideration of the Congress and the American people the 1992 National Drug Control Strategy, in accordance with section 1005 of the Anti-Drug Abuse Act of 1988 (Public Law 100-690; 21 U.S.C. 1504).

This is the Fourth National Drug Control Strategy, and it lays out a comprehensive plan for Federal drug control activities for Fiscal Year 1993 and beyond. The principal goal remains unchanged from the previous three Strategies: to reduce the level of illegal drug use in America.

We are fighting a two-front war against drugs. The first front is against casual drug use, and I am pleased to report that significant progress is being made here, particularly among our Nation's youth. Casual drug use is still too high, however, and this Strategy rightly continues to stress efforts to reduce it. The second front, against hard-core drug use, poses a more difficult challenge. Progress here is slower. There are still too many neighborhoods, families, and individuals who suffer the consequences of drug use and drug-related crime. To address this problem, the Strategy proposes a variety of carefully targeted and intensified efforts. I urge the Congress to expedite their enactment.

The war on drugs is vital to our country's economy, international competitiveness, and security. Previous Strategies have enjoyed bipartisan political and funding support in the Congress. I ask for your continued support in this critical endeavor.

THE WHITE HOUSE

/s/ George Bush

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## Focus on the Street Dealer

Unless street dealers can sell their illegal merchandise to consumers in exchange for cash, and return some of that cash to their suppliers, the trafficking enterprise cannot turn a profit and will ultimately go out of business. The objective of the Strategy is to take and hold ground to create a major disruption of the drug market and to raise the stakes for the individual sellers and users. But preventing retail drug dealers and consumers from meeting and exchanging drugs for cash poses a daunting challenge. It is neither possible nor desirable to maintain constant surveillance over every street corner and every alley.

Nonetheless, there are good reasons why the Strategy incorporates efforts to limit retail sales. First, the arrest and incarceration of street dealers makes retail drug sales difficult by making sellers harder to find. And while replacements may spring up for street dealers who are arrested, they do not do so instantaneously, and this delay will deter some consumers. Just as interdiction efforts can reduce the sale of drugs by constricting the supply and raising the price, so can efforts directed at street dealers reduce the sale of drugs, by forcing consumers to go to greater lengths and to take more risks to seek them out. Second, the arrest of retail drug dealers, followed by their incarceration, will deter some of those who are contemplating entering the drug trade. Third, law enforcement pressure on street dealers can often reinforce and mobilize community opposition to drug dealing and drug use. Fourth, the investigation and prosecution of street dealers can produce intelligence that is helpful in other aspects of the attack on trafficking organizations, such as interdiction operations, and can also lead to the arrest of criminals on higher rungs of the drug trafficking ladder.

These benefits of an attack on retail drug dealers are multiplied when they are part of a sustained attack on the trafficking organization as a whole. The organization is dependent on a consistent, reliable revenue stream to pay its suppliers and to plan for future expansion. If that revenue stream is disrupted on a recurrent basis -- because retail dealers are arrested, or because community police tactics force them to keep moving from neighborhood to neighborhood -- then the organization will face periodic cash shortages. When coupled with the increased demands for cash caused by the other elements of the organizational strategy discussed in a previous chapter, the tactic of keeping retail dealers on the run and off-balance can force drug trafficking organizations into the criminal equivalent of bankruptcy.

The Strategy's plan of attack against retail drug dealers has two basic elements: arresting dealers (and deterring others who would take their place) and prosecuting and incarcerating them so that the trafficking organization loses their services.

## Investigation and Arrest

Law enforcement investigations can play an important role in efforts to dismantle drug trafficking organizations. Except in areas where Federal authorities have exclusive jurisdiction, the investigation and arrest of street-level drug dealers will continue to be primarily a responsibility of State and local law enforcement. State and local agencies are best suited to determine which neighborhoods are most infested with drugs and how best to mobilize those neighborhoods against street dealers. As the chart on page 115 shows, arrests for drug trafficking and possession made by State and local agencies have increased steadily in the last decade. The number of these arrests dropped significantly for the first time last year.

The Federal government contributes to this effort in several important ways: by coordinating law enforcement efforts against drug trafficking enterprises, including gangs that operate in more than one State; by encouraging innovative approaches to removing drug dealers from the streets; by lending its expertise in specialized investigative techniques; and by information sharing. For example, the Federal government develops and maintains data on retail drug dealers that can be shared with law enforcement agencies at all jurisdictions and levels. Such databases enable Federal, State, and local investigators to share information and coordinate prison capacity. A survey by Corrections Compendium reports that in 1991 and 1992, State and local correctional agencies will spend \$6.8 billion to create nearly 128,000 additional prison and jail beds. While laudable, this commitment by State governments is still not enough. The number of prisoners under the jurisdiction of State correctional institutions grew by 75,000 in 1989 and by 52,000 in 1990, and is expected to continue to grow by even more in the future.

The National Institute of Justice will continue to serve as a clearinghouse and information service for State and local corrections agencies on innovative and economical ways to expand prison and jail space.

**Denial of Federal Benefits.** One technique for holding drug dealers and their customers accountable for their illegal actions is to deny them eligibility to receive Federal government benefits for a period of time. Under Section 5301 of the Anti-Drug Abuse Act of 1988, individuals who are convicted of a first offense of drug distribution under Federal or State law may, at the discretion of the sentencing judge, be made ineligible for any or all Federal benefits for a period of up to five years. Individuals convicted of a first Federal or State offense of drug possession may be made ineligible for any or all Federal benefits for a period of up to one year. Denial of Federal benefits is mandatory upon the third conviction for trafficking offenses. Among the 460 Federal benefits that may be denied under this provision are student financial aid, pilots licenses, small business loans, and scientific, artistic, and academic research grants.

Since the Denial of Federal Benefits Program went into effect in September 1990, there have been 205 cases in Federal courts in which a denial of Federal benefits was a part of the sentence. The majority of these sentences were for trafficking offenses. In addition, there have been 266 sentences handed down in State courts denying eligibility for Federal benefits. The Strategy strongly urges State and Federal judges to avail themselves of this sentencing option. Four States (Oregon, California, Rhode Island, and Texas) and a number of Federal courts have begun to implement the program. A user accountability public awareness program has also been implemented.

**Drug Testing in the Criminal Justice System.** Programs examining the effect of urinalysis drug testing at all stages of the criminal justice process, from immediately following arrest to postconviction release, are under way. These types of programs serve many important purposes, and methods will be explored to provide State and local officials additional useful information on implementing.....

## **National Strategy Implementation: 1989-1991**

The Office of National Drug Control Policy (ONDCP) is responsible for establishing drug policies, objectives, and priorities to unify a diversity of anti-drug activities and efforts into a single comprehensive plan of action. This plan is published annually as the President's National Drug Control Strategy.

The overall policy goal of the National Drug Control Strategy is to reduce the level of drug use in this country. Each Strategy identifies major objectives by which to attain this goal. Federal Departments with drug-related missions submit implementation plans to ONDCP outlining the steps to achieve Strategy objectives. ONDCP approves each plan and then oversees progress in implementing these plans.

The following table summarizes Federal agency progress on implementing the 1989, 1990, and 1991 Strategy objectives. (Note: funding, planning, and coordination procedures create a necessary time lag between identifying an objective and fully implementing it. The category "Rolled Over" refers to those Strategy objectives that have an ongoing implementation status. For example, the objective "Improving International Demand Reduction Efforts" is a continuing objective that has been "rolled over" from the 1989 and 1990 Strategies into the 1991 Strategy.)

### **Criminal Justice**

**Denying Federal Benefits.** The Denial of Federal Benefits Program under Section 5301 of the Anti-Drug Abuse Act of 1988 was implemented to permit State and Federal judges to deny Federal benefits to those convicted of drug possession or trafficking. Under the leadership of ONDCP and the Department of Justice, a list of over 460 deniable benefits from various Federal Departments and agencies was compiled and Federal, State, and local prosecutors and courts were informed of the provisions of the law and how to implement it. Since September 1990, there have been 205 sentences involving partial or complete denial of Federal benefits in Federal district courts and 266 sentences in State courts.

**Expanding the Use of Intermediate Punishments.** All those engaged in illegal drug use must be held accountable for their behavior, yet not all convicted drug offenders need to be incarcerated. Intermediate punishments, which expand the range of options between incarceration and unsupervised release, can provide innovative ways to ensure swift and certain punishment.

Many communities are experimenting with the promising initiatives identified in the first three Strategies: military style boot camps, house arrest, electronic monitoring, and intensive probation supervision. DoD is providing training to Federal, State, and local agencies on the establishment and operation of rehabilitation-oriented training camps for first-time drug offenders.

**Expanding Prison and Jail Capacity.** As the National Drug Control Strategy is implemented, increasing numbers of drug offenders are passing through the criminal justice system at the Federal, State, and local levels. Many of these offenders, such as certain first-time users, can be dealt with by using intermediate sanctions, including community-based correctional programs. It is imperative, however, that other drug offenders be removed from society and that there be sufficient space, available for them in the Nation's correctional facilities.

The Federal government dedicated \$1.5 billion to Federal prison construction in Fiscal Year 1990. An additional \$374 million was appropriated in Fiscal Year 1991 to add another 6,075 beds to the Federal system. In Fiscal Year 1992, an additional 1,250 beds will be added at the cost of \$269 million. Cumulatively, approximately 60,000 beds are under design, construction, or in the planning stage in the Federal prison system through Fiscal Year 1997.

GAO

Report to the Chairman, Select  
Committee on Narcotics Abuse and  
Control, House of Representatives

April 1992

DRUG CONTROL

Difficulties in Denying  
Federal Benefits to  
Convicted Drug  
Offenders





United States  
General Accounting Office  
Washington, D.C. 20548

---

General Government Division

B-247703

April 21, 1992

The Honorable Charles B. Rangel, Chairman,  
Select Committee on  
Narcotics Abuse and Control  
House of Representatives

Dear Mr. Chairman:

This report responds to your request that we review the implementation of section 5301 of the 1988 Anti-Drug Abuse Act. Under section 5301, as implemented by September 1990 Department of Justice guidelines, federal and state court judges have the discretion to impose sentences that would make convicted drug offenders (possessors and traffickers) ineligible to receive certain federal benefits. The responsibility to carry out those sentences resides with the federal agencies responsible for administering the benefits covered by section 5301. Those benefits include all types of federal contracts and over 400 federal grants, licenses, and loans (e.g., guaranteed student loans). Excluded are veterans, social security, and welfare benefits (e.g., Medicaid).

Imposing sentences that would make convicted drug offenders ineligible to receive federal benefits is the result of just one of many recent legislative initiatives for dealing with the nation's drug problem. To further deter drug offenders, legislative proposals also have been introduced to deny drug offenders access to federal benefits regardless of the sentence imposed. To provide baseline information for deliberating on such a change, our objectives were to

- assess the status of federal and state court and federal agency efforts to deny convicted drug offenders access to federal benefits,
- examine available data for insight into the impact that benefit denial has had on drug offenders, and
- gather data on the possible effects of making benefit denial a mandatory sanction on conviction of a drug offense.

## Results in Brief

---

Through June 1991, the first 9 months that the guidelines were in effect, less than 1 percent of all drug offenders convicted during that period was given a sentence that included federal benefit ineligibility. To increase federal and state court use of the discretionary sentencing authority authorized by section 5301, the Department of Justice has funded demonstration grants and has undertaken other initiatives, such as coordinating with other federal agencies, to establish procedures for denying benefits and notifying state judicial officers on how to use the procedures.



Although it is premature to judge the precise impact that Justice's efforts could have on court use of section 5301 sentencing authority, we do not expect to see widespread withholding of federal benefits from drug offenders. Our opinion is based on the following factors:

- the views held by those who may affect the imposition of the sentence--judges and other criminal justice officials--that the sentence would not have much impact on many of the offenders convicted in federal and state courts,
- accepted court sentencing practices such as excluding many first time drug offenders--those charged with possession-- from receiving such a sentence, and
- federal benefit administration policies and practices such as those that preclude the interruption or termination of ongoing benefits.

Amending the act to eliminate judicial discretion in applying the sanction, as has been contemplated in recent legislative proposals, would result in denying access to federal benefits to an increased number of offenders. However, our discussions with criminal justice officials and evaluation of available data showed there is much uncertainty over whether the limited results that could be realized would be worth the costs. For example, given that many of the offenders denied access to federal benefits would also be sentenced to prison terms that exceed the benefit ineligibility period, the offenders would not necessarily have federal benefits to lose. Yet, according to state court officials, the administrative burden and costs associated with processing information on those offenders would increase significantly.

## Background

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With passage of the Anti-Drug Abuse Act of 1988 (P.L. 100-690), Congress adopted the principle that to successfully reduce the drug problem in this country, both the supply of and demand for drugs has to be attacked. Likewise, criminal justice officials have maintained that the best drug control strategy is to keep pressure on all avenues through which illegal drugs are made available or desirable and to hold drug users accountable for their actions.

Accordingly, section 5301 of the act provides for denying federal contracts, grants, licenses, and loans to persons convicted of drug trafficking and/or drug possession.<sup>1</sup> Under this provision, federal and state court judges have the discretion to impose sentences specifying that the offenders are ineligible for any or all covered benefits for periods up to 10 years or for life, depending on the type of offense. For example, the maximum ineligibility period is to be 12 months for a first drug possession conviction. After three or more trafficking convictions, however, an offender is to be permanently ineligible for all federal benefits regardless of the court-imposed sentence.

Although the legislative history of section 5301 is not extensive, a number of reasons for passage are discernable from the floor debates. One reason was to convey the message that taxpayers should not have to subsidize drug offenders by giving them federal benefits. Some Members of Congress expressed the opinions that even occasional drug use was a very serious matter and that conviction should call for serious consequences such as the loss of federal benefits. Another reason was to encourage drug offenders to seek drug rehabilitation. Under section 5301, the courts can suspend a previously imposed sentence if the offender completes, or makes a good faith effort to enroll in, an acceptable rehabilitation program. Further, section 5301 was an attempt to deter drug use and reduce the demand for drugs by targeting that segment of the population--the occasional, recreational user--that was recognized as being responsible for a large share of the drug demand nationally.

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<sup>1</sup> The Department of Justice assumed responsibility for publishing a list that identifies each type of benefit covered by section 5301. The benefits range from guaranteed student loans to licenses for hydroelectric projects. Some categories of benefits such as welfare, social security, and veterans benefits were specifically exempted by the 1988 act.

To instill a greater deterrent effect on drug offenders and potential offenders, some Members of Congress have sought to alter section 5301. A number of legislative proposals have been introduced in the House of Representatives during the past few years to eliminate judicial discretion in denying convicted drug offenders access to federal benefits covered by the 1988 act. Two such bills, H.R. 1491 and H.R. 2118, were introduced in the 102nd Congress.

## Scope and Methodology

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To address our three objectives, we did our work in Florida, Michigan, Mississippi, New York, and Rhode Island. Florida, Mississippi, and New York were selected because federal courts in these states accounted for over 70 percent of the 60 benefit ineligibility sentences imposed by federal courts nationwide as of February 28, 1991. Rhode Island was selected because its state court system was the only one that had imposed the sentence. In Michigan, neither federal nor state courts had done so.<sup>2</sup>

To obtain information at the federal level on section 5301's impact on drug offenders and the implications of making benefit denial a mandatory sanction, we met with officials from the federal courts, federal law enforcement agencies, and national organizations representing court and law enforcement agency interests. In Florida and Mississippi, we interviewed federal district court judges who had imposed the sentence and the chief judges from these districts. In both Michigan, where the sentence had not yet been imposed, and New York, where it had been infrequently imposed, we interviewed federal judges who heard drug cases and the chief judges. Also, in these states we interviewed Federal Bureau of Investigation and Drug Enforcement Administration officials regarding the characteristics of drug offenders being arrested and convicted and the impact that benefit denial may have on those offenders.

To assess the capabilities of federal agencies to carry out federal benefit ineligibility sentences and the impact the sentences may be having, we visited the five federal agencies--the departments of Agriculture, Education, Energy, and Health and Human Services and the Federal Communications Commission (FCC)--responsible for administering over 50 percent of the grant, license, and loan benefits covered by section 5301. At these agencies, we obtained documentation on agency procedures, discussed with agency officials how the procedures were implemented, and reviewed relevant agency performance data.

In assessing sentence impact, we also analyzed federal court data on drug offender demographics, convictions, and sentences to determine what types of drug offenders were sentenced to benefit ineligibility and to determine if any trends or patterns existed that would indicate whether those drug offenders differed from other drug offenders not so sentenced. To do the analysis, we reviewed Justice Department and U.S. Sentencing Commission case files on drug offenders sentenced by federal courts to benefit ineligibility as of February 28, 1991.<sup>3</sup> We also compared data from these cases with data on the universe of drug offenders convicted in federal court during fiscal year 1990.<sup>4</sup> We did not review these data for reliability.

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<sup>2</sup>Accounting for the number of sentences is based on information filed with the Department of Justice as specified in the September 11, 1991 guidelines implementing section 5301.

<sup>3</sup>Because the commission had not received information on 4 of the 60 convicted offenders denied eligibility for benefits as of February 28, 1991, our analysis covered 56 sentences.

<sup>4</sup>The universe data, which were the most current available, were collected by the U. S. Sentencing Commission from the Federal Probation Sentencing and Supervision Information System (FPSSIS) database.

To obtain information on benefit denial from a state perspective, we interviewed state court administrators in Florida, Michigan, Mississippi, and New York. We discussed the provision's impact and implications of making benefit ineligibility a mandatory sanction. In Rhode Island, which received a Justice Department grant designed to demonstrate state use of section 5301, we interviewed a judge, a prosecutor, and grantee officials to obtain their views on the effectiveness of section 5301. To ensure that nationwide views were considered, we discussed these matters with officials from the National Center for State Courts, National District Attorneys Association, National Association of Criminal Defense Lawyers, and National Association of Police Chiefs.

We did our work between February and December 1991 in accordance with generally accepted government auditing standards.

## **Ineligibility Sentences Imposed Infrequently**

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On September 11, 1990, 22 months after passage of the Anti-Drug Abuse Act, the Justice Department issued final guidelines for implementing section 5301. During the first 9 months under these guidelines, imposition of the sentence by courts--both federal and state was infrequent, affecting about 0.1 percent of federal and state court drug convictions.

## **Federal Court Sentences Infrequent**

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As of June 30, 1991, federal court-imposed benefit ineligibility sentences totalled 111 (an average of about 12 per month). Comparing this number of ineligibility sentences to an estimated universe of federal drug convictions showed that federal judges had imposed the ineligibility sentence on about 1 percent of persons convicted on drug charges in federal court.<sup>5</sup> Moreover, these sentences were imposed by only 18 district court judges sitting in 8 of the 94 federal court districts.

## **Few State Court Sentences**

Since there are about 18 drug convictions in state courts for each drug conviction in federal court, the widespread imposition of the benefit ineligibility sentence is largely dependent on state court sentencing practices. State court use of the discretionary authority provided by section 5301, however, has been almost nonexistent.

As of June 30, 1991, with the sentencing of 51 convicted drug offenders to federal benefit ineligibility, Rhode Island's state court system was the only one that had implemented the discretionary sentencing authority provided by section 5301. By that date, Rhode Island had been operating for 11 months under a 1-year grant from the Justice Department to demonstrate that state courts could effectively implement section 5301. The 51 Rhode Island sentences represented about 0.03 percent of the estimated state court drug convictions nationwide during the first 9 months under the Department of Justice guidelines.<sup>6</sup>

To further demonstrate the feasibility of section 5301, the Department of Justice awarded another 1-year demonstration grant, beginning in March 1991, to Imperial County, Calif., and renewed Rhode Island's grant through June 1992. In addition, Justice had undertaken other initiatives to promote the use of section 5301 sentencing authority. In coordination with other federal agencies, Justice established procedures for imposing the sentence, notified state judicial officers on how to use the procedures, and

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<sup>5</sup>The estimated universe was based on average monthly federal court primary charge conviction data for fiscal year 1990, the most recent data available.

<sup>6</sup>The estimated universe was derived from Bureau of Justice Statistics estimates on state court primary charge convictions in 1988, the most recent data available.

awarded a grant to the National Center for State Courts to help states implement the procedures. The Center also examined state laws and concluded that judges in many states, because of such factors as the need to adhere to sentencing guidelines, may not have the authority to impose a benefit ineligibility sentence.

To address the sentencing authority issue, the Department of Justice awarded a grant to the National District Attorneys Association in January 1991 to develop model legislation for states. Since then, the Association has worked with states to adopt this legislation.

## Status of Federal Agency Efforts

Under Department of Justice procedures, federal and state courts are to report information on benefit ineligibility sentences (including offenders' names) through a newly established Department of Justice clearinghouse to the General Services Administration (GSA). In turn, GSA is to publish the names in the monthly List of Parties Excluded From Federal Procurement or Nonprocurement Programs (debarment list).<sup>7</sup> Federal agencies are to use this debarment information in administering contracts and benefit programs.

On the basis of our work at the Justice clearinghouse, GSA and the five federal agencies responsible for administering over 50 percent of the grant, license, and loan benefits covered by the provision, we found the following:

- One of the five agencies (FCC) had, as of mid-1991, not yet implemented procedures for withholding federal benefits, other than contracts. But the procedures had been drafted, public comments obtained, and final deliberations were under way.
- Another agency (the Department of Education's, Office of Student Financial Assistance) was following interim procedures until a computerized process could be developed. The Department of Education was working with the Department of Justice's clearinghouse to establish a computer matching program.
- Except for the Department of Education's Office of Student Financial Assistance, none of the five agencies had established tracking systems to monitor their actions to withhold benefits from individuals sentenced to benefit ineligibility. Given the decentralized contracting and grantmaking functions of the federal government, not having such tracking systems has been an accepted government practice under the federal debarment effort operated under GSA guidance.

Given the absence of agency data on benefits withheld, we asked the five agencies to query their automated systems to determine if any of the 60 individuals sentenced to benefit ineligibility by federal courts as of February 1991 were receiving federal benefits. The results of this check, although limited, could serve as an indicator of the impact that the sentences may be having on drug offenders. This check showed that two agencies had awarded benefits to 3 of the 60 convicted drug offenders, but only 2 of these offenders had benefits that could be withheld. Following are descriptions of the situations:

- The Department of Agriculture had approved a benefit to one of the offenders, but prior to the date of conviction. The benefit was not suspended because section 5301 had been interpreted by the departments of Agriculture and Justice and other agencies included in our study to apply only to new applications for benefits processed after the agency received notification of the court-imposed sentence.

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<sup>7</sup>GSA Also maintains an automated telecommunications system that may be queried for individual names but does not provide for large-scale computerized records matching.

- The Department of Education's Office of Student Financial Assistance had sent financial aid approvals to 2 of the 60 offenders but later notified them that they were ineligible to receive assistance. Because of the millions of persons applying for student benefits, this office's procedures call for reviewing sentencing information after making approval decisions. According to Education officials, this interim procedure is to continue until a computerized matching arrangement can be worked out with the Justice clearinghouse.

## Court Sentencing Practices Limit Use of the Benefit Denial Sentence

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We discussed the infrequent federal court use of the sentencing authority provided by section 5301 with federal judges in four district courts and federal law enforcement officials in those four districts and Washington D.C. Twenty-eight of the 30 officials we interviewed believed that use of the authority by federal courts had little or no impact on most drug offenders sentenced in federal court for one or more of the following reasons:

- most convicted drug offenders were not believed to be receiving (or would request) any of the federal benefits subject to denial;
- most convicted drug offenders were believed to be traffickers and distributors, receiving mandatory prison sentences that were considered much harsher than denying them access to federal benefits; and/or
- most convicted drug offenders served their incarceration and benefit ineligibility sentences concurrently.

In general, the officials indicated that the sentence would be effective only in those situations where an offender actually had something to lose.<sup>8</sup> For example, an occasional user arrested for drug possession may be dependent, in part, on federal benefits such as a small business loan, educational assistance, or a federal license. For the most part, federal officials indicated that drug charges against such a person would be heard in state courts. They explained that federal drug cases involve primarily drug trafficking and distribution charges.

We examined available sentencing data and files for insights into the impact of the sentence as a means to corroborate the views expressed by the federal criminal justice officials. Regarding the characteristics of the offenders and whether or not they were receiving federal benefits, we could find little available data. Appendix I contains the demographic, conviction, and sentencing information we were able to obtain on the 56 offenders sentenced to benefit ineligibility as of February 28, 1991, and the universe of 1990 convicted drug offenders. According to those data, the characteristics of the drug offenders sentenced to benefit ineligibility, in many respects, resembled the characteristics of the universe of drug offenders. However, those sentenced to benefit ineligibility were more likely to be repeat offenders.

We also analyzed the federal sentencing files on drug offenders sentenced as of February 28, 1991, to obtain additional insight into criminal justice officials' views on the overlapping nature of benefit ineligibility and incarceration periods. (See app. II.) Of the 56 sentencing files containing sufficient information for us to examine, the period of benefit ineligibility ran concurrently with the incarceration period in all but two

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<sup>8</sup>One federal judge, who frequently imposed the sentence, did so without regard to the likelihood of immediate impact. The judge hoped that, if by chance in the future, the offender sought a federal benefit subject to denial, the offender might be persuaded to enter a drug rehabilitation program.

instances.<sup>9</sup> In those two instances, one offender was sentenced to probation without incarceration, and the other was to serve the benefit ineligibility sentence upon release from prison. In 31 of the remaining 54 benefit denials, the length of incarceration exceeded or equaled the benefit ineligibility period.

Given the federal criminal justice officials' views that benefit ineligibility sentencing is more of a state court sentencing issue, we discussed the matter with Rhode Island criminal justice officials. They described the limitations in imposing the sentence on drug users as follows:

- When an otherwise law-abiding citizen is arrested on a first time drug possession charge, the drug offender is generally offered participation in a diversion program that may involve, among other things, community service and drug and alcohol treatment. Upon successful completion of the diversion program, the criminal record would be expunged, as is typical in other states. Thus, there is no conviction and no ineligibility sentence.
- Even for a second offense the pattern has held that an individual would plead nolo contendere and be sentenced to probation. Under Rhode Island law, this action does not constitute a conviction and therefore section 5301 authority would not be applicable. Also, sentencing guidelines in Rhode Island exclude possession of marijuana as a drug violation warranting a benefit ineligibility sentence.

In general, according to Rhode Island criminal justice officials, drug addicts and traffickers comprise the bulk of drug convictions and are the primary recipients of benefit ineligibility sentences. However, these individuals are believed not to be applicants for or recipients of benefits covered by section 5301, thus raising doubts about the impact of the provision.

## **Administrative Practices Limit**

### **Benefit Denial Actions**

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In assessing the status of federal agency efforts to carry out benefit ineligibility sentences, we noted the following practices that would limit how frequently benefits are withheld:

- Convicted drug offenders are not at risk of losing ongoing benefits because all five agencies and the Department of Justice have interpreted section 5301 to apply only to new benefit applications, not to ongoing benefits.
- Convicted drug offenders are not significantly at risk of having benefit applications turned down if they apply immediately following sentencing. According to Agriculture officials, there is a 3- to 4-month time lag from the imposition of a benefit ineligibility sentence to the date agency personnel would be aware of the sentence. They said the lag is due to the time taken by the courts and the Department of Justice to get the information to GSA, the time GSA takes to publish that information in the debarment list, and the time taken by federal agencies to copy and distribute the list to offices processing benefit applications.<sup>10</sup>
- Serious repeat offenders may not be at risk of losing federal benefits. Although federal agencies are responsible for not approving benefits to drug traffickers convicted of a third offense, no reporting system exists for the courts to provide that conviction information to agencies unless the offender is sentenced to benefit ineligibility.

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<sup>9</sup>According to a Department of Justice official, judges have the discretion to make benefit denial concurrent with or consecutive to the incarceration period.

<sup>10</sup>These officials also noted that they have not found the automated system operated by GSA to be a practical alternative to the printed debarment list because of the cumbersome nature of the automated system.

- Convicted drug offenders may not be at risk of losing federal benefits if they apply for benefits under an institution or company name. The information made available to federal agencies specifies individual names, not associated company or institution names. Yet, federal contracts and grants are frequently awarded to companies and institutions rather than individuals.

## **Mandatory Imposition Would Add to Administrative Burden but Would Not Overcome Existing Limitations**

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Since passage of section 5301 in 1988, several legislative changes have convicted drug offenders. In general, the proposals as introduced in the 102nd Congress eliminate court sentencing as the mechanism for imposing the sanction. Instead, the proposed statutory language specifies that individuals convicted of drug offenses in federal or state courts are to be ineligible to receive federal benefits.<sup>11</sup> Thus, federal agencies responsible for administering federal benefits (and withholding those benefits when appropriate) would be responsible for imposing the sanction and would depend on receiving information on all drug convictions from federal and state courts and/or a uniform national reporting system. As of June 30, 1991, only Rhode Island state courts had reported some conviction information, but only in those instances in which the state court had imposed benefit ineligibility sentences. Moreover, according to a Justice official, no existing reporting system is capable of supporting federal agency needs.

## **Increased Administrative Responsibilities Would Accompany Change**

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To obtain views on the potential administrative burden that could be expected if legislation were passed requiring federal and state courts to report all drug convictions to the Department of Justice clearinghouse, we met with 20 federal court officials in Florida, Michigan, Mississippi, and New York; Rhode Island state court officials; and officials of national organizations representing federal and state criminal justice interests.

Although their views varied, a majority of the officials said the courts' administrative systems would be affected. Eleven of the 20 federal officials said court administrative responsibilities would increase with four of them indicating that any additional work could be incorporated into existing administrative systems. In general, federal courts account for about 5 percent of drug convictions nationwide.

In contrast, the National Center for State Courts, an organization that represents the interests of the court systems that account for about 95 percent of drug convictions nationwide, believed that state court administrative resources could become so overburdened that court personnel would eventually stop processing information to the Justice clearinghouse. Similarly, our discussions with Rhode Island officials indicated that continued federal funding of administrative costs was needed for Rhode Island to continue implementing section 5301.

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<sup>11</sup>Such legislative proposals would not affect how the federal and the 50 state governments establish sentencing practices for courts within their jurisdictions or specify what constitutes a criminal act punishable by those courts.

Our analysis of the potential work load nationwide showed that, on the basis of fiscal year 1990 federal court drug conviction data and Bureau of Justice Statistics estimates on state court drug convictions in 1988 (the most recent data available), it would be reasonable to expect, on average, about 20,000 drug trafficking and possession convictions each month. Reporting all of these convictions would represent over a thousand-fold increase over current reporting levels that were averaging about 18 convictions per month through June 1991. Also, in discussing this issue with officials from the five federal agencies we visited, officials from four of the agencies thought they would need to purchase computer system to process the increased amount of information.

## Limited Results After Change

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Even if a reporting system were established in which all federal and state courts would report information on all drug convictions to a central source, such as the Department of Justice clearinghouse, a number of limitations in the existing benefit denial effort, as detailed in preceding sections of this report, may not be overcome. For example,

- given such practices as use of diversion programs, the sanction would probably not be imposed on occasional drug users.
- given the characteristics of drug offenders appearing in the court system, the sanction would be imposed primarily on drug addicts and traffickers who court officials believed were not likely to receive federal benefits and who already face other more severe sanctions such as imprisonment.
- given the policy that only new benefit applications are subject to section 5301, convicted drug offenders would not be at risk of having ongoing benefits interrupted, only losing access to future benefits.
- given the time lag in getting debarment listings to offices processing benefit applications and the policy that ongoing benefits are not to be terminated, some convicted drug offenders may not be at risk of losing federal benefits during their ineligibility period.
- given that current administration of the sanction is based on individual names, a convicted drug offender may not be at risk of losing federal benefits if the offender applies for benefits under a company or institutional name

Despite these limitations, criminal justice officials pointed out that some positive results could be derived from making federal agencies responsible for imposing the sanction. These include the following:

- Benefit ineligibility would become more predictable and uniform because it would apply to all convicted drug offenders.
- A clearer message would be sent that doing drugs would result in the loss of eligibility to receive federal benefits.

## Conclusions

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Even though it is too early to judge the precise impact that Justice Department efforts could have on increasing court use of the discretionary sentencing authority authorized by section 5301, we do not expect to see a widespread withholding of federal benefits from drug offenders, because the views held by many of those who may affect the imposition of the sentence that the sentence would not have much impact on many of the offenders, accepted state court sentencing practices that would exclude many first time drug offenders and federal benefit administration policies and practices such as those that preclude the interruption of ongoing benefits.

Amending the act to eliminate judicial discretion in applying the sanction, as envisioned by bills introduced in the 102nd Congress, would result in denying access to federal benefits to an increased number of drug offenders. However, given that many of the current limitations in using the sanction would not be negated by the change, it is not clear how much would actually be accomplished and whether the results would be worth



the cost. In particular, given diversion programs, many drug users (possessors) would not be at risk of losing access to federal benefits. Moreover, many of the offenders denied access to benefits would not have any federal benefits to lose. However, the administrative burden and costs would increase. By one measure--the amount of information to be processed--the added information would represent a thousand-fold increase over current information and, by one account, could be sufficiently burdensome to cause state court personnel to not process reporting forms.

Nonetheless, some gains (although not quantifiable) could be attained. Administration message that drug use would result in the loss of eligibility to receive some federal benefits.

## **Matter for Congressional Consideration**

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In deliberating on whether to eliminate court discretion in making convicted drug offenders ineligible to receive federal benefits, Congress needs to consider if the benefits that may be achieved would be worth the burden placed on the courts and administrative agencies.

## **Agency Views**

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We discussed the matters contained in this report with Office of National Drug generally agreed with the information presented but said that they believe the existing provision has more of a deterrent effect than available data may indicate. For example, Justice officials pointed to the "chilling" effect that the possibility of losing federal benefits could have on a student's or other individual's decision to try or use drugs.

To instill a greater deterrent effect, the National Drug Control Policy officials favored making the sanction mandatory. But, given the prevalence of diversion programs, both Drug Policy and Justice officials recognized that the possibility of losing access to benefits faced by otherwise law-abiding students or others charged with possession for the first time is quite limited.

We plan no further distribution of this report until 30 days from its issue date unless you publicly release its contents earlier. After 30 days, we will send copies to interested parties and also make copies available to others upon request.

The major contributors to this report are listed in appendix HI. If you need additional information on the contents of this report, please contact me on (202) 275-8389.

Sincerely yours,

Lowell Dodge  
Director, Administration  
of Justice Issues

## Appendix I

# Characteristics of 56 Convicted Drug Offenders Sentenced to Federal Benefit Ineligibility Compared With the 1990 Universe of Convicted Drug Offenders

This appendix compares the characteristics of 56 drug offenders sentenced to benefit ineligibility as of the end of February 1991 with the universe of drug offenders convicted in federal court during fiscal year 1990. The universe data were collected by the U.S. Sentencing Commission from the Federal Probation Sentencing and Supervision Information System database. Totals for the universe of drug convictions vary in each of the tables due to missing data elements. Percentage totals may not actually add to 100 due to rounding.

**Table 1.1: Sex of Offenders**

<b>Sex</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Male	49	88	10,772	87
Female	7	12	1,648	13
<b>Total</b>	<b>56</b>	<b>100</b>	<b>11,420</b>	<b>100</b>

**Table 1.2: Marital Status of Offenders**

<b>Marital status</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Single	21	38	4,248	37
Married	17	31	4,107	36
Divorced	12	22	1,448	12
Separated	5	9	676	6
Cohabitation	(a)	(a)	1,070	9
<b>Total</b>	<b>55(b)</b>	<b>100(b)</b>	<b>11,549</b>	<b>100</b>

(a) included under the single status.

(b) Marital status missing for one case.

**Table 1.3: Education of Offenders**

<b>Education</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
8th grade or less	7	12	2,331	19
Some high school	12	21	3,601	30
High school/general equivalency diploma	25	45	3,647	30
Some college/associate degree/vocational ed.	10	18	2,078	17
College graduate	2	4	444	4
Postgraduate work	0	0	92	1
<b>Total</b>	<b>56</b>	<b>100</b>	<b>12,193</b>	<b>100</b>

**Table 1.4: Employment Status of Offenders**

<b>Employment (a)</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Employed less than 6 months	32	57	4,815	42
Employed 6 months or more	20	36	6,754	58
No employment history indicated	4	7	not recorded	not recorded
<b>Total</b>	<b>56</b>	<b>100</b>	<b>11,569</b>	<b>100</b>

(a) Employment for the 12-month period before date of arrest.

**Table 1.5: Prior Convictions of Offenders**

<b>Prior Convictions (a)</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Zero	21	38	9,044	78
One	13	23	1,756	15
Two	4	7	502	4
Three	6	11	150	1
Four	6	11	65	1
Five	4	7	26	(b)
Six	1	2	17	(b)
Seven	1	2	4	(b)
Eight or more	0	0	15	(b)
Total	56	100	11,549	100

(a) Includes drug and all other convictions.

(b) Represents less than 1 percent.

**Table 1.6: Disposition of Offenders' Cases**

<b>Disposition</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Guilty plea	35	62	9,746	79
Jury trial/trial by judge	20	36	2,525	20
Both guilty plea/trial	1	2	40	(a)
Nolo contendere	(b)	(b)	11	(a)
Total	56	100	12,322	100

(a) Represents less than 1 percent.

(b) Not recorded separately.

**Table 1.7: Inclusion of Probation In Sentences of Offenders**

<b>Sentence includes probation</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Yes	1	2	1,056	9
No	55	98	11,260	91
Total	56	100	12,316	100

**Table 1.8: Inclusion of Supervised Release In Sentences of Offenders**

<b>Sentence Includes supervised release</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Cases</b>	<b>Percent</b>	<b>Cases</b>	<b>Percent</b>
Yes	55	98	11,101	90
No	1	2	1,191	10
Total	56	100	12,292	100

**Table 1.9: Inclusion of Fine in Sentences of Offenders**

<b>Sentence includes fine</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Yes	14	25	2,188	18
No	42	75	10,110	82
Total	56	100	12,298	100

**Table 1.10: Length of Prison Sentences of Offenders**

<b>Prison term</b>	<b>56 Offenders</b>		<b>Universe</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
Life imprisonment	0	0	53	(a)
No prison	1	2	1,065	9
1 to 12 months	2	4	1,226	10
13 to 60 months	27	48	4,824	39
61 to 120 months	21	37	2,768	23
121 months or more	5	9	2,346	19
Total	56	100	12,282	100

(a) Represents less than 1 percent.

## Appendix II

# Comparison of Prison and Federal Benefit Ineligibility Sentences for 56 Offenders

**Table 11.1: Comparison of Prison and Ineligibility Sentences for 40 Drug Trafficking Offenders**

<u>Number of months</u>	<u>Number of Instances prison term exceeds ineligibility period</u>	<u>Number of Instances ineligibility period exceeds prison term</u>	<u>Number of months prison term and ineligibility period are equal</u>
No difference	0	0	3
1 to 12	4	3	0
13 to 24	1	1	0
25 to 36	4	6	0
37 to 48	2	6	0
49 to 60	2	0	0
61 to 120	2	2	0
121 and over	2	2(a)	0
Total	17	20	3

(a) Both are permanent denials of benefits for third drug trafficking conviction.

**Table 11.2: Comparison of Prison and Ineligibility Sentence for 16 Possession Offenders**

<u>Number of months</u>	<u>Number of Instances prison term exceeds ineligibility period</u>	<u>Number of Instances ineligibility period exceeds prison term</u>
1 to 12	1	3(a)
13 to 24	1	0
25 to 36	3	0
37 to 48	2	2(b)
49 to 60	3	0
61 to 120	1	0
121 and over	0	0
Total	11	5

(a) One case involving a probation sentence (no prison term) included a 12-month benefit ineligibility period.

(b) The benefit ineligibility period in one case is to be served upon completion of the prison term.

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