SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 2055 and 2056 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8846) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8846), which were the subject of FR Doc. 99–31094, is corrected as follows:

§ 20.2055–3 [Corrected]

1. On page 67765, column 1, § 20.2055–3(b)(1)(ii), line 5 from bottom of the paragraph, the language ''related to investment, preservation, and'' is corrected to read ''related to investment, preservation, or''.

§ 20.2056(b)–4 [Corrected]

2. On page 67765, column 3, § 20.2056(b)–4(d)(1)(ii), line 5 from the bottom of the paragraph, the language ''related to investment, preservation, and'' is corrected to read ''related to investment, preservation, or''.

3. On page 67766, column 3, § 20.2056(b)–4(d)(5), Example 5, line 6 from the bottom of the paragraph, the language ''remains $1,800,000. The applicable'' is corrected to read ''is $2,000,000. The applicable''.

4. On page 67766, column 3, § 20.2056(b)–4(d)(5), Example 5, lines 2 and 3 from the bottom of the paragraph, the language ''trust and $200,000 of the $2,000,000 passing to the marital trust so that the amount of'' is corrected to read ''trust so that the amount of''.

5. On page 67766, column 3, § 20.2056(b)–4(d)(5), Example 7, line 7, the language ''decedent's child. Under the terms of the'' is corrected to read ''decedent's child. Under the terms of the governing instrument and''.

Cynthia E. Grigsby,

Chief, Regulations Unit,

Assistant Chief Counsel (Corporate).

[FR Doc. 99–32915 Filed 12–17–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 91

[OJP(OJP)–1258]

RIN 1121–ZB92

Corrections Program Office's Interpretation of Eligibility Requirements for Truth-in-Sentencing Incentive Grants Under 42 U.S.C. 13704(a)(2)

AGENCY: Office of Justice Programs, Corrections Program Office, Justice.

ACTION: Interpretive rule.

SUMMARY: The Corrections Program Office, Office of Justice Programs, U.S. Department of Justice, is publishing an interpretive rule which reiterates current law to remind States awarded funds under the Truth-in-Sentencing Incentive Grants program, 42 U.S.C. 13704, of the pre-existing eligibility requirements for receiving and retaining funds under subsection (a)(2) of the statute. This interpretive rule also advises recipient States of OJP's existing enforcement policy for non-compliance with the statutorily-mandated grant terms.

EFFECTIVE DATE: This interpretive rule is effective on December 20, 1999.

FOR FURTHER INFORMATION CONTACT: Phil Merkle, Special Advisor to the Director, Corrections Program Office, Office of Justice Programs, 810 Seventh Street, NW, Washington, DC 20531. Telephone: (202) 305–2550; Fax: (202) 307–2019.

SUPPLEMENTARY INFORMATION:

Background

Purpose

The Corrections Program Office, Office of Justice Programs (OJP) is issuing this interpretive rule to make explicit its interpretation and application of the eligibility requirements in section 13704(a)(2) of the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants program (''VOI/TIS''), 42 U.S.C. 13704 *et seq.* This document is designed to aid States in assessing their continuing eligibility for federal Truth-in-Sentencing funding and sets forth situations in which OJP will exercise its enforcement discretion. This interpretive rule does not create or destroy any rights, assign any new duties, or impose any additional obligations, implied or otherwise.

Authority

OJP, as the agency charged with administering and enforcing the VOI/TIS grant program, has inherent authority to issue interpretive rules informing the public of the procedures and standards it intends to apply in exercising its discretion. Moreover, OJP's construction of the VOI/TIS statute, in this instance, merely amounts to implementing existing positive law previously legislated by Congress.

Truth-in-Sentencing Incentive Grant Program

As part of the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322 (''1994 Crime Bill''), Congress enacted the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants program, 42 U.S.C. 13701 *et seq.*, which offered prison construction grants and other correctional institution improvement funding to encourage States to adopt tougher sentencing policies for violent offenders.

In the FY 1996 Omnibus Appropriations Act, Public Law 104–134, Congress significantly amended this legislation. Currently, the Truth-in-Sentencing Incentive Grants program provides funds for eligible States to build or expand correctional facilities for the purpose of incarcerating criminals convicted of committing violent crimes. 42 U.S.C. 13704. To qualify for grant funding, States must have in effect sentencing laws that either provide for violent offenders to serve not less than 85% of their sentences, or must meet other requirements that ensure that violent offenders remain incarcerated for substantially greater percentages of their imposed sentences. 42 U.S.C. 13704(a).

Qualification as an Interpretive Rule

This interpretive rule highlights and discusses the grant eligibility requirements in section 13704(a)(2) of the Truth-in-Sentencing Incentive Grants Act to make certain that States awarded grant funds under this provision fully understand their legal duty to implement qualifying truth-in-sentencing laws within the three-year statutory time frame. Because this rule merely explains, rather than adds to, the substantive law that already exists, it is exempt from legislative rulemaking procedures.

Specifically, this rule qualifies as an interpretive rule under the Administrative Procedure Act because it is a rule or statement issued by an agency to advise the public of the agency's construction of one of the statutes it administers. See, *e.g., Shalala, Secretary of Health and Human Services* v. *Guernsey Memorial Hosp.*, 514 U.S. 87, 99 (1995). This rule does

not establish any new standard and in fact, is consistent with the statute's mandate. As such, it qualifies as an interpretive rule not subject to the Administrative Procedure Act's notice-and-comment provisions. 5 U.S.C. 553, 553(b)(3)(A).

Interpretation of 42 U.S.C. 13704(a)(2)

Eligibility Criteria

In this interpretive rule, OJP explains its construction of section 13704(a)(2) of the Truth-in-Sentencing Incentive Grants provision for determining ''eligibility'' for federal funding assistance where the State has enacted, but not yet implemented, a truth-in-sentencing law. 42 U.S.C. 13704(a)(2).

It is OJP's position that a State is eligible for truth-in-sentencing grant funds if it has a truth-in-sentencing law that has been enacted, but not yet implemented, which requires the State, not later than three years after submitting its grant application, to provide that persons convicted of ''Part 1 violent crimes'' serve not less than 85 percent of the sentence imposed. Additionally, as expressed in the Truth-in-Sentencing grant application packets, each State that applies for funding under section 13704(a)(2) must include a detailed time line which culminates in the actual implementation of a qualifying Truth-in-Sentencing law within three years of the submission of the grant application.

While a State does have latitude to modify the exact sequence of events within this time line, a State cannot ignore the requirement that a qualifying Truth-in-Sentencing law must actually be implemented within the three-year period.

Enforcement Policy

If a State receives funding by asserting eligibility under section 13704(a)(2) but then fails to actually implement a qualifying truth-in-sentencing law within three years of submitting its initial application, OJP treats this event as a failure to substantially comply with the statutorily-mandated grant conditions and as a violation of the terms of the grant agreement.

As the agency charged with administering and enforcing the Violent Offender Incarceration and Truth-in-Sentencing Incentive Grants Act, OJP can suspend or terminate a State's truth-in-sentencing funding for substantial noncompliance with the statute and the grant terms. Specifically, OJP may, in the exercise of its discretion, initiate federal enforcement actions, under the part 18 termination procedures, against those recipient States that fail to adhere to the grant requirements after receiving grant funds. 28 CFR part 18. Ultimately, where OJP determines it necessary to terminate a Truth-in-Sentencing grant, OJP can require the noncomplying State to repay the grant funds awarded in excess of the amount actually due. 28 CFR 66.52. This excess amount may include the grant funds awarded during the period in which the State had promised to implement a truth-in-sentencing law.

In sum, OJP shall continue to administer and enforce section 13704(a)(2) in accordance with this interpretation.

Publication

Because this interpretive rule aims to serve as a reminder to recipients under the Truth-in-Sentencing Incentive Grants program and thus, merely reiterates the statutorily-mandated conditions for the award and retention of grant funding, OJP has chosen not to publish this interpretive rule in the Code of Federal Regulations (but reserves the right to do so in the future). However, to ensure that the States recognize the importance of the Truth-in-Sentencing Grants Program and are fully aware of their preexisting duties under section 13704(a)(2) for continued funding, OJP will distribute copies of this interpretive rule with the Truth-in-Sentencing Incentive Grants Program Application Packets in early 2000. Additionally, OJP intends to post this interpretive rule, as published in the **Federal Register**, on the Internet at the Corrections Program Office's website at http://www.ojp.usdoj.gov/cpo.htm.

Regulatory Evaluation Summary

OJP has reviewed this interpretive rule in accordance with Executive Order 12866 and the Regulatory Flexibility Act of 1980. It is not a ''significant regulatory action'' as defined in the Executive Order. Additionally, this interpretive rule does not impose a significant economic impact on a substantial number of small entities and will not constitute a barrier to international trade. Because no further economic evaluation is warranted, this interpretive rule is not subject to review by the Office of Management and Budget.

In accordance with Executive Order 13132, this interpretive rule will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it lacks sufficient federalism implications to warrant the preparation of a federalism assessment.

Because this interpretive rule does not compel the expenditure by State, local and tribal governments, or by the private sector, in the aggregate of $100 million or more in any one year, and will not uniquely affect small governments, OJP is not required to take any actions under the provisions of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538).

This interpretive rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996 because it will not result in an annual effect on the economy of $100 million or more; or a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete in domestic and export markets.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), OJP has determined that there are no requirements for information collection associated with this rule.

Finally, this interpretive rule has no direct or indirect effect on the environment, and no extraordinary circumstances exist which would require OJP to prepare an environmental assessment or environmental impact statement.

Dated: December 14, 1999.

Laurie Robinson,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 99–32807 Filed 12–17–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 01–99–184]

RIN 2115–AA97

Safety Zone: New Years Eve '99 Fireworks Display, Southampton, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the New Years Eve '99 Fireworks Display to be held off of Fairlee St., Southampton, NY, on December 31, 1999. This action is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display.