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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 156
State Block Grant Pilot Program; Final
Rule; Request for Comments

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 156**

[Docket No. 25723; Amdt. No. 156-1]

State Block Grant Pilot Program**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule; request for comments.

SUMMARY: This final rule sets forth regulations to implement the State block grant pilot program included in recent Congressional legislation. The regulations are intended to provide guidance to the States regarding the application process for, and administration of, the 2-year State block grant pilot program. The final rule is necessary in order to comply with the statutory provision that requires the Secretary of Transportation to promulgate regulations to implement the State block grant pilot program.

DATES: The final rule is effective on November 21, 1988. Comments must be received on or before November 21, 1988.

ADDRESS: Comments on this final rule may be delivered or mailed, in duplicate, to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 25723, 800 Independence Avenue SW., Room 915G, Washington, DC 20591. Comments submitted on these rules must be marked: Docket No. 25723. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Beisse, Office of Airport Planning and Programming, Grants-in-Aid Division, Program Guidance Branch (APP-510), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8826.

SUPPLEMENTARY INFORMATION:**Comments Invited**

The regulations contained in this final rule implement the State block grant pilot program provided by Congress in the Airport and Airway Safety and Capacity Expansion Act of 1987. The regulations simply state the application requirements for the State block grant pilot program mandated by Congress that will result in block grants being awarded to three States. Therefore, the final rule is being adopted without notice and an opportunity for prior public comment. However, the

Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, Department of Transportation (DOT) operating administrations should provide an opportunity for public comment on regulations issued without prior notice. Accordingly, interested persons are invited to participate in the rulemaking by submitting any written data, views, or comments as they may desire. Comments must include the regulatory docket or amendment number identified in this final rule and be submitted in duplicate to the address above. All comments received will be available in the Rules Docket for examination by interested persons. The regulations may be changed in light of the comments received on this final rule.

Commenters who want the Federal Aviation Administration (FAA) to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket No. 25723." The postcard will be date stamped by the FAA and returned to the commenter. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA-230), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must include the amendment number identified in this final rule. Persons interested in being placed on a mailing list for future rulemaking actions should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On December 30, 1987, Congress passed the Airport and Airway Safety and Capacity Expansion Act of 1987. Section 116 of that Act amended the Airport and Airway Improvement Act of 1982, by adding new section 534 entitled "State Block Grant Pilot Program" (49 U.S.C. App. 2227). That section states:

(a) Promulgation of Regulations; Effective Period.—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991.

(b) Assumption of Certain Responsibilities.—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

(c) Selection of State Participants.—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

(1) has an agency or organization capable of administering effectively any block grant made under this section;

(2) uses a satisfactory airport system planning process;

(3) uses a programming process acceptable to the Secretary;

(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which project funds will be provided.

(d) Review and Report.—The Secretary shall conduct an on-going review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program.

Pursuant to the Congressional legislation and applicable delegations of authority, three States selected by the Administrator will administer the Fiscal Year 1990 and 1991 airport grant programs, for nonprimary airports in those States. The three States will be responsible for project selection, administration, and compliance consistent with applicable Federal law. Due to the legislative requirement that the three States agree to comply with Federal procedural and other standard grant administrative requirements, the block grant agreement for the pilot program will contain appropriate grant assurances similar to those contained in the current grant agreements signed by airport sponsors who are awarded grants by the Administrator. The FAA will provide an application form and program guidance material to any State that submits a letter expressing interest in participating in the State block grant pilot program.

States that are selected by the Administrator to participate in the block grant pilot program must comply with

the statutory and regulatory requirements that currently govern airport grant programs. These requirements will be specified in the block grant agreements. Pursuant to Congressional mandate contained in the legislation, the three States selected by the Administrator will assume administrative responsibility, currently exercised by the FAA, for all grant funding available under the legislative amendment and annual appropriation Acts at nonprimary airports within the State. Nonprimary are those airports enplaning 10,000 or fewer passengers annually. Similarly, the legislative amendment requires that the three States agree to comply with Federal procedural and other standard requirements in administering block grants. For example, States will be required to have an accounting system that accurately reflects expenditures of the State block grant. Likewise, the States must comply with the requirements of the National Environmental Policy Act.

Reason for No Notice

The regulations contained in this final rule are needed to implement the State block grant pilot program mandated by Congress in an amendment to the 1982 Act contained in the Airport and Airway Safety and Capacity Expansion Act of 1987. The regulations contained in this final rule merely implement a voluntary portion of the existing airport improvement grant program. In addition, the rules contained in this amendment are purely procedural regulations that govern the application process. For these reasons, notice and public comment procedures are unnecessary. In addition, publication of a notice for prior public comment on the final rule would not reasonably be anticipated to result in the receipt of useful information regarding the regulations because Congress dictated the method by which the Administrator shall determine which States are selected for the State block grant pilot program. In accordance with DOT Regulatory Policies and Procedures, an opportunity for public comment after publication of the final rule is being provided.

Economic Assessment

This final rule sets forth the application procedures that apply to the 2-year State block grant pilot program that is a part of the existing airport improvement grant program. Because of the procedural nature of the regulations, no economic impact is expected to result from the promulgation of the final rule. Accordingly, a full Regulatory Evaluation is not warranted and a

regulatory evaluation has not been prepared prior to publication of this final rule. Because the final rule contains purely procedural regulations that only apply to the application process, the cost, if any, of complying with the final rule is minimal. Therefore, I certify that the final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980.

Reporting and Recordkeeping

The FAA anticipates that there will be no discernible reporting or recordkeeping impact resulting from implementation of the State block grant pilot program. It is difficult to estimate any impact on paperwork burdens because the three States will implement and administer the grant program and the disbursement of grant funds for certain airport projects. It is possible that overall paperwork burdens may be reduced in comparison to the paperwork burden associated with airport development projects administered by the FAA. However, any reduction in paperwork burden is wholly dependent on the efficiency of the method by which the States implement and administer the block grant program. Certainly, the FAA expects no increase in paperwork burdens since the FAA and the States will be using a similar mechanism to that which is currently used for airport development projects. In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the FAA received approval of the reporting and recordkeeping requirements for the airport grants program on April 15, 1988 [Control No. 2120-0065]. The State block grant pilot program will not require amendment of Control No. 2120-0065.

Federalism Implications

The final rule contained herein would directly affect the States, would affect the relationship between the national government and the States, and would affect the distribution of power and responsibilities among the various levels of government. Pursuant to Congressional legislation, the three States selected by the Administrator would assume administrative responsibility for all airport funding for nonprimary airports awarded under the Airport and Airway Improvement Act of 1982. Traditionally, Congress has vested administrative responsibility for Federally-funded airport development in the Administrator, as delegated by the Secretary of Transportation. The three States selected for participation in the State block grant pilot program will have maximum administrative

discretion to use monies awarded under this program, consistent with the legislative requirement to comply with applicable Federal procedural and other standard requirements for administering eligible projects at eligible airports. The Congressional legislation that creates the State block grant program specifies a termination date of September 30, 1991 and specifies criteria to be used by the Administrator in the selection of the three participating States. For these reasons, and the fact that participation by any State is not mandatory, the FAA believes that the participating States will have the ability to fulfill the purposes of the program without adverse effects on other State governmental functions. Thus, in accordance with Executive Order 12612, I certify that the regulations contained in this final rule have been assessed in light of, and are consistent with, the principles, criteria, and requirements of that Executive Order. However, the FAA does not believe that further analysis of the Federalism implications, and preparation of a Federalism Assessment, is warranted because the regulations implement an express Congressional mandate to initiate the limited State block grant pilot program.

Conclusion

Because the revisions contained in this final rule are expected to have minimal economic impact, the FAA has determined that the final rule is not a major regulation under Executive Order 12291. Also, this regulation is not considered to be significant under the DOT Regulatory Policies and Procedures. Since the cost of complying with these rules is minimal, I certify, under the criteria of the Regulatory Flexibility Act of 1980, that these rules will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects in 14 CFR Part 156

Airports, Airport funding, Airport improvement, Airport development, Block grants, Grant programs transportation.

The Amendment

Accordingly, the Federal Aviation Administration amends the Federal Aviation Regulations by adding a new Part 156 (14 CFR Part 156), effective November 21, 1988, to read as follows:

PART 156—STATE BLOCK GRANT PILOT PROGRAM

- Sec.
156.1 Applicability.
156.2 Letters of interest.

Sec.

- 156.3 Application and grant process.
 156.4 Airport and project eligibility.
 156.5 Project cost allowability.
 156.6 State program responsibilities.
 156.7 Enforcement of State block grant agreements and other related grant assurances.

Authority: 49 U.S.C. App. 2201 (as amended, 49 U.S.C. App. 2227, Airport and Airway Safety and Capacity Expansion Act of 1982); 49 CFR 1.47 (f) and (k) (Regulations of the Office of the Secretary of Transportation).

PART 156—STATE BLOCK GRANT PILOT PROGRAM

§ 156.1 Applicability.

(a) This part applies to grant applicants for the State block grant pilot program and to those States receiving block grants available under the Airport and Airway Improvement Act of 1982, as amended.

(b) This part sets forth—

- (1) The procedures by which a State may apply to participate in the State block grant pilot program;
- (2) The program administration requirements for a participating State;
- (3) The program responsibilities for a participating State; and
- (4) The enforcement responsibilities of a participating State.

§ 156.2 Letters of interest.

(a) Any state that desires to participate in the State block grant pilot program shall submit a letter of interest, by November 30, 1988, to the Associate Administrator for Airports, Federal Aviation Administration, 800 Independence Avenue SW., Room 1000E, Washington, DC 20591.

(b) A State's letter of interest shall contain the name, title, address, and telephone number of the individual who will serve as the liaison with the Administrator regarding the State block grant pilot program.

(c) The FAA will provide an application form and program guidance material to each State that submits a letter of interest to the Associate Administrator for Airports.

§ 156.3 Application and grant process.

(a) A State desiring to participate shall submit a completed application to the Associate Administrator for Airports.

(b) After review of the applications submitted by the States, the Administrator shall select three States for participation in the State block grant pilot program.

(c) The Administrator shall issue a written grant offer that sets forth the terms and conditions of the State block grant agreement to each selected State.

(d) A State's participation in the State block grant pilot program begins when a State accepts the Administrator's written grant offer in writing and within any time limit specified by the Administrator. The State shall certify, in its written acceptance, that the acceptance complies with all applicable Federal and State law, that the acceptance constitutes a legal and binding obligation of the State, and that the State has the authority to carry out all the terms and conditions of the written grant offer.

§ 156.4 Airport and project eligibility.

(a) A participating State shall use monies distributed pursuant to a State block grant agreement for airport development and airport planning, for airport noise compatibility planning, or to carry out airport noise compatibility programs, in accordance with the Airport and Airway Improvement Act of 1982, as amended.

(b) A participating State shall administer the airport development and airport planning projects for airports within the State.

(c) A participating State shall not use any monies distributed pursuant to a State block grant agreement for integrated airport system planning, projects related to any primary airport, or any airports—

- (1) Outside the State's boundaries; or
- (2) Inside the State's boundaries that are not included in the National Plan of Integrated Airport Systems.

§ 156.5 Project cost allowability.

(a) A participating State shall not use State block grant funds for reimbursement of project costs that would not be eligible for reimbursement under a project grant administered by the FAA.

(b) A participating State shall not use State block grant funds for reimbursement or funding of administrative costs incurred by the State pursuant to the State block grant program.

§ 156.6 State program responsibilities.

(a) A participating State shall comply with the terms of the State block grant agreement.

(b) A participating State shall ensure that each person or entity, to which the State distributes funds received pursuant to the State block grant pilot program, complies with any terms that the State block grant agreement requires to be imposed on a recipient for airport projects funded pursuant to the State block grant pilot program.

(c) Unless otherwise agreed by a participating State and the Administrator in writing, a participating State shall not delegate or relinquish, either expressly or by implication, any State authority, rights, or power that would interfere with the State's ability to comply with the terms of a State block grant agreement.

§ 156.7 Enforcement of State block grant agreements and other related grant assurances.

The Administrator may take any action, pursuant to the authority of the Airport and Airway Improvement Act of 1982, as amended, to enforce the terms of a State block grant agreement including any terms imposed upon subsequent recipients of State block agreement funds.

Issued in Washington, DC on October 17, 1988.

T. Allan McArtor,
 Administrator.

[FR Doc. 88-24242 Filed 10-19-88; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 156

[Docket 25723; Adoption of Part 156]

**State Block Grant Pilot Program;
Correction**

AGENCY: Federal Aviation
Administration, DOT.

ACTION: Final rule; request for
comments; correction.

SUMMARY: FAA is correcting errors in
Amendment Number 156-1, "State Block
Grant Pilot Program." In FR Doc. 88-
24242, published Thursday, October 20,
1988, on page 41302, please remove
"Amdt. No. 156-1" from the heading and
replace with the words "Adoption of
Part 156".

FOR FURTHER INFORMATION CONTACT:
Mr. Mark Beisse, Office of Airport
Planning and Programming, (APP-510),
Federal Aviation Administration,
telephone (202) 267-8724.

Michael D. Triplett,
Docket Section, Program Management Staff,
AGC-10.

[FR Doc. 88-26700 Filed 11-18-88; 8:45 am]

BILLING CODE 4910-13-M
