

FEDERAL REGISTER: 43 FR 24326 (June 5, 1978)

DEPARTMENT OF THE INTERIOR

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM)

30 CFR Part 880

Grants for Mining and Mineral Resources, Research Institutes and Mineral Research Projects; Proposed Establishment and Financial Assistance

ACTION: Proposed rules.

SUMMARY: The regulations in this chapter set out the policies and procedures that will be followed by the Department of the Interior in Administering Title III of the Surface Mining Control and Reclamation Act of 1977. That title provides for the establishment of, and financial assistance to, Mining and Mineral Resources Research Institutes in each State and for research grants to support mining and mineral research projects.

DATE: Comments must be received by July 5, 1978.

ADDRESS: Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David Maneval, Assistant Director for Technical Services and Research, Office of Surface Mining Reclamation and Enforcement, 202-343-4264.

SUPPLEMENTARY INFORMATION:

Title III of the Surface Mining Control and Reclamation Act of 1977 (the Act), Pub.L.No. 95-87, 30 U.S.C. 1221, et seq., requires the Secretary of the Interior to prescribe rules and regulations to implement the provisions of that title for grants and to assist State Mining and Mineral Resources and Research Institutes and to support mining and mineral research projects. The Act provides for annual allotments to one institute in each State for seven years and for research grants to each institute for mineral research projects.

Title III specifies the categories of research to be conducted, the funding criteria and the requirements for institutes to qualify for such funding. [Page 24327]

These proposed regulations are based upon the requirements of Title III of the Act, as well as Office of Management and Budget (OMB) Circular Number A-110 concerning uniform administrative requirements for grants and agreements with higher education institutions. The public is requested to comment on these proposed regulations. Full public participation will improve the quality of these regulations.

NOTE. - The Department of Interior has determined that these regulations do not constitute significant rules requiring preparation of a regulatory analysis under Executive Order 12044.

Dated: June 2, 1978.

WALTER N. HEINE, *Director, Office of Surface Mining, Reclamation and Enforcement.*

It is proposed to add Part 880 to Title 30, Chapter VII, to read as follows:

PART 880 - GRANTS FOR MINING AND MINERAL RESOURCES RESEARCH INSTITUTES AND MINERAL RESEARCH PROJECTS

Section

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AUTHORITY: Pub.L. 95-87; 30 U.S.C. 1221, et seq.

SECTION 880.1 - SCOPE.

This part sets forth policies and procedures for grants to establish and assist Mining and Mineral Resources Research Institutes and to support mining and mineral research projects.

SECTION 880.2 - OBJECTIVES.

The objectives of the assistance under this part are:

- (a) To support research and training in mining and mineral resources problems related to the mission of the Department of the Interior.
- (b) To contribute to a comprehensive nationwide program of mining and mineral research having due regard for the protection and conservation of the environment.
- (c) To support specific mineral research and demonstration projects of industry-wide application. (
- d) To assist the States in carrying on the work of competent and qualified mining and mineral resources research institutes.
- (e) To provide scholarships, graduate fellowships and post-doctoral fellowships in mining and mineral resources, and allied fields such as mining engineering, civil engineering, soil conservation, hydrology, geology, chemistry, ecology, wildlife biology, land use planning and resources management.

SECTION 880.3 - AUTHORITY.

- (a) Section 301 of the Surface Mining Control and Reclamation Act of 1977 (Pub.L. 95-87) authorizes the Secretary to make grants available to assist the States in carrying on the work of competent and qualified mining and mineral resources research institutes.
- (b) Section 302(a) of the Act authorizes the Secretary to make grants available to institutes to meet the expenses of mineral research and demonstration projects and of research into any aspects of mining and mineral resources problems related to the mission of the Department of the Interior which may be deemed desirable and are not otherwise being studied.
- (c) Section 302(c) of the Act authorizes the Secretary to provide scholarships, graduate fellowships and postdoctoral fellowships.
- (d) Section 307 of the Act authorizes the Secretary to establish a center for cataloging scientific research in all fields of mining and mineral resources.
- (e) Section 309 of the Act authorizes the Secretary to appoint an Advisory Committee on Mining and Mineral Resources Research and to designate the Chairman of the Advisory Committee.

SECTION 880.4 - RESPONSIBILITY.

- (a) The Secretary of the Interior is responsible for administering the program authorized under Title III - State Mining and Mineral Resources and Research Institutes of the Act, and may delegate this authority for all sections, with the exception of Section 309(a) and (b), for the administration of activities and operations established therein.
- (b) The Director shall administer the programs for mining and mineral resources research institutes, for mineral research and demonstration projects and for scholarships, graduate fellowships and post-doctoral fellowships. Section 880.5 Definitions. As used in this chapter, the term - (a) "Act" means the Surface Mining Control and Reclamation Act of 1977 (Pub.L. 95-87). (b) "Title" means Title III of the Act concerning State Mining and Mineral Resources and Research Institutes,
- (c) "Secretary" means the Secretary of the Interior or his authorized representative,
- (d) "Advisory Committee" means the Advisory Committee on Mining and Mineral Resources Research appointed by the Secretary,
- (e) "Institute" means a competent and qualified mining and mineral resources research institute, center, or component of a college or university, established in accordance with the provisions of Title III of the Act,
- (f) "Director" means the Director of the Office of Surface Mining Reclamation and Enforcement,
- (g) "Scientists and Engineers" means individuals in any professional discipline in the life, physical, or social sciences,
- (h) "Allotment" means the funds made available to an institute on a matching basis in a particular fiscal year pursuant to Section 301 of the Act and the regulations in this chapter,
- (i) "Office" means the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240,
- (j) "Assistant Director" means the Assistant Director for Technical Services and Research of the Office,
- (k) "Mineral resource research" means research, investigations, demonstrations, experiments, or training in:
- (1) mineral exploration, extraction, processing and development;
 - (2) production of mineral resources;
 - (3) mining and mineral technology;
 - (4) mineral supply and demand;
 - (5) conservation and best use of available supplies of minerals and other resources affected by mineral extraction; and
 - (6) the economic, legal, social, engineering, recreational, biological, geographic, ecological, and land use aspects of mining, mineral resources, and mineral reclamation.

SECTION 880.6 - ELIGIBILITY FOR MINERAL INSTITUTE GRANTS.

To be eligible for financial assistance under Section 301(a) of the Act, a college or university must meet all of the following criteria:

- (a) Be either
- (1) a public college or university or
 - (2) a private college or university in a State which does not have an eligible public college or university, and meet all other requirements of this paragraph;
- (b) Have had in existence on August 3, 1977, a school of mines, division or department conducting a program of substantial instruction and research in mining or mineral extraction, or have established a school of mines, division or department conducting a program of substantial instruction and research in mining or mineral extraction subsequent to August 3, 1977, which has been in existence for at least two years prior to the date of application for financial assistance; [Page 24328]

(c) Employ at least four full-time permanent faculty members in the school of mines, division or department conducting instruction and research in mining and mineral extraction;

(d) Determined to be eligible for assistance in accordance with Section 301 of the Act and these regulations by the Advisory Committee and designated by the Director;

(e) Has moneys available to support the institute which match the Federal share with non-Federal funds on a dollar-to-dollar basis and are at least equal to the Federal share; and

(f) Designated by the Governor of the State if there is more than one eligible college or university in a State, provided there is no designation to the contrary by act of the State legislature.

SECTION 880.7 - ELIGIBILITY FOR RESEARCH GRANTS.

(a) Under Section 302(a) of the Act and subject to the availability of appropriations, additional funds may be made available to the institute for:

(1) Special research into any aspects of mining and mineral resources problems, including reclamation and enforcement, which are related to the mission of the Department of the Interior, may be deemed desirable and are not otherwise being studied;

(2) Specific mineral research and demonstration projects of industry wide application, which could not otherwise be undertaken; and

(3) Expenses of planning and coordinating regional mining and mineral resources projects by two or more institutes.

(b) The Assistant Director will assemble from the Office and other offices, bureaus, and agencies of the Department of the Interior a listing of mining and mineral resources problems, including reclamation and enforcement. After consulting with the Advisory Committee and obtaining approval of the Director, the Assistant Director will make available to the institutes a list of topics for research. In special cases, studies not included on this list may be considered and approved if justified and deemed desirable under paragraphs (a)(2) or (a)(3) of this Section.

SECTION 880.8 - ELIGIBILITY FOR SCHOLARSHIPS AND FELLOWSHIPS.

(a) Under Section 302(b) and (c) of the Act, additional funds may be made available to the institute to:

(1) Provide opportunity for training individuals as mineral scientists and engineers, and

(2) Provide undergraduate scholarships, graduate fellowships, and postdoctoral fellowships for mining and mineral engineering and closely allied fields.

(b) The institute may apply for a grant to provide undergraduate scholarships, graduate fellowships, and post-doctoral fellowships in mining and mineral engineering and closely allied fields. The institute shall prepare a plan for awarding this aid based on academic ability. The institute must assure full compliance with Title VI of the Civil Rights Act of 1964 as amended 42 U.S.C. 2000d, if a grant for fellowships and scholarships is sought in the annual application for funds under paragraphs 5100.10 and 5100.11 of this chapter.

(c) An annual report of financial assistance provided and persons aided shall be included in the annual institute status report required by Section 880.13.

SECTION 880.9 - PROGRAMS OF INSTITUTES.

(a) It shall be the duty of each institute to plan and conduct or arrange for a component or components of the college or university with which it is affiliated to conduct:

(1) Competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources, and

(2) Training of mining and mineral engineers and scientists through such research, investigations, demonstrations, and experiments.

- (b) Such research, investigations, demonstrations, experiments, and training may include, without being limited to:
- (1) The exploration, extraction, processing, development, and production of mineral resources;
 - (2) Mining and mineral technology;
 - (3) Supply and demand for minerals;
 - (4) Conservation and best use of available supplies of minerals; and,
 - (5) The economic, legal, social, engineering, recreational, biological, geographical, ecological, and other aspects of mining, mineral resources, and mineral reclamation.

SECTION 880.10 - APPLICATION FOR INITIAL ALLOTMENTS TO INSTITUTES.

(a) In order to obtain an initial allotment under Section 301, an institute must submit to the Assistant Director an application (in six copies).

(b) The institute shall use and follow the standard form for Federal assistance and other procedures specified by the Office of Management and Budget Circular Number A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" (41 FR 32016). No preapplication is required.

(c) The institute shall include on Form 424 in Section IV of the standard application:

- (1) Evidence that the institute conforms to each requirement or criteria listed in Section 880.6;
- (2) Evidence of the appointment by the governing authority of the institute of an officer to receive and account for all funds paid under the provisions of this title and to make annual reports to the Secretary on or before the first day of September of each year, on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year and of its disbursements on schedules prescribed by the Secretary;
- (3) Evidence that the institute has plans and will conduct, or will arrange for a component or components of the college or university with which it is identified, to conduct:
 - (i) Competent research, investigations, demonstrations, and experiments of either a basic or practical nature, or both, in relation to mining and mineral resources research, and
 - (ii) Training of mining and mineral engineers and scientists through such research, investigations, demonstrations, and experiments;
- (4) Evidence that the institute has, or may reasonably be expected to have, the capability of doing effective work in one or more of the various mining and mineral resources program specified in Section 880.9 above, which evidence shall include:
 - (i) The proposed general plan of operation of the institute, showing its organization and a summary of the institute's program activities, by project or other appropriate headings, which includes information concerning the substantive character and the anticipated magnitude, in man-years, of proposed activities,
 - (ii) Description of the facilities to be utilized,
 - (iii) A list of staff personnel with specific details as to academic and professional training, research experience and other pertinent qualifications, and the time they will devote to research, training, or other activities of the institute, and
 - (iv) The sources of non-Federal funds; and
- (5) Evidence that the institute is giving due regard to:
 - (i) Mining and mineral resources research projects being conducted (or supported) by agencies of the Federal and State governments and other institutes,
 - (ii) The interrelation on the natural environment,
 - (iii) The varying needs and conditions of the respective States,
 - (iv) The advice and assistance as provided by the Secretary pursuant to Section 304(a) of this title, and

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 - (v) A statement that the institute is willing to enter into an agreement, in a form approved by the secretary, that all information, uses, products, processes, patents, and other developments resulting from any scientific or technological research or development activity financed with funds supplied pursuant to this title will (with such exceptions and limitations as the Secretary may determine) be made freely and fully available to the general public.

SECTION 880.11 - APPLICATION FOR ALLOTMENTS AFTER THE FIRST FISCAL YEAR.

(a) After the first fiscal year, in order to obtain subsequent allotments, an institute should submit to the Assistant Director, a request for an annual allotment (in six copies) containing information and materials on Form 424 to supplement any

previously submitted application as may be needed to make it currently applicable and to reaffirm eligibility. Such requests should be submitted four months prior to the end of the fiscal year and should include evidence that all reports due under this Section have been submitted or are in preparation for submission.

(b) The request should include:

(1) Evidence that, if any monies received by the authorized receiving officer of any institute under the provisions of this title shall by any action or contingency have been found by the Secretary to have been improperly diminished, lost, or misapplied, they have been replaced by the State concerned and until so replaced no subsequent appropriation shall be allotted or paid to the institute,

(2) An outline explaining any changes in its program planned by the institute during the forthcoming fiscal year,

(3) A financial plan relating expenditures to scheduled activity and rate of effort to be expended and indicating the times at which there will be need for specified amounts of allotted Federal funds, and

(4) Evidence that the institute's program is effective, giving due regard to mining and mineral resources problems specified above.

SECTION 880.12 - SPECIAL RESEARCH PROJECTS.

(a) A separate application for a grant under Section 302 of the Act shall be submitted in six copies to the Assistant Director, at least one of which shall contain the original signatures of the principal investigator, of the relevant department head, and of an official authorized to commit the institution in business and financial affairs.

(b) The institute shall use and follow the standard form for Federal assistance and other procedures specified by Office of Management and Budget Circular Number A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations" (41 FR 32016). No preapplication is required.

(c) The institute shall include on Form 424 in Section IV of the standard application

(1) evidence that the institute, conforms to each requirement or criteria listed in Section 880.6.

(d) Such proposals must set forth for each project:

(1) The nature and scope of the project to be undertaken,

(2) The period during which it will be pursued,

(3) The names and qualifications of the senior professional personnel who will direct and conduct the project,

(4) The estimated costs of the project, with a breakdown of the costs per year,

(5) The importance of the project to the Nation, region, or State concerned, its relation to other known research projects theretofore pursued or being pursued and the anticipated applicability of the research results,

(6) The extent to which it will provide opportunity for the training of mining and mineral engineers and scientists,

(7) The extent of participation by non-governmental sources in the project, and

(8) Assurance that no portion of any grant awarded under this Section shall be applied to the acquisition by purchase or lease of any land or interests therein or the rental, purchase, construction, preservation, or repair of any building.

SECTION 880.13 - APPROVAL OF ALLOTMENTS AND AWARD OF GRANTS.

(a) Upon receipt of an application for an allotment grant, contact or other financial assistance to this title, the Assistant Director shall determine whether the submission conforms to the requirements of Sections 880.10, 880.11 or 880.12, as appropriate. Non-conforming submissions will be returned to the institutes with statements of the reasons thereof.

(b) The Director or his designated representative, may approve proposals submitted under these regulations after determining:

(1) That a reasonable relationship exists between the cost to the Government and the probable results to be achieved,

(2) That a college or university as the institute for the State meets all the requirements for eligibility prescribed in Section 880.6, including the evidence of the availability of matching non-Federal funds, and

(3) That the applicant has expressed willingness and is legally authorized to enter into an agreement acceptable to the Secretary.

- (c) The Director shall approve a research grant on the basis of its overall merits, including consideration of:
- (1) The need for the knowledge it is expected to produce when completed,
 - (2) The opportunity it provides for the training of mining and mineral engineers and scientists,
 - (3) The probability that it will be pursued with competence and completed within a reasonable time,
 - (4) Freedom from unnecessary duplication of work being performed by others,
 - (5) Evidence that the proposed projects could not be undertaken without the aid of the proposed grant,
 - (6) Evidence that previous research projects have been performed in a satisfactory manner and completed on schedule,
 - (7) Evidence that the proposal for a research project award meets all the requirements set forth in paragraphs 5100.7 and 5100.12, and
 - (8) Evidence that the proposal for a research project was properly endorsed by duly authorized officials of the applicant institution as well as by the principal investigators involved.

SECTION 880.14 - OTHER FEDERAL REQUIREMENTS.

Each institute receiving assistance in accordance with these regulations must comply with the following provisions which are conditions to each grant.

- (a) The requirements of Title VI of the Civil Rights Act of 1964 as amended (42 U.S.C. 2000d) which provides that no person in the United States shall, on the ground of race, color, religion, sex or national origin, be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving Federal financial assistance and the implementing regulations issued by the Secretary of the Interior with the approval of the President (43 CFR Part 17).
- (b) The Hatch Act, 5 U.S.C. 1501 et seq. as amended, which relates to certain political activities of certain State and local employees. State and local government grantees must ensure compliance on the part of their employees who are covered by the Hatch Act. A State or local officer or employee is covered by the Hatch Act on political activity if his principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency. He is subject to the Act, if as a normal and foreseeable incident to his principal job or position, he performs duties in connection with an activity financed in whole or in part by Federal loans or grants. Specifically excluded is an individual who exercises no functions in connection with that activity; or an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization. [Page 24330]
- (c) Title IX of the Education Amendments of 1972, 20 U.S.C. 1681, et. seq., which provides that no person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of or subjected to discrimination under any educational program or activity receiving Federal financial assistance.
- (d) Executive Order dated September 24, 1965, as amended by Executive Order 11375, which requires that employees or applicants for employment not be discriminated against because of race, creed, color, sex or national origin.
- (e) The Clean Air Act (42 U.S.C. 1857, et seq., as amended by Pub.L. 91-604 and 95-95) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq., as amended by Pub.L. 92-500), which provide for compliance with clean air and water standards at facilities used for the performance of projects supported with Federal funds.
- (f) All uses, products, processes, patents and other developments resulting from any research, demonstration or experiment performed under grants awarded pursuant to this chapter of these regulations shall be made available promptly to the public, with such exception, or limitation, if any, as the Secretary may find necessary in the public interest. Nothing contained in this limitation shall deprive the owner of any background patent relating to any such activities of any rights which that owner may have under that patent. In carrying out this provision, the Office will make use of and adhere to the Statement of Government Patent Policy promulgated by the President (36 CFR 16887, August 26, 1971), as implemented by the Federal Procurement Regulations (41 CFR 19.107) and the Interior Procurement Regulations (Interior Procurement Bulletin No. 11, revised, dated March 2, 1976).
- (g) No portion of any grant awarded under Sections 880.6 or 880.7 shall be applied to the acquisition by purchase or lease or any land or interests therein or to the rental, purchase, construction, preservation or repair of any buildings.

SECTION 880.15 - PROGRESS AND ACCOMPLISHMENT REPORTS.

(a) *Annual institute status reports* - On or before the first day of October of each year, the officer of each institute who has been duly appointed by its governing authority to receive and account for all funds shall make an annual report to the Director on work accomplished and the status of projects underway, together with a detailed statement of the amounts received under any provisions of this title during the preceding fiscal year, and of its disbursements on schedules prescribed by the Director.

(b) *Quarterly technical progress reports for institute projects* - It shall be the duty of each institute to make a brief quarterly technical report on the progress being made on the research, investigation, demonstrations, experiments and training that it conducts under the provisions of Section 301(b). In general, this report will be summary of the technical activities of the institute.

(c) *Reports for special research projects* - The grant agreement for each project funded under Section 302 of this title shall specify the kind, frequency and content of reports to be submitted on special research projects. In addition, each specific mineral research and demonstration project of industry-wide application and research into any aspect of mining and mineral resource problems shall submit a quarterly report of progress made to date in an annual report which shall include -

- (1) A description of research accomplished and the findings, results, and conclusions relating thereto,
- (2) Supplementary information suitable for project demonstration purposes,
- (3) A listing of project-related publications or reports issued and papers presented (with copies of such publications being attached to each copy of the annual report), and
- (4) Statements of project work remaining to be accomplished.

(d) *Final report* - Upon completion of a research study, there shall be prepared a cumulative final report including recommendations conclusions and applicability of the findings to the Office of Surface Mining, the Department of the Interior, and the mining or mineral resource issues of the nation. The final report shall be prepared in accordance with ANSI Z39.18-1974, American National Standard Guidelines for Format and Production of Scientific and Technical Reports, and will be required for each project so that the Secretary may promptly disseminate the findings of these publicly supported projects. The technical project officer assigned to each grant will provide detailed guidance about the preparation, format and submission of required technical reports.

SECTION 880.16 - FISCAL AND ACCOUNTING.

(a) Grant award under Sections 880.6 and 880.7 shall be subject to the uniform administrative requirements including the financial management systems and financial reporting requirements of the current edition of Office of Management and Budget Circular Number A-110 and all attachments thereto.

(b) Advances will be made by the letter of credit method provided the grantee meets all of the requirements specified in Attachment I to the Office of Management and Budget Circular Number A-110. If the grantee meets all of the specified requirements, but the total grants amount is less than \$1 20,000, advance payments will be made by Treasury check. If the grantee does not meet the specified requirements, payment will be by reimbursement with Treasury check. Vouchers may be submitted monthly or any regular less frequent period such as quarterly, at the option of the grantee.

SECTION 880.17 - AUDITS AND INSPECTIONS.

(a) In addition to the internal audits which the grantee will perform or have performed in accordance with specifications in Attachment F to the Office of Management and Budget Circular Number A-110, representatives of the Secretary of the Interior and of the Comptroller General of the United States may conduct onsite audits and inspections of grantees which have received Federal funds under this title.

(b) Audits conducted at the direction or on behalf of the Secretary of the Interior will extend to a determination and appropriate finding of fact concerning compliance with the provisions of the grant, the regularity and accuracy of financial transactions and recording, adequacy of property accountability and control and reliability countability and control and reliability of financial reporting.

(c) Inspections - In relation to the substantive scientific and administrative operations of grantees, the Secretary of the Interior may, with such personnel as he considers qualified and with such procedures as he determines to be suitable, perform inspections of activities authorized and financed pursuant to these regulations. Such inspections will cover acceptability of progress, consistency with approved plans and other factors he deems important to enable him to discharge his responsibilities for achievements consistent with purposes of this title.

SECTION 880.18 - FILING DEADLINES AND AMOUNT OF GRANTS.

(a) For the Federal fiscal year ending September 30, 1978, the deadline for filing applications for financial assistance under Sections 880.10 and 880.12 will be August 15, 1978. Grant applications should be limited to not more than \$110,000 for operational assistance under paragraph 5100.6, \$1 50,000 for research assistance under Section 880.7 and \$1 0,000 for scholarships and fellowships under Section 880.8. Grants may be awarded by the Office based on the number of qualifying institutes and available funds. [Page 24331]

(b) In all future years (beginning in fiscal year 1979) the deadline for filing applications for financial assistance under Sections 880.10 (new institutes), 880.11 (renewal applicants) and 880.12 will be March 31, 1979. The maximum amounts available for grant awards (by section of this chapter) will be announced by the Office on January 1 of each year.

SECTION 880.19 - GRANT AGREEMENT.

(a) If the Director approves an institute's grant application, the Office shall prepare a grant agreement which includes

- (1) The approved scope of the program to be covered by the grant;
- (2) The approved budget, including the Federal share;
- (3) Commencement and completion dates for the segment of the program covered by the grant and for major phases of the program to be completed during the grant period;

(b) The Assistant Director shall transmit four copies of the grant agreement by certified mail, return receipt requested, to the institute for signature. The institute shall execute the grant agreement and return all copies of it within 3 calendar weeks after receipt, or within an extension of such time that may be granted by the Assistant Director,

(c) The Director shall sign the grant upon its return from the institute and return one copy to the institute. The grant is effective and constitutes an obligation of Federal funds in the amount and for the purposes stated in the grant agreement at the time the Director signs the agreement;

(d) Neither the approval of a program nor the award of any grant will commit or obligate the United States to award any continuation grant or enter into any grant amendment, including grant increases to cover overruns.

Section 880.20 Grant amendments. (a) A grant amendment is a written alteration in the grant amount, grant terms or conditions, budget or period or other administrative technical or financial agreement whether accomplished on the initiative of the institute or the Assistant Director, or by mutual action of the agency and the Director; (b) The institute shall promptly notify the Assistant Director in writing by certified mail, return receipt requested, of events or proposed changes which may require a grant amendment, such as - (1) Rebudgeting, (2) Changes which may affect the approved scope or objective of a program; or (3) Changes which may increase or substantially decrease the total cost of a program; (c) The director shall approve disapprove each proposed amendment within thirty days of receipt, or as soon thereafter as possible, and shall notify the institute in writing of the approval or disapproval of the amendment; and (d) The grant amendment establishes the effective date of the action. If no date is specified in the grant amendment then the date the Director signs the amendment will be the effective date of the action.

SECTION 880.21 - GRANT REDUCTION AND TERMINATION.

(a) Conditions for reduction or termination.

- (1) If an institute violates the terms of a grant agreement the Director may reduce or terminate the grant.
- (2) If an institute fails to implement, enforce or maintain an approved program, or agreement, the Director shall terminate the institute's grant or any research grant.

(3) If an institute fails to implement or maintains only a part of the program, the Director shall reduce the grant to the amount of the program being operated by the institute.

(4) If an institute is not in compliance with the following nondiscrimination provisions, the Director shall terminate the grant -

(i) Title VI of the Civil Rights Act of 1964 (78 Stat. 252), Nondiscrimination in Federal Assisted Programs, which provides that no person in the United States shall on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal Financial assistance, and the implementing regulations at 43 CFR 17;

(ii) Executive Order 11246, as amended by Executive Order 11375, Equal Employment Opportunity, requiring that employees or applicants for employment not be discriminated against because of race, creed, color, sex or national origin, and the implementing regulations at 41 CFR 60; and

(iii) Section 504 of the Rehabilitation Act of 1973, as amended by Executive Order 11914, Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs.

(b) Grant reduction and termination procedures.

(1) The Director shall give at least 10 days written notice to the institute by certified mail, return receipt requested, of intent to reduce or terminate a grant. The Director shall include in the notice the reasons for the proposed action and the proposed effective date of the action.

(2) The Director shall afford the institute opportunity for consultation and remedial action prior to reducing or terminating a grant.

(3) The director shall notify the institute of the termination or reduction of the grant in writing by certified mail, return receipt requested.

(4) Upon termination the institute shall refund or credit to the United States that portion of the grant money paid or owed to the institute and allocated to the terminated portion of the grant. However, any portion of the grant that is required to meet commitments made prior to the effective date of termination shall be retained by the institute.

(5) The institute shall reduce the amount of outstanding commitments insofar as possible and report to the Assistant Director the uncommitted balance of funds awarded under the grant.

(6) Upon notification of intent to terminate the institute shall not make any new commitments without the approval of the Director.

(7) The Director may allow termination costs as determined by applicable Federal cost principles listed in Federal Management Circular 74-4.

(c) Appeals. An institute may appeal the decision to reduce or terminate a grant to the Director within 30 days. An institute shall include in an appeal -

(1) The decision being appealed, and

(2) The facts which the institute believes justify a reversal or modification of the decision. The Director shall act upon appeals within 30 days of their receipt, or as soon thereafter as possible.

BILLING CODE [4310-05]