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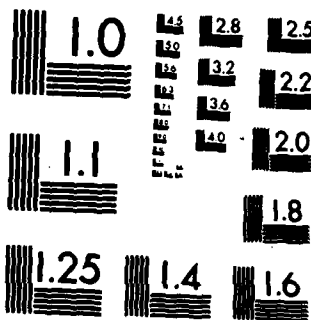
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NATIONAL DEFENSE UNIVERSITY

**MOBILIZATION AND DEFENSE MANAGEMENT
TECHNICAL REPORTS SERIES**

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**ALTERNATIVE SERVICE FOR
CONSCIENTIOUS OBJECTORS**



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REPORT DOCUMENTATION PAGE		READ INSTRUCTIONS BEFORE COMPLETING FORM
1. REPORT NUMBER NDU/ICAF	2. GOVT ACCESSION NO. 83/025 AD-A37684	3. RECIPIENT'S CATALOG NUMBER
4. TITLE (and Subtitle) ALTERNATIVE SERVICE FOR CONSCIENTIOUS OBJECTORS		5. TYPE OF REPORT & PERIOD COVERED MSP #3, AY 82/83
		6. PERFORMING ORG. REPORT NUMBER
7. AUTHOR(s) Christine M. Reilly, CDR, USN Harlis D. Starnes, DCA		8. CONTRACT OR GRANT NUMBER(s)
9. PERFORMING ORGANIZATION NAME AND ADDRESS INDUSTRIAL COLLEGE OF THE ARMED FORCES FORT LESLEY J. MC NAIR WASHINGTON, DC 20319		10. PROGRAM ELEMENT, PROJECT, TASK AREA & WORK UNIT NUMBERS
11. CONTROLLING OFFICE NAME AND ADDRESS INDUSTRIAL COLLEGE OF THE ARMED FORCES FORT LESLEY J. MC NAIR WASHINGTON, DC 20319		12. REPORT DATE MARCH 1983
		13. NUMBER OF PAGES 38
14. MONITORING AGENCY NAME & ADDRESS (if different from Controlling Office) NATIONAL DEFENSE UNIVERSITY FORT LESLEY J. MC NAIR WASHINGTON, DC 20319		15. SECURITY CLASS. (of this report) UNCLASSIFIED
		15a. DECLASSIFICATION DOWNGRADING SCHEDULE
16. DISTRIBUTION STATEMENT (of this Report) UNLIMITED APPROVAL FOR PUBLIC RELEASE		
17. DISTRIBUTION STATEMENT (of the abstract entered in Block 20, if different from Report) N/A		
18. SUPPLEMENTARY NOTES N/A		
19. KEY WORDS (Continue on reverse side if necessary and identify by block number) N/A		
20. ABSTRACT (Continue on reverse side if necessary and identify by block number) THIS STUDY EXAMINES THE DIFFERENCE BETWEEN THE SELECTIVE SERVICE SYSTEM'S (SSS) CONCEPT OF ALTERNATIVE SERVICE AND THOSE ESPOUSED BY THE MENNONITE CHURCH, THE MOST ARTICULATE OPPONENT OF CURRENT ADMINISTRATION PLANNING FOR ALTERNATIVE SERVICE. THE STUDY EXPLORES THE VIEWS HELD BY THE SSS AND MENNONITE CHURCH AND ATTEMPTS TO DETERMINE VIABLE OPTIONS WHICH WOULD SATISFY THE CONCERN OF BOTH PARTIES FOR A FAIR AND EQUITABLE ALTERNATIVE SERVICE PROGRAM. THE STUDY CONCLUDES WITH A SERIES OF RECOMMENDATIONS FOR THE ESTABLISHMENT AND OPERATION OF A FEASIBLE		

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20. ALTERNATE SERVICE PROGRAM FOR THE MENNONITE CHURCH.

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INDUSTRIAL COLLEGE OF THE ARMED FORCES
NATIONAL DEFENSE UNIVERSITY

MOBILIZATION STUDIES PROGRAM REPORT

ALTERNATIVE SERVICE FOR CONSCIENTIOUS OBJECTORS

by

Commander Christine M. Reilly, USN
Mr. Harlis D. Starnes, DCA

A RESEARCH REPORT SUBMITTED TO THE FACULTY IN
FULFILLMENT OF THE RESEARCH REQUIREMENT

Research Supervisor: Colonel Stewart Sherard, USA



MARCH 1983

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ABSTRACT OF STUDENT RESEARCH REPORT
INDUSTRIAL COLLEGE OF THE ARMED FORCES

NAME OF RESEARCHER (S) Reilly, Christine M., CDR, USN Starnes, Harlis D., Mr.	TITLE OF REPORT Alternative Service for Conscientious Objectors
SECURITY CLASSIFICATION OF REPORT Unclassified	REPORT NUMBER M YSP #3

ABSTRACT

This study examines the differences between the Selective Service System's (SSS) concept of Alternative Service and those espoused by the Mennonite Church, the most articulate opponent of current administration planning for alternative service. The study explores the views held by the SSS and the Mennonite Church and attempts to determine viable options which would satisfy the concern of both parties for a fair and equitable alternative service program. The study concludes with a series of recommendations for the establishment and operation of a feasible alternate service program for the Mennonite church.

THIS ABSTRACT IS UNCLASSIFIED

ACKNOWLEDGEMENTS

The authors of this paper would like to express their appreciation to the following for their cooperation and assistance which contributed to the research of this project:

- The Selective Service System Alternative Service Branch
- The Mennonite Central Committee, and in particular, the U.S. Peace Section.

A special thanks also goes to Ms. Alice Crupi who provided invaluable typing support.

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EXECUTIVE SUMMARY

This mobilization research study attempts to determine whether the Selective Service System (SSS) can establish and operate an administratively feasible and fair alternative service program for handling conscientious objectors of the Mennonite Church. In conducting the research, we initially reviewed the total mission of the SSS to determine where it might conflict with an alternate service program. We found a potential conflict did exist. It also became apparent, after discussions with the SSS that communications between this group and the Mennonites created more of a problem than anything of a substantive nature. We became more convinced of this after discussions with members of the Mennonite Central Committee. It appeared that obstacles in achieving a mutually satisfactory program of alternative service were chiefly self-imposed and could easily be eliminated with more open dialogue on both sides. The study concludes with recommendations for establishing such an alternative service program which would meet both the mission of the SSS and be consistent with the tenets of the Mennonite faith.

Chapter I: Introduction

This chapter addresses the question of whether the SSS can establish and operate an equitable alternative service program for conscientious objectors while attending to its primary mission of providing manpower for the All Volunteer Force.

Chapter II: The Mennonite Church and the Selective Service System

A historical perspective of the Mennonite faith provides insight into their concerns about the alternative service program proposed by the SSS. Mennonite suggestions for the design of an Alternative Service Program are offered for consideration.

Chapter III: Conclusion and Recommendations

The study concludes that accommodations can be made by the SSS which would result in an alternative program proposal acceptable to both parties.

CHAPTER I

INTRODUCTION

In July of 1980, the United States reinstated registration for a potential military draft. This action, taken by President Carter in response to the Soviet invasion of Afghanistan, opened the continuing controversy and dialogue which are the subjects of this paper.

The legal basis for registration is found in the Military Selective Service Act (50 USC App. 456). This Act requires that the Selective Service System (henceforth identified as the SSS) perform a number of functions. One of these is to create and administer a program of alternative service for those young men who are conscientiously opposed to the performance of military service. The dimensions of such a program--should one become necessary--are at this time purely speculative. Experience during World War II, and in subsequent conflicts in which the United States has engaged, indicates that an alternative service program will encompass objecting members of the historic peace churches, such as the Mennonites and Quakers. In addition, an alternative service program will be required for the SSS to deal equitably with those persons who obtain objector status on purely ethical or moral grounds, as provided for by the Supreme Court in its decision.

At the heart of the concept of alternative service for conscientious objectors is the question whether the SSS can establish and operate an administratively feasible and fair program for handling conscientious objectors. The primary purpose, after all, of the SSS is to provide untrained manpower for the augmentation of the All Volunteer Force (AVF) in the event of

an emergency which requires the mobilization of the nation's manpower resources.

By its own statements, the SSS also recognizes, as a secondary mission, the responsibility for ensuring the protection of individual rights through a fully developed system of due process. The success or failure of this secondary mission will perhaps be tested in many other ways, but the surest test will come in the procedures which are developed for the handling of those individuals who claim exemptions from military service on the grounds that their religious or moral beliefs prohibit them from participating in any type of warfare.

The Military Selective Service Act exempts individuals holding such beliefs from military service but requires that Conscientious Objectors (henceforth C.O.s or objectors) fulfill a citizen obligation by performing civilian service which contributes to the maintenance of the national health, safety, or welfare.

The Director of the SSS is tasked by the Act with responsibility for placement of C.O.s in work which meets the national health, safety, or interest criteria.

The SSS is thus responsible for the accomplishment of two tasks which would appear, at first blush, to be at odds with each other. On the one hand, it is responsible for the military manpower procurement function as its primary mission. On the other, it is expected, and indeed required, to take measures which will remove from the military manpower pool potentially large numbers of young men who have sought and obtained C.O. status.

The study does not concern itself with two of the SSS's most important functions, namely, registration and classification. It is concerned solely with programs for alternative service for persons who have been classified as C.O.s.

Another word of explanation is also in order. Members of the Mennonite Church are, by definition, C.O.s to military service. During WWII, as an example, the single largest bloc of C.O.s were members of the Mennonite Church. The Mennonite Church has also, by its many examples of community service over the years, gained widespread public acceptance and approval. With these facts in mind, officials of the SSS specifically requested that this paper focus its efforts on the exploration of ways in which alternative service can be made most palatable to the Mennonite Church while, at the same time, complying with the requirements laid down in the Military Selective Service Act. It is not unreasonable to believe that a program which is generally acceptable to the Mennonites will meet the concerns of other affected groups and individuals.

CHAPTER II

THE MENNONITE CHURCH AND THE SELECTIVE SERVICE SYSTEM

A. Historical Perspective

The Mennonite Church has its antecedents in the Anabaptist movement of the sixteenth century. From its beginnings in the Netherlands, the Mennonite faith has held that pacifism or nonresistance is central to the life of a believing Christian. This belief is derived from the Church's interpretation of Christ's mandate in the New Testament (Matthew, ch. V, Verses 38-48) to his followers to turn the other cheek and to love one's enemies. Mennonite teaching holds that war is sin and contrary to the will of God. The evil of war is made more explicit in the nuclear age and the imperative for avoidance of war more urgent.

Many other Christian churches do not agree with the Mennonites in their reading of Christ's mandate in terms of its implications for ordering one's life, but this disagreement does no disservice to the Mennonites who, over the years, have paid for their belief with blood and treasure.

The Mennonite Church came to America's shores in response to European persecution. The first Mennonites arrived in 1683 seeking that freedom of religious expression which brought so many settlers to America. The Mennonites have since prospered, in their quiet way, despite occasional persecution for their belief in nonresistance and are now widely recognized as exemplary citizens.

The Church now counts nearly 100,000 members in the United States. This membership is spread through a number of conferences, fellowships, and churches and is widely dispersed geographically. Some practices vary, but all Mennonites, in all places, adhere to the doctrine of nonresistance.

The Mennonite Church, like many other Protestant denominations, is not hierarchical in nature. Individual congregations have considerable autonomy in their own governance. The closest approach to centralized authority--and that may be too strong a word--resides in the Mennonite Central Committee, which is based in Akron, Pennsylvania. It is to that entity and to the Church's legislative liaison in Washington, D.C. that the authors of this paper turned for information and assistance in understanding the Mennonite view of alternative service.

The Mennonite Church believes that war is sin. Any constructive non-military endeavor is an acceptable form of alternative service which can contribute to the national health, safety, or interest. Exemption, therefore, from any type of conscriptioned service is the appropriate and ideal program for conscientious objectors. As a result, the Mennonite Church feels no fundamental obligation for the design of an alternative service program for use by the government.

The Church is, however, willing to offer certain suggestions as to how an alternative service program driven by conscription can be made more humane and more consonant with the Church's position on this matter. These suggestions will be dealt with later but let us now turn our attention to the other party to our ongoing dialogue--the SSS.

B. SSS Alternative Service Proposal/Mennonite Concerns

As noted before, registration was reinstated in July 1980. In January of 1981, the SSS tackled the problem of establishing a regulatory framework for the creation and administration of an alternative service program. On January 22, the SSS published its proposed concept for alternative service in the Federal Register and invited comments from interested parties. (See Appendix A)

At the heart of this concept paper is an approach or attitude, if you will, which has persisted through the SSS's subsequent efforts to write detailed regulations for the alternative service program and which has tended, in our opinion, to impede the ongoing dialogue and negotiations between the SSS and those who will be affected by its eventual final regulations.

The SSS's approach in its initial concept paper calls for a highly centralized program, operated by the Director of Selective Service, with emphasis on the job to be done, rather than on the individual objector and his rights and needs.

The concept paper's view of the C.O. population as a resource to be used " . . . to help alleviate civilian workforce shortages in a national mobilization . . ." is difficult, if not impossible, to square with the Mennonite beliefs that any constructive non-military, service should be an acceptable alternative and that direct support to the mobilization effort is unacceptable.

The insistence on centralized control of alternative service programs, both in the concept paper, and in subsequent efforts to write detailed regulations, has also fueled Mennonite concerns that an objector's needs of

conscience will be overwhelmed in a bureaucratic numbers game which has as its primary purpose the filling of vacancies.

In June of 1982--after much comment from interested parties--the SSS tried to flesh out its earlier concept paper by the Federal Register publication of a proposed detailed rule for the administration of alternative service programs. This proposal, which would be replaced in September of the same year, sharpened the political dialogue which, as of ^{this} (the) writing in late January, 1983, is still underway between the SSS and those individuals and institutions who objected to some or all of the proposed rules contents. (See Appendix B)

As might be expected, the Mennonite Church took sharp exception to several provisions of the rule. The Mennonite Central Committee noted that the proposed rule did not deal with the known Mennonite concern that alternative service should not be treated as part of an overall military mobilization program.

The Mennonite Church also had specific difficulties with provisions in the rule which sought to strengthen the role of the SSS's Director ~~in the~~ assignment of objectors to jobs, the priority of which had been established by the system, and to make non-appealable these and other placement decisions.

In August, the SSS tallied the responses which it had received from its June proposal and found that 832 respondents had made 2,503 comments on various sections of the proposed rule. These responses came from a variety of institutions (i.e., religious groups, schools, and professional organizations) and from individuals. The SSS arrayed these responses as shown in Table 1.

TABLE 1

TABLULATION OF RESPONSES TO PROPOSED ALTERNATIVE
SERVICE REGULATIONS OF JUNE 7, 1982

<u>Topic</u>	<u>Number of Commenters Citing Topic</u>	<u>Percentage of Commenters Citing Topic</u>
General	181	7%
Military Character	567	23%
Overseas	194	8%
Orientation	74	3%
Volunteering	84	3%
Job Criteria	10	3%
Job Selection Process	146	6%
CO Job Choice	280	11%
Priority Setting	273	11%
Job Placement Appeals	297	12%
MEPS Physicals	65	3%
Guaranteed Placement	105	4%
Church Sponsorship	210	8%

On September 30, 1982, the SSS in response to the comments received on its June publication, turned again to the Federal Register with a new proposed rule. ~~This new rule, to quote from it,~~ notes that the earlier concept paper " . . . has no stature and should not be considered in interpreting this proposal." It also replaces the proposed June rule.

To some extent then, the September publication represents a refreshing willingness on the part of the SSS to learn from its earlier efforts and a desire to start anew in its attempt to create a regulatory framework for alternative service.

The September rule, responding to the expressed concerns of Mennonites (and others) does certain things for the first time. Inter alia, it establishes a civilian review board to hear placement appeals; defines certain types of prohibited work, and generally moves toward giving the individual objector a greater say in his placement and in the conditions of this continued employment. (See Appendix C)

As of this date, the SSS is still reviewing the comments received in response to its September publication.

TABLE 2
TABULATION OF RESPONSES TO PROPOSED
ALTERNATIVE SERVICE REGULATIONS OF SEPTEMBER 30, 1982

<u>Topic</u>	<u>Number of Commenters Citing Topic</u>	<u>Percentage of Commenters Citing Topic</u>
Civilian Review Board	131	74%
Military Character	88	49%
Job Criteria	58	33%
Overseas Service	57	32%
Priority Setting	47	26%
Job Selection Process	36	20%
General Comment	23	13%
Creditable Time	22	12%
Volunteering	20	11%
Hardship	17	10%
Open Placement	15	8%
Compensation	10	6%
Medical Care	9	5%
Reassignment	8	4%
Church Sponsorship	8	4%
Administration	6	3%
Union Membership	2	1%
Union Busting	2	1%
Orientation	1	1%
Exclusion of For Profits	1	1%
Travel Costs	1	1%
Postponement	1	1%

It has not yet attempted to publish a final rule nor has it gone back to the Federal Register with a new proposed rule. However, there is some reason to believe, that the SSS will move to further liberalize its regulations. The SSS, as an example, now appears willing to accept supervised employment outside the United States. Such employment is explicitly prohibited in earlier proposals but is, in fact, as we shall shortly see, one of the desired elements in any Mennonite plan for alternative service.

It appears then that movement has occurred, and indeed is continuing to occur. In a democratic, pluralistic society such as ours, compromise and convergence are at the center of any workable scheme of public administration.

C. Mennonite Alternative Service Proposal

At this point, let us recall our charge from the SSS to examine ways in which alternative service can be made more palatable to the Mennonite Church. The points which follow are extracted directly from a document furnished to the authors by members of the U.S. Peace Section of the Mennonite Central Committee on 24 January 1983 and, as a result, have whatever official standing such transmission affords.

1. Alternative service should be separated from any civil defense or post-attack recovery work, as these activities lend credibility to the strategy of fighting and winning a protracted conventional or nuclear war.

2. Alternative service programs should be administered by a "purely civilian" agency, staffed by non-military personnel, and attached neither to the DOD or to Selective Service. (As an author's aside, those Mennonite

officials with whom we have spoken tend to view Selective Service as a de facto, if not de jure, arm of DOD. This view is tied, in part, to the large number of military-affiliated persons, including the Director, who hold high positions in the system.)

3. Alternative service work can be performed both in the United States and in foreign countries.

4. The following kinds of alternative service work should be allowed:

a. Work with civilian government agencies, with expenses to be assumed by the agency to which the objector is assigned. Individuals should have the right to request transfer from, and between, agencies.

b. Work with religious agency projects, under an agreement drawn up by the agency and the government.

c. Private sector work on projects which meet the health, safety, or interest criteria. This work could be a continuation of existing employment or a new assignment.

d. Special or regular employment with religious agencies, with a high degree of delegation of responsibility to the religious body for program administration.

5. No objector should be assigned to service which conflicts with his religious convictions against military service.

6. Self-placement should be encouraged, and the objector should be given reasonable time to obtain placement after being given an induction notice. The objector should also be allowed to volunteer for alternative service prior to the receipt of such notice, with appropriate credit for service prior to notice.

7. The benefits and terms of service should be commensurate with those afforded to, or required of, similar positions in the civilian sector or the military establishment.

8. Conscientious objectors should have full access to a religious ministry which will be provided by the churches.

9. A broad range of alternative service programs should be set up to meet the needs of moral and ethical conscientious objectors, where such needs cannot be met through church programs.

CHAPTER III

CONCLUSION AND RECOMMENDATIONS

The process of accommodation continues, with the SSS doing most of the accommodating. The SSS's September proposal evidences movement toward a central position around which the parties to this dialogue can perhaps, with some reservations, agree. It must be accepted as fact that the Mennonite Church will not disavow its historic position of opposition to war and to military service in any form. This nation's experience during World War II can perhaps serve as a useful model in the construction of a workable and fair system for alternative service. The phrase which, in our minds, at least, best describes the WWII experience is that of delegation and decentralization.

There are no legal reasons--and, if such are seen to exist, no reason why the law cannot be changed--which prohibit the Selective Service from adopting most, if not all, of the suggestions made by the Mennonite Peace Section. The SSS does not need a set of regulations which are so onerous in their operation as to require punitive action against large numbers of persons. Indeed, many of the Mennonite suggestions can be assumed as self-operative, i.e., no alternative service program will be established in this country which denies access to a religious ministry. Other suggestions, such as the legitimization of overseas work, already appear to be in process of acceptance by the SSS.

We, therefore, recommend that the SSS set aside its fears that large numbers of persons will avail themselves of C.O. status on moral or ethical grounds. The law is plain on this matter--classification is a matter for the

local board, and no distinction can be made between the ethical or moral C.O. and the religiously-grounded person in the assignment of alternative service. To believe and act otherwise is to destroy the legal basis for alternative service. To assume impossibly large numbers of ethical and moral C.O.s is to call into question the entire workability of alternative service. But that's the subject of a different paper.

The effort to create an alternative service program--which now spans more than two years has floundered through lack of true communication. It is our hope that this paper, coming as it does from a third party, will be useful in rekindling a productive dialogue.

APPENDIX A

under 30 CFR Part 736 has been completed. . . . Similarly, the rules provide that after a final decision disapproving a State program, the State may submit another proposed State program at any time after implementation of a Federal program (see 30 CFR 732.14 and the preamble at 44 FR 14961). These provisions preclude a State which has failed to receive approval of its program from submitting another State program until after a Federal program has been implemented in the State.

As noted in the preamble to the final rules (44 FR 14961), § 732.14 was based on the express language of Section 504(e) of the Act, which provides that a "State which has failed to obtain approval of a State program prior to implementation of a Federal program may submit a State program at any time after such implementation" (emphasis supplied).

Comments to the proposed final regulations suggested that § 732.14 be changed to allow submission of a new proposed State program at any time. North Dakota Public Service Commission, comments F-22.5, F-48.8, p. 44; Soil Conservation Society of America, comment F-177; Carter Oil Co., comment F-42B. These commenters argued that it would be wasteful to force a State to wait until after a Federal program was completely implemented before submitting a new program. Once that State program is accepted, the newly implemented Federal program would have to be dismantled (30 U.S.C. 504(e); 30 CFR 736.16). The response to these comments stated that Section 732.14 was authorized by Sections 504(a)(2) and 504(e) of the Act (44 FR 14961, March 13, 1979).

A re-examination of § 504(e) of the Act indicates that while it authorizes 30 CFR 732.14, it does not mandate the restriction on resubmission of proposed State programs. The language in Section 504(e) is permissive in that it states that a State may submit a new program after the Federal program is implemented. It may be inferred from this permissive language that Congress intended this section simply to mean that the implementation of a Federal program would not end the chance for resubmission of a proposed State program.

The Findings of Congress in drafting this legislation support this interpretation. Section 101(f) states that the States are better suited to regulate the surface mining of coal because of the diversity of physical conditions among the various States (30 U.S.C. 1201(f)). The States, after a disapproval, should therefore be able to submit revised

proposed programs as often and as early in the regulatory scheme as necessary to gain primacy.

There is nothing in the legislative history that contradicts this interpretation. The Conference Report on the Act described Section 504(e) as a procedure for smooth transition from Federal to State regulation (H. Conf. Rep. No. 493, 95th Cong., 1st Sess. 102 (1977)). Allowing a State to submit a proposed program before the Federal program is implemented will not affect the smoothness of the transition from Federal to State; in fact, the transition may not be necessary if the State program is approved before the Federal program is implemented.

Accordingly, 30 CFR 731.12 and 732.14 are proposed to be amended by adding provisions to allow submission of a State program at any time following a final decision by the Secretary, rather than waiting until a Federal program is implemented:

Note.—The Assistant Secretary has determined that, pursuant to § 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on these rules. The Assistant Secretary has determined that these rules are not significant under Executive Order 12044 and 43 CFR Part 14, 43 FR 52292 *et seq.* (December 12, 1979). The Assistant Secretary has further determined that the proposed rules will not have a significant economic effect on a substantial number of small entities as the rules are essentially a procedural change with no direct impact on small entities. Primary author of this document is Mary Croater, Division of State Programs, Office of Surface Mining.

Dated: January 15, 1981.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Text of Proposed Amendment

PART 731—SUBMISSION OF STATE PROGRAMS

§ 731.12 [Amended]

1. 30 CFR 731.12(b)(1) is proposed to be amended by redesignating it as 731.12(b)(2).

2. 30 CFR 731.12(b)(2) is proposed to be amended by redesignating it as 731.12(b)(3).

3. 30 CFR 731.12(b)(3) is proposed to be amended by redesignating it as 731.12(b)(4).

4. 30 CFR 731.12(b) is proposed to be amended by adding a new 731.12(b)(1) to read: "By a final decision, the state program submitted under 30 CFR 731.12(a) is disapproved; or . . ."

5. Revised 30 CFR 731.12(b) would read:

§ 731.12 Submission of State programs.

(b) States may submit a proposed program at any time later than June 3, 1980, if:

(1) By a final decision, the State program submitted under 30 CFR 731.12(a) is disapproved; or

(2) Implementation of a Federal program under 30 CFR Part 736 has been completed; or

(3) There have been no surface coal mining and reclamation operations since August 3, 1977, but coal exploration or surface coal mining operations are anticipated; or

(4) A State program has been enjoined by a court of competent jurisdiction, in which case the requirements of 30 CFR 730.12 shall apply."

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

§ 732.14 [Amended]

6. 30 CFR 732.14 is proposed to be amended by inserting after the words Regional Director in the first sentence "at any time after the date of the final decision; or."

7. Revised 30 CFR 732.14 would read in its entirety:

§ 732.14 Resubmission of State programs.

If, by a final decision, the program is disapproved, the State may submit another proposed state program to the Regional Director at any time after the date of the final decision, or at any time after implementation of a Federal program for that State under 30 CFR 725. Resubmitted State programs must meet the requirements of 30 CFR 731.14 and will be acted upon pursuant to 30 CFR 732.12-732.18.

[FR Doc. 81-2208 Filed 1-21-81; 8:46 am]
BILLING CODE 4310-05-M

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Alternative Service; Proposed Concept

AGENCY: Selective Service System.

ACTION: Proposed Concept of Alternative Service.

SUMMARY: The Selective Service System is considering revising its concept of alternative service in accord with the document reproduced below.

Alternative service could be required only after the induction of persons into the armed forces has been authorized. That authority does not exist at the present time. Should the Congress in the future authorize the resumption of

inductions, the Selective Service System must be prepared also to implement a program of Alternative Service.

OATE Comments that are received on or before March 31, 1981 will be considered.

ADDRESS: Selective Service System,
ATTN: Manager, Alternative Service,
600 E Street, NW., Washington, D.C.
20435.

FOR FURTHER INFORMATION CONTACT:
William D. McCann, Manager,
Alternative Service, 600 E Street, NW,
Washington, D.C. 20435. Phone (202)
724-0003.

SUPPLEMENTARY INFORMATION:
Alternative service is administered under authority of section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456 (j)). Present regulations governing alternative service appear in 32 CFR Part 1660.

Bernard Rostker
Director of Selective Service,
January 18, 1981.

The proposed concept is:

Alternative Service Concept Paper:
Selective Service System

January 1981.

Introduction

Following a long tradition in U.S. History, the Military Selective Service Act imposes a general citizen obligation for military service. All men, aged 18 to 28, are subject to be called for training and service in the Armed Forces. Within the general citizen obligation, the Act recognizes that there are individuals whose religious or moral beliefs prohibit them from participating in any type of warfare. Thus, under the Act, Conscientious Objectors are exempted from military service, but must, in lieu of induction, fulfill their citizen obligation by performing "such civilian work contributing to the maintenance of the national health, safety or interest as the Director may deem appropriate". The Director of Selective Service is specifically charged with the responsibility "for the placement of such persons (Conscientious Objectors) in appropriate civilian work". (50 U.S.C. App. 456(j) Supp.)

This paper presents a concept for an Alternative Service Program whereby the Director of Selective Service can insure that Conscientious Objectors will meet their obligation through their placement in non-military jobs contributing to the national health, safety or interest. The concept embraces a confluence of civilian work force priorities, specific job openings appropriate for alternative service and individual skills in an efficient and

systematic way which will treat Conscientious Objectors fairly and with dignity.

Program Structure

The Alternative Service Program for Conscientious Objectors would operate under a structure which would provide for the interaction of three primary program components. These are:

1. *Priorities.* The Alternative Service Program must identify areas of crucial civilian work force shortages and set placement priorities.

2. *Jobs.* Within the priority areas, the Alternative Service Program must identify specific job openings.

3. *People.* The Alternative Service Program must be able to determine the aptitudes and abilities of participating Conscientious Objectors and match them with jobs contributing to the national health, safety or interest.

Priorities

Alternative service would be performed by Conscientious Objectors in lieu of induction into the Armed Forces, therefore, the program would be activated only during a national emergency and mobilization. In such an emergency, it is expected that shortages in the civilian work force would develop as large numbers of young people enter military service, and industrial needs place new stresses on the labor market. These circumstances would create a need for national and regional resource and work force management. As the agency within the Federal Government designated to serve as the focal point for emergency activities, the Federal Emergency Management Agency (FEMA) has a direct concern in matters of policy which affect the distribution of, or powers to control, the distribution of work force between military and civilian users in a mobilization.

FEMA's responsibilities relate to Selective Service because Conscientious Objectors placed in work in the national health, safety or interest would constitute a workforce pool which could be used to fill shortages in essential civilian areas. Selective Service would obtain from FEMA, the Department of Labor and other Federal agencies, information pertinent to prioritizing civilian work gaps. Selective Service would make every attempt to place Conscientious Objectors in accordance with the priorities so long as the jobs were in conformity with the legal requirements for alternative service.

There would also be an important corollary to the process of determining priorities: public and private agencies would become aware of their respective work force shortages. This awareness

would presumably lead them to take the initiative in filling work force shortages. To the extent that their needs could be met by Conscientious Objectors, they would be as eager to enlist them as Selective Service would be to place them. This would facilitate the placement process and permit all agencies concerned to move expeditiously toward the accomplishment of their objectives.

Selective Service National Headquarters would be responsible for overall management and coordination with FEMA and the other agencies. On the regional level, the Selective Service System would review employment priorities as they are channeled down from the national headquarters. An evaluation of job descriptions submitted to the regional offices would be conducted based on the employment priorities. In addition, the Regional Alternative Service office would conduct operational evaluations of the Alternative Service work programs within the region.

As a program designed in part to help alleviate civilian work force shortages in a national mobilization, it is crucial that the Alternative Service Program be designed to insure a rapid and efficient placement of workers to priority areas. The Alternative Service Program must be able to stimulate employers to participate. Moreover, the Alternative Service Program must be able to guarantee the timely placement of Conscientious Objectors. For these reasons, it is anticipated that the Federal Government fund alternative service work through a system of stipends or employer tax incentives.

Jobs

The work force placement priorities determined through the efforts of FEMA, the Selective Service System and the Department of Labor, would be applied to job openings identified as suitable for alternative service placements. The listing of approved job openings would be derived from job openings submitted to the regional offices. Job openings submitted to the regional offices for evaluation would come from several different sources. Liaison activities between local Selected Service System offices and State Employment Security Agency offices could provide a broad source of job openings. Local Alternative Service office contacts with state and local governments, community health and service organizations would also provide a source of available jobs. Additionally, job openings in Federal agencies could be identified through the Office of Personnel Management and the respective agencies. Following the

evaluation for appropriateness to alternative service, a job description would either be deemed acceptable, and subsequently entered into the data files established for approved job descriptions, or unacceptable, in which case it would be dropped from the program.

Job openings submitted for evaluation by the various sources would be entered into the data banks through terminals located at designated Alternative Service offices. The data system, established to maintain the Alternative Service Program information files, would consist of a data bank at the national level with input coming from and output flowing to the designated area and regional Alternative Service offices. The data system would provide two types of output: output about all Conscientious Objectors who are or were involved in the program and data about the jobs available and unfilled, and those jobs already filled in the program.

The job identification and development function would require assistance from FEMA, the Office of Personnel Management, Department of Labor and Selective Service System National Headquarters to encourage employers experiencing work force shortages to submit their job openings. Additionally, the Department of Labor would serve the Alternative Service Program by facilitating a cooperative effort between the Alternative Service area offices and the State Employment Security Agency offices in identifying potential job placements. Personnel from State Employment Security Agency offices, serving in a liaison capacity, could assist these offices in identifying potential job placements.

In order to identify public agencies, private and religious organizations which would be prepared to sponsor Conscientious Objectors, the Alternative Service Program staff will undertake a series of discussions with such potential sponsors in advance of mobilization. These organizations would be encouraged to develop employment programs for Conscientious Objectors. The programs would have to meet guidelines established by Selective Service to insure that they would contribute to the national health, safety or interest and be appropriate for alternative service. Selective Service would develop agreements, which would include provisions for compensation, placement, and monitoring with the sponsoring organizations, so that the employment programs would be ready to operate and

accept Conscientious Objectors shortly after a mobilization.

People

A viable and successful Alternative Service Program must seek to match the skills and abilities of Conscientious Objectors with the priority job openings. Skill and aptitude tests could be administered to incoming Conscientious Objectors. Additionally, Conscientious Objectors could be interviewed by alternative service personnel at the local Selective Service office. Potential job placements would be made from the job bank. Conscientious Objectors could be placed in individual job openings or in approved group work projects.

Unlike virtually all other placement agencies, alternative service would perform no recruitment functions whatsoever. It would not be the function of the Alternative Service Program to find Conscientious Objectors for all the work force shortages that may exist in an emergency. Rather, it would be the job of the Alternative Service Program to place everyone who was classified as a Conscientious Objector in an alternative service job which contributed to the maintenance of the national health, safety or interest. This calls for a placement process oriented to the Conscientious Objectors rather than to the jobs to be filled.

Alternative service personnel would be responsible for giving to persons entering alternative service (1) information concerning citizenship obligations and alternative service as a concept and (2) information about the Alternative Service Program, including pay, leave, duration of service and medical coverage. Depending on the nature of the emergency, it is also possible that alternative service entrants would receive training in areas such as first aid. Although alternative service placements are expected to be quite varied, this common training would equip them, regardless of their alternative service job, to render a much needed humanitarian service in an emergency.

Alternative Service would seek to maximize the Conscientious Objector's job retention. It is anticipated that most Conscientious Objectors would remain with their employers throughout their terms of service. In case emergencies arise, it may be necessary to transfer temporarily some Conscientious Objectors to meet such emergencies. The job training and day-to-day supervision of Conscientious Objectors in the program would be the responsibility of the employer. Both the employer and the Conscientious Objector would have reporting

requirements to Alternative Service and be subject to audits.

In the placement and oversight of alternative service work projects, Alternative Service would seek ways to insure that both the participants and the public were aware that alternative service is a necessary and legitimate fulfillment of the Conscientious Objector's obligation as a citizen. Alternative Service Program representatives would visit work sites to maintain close contact with Conscientious Objectors. Employers and beneficiaries of alternative service work would be encouraged to publicly recognize the contribution of the program.

The proposed function and responsibilities of each agency are summarized in Chart I. It depicts the responsibilities of the national, regional and local branches of Federal agencies, state and local governments and private employers participating in the Alternative Service Program.

Administration

As the Alternative Service Program is a necessary component to Selective Service's mission of providing an untrained work force in a national emergency, Selective Service must retain all administrative and programmatic control over the Alternative Service Program. To promote efficiency and accountability, the structure of the Alternative Service Program would parallel the Selective Service structure as closely as feasible. Like inductees, Conscientious Objectors would be processed completely at the local level by alternative service personnel stationed in designated area offices.

In order to meet its responsibility in a timely fashion, Selective Service will explore possibilities for the rapid processing and placement of Conscientious Objectors. Discussions will be held with educational institutions and other organizations that may be interested in hosting a number of Conscientious Objectors. It is anticipated that a number of pre-emergency agreements will be made between Selective Service and sponsoring organizations.

BILLING CODE 2916-01-01

**FUNCTIONS OF COOPERATING AGENCIES
IN ALTERNATIVE SERVICE**

SELECTIVE SERVICE SYSTEM	DEPARTMENT OF LABOR	FEDERAL EMERGENCY MANAGEMENT AGENCY	OPM AND FEDERAL AGENCIES	STATE AND LOCAL GOVERNMENT/PUBLIC SERVICE EMPLOYERS
<ul style="list-style-type: none"> •Policy Development •Program Guidance •Maintains Job Bank •National Job Development and Priorities Administration •Coordination with Other Federal Agencies •Chairs Alternative Service Interagency Committee 	<ul style="list-style-type: none"> •Supplies Manpower Data to FEMA and SSS •Participates in Priority Setting •Directs SESA in SSS/FEMA Coordination •Member of Alternative Service Interagency Committee 	<ul style="list-style-type: none"> •Coordinate with SSS in Planning to Include Alternative Service in National Emergency Preparedness Plan •Member of Alternative Service Interagency Committee 	<ul style="list-style-type: none"> •Develop and Submit Manpower Shortages to FEMA •Organize Existing Programs for Possible Employment of CO's •Member of ASP Committee 	<ul style="list-style-type: none"> •Participation on Alternative Service Advisory Committee
<ul style="list-style-type: none"> •Administrative Support for Local Offices •Determines Acceptability of Job Openings for ASP •Review and Interpret Employment Priorities •Operational Evaluating of ASP Work Program in Region •Receives Job Listings 	<ul style="list-style-type: none"> •Supplies Manpower Data 		<ul style="list-style-type: none"> •Submit Manpower Needs to Agency's National Headquarters 	
<ul style="list-style-type: none"> •Administrative Responsibility for CO's Interviews and Places CO's •Oversight of Local ASP Work Projects •Review Job Listings •Coordinate with SESA Office •Local Job Development 	<ul style="list-style-type: none"> •SESA Offices Establish Liaison with Alternative Service Local Office •Submits Job Listings to Alternative Service •Assists in Local Job Development 		<ul style="list-style-type: none"> •Submit Specific Job Openings •Day-to-Day Job Supervision of CO's •Training of CO's Reporting to Local ASP Officer 	<ul style="list-style-type: none"> •Submit Specific Job Openings •Day-to-Day Job Supervision of CO's •Training of CO's Reporting to Local ASP Officer

NATIONAL

REGIONAL

LOCAL

SALENO CODE 0018-01-0

In addition to their job placement function, alternative service personnel would be the primary administrative contact for both participating employers and working Conscientious Objectors within the area of jurisdiction. The alternative service personnel would continue to be the contact points for Conscientious Objectors throughout their service. Alternative service personnel would be responsible for initiating and maintaining the files of Conscientious Objectors involved in the program. They would handle travel arrangements and payments to Conscientious Objectors. Additionally, alternative service personnel would be responsible for receiving reports from and auditing participating employers. Selective Service regional offices would provide administrative and logistical support to alternative service personnel. Operational evaluation of the Alternative Service Program placements within the regions would be conducted by alternative service officials.

At the national level, the Selective Service System would initiate all administrative policy and establish the necessary guidelines to enable individual employers to supervise the Conscientious Objectors under their authority. The Alternative Service Program National Headquarters would provide overall management and monitoring of the program.

Advisory and Coordinating Committee

The participation of a number of federal agencies on a standing coordinating committee is a viable means of providing the coordination and input needed in implementing the Alternative Service Program. Policy and guidance established by the Selective Service System would be presented to the committee agencies for dissemination. The committee would also provide the agencies with a contact point for expressing both work force needs and input for priority determinations in meeting those needs. The agencies involved would include, but not be limited to, Selective Service System, FEMA, OPW and the Department of Labor. The Selective Service System would form and chair the coordinating committee.

In addition to a federal coordinating committee, it would be advantageous to have an advisory committee on alternative service. Organizations or individuals interested in Conscientious Objectors and alternative service and employers participating in the program could be represented on the committee. If the plan for a broader Selective Service Advisory Committee is carried

out, a panel of that committee could be devoted to alternative service.

Summary

The Director of Selective Service is required by law to place Conscientious Objectors in appropriate civilian work. This paper sets forth a conceptual framework within which Conscientious Objectors can meet their alternative service obligation with fairness and dignity.

The framework is constructed from a tripod consisting of priorities, jobs and people. Conscientious Objectors would make a civilian contribution by working in areas of national priority. Most of the actual jobs in alternative service would be generated locally a result of extensive contacts between area alternative service officers and a host of private, public service organizations, such as hospitals, and with public agencies, such as the State Employment Security Agency.

Finally, Conscientious Objectors would be placed in priority jobs appropriate to their abilities. The placement process would be assisted by a job data bank which would also maintain a continuing profile of alternative service jobs and people.

Such an Alternative Service Program would fulfill the Selective Service Director's responsibility under the law; would contribute to the nation's health, safety and interest in a critical time; would render humanitarian assistance that would otherwise be neglected; and would sustain the faith of those who defend the nation.

FR Dec 22-2287 Filed 1-21-81 6:45 am
BILLING CODE 2010-01-01

DEPARTMENT OF EDUCATION

34 CFR Part 64

Museum Services Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Institute of Museum Services proposes an amendment to its regulations governing a program of Federal financial assistance to museums under the Museum Services Act. The proposed amendment expands the types of assistance offered under the program to include assistance for institutional assessment.

DATE: Comments must be received on or before February 23, 1981.

ADDRESSES: Comments should be addressed to Mrs. Lee Kimche (Room 4110, Switzer Building), 400 Maryland Ave., SW, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mrs. Lee Kimche, telephone (202) 245-0413.

SUPPLEMENTARY INFORMATION:

Nature of Program

The Museum Services Program is authorized by the Museum Services Act which is Title II of the Arts, Humanities, and Cultural Affairs Act of 1978. The Museum Services Act ("the Act") was enacted on October 8, 1978. The purpose of the Act is stated in section 202, 20 U.S.C. 981, as follows:

It is the purpose of this (Act) to encourage and assist museums in their educational role in conjunction with formal systems of elementary, secondary, and post-secondary education and with programs of nonformal education for all age groups; to assist museums in modernizing their methods and facilities so that they may be better able to conserve our cultural, historic, and scientific heritage; and to ease the financial burden borne by museums as a result of their increasing use by the public.

The Act establishes an Institute of Museum Services (IMS) consisting of a National Museum Services Board (NMSB) and a Director. A more detailed description of the structure of the Institute and the provisions of the Act may be found in 43 FR 45166 (September 29, 1978).

Current Program Regulations

Current program regulations for IMS were issued on August 11, 1980 by the Secretary. These regulations were published at 45 FR 53414. The current regulations provide rules for the definition of "museum" (under the program); the eligibility of museums for assistance; the types of assistance available; the requirements which applicants must meet; and the criteria used to judge applications. The program regulations provide for assistance to museums for one year general operational support (GOS) and for project support. The Secretary has also issued regulations under the Government in the Sunshine Act governing the conduct of NMSB meetings in 43 FR 53412 (Aug. 11, 1980).

Proposed Change: Museum Assessment

The Secretary proposes to amend the program regulations by adding a new Subpart B which would provide rules for the award of grants to museums to assist and encourage them to obtain institutional assessment. The assessment process generally involves review of a museum's overall programs and operations; diagnosis of their strengths and weaknesses; recommendations for long range planning; and suggestions for further

APPENDIX B

We also have given some thought to inviting industry and public comment on the other half of the flexibility equation—the price floor. We have no thought of advocating a return to our former price regulation. What does motivate us, however, are two objectives that we believe are quite consistent with our deregulatory posture.

1. The Congress has placed before the Board not only the mandate for deregulating carrier pricing but also an oversight responsibility for that course. With present concerns in the industry directed at both prices that are possibly too low as well as too high, we see some need for closer watch of upward and downward movements in the remaining crucial nine months of oversight.

2. The Board has already established some policies at the lower end of the pricing scale in regard to predatory or anticompetitive discount pricing (see § 399.32 of the Board's Policy Statements). Although we have no evidence of predatory pricing practices, the Board is aware of some carrier concerns in the subject area. While we are unsure of the most appropriate forum for listening to full carrier comments, we feel the Board should take the initiative to create a valid forum for full exploration of all of the current pricing realities.

Phyllis T. Kayles,

Secretary.

(FR Doc. 82-12389 Filed 6-4-82 9:46 am)
BILLING CODE 5020-01-0

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before July 7, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the Federal Register of a final rule not earlier than July 7, 1982.

ADDRESS: Written comment to: Selective Service System, Attn: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel.

Selective Service System, Washington, D.C. 20435 Phone: (202) 724-0895.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)).

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed Forces; Draft, Conscientious objection.

Dated: June 1, 1982.

Thomas K. Turnage,
Director.

PART 1660—[REMOVED]

32 CFR Part 1660, Alternative Service, is removed.

32 CFR Part 1656 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

- 1656.1 Definitions.
- 1656.2 Responsibility for administration.
- 1656.3 Area office jurisdictions and responsibilities.
- 1656.4 Employer responsibilities.
- 1656.5 Employment development.
- 1656.6 Alternative service worker's responsibilities.
- 1656.7 Order to perform alternative service.
- 1656.8 Job placement.
- 1656.9 Orientation.
- 1656.10 Volunteer for alternative service.
- 1656.11 Computation of creditable time.
- 1656.12 Postponement—grounds and procedures.
- 1656.13 Suspension of order to perform alternative service because of hardship to dependents.
- 1656.14 Job performance standards and sanctions.
- 1656.15 Reassignment.

Sec.

- 1656.16 Early release—grounds and procedures.
 - 1656.17 Employment agreements.
 - 1656.18 Administrative complaint process.
 - 1656.19 Administrative review.
 - 1656.20 Completion of alternative service.
 - 1656.21 Expenses for emergency medical care.
- Authority: 50 U.S.C. App. 456(j).

§ 1656.1 Definitions.

(a) The provisions of this part govern the Alternative Service Program for conscientious objectors.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Alternative Service.* Civilian work performed in lieu of military service by a registrant who has been classified in Class 1-0.

(2) *Alternative Service Worker (ASW).* A registrant assigned to perform alternative service.

(3) *Civilian Work.* The type of employment approved by the Director of Selective Service under the provisions of section 6(j) of the Military Selective Service Act which contributes to the maintenance of the national health, safety or interest.

(4) *Creditable Time.* Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(5) *Designated Area Office for Alternative Service (DAO).* An Area Office designated by the Director of Selective Service to administer the Alternative Service Program in a specified geographical area.

(6) *Employer.* Any person, institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions or the Commonwealth of Puerto Rico who has been approved by Selective Service to employ ASWs.

(7) *Guaranteed Placement.* The assignment of ASWs to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

(8) *Job Bank.* A current inventory of job openings.

(9) *Job Matching.* A comparison of the ASW's work experience, education, training, special skills, and work preferences with the positions in the job bank.

(10) *Job Placement.* Assignment of the ASW to alternative service work.

(11) *MEPS.* A military installation to which registrants are ordered to report for examination and determination of their acceptability for service.

(12) *Orientation.* Instructions given by the DAO to the ASW regarding his rights and duties necessary to fulfill

satisfactorily his Alternative Service obligations.

§ 1656.2 Responsibility for administration.

(a) The Director of Selective Service in the administration of the Alternative Service Program shall establish and implement appropriate procedures for:

- (1) Assure that the program complies with the Selective Service Law;
- (2) Find civilian work for ASWs who are required to perform alternative service;
- (3) Place ASWs in approved jobs to perform alternative service;
- (4) Monitor the work performance of ASWs placed in the program;
- (5) Order reassignment and authorize job separation as necessary;
- (6) Issue certificates of completion;
- (7) Specify the location of Designated Area Offices for Alternative Service;
- (8) Specify the geographical area in which the Designated Area Office for Alternative Service shall have jurisdiction over ASWs;
- (9) Refer to Department of Justice any ASW who fails to satisfactorily perform his alternative service work assignment;
- (10) Perform all other functions necessary for the administration of the Alternative Service Program; and
- (11) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The Region Manager shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director of Selective Service.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director in accord with § 1605.12(b).

(d) The manager of the Designated Area Office for Alternative Service shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director of Selective Service.

(1) A Designated Area Office for Alternative Service shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) Subject to applicable law and within the limits of available funds, the staff of each Designated Area Office for Alternative Service shall consist of as many compensated employees as shall be authorized by the Director of Selective Service.

(e) The manager of an area office not designated for Alternative Service shall

perform duties for Alternative Service as prescribed by the Director.

§ 1656.3 Area office jurisdictions and responsibilities.

(a) The area office having in its jurisdiction the local board to which the Class 1-0 registrant is assigned will retain responsibility for the processing of the registrant until he has been:

- (1) Determined morally, physically and mentally acceptable for service;
- (2) Ordered by the local board to perform alternative service; and
- (3) Ordered to report for alternative service orientation and classified 1-W.

(b) After the above actions are accomplished, the ASW will be transferred to the jurisdiction of the DAO assigned to administer the Alternative Service Program where the registrant is assigned to perform alternative service. The DAO shall:

- (1) Evaluate and approve jobs and employers for Alternative Service;
- (2) Issue such orders as are required to schedule the ASW for job interviews;
- (3) Order the ASW to report for alternative service work;
- (4) Monitor the ASW's job performance;
- (5) Issue certificates of satisfactory completion of his alternative service obligation; and
- (6) Return the ASW to the jurisdiction of the area office from which he was transferred.

§ 1656.4 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

- (a) Entering into and complying with the employment agreement with Selective Service; and
- (b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW.

§ 1656.5 Employment development.

(a) The Director of Selective Service will determine which employment programs or activities contribute to the maintenance of the national health, safety or interest.

(b) The Director may establish priorities in the assignment of ASWs among employers and types of civilian work.

(c) Selective Service will contact organizations whose activities or programs may be appropriate for alternative service employment and will solicit their participation.

(d) An organization desiring to employ ASWs to perform Alternative Service is encouraged to submit a request in writing to Selective Service for approval.

(e) Selective Service shall negotiate employment agreements with eligible employers who will provide prospective job listings to Selective Service.

(f) Selective Service may also negotiate agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for guaranteed placement positions.

(g) An ASW voluntarily may seek his own alternative service work by identifying a job with a possible employer he believes would be eligible for Alternative Service and by having the employer advise the DAO in writing that he desires to employ the ASW. The acceptability and priority of the job so identified will be evaluated as all others considered for ASW assignment.

§ 1656.6 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1-0 is required to comply with all orders issued under this part.

(b) A registrant classified in Class 1-0 is liable to perform 24 months of creditable time towards completion of Alternative Service.

§ 1656.7 Order to perform alternative service.

The local board of jurisdiction as prescribed in § 1633.11 of this chapter shall order any registrant who has been classified in Class 1-0, examined and found qualified, to perform alternative service at a time and place to be specified by the Director of Selective Service.

§ 1656.8 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) Information supplied by the ASW about his skills and training may be considered for job interview referral and potential job matching.

(c) When an ASW is hired, the DAO will issue a Job Placement Order, specifying the employer, the time, date and place to report for his alternative service work.

(d) If the ASW is not hired through the normal interview referral process within 30 days of his reporting for alternative service orientation, he may be ordered into guaranteed placement.

(e) An ASW may be ordered to guaranteed placement at any time without regard to other available employment in the job bank.

§ 1656.3 Orientation.

ASWs will be given an orientation as soon as practicable after the Order to Perform Alternative Service is issued.

§ 1656.10 Volunteer for alternative service.

No registrant shall be permitted to volunteer for Alternative Service.

§ 1656.11 Computation of creditable time.

(a) *General.* The basic unit of creditable time is the calendar month. A minimum of 35 hours a week, or an employer's full-time work week, whichever is greater, shall be used to establish the ASW's creditable time.

(b) Award of Creditable Time.

Creditable time will be awarded for:

(1) Satisfactory work performed in an approved job after Order to Perform Alternative Service is issued;

(2) Attendance at Alternative Service Orientation;

(3) Approved travel;

(4) Leaves of absences for up to five days granted by the employer to the registrant to attend to a personal emergency; and

(5) Up to a maximum of 30 days time lost during any single unemployment period which is not the fault of the ASW.

(c) *Non-Creditable Time.* Creditable time shall not be awarded for:

(1) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(2) Time during which the DAO determines that work of the ASW is unsatisfactory due to his failure to comply with reasonable requirements of his employer;

(3) A period of time, not to exceed 30 days after the date the ASW reports for orientation, which may be required by Selective Service for administrative processing and job placement;

(4) Time during which the ASW is not employed in an approved job because of his own fault;

(5) Time worked prior to the issuance of his Order to Perform Alternative Service; or

(6) Time during which the ASW is in a postponement period.

§ 1656.12 Postponement—grounds and procedures.

(a) *General.* The area office of jurisdiction may grant for the reasons set forth in paragraph (d) of this section, for a specific period of time, a postponement of the date an ASW is required to report in compliance with an alternative service order.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order for the

registrant to perform one of the reporting requirements listed below must be made in writing and filed prior to the reporting date with the area office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(1) Report to MEPS for examination;

(2) Report to a civilian authority for a contract examination;

(3) Report for alternative service orientation and job placement;

(4) Report for a job interview;

(5) Report to a job to commence employment.

(c) *Effect of Postponement.* A postponement of the reporting date of an alternative service order shall not render the order invalid, but shall only serve to postpone the date on which the registrant is to report. The registrant shall report at the expiration or termination of the postponement.

(d) *Grounds for Postponement.* A registrant may, upon presentation of the appropriate facts in his request, be granted a postponement based on one or more of the following conditions:

(1) The death of a member of the registrant's immediate family;

(2) An extreme emergency involving a member of the registrant's immediate family;

(3) A serious illness or injury of the registrant; or

(4) An emergency condition directly affecting the registrant which is beyond the registrant's control.

(e) *Basis for Granting Request.* The registrant's eligibility for a postponement shall be determined by the area office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the registrant or made by another person in support of the registrant shall be reduced to writing and placed in the registrant's file.

(f) *Duration of Postponement.* The period of postponement shall not exceed 60 days from the reporting date on the order. When necessary, the Director of Selective Service may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date on the most recently issued order.

(g) Termination of Postponement.

(1) A postponement authorized by this subsection may be terminated by the Director of Selective Service for cause upon no less than ten days written notice to the registrant.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW to notify the DAO in writing promptly

whenever the basis for which his postponement was granted ceases to exist.

(h) *Religious Holidays.* The Director of Selective Service may authorize a delay of reporting under any of the orders specified in § 1656.12(b) for a registrant whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report on the next business day following the religious holiday.

§ 1656.13 Suspension of order to perform alternative service because of hardship to dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.15(a) of this part and the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3-A if his Order to Report for Induction had not been revoked, further compliance with his work order shall be suspended, for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each of this period may be granted by the local board from time to time until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the DAO. This request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures in Part 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.14 Job performance standards and sanctions.

(a) *Standard of Performance.* An ASW is responsible to adhere to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. If there are no other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure to Perform.* An ASW will be deemed to have failed to perform satisfactorily under the following conditions whenever:

(1) He refuses to comply with an order of the Director of Selective Service;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates his employment because of conduct, attitude, appearance or performance which violates reasonable employer's standards; or

(4) He quits or leaves his job without reasonable justification.

(c) *Sanctions for Failure to Perform.*

(1) The sanctions for failure to perform Alternative Service include but are not limited to job reassignment, loss of creditable time and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the DAO will conduct a review as prescribed in § 1656.18 of all allegations that an ASW has failed to perform pursuant to any of the provisions of § 1656.14(b).

§ 1656.15 *Reassignment.*

(a) *Grounds for Reassignment.* Each of the following conditions may be the basis for job reassignments.

(1) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(2) An ASW's dependents incur a hardship which does not warrant a suspension of the Order to Perform Alternative Service under § 1656.13;

(3) The employer ceases to operate an approved program or activity;

(4) The employer fails to comply with the terms and conditions of the employment agreement;

(5) Continual and severe differences between the employer and ASW remain unresolved; or

(6) Director determines that reassignment is justified.

(b) *Who May Request Reassignment.* Any ASW may request a reassignment of his job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the DAO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

(d) It is the responsibility of the ASW to notify the DAO promptly in writing of any grounds which could be a reason for his reassignment.

§ 1656.16 *Early release—grounds and procedures.*

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service.

(b) *Reasons For Early Release.* The Director of Selective Service may authorize the early release of an ASW whenever the DAO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment due to a physical, mental or moral disability;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other designated location;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the completion of his alternative service obligation;

(4) Has been accepted for non-alternative service employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or volunteers for induction into the Armed Forces of the United States.

§ 1656.17 *Employment agreements.*

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects are specifically covered in the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating.* Whenever there is evidence that an employer is probably violating the employment agreement, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of the employment agreement, Selective Service may negotiate a resolution of

the matter with the employer within the terms of the employment agreement.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be obtained by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§ 1656.18 *Administrative complaint process.*

When the DAO becomes aware of a problem that involves an ASW's work assignment other than those covered in § 1656.17(b) or receives a complaint from an employer or an ASW, the DAO will take steps to resolve the problem. The DAO is authorized to:

(a) Interview all parties concerned to obtain information relevant to the problems or complaints; and

(b) Place a written summary of each interview in the ASW's file; and

(c) Inform the persons interviewed that they may prepare and submit to Selective Service within ten days after the interview their personal written statements concerning the problem. All such statements will be included in the ASW's file.

§ 1656.19 *Administrative review.*

(a) *General.* The Director of Selective Service shall establish for the Alternative Service Program a review system to resolve problems, complaints and grievances other than those identified in 1656.17(b) which occur during the period an ASW is required to perform alternative service. Problems that cannot be resolved between the ASW and the employer may be presented to the DAO by either the ASW or the employer. The DAO shall review the problem and takes steps to resolve it. The ASW may file a request for review of any reviewable decision.

(b) *The Region Office.* The Region Headquarters of jurisdiction shall review and act on any cases referred to it as prescribed by the Director of Selective Service. Any decision of the Region Headquarters may be reviewed by the Director of Selective Service.

(c) *Time To File Request.* An ASW may file with the DAO a written request for review of any reviewable decision within 15 days of the date of notice of the decision.

(d) *Non-Reviewable Decisions.* The following decisions by the DAO are final and not subject to appeal by the ASW:

- (1) Job assignments;
- (2) Job reassignments;
- (3) Postponements.

§ 1656.20 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b) (3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified 4-W in accordance with § 1830.47 of this chapter.

§ 1656.21 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses that are incurred as a result of illness or injury that occurs while the ASW is engaged in travel or performing work in Alternative Service under orders issued by or under the authority of the Director of Selective Service. Claims will be considered only for expenses for which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section.

(d) No claim shall be paid unless it is presented to the Director of Selective Service within one year after the date on which the expenses were incurred.

(e) No claim shall be allowed in any case in which the Director of Selective Service determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(f) Cost of emergency medical care including hospitalization greater than that which would be paid by Medicare for the same treatment, including hospitalization, will *prima facie* be considered unreasonable. Payment for burial expenses shall not exceed the maximum that the Administration of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

FR Doc. 82-15382 Filed 6-4-82 8:45 AM
BILLING CODE 3015-01-48

VETERANS ADMINISTRATION**38 CFR Part 21****Definition of Program of Education**

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: This proposed regulation updates the definition of "a program of education" and makes other minor, technical changes. The update makes clear that "a program of education" may consist of courses required by the Small Business Administration Administrator as a condition to obtaining financial assistance under 15 U.S.C. 636. Currently, the regulation makes an incorrect reference to a section of the United States Code. This proposal will bring the regulation into agreement with the law.

DATES: Comments must be received on or before July 8, 1982. The Veterans Administration proposes to make this regulation effective on the date of final approval.

ADDRESSES: Send written comments to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm, Monday through Friday (except holidays) until July 16, 1982. Anyone visiting the Veterans Administration Central Office in Washington, D.C. for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Visitors to VA field stations will be informed that the records are available for inspection only in Central Office and will be furnished the address and room number.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, D.C. (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4230 is amended to provide that a program of education may consist of courses required by the Administrator of

the Small Business Administration as a condition to obtaining financial assistance under 15 U.S.C. 636. Section 21.4230 is also written to make it clearer.

The Veterans Administration has determined that this proposed regulation does not contain a major rule as that term is defined by Executive Order 12291, Federal Regulation. The annual effect on the economy will be less than \$100 million. The proposal will not result in any major increases in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. This regulation is exempt under 5 U.S.C. 605(b) from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. This certification is based on the fact that this regulation will affect only individual benefit recipients. They will have no significant direct impact on small entities (i.e. small businesses, small private and nonprofit organizations, and small governmental jurisdictions.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grants programs—education, Loan programs—education, Reporting requirements, Schools, Veterans, Veterans Administration, Vocational education, Vocational rehabilitation.

The Catalog of Federal Domestic Assistance number for the program affected by the proposed amended regulation is 64.111.

Approved: May 20, 1982.

Robert P. Nimmo,
Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

The Veterans Administration proposes to amend 38 CFR Part 21 as follows:

Section 21.4230 is revised to read as follows:

§ 21.4230 Requirements.

(a) *Definition.* A program of education—(1) is a combination of subjects or unit courses pursued at a school which is generally accepted as

APPENDIX C

including cases where a State and the FHWA are co-defendants, and would eliminate any ambiguity that might exist concerning FHWA participation in such costs. This extension would clarify and promulgate current FHWA policy. It is considered necessary because there is some indication that increasingly States are being asked to pay for an opposing party's attorney fees.

The proposed rule is considered to be a reasonable limitation on the expenditure of Federal-aid highway funds and is similar to numerous other such limitations contained in FHWA regulations. Such limitations have been upheld by the courts on several occasions, most notably in *People of the State of California v. U.S.*, 547 F. 2d 1388, 1390 (9th Cir. 1977). See Also *People of the State of California v. U.S.*, 551 F. 2d 843 (Cl. Cl. 1977); *State of Nebraska Department of Roads v. Tiemann*, 510 F. 2d 448 (8th Cir. 1975); *Michigan State Highway Commission v. Coleman*, Civ. No. 78-581 (W.D. Mich. 1978); *Commonwealth v. Connor*, 248 F. Supp. 856 (D. Mass.) aff'd 368 F. 2d 778 (1st Cir. 1966); and *Louisiana Department of Highways v. U.S.*, 604 F. 2d 1339, (Cl. Cl. 1979).

The award of attorney fees against the Federal government is governed by 28 U.S.C. 2412. Prior to the amendment of § 2412 by the Equal Access to Justice Act, Title I of Pub. L. 96-481, it provided that attorney fees could not be awarded against the Federal government unless expressly provided by statute. Section 2412, as amended, now provides for the recovery of attorney fees against the Federal government in proceedings "pending on or commenced on or after October 1, 1981".

However, 28 U.S.C. 2412 clearly does not require that Federal grant statutes, such as those governing the Federal-aid highway program in 23 U.S.C., be revised or interpreted to provide that a State's costs attributable to an opposing party's attorney fees be included as part of a project's cost for purposes of Federal participation.

Congress has specifically addressed the question of the liability of the United States for attorney fees in § 2412. As amended it appears that its provisions can render the FHWA and other Federal agencies directly liable for attorney fees after October 1, 1981.

Since Congress had enacted specific legislation governing the Federal government's liability for attorney fees, we do not believe that the longstanding Federal and FHWA policy against including an opposing party's attorney fees in project costs should be reversed. Such a reversal would allow Federal

participation in such fees indirectly, as a project cost, conflict with policies designed to insure cost effective and efficient project management, and intrude in an area in which Congress has already acted.

Moreover, OMB Circular A-37, which establishes principles and standards applicable to Federal grants and contracts with State and local governments, provides, in paragraph B16 of Attachment B, that legal expenses for the prosecution of claims against the Federal Government are not allowable grant costs, and hence are not eligible for Federal participation. The proposed amendment would implement this provision of the OMB Circular.

Under certain circumstances FHWA may participate in attorney fees paid by a State to defend itself. These are set forth in 23 CFR 140, Subpart E, and 23 CFR 712.408 and are not affected by this proposed change.

The FHWA has determined that this document contains neither a major proposal under Executive Order 12291 nor a significant proposal under DOT regulatory procedures. The economic impacts of this action would be minimal. Although certain project related costs incurred by State highway departments would not be eligible for Federal participation, the amount of grant money available to the States would not be diminished in any way. Accordingly, under the criteria of the Regulatory Flexibility Act, it is certified that this action, if promulgated, will not have a significant economic impact on a substantial number of small entities. For the foregoing reasons, a full regulatory evaluation of this proposal is not required.

PART 1—GENERAL

In consideration of the foregoing, it is proposed that 23 CFR 1.9(a) be amended by adding a third sentence at the end thereof to read as follows:

§ 1.9 Limitation on Federal participation.

(a) . . . Except as provided in § 710.304(b)(3) of this chapter, Federal-aid funds shall not participate in any award or payment of attorney fees paid by a State to an opposing party in litigation.

(23 U.S.C. 101, 315; 49 CFR 1.48(b))

(Catalog of Federal Domestic Assistance Program Number 20.206, Highway Research, Planning, and Construction. The provisions of OMB Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

List of Subjects in 23 CFR Part 1

Administrative practice and procedure, Attorney fees, Grant programs—Transportation, Highway and roads.

Issued on: September 22, 1982.

Ray Barnhart,

Federal Highway Administrator, Federal Highway Administration.

(FR Doc. 82-27021 Filed 9-23-82; 8:45 am)

BILLING CODE 4910-22-4

SELECTIVE SERVICE SYSTEM

32 CFR Parts 1656 and 1660

Selective Service Regulations; Alternative Service

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures to implement the program of alternative service under section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)) are revised to assure greater fairness and efficiency in its administration.

DATES: Comment Date: Written comments received on or before October 30, 1982 will be considered. Effective date: Subject to the comments received the amendments are proposed to become effective upon publication in the Federal Register of a final rule not earlier than November 1, 1982.

ADDRESS: Written comment to: Selective Service System, Attn: General Counsel, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435 Phone: (202) 724-1167.

SUPPLEMENTARY INFORMATION: These amendments to Selective Service Regulations are published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 483(b)). These Regulations implement section 6(j) of the Military Selective Service Act (50 U.S.C. App. 456(j)). This proposal replaces the proposal appearing at 47 FR 24599 (June 7, 1982).

Various sections of 32 CFR Chapter XVI will be revised in separate rule making to bring them in consonance with this proposed rule.

The Proposed Concept of Alternative Service (46 FR 3098, January 22, 1981) has no stature and should not be considered in interpreting this proposal.

Interested persons are invited to submit written comments on the proposed regulations. All written comments filed in response to this notice of proposed rulemaking will be

available for public inspection in the office of the General Counsel from 9:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 301-312), I have determined that these regulations do not have significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1658

Armed Forces, Draft, Conscientious objection.

Dated: September 27, 1982.

Thomas K. Turnage,
Director.

PART 1660 (REMOVED)

32 CFR Part 1660, Alternate Service, is removed.

32 CFR Part 1658 is added to read as follows:

PART 1656—ALTERNATIVE SERVICE

Sec.

- 1656.1 Purpose; definitions.
- 1656.2 Order to perform alternative service.
- 1656.3 Responsibility for administration.
- 1656.4 Alternative Service Office:
Jurisdiction and authority.
- 1656.5 Employment development.
- 1656.6 Prohibited job assignments.
- 1656.7 Review of job assignments—Civilian Review Board.
- 1656.8 Employer responsibilities.
- 1656.9 Employment agreements.
- 1656.10 Alternative service worker's responsibilities.
- 1656.11 Job placement.
- 1656.12 Job performance standards and sanctions.
- 1656.13 Reassignment.
- 1656.14 Postponement of reporting data.
- 1656.15 Suspension of order to perform alternative service because of hardship to dependents.
- 1656.16 Early release—grounds and procedures.
- 1656.17 Administrative complaint process.
- 1656.18 Computation of creditable time.
- 1656.19 Completion of alternative service.
- 1656.20 Expenses for emergency medical care.

Authority: Sec. 6(f) Military Selective Service Act; 50 U.S.C. Appendix 458(f).

§ 1656.1 Purpose; definitions.

(a) The provisions of this part govern the administration of registrants in Class 1-W and the Alternative Service Program.

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) *Alternative Service (AS)*. Civilian work performed in lieu of military service by a registrant who has been classified in Class 1-W.

(2) *Alternative Service Office (ASO)*. An office to administer the Alternative Service Program in a specified geographical area.

(3) *Alternative Service Office Manager (ASOM)*. The head of the ASO.

(4) *Alternative Service Work*. Civilian work which the Director deems appropriate and which contributes to the maintenance of the national health, safety or interest.

(5) *Alternative Service Worker (ASW)*. A registrant ordered to perform alternative service (Class 1-W).

(6) *Civilian Review Board*. A board to hear appeals by ASWs on certain job assignments and reassignments.

(7) *Creditable Time*. Time that is counted toward an ASW's fulfillment of his alternative service obligation.

(8) *Director*. The Director of Selective Service, unless used with a modifier.

(9) *Employer*. Any institution, firm, agency or corporation engaged in lawful activity in the United States, its territories or possessions or the commonwealth of Puerto Rico that has been approved by Selective Service to employ ASWs.

(10) *Job Bank*. A current inventory of alternative service job openings.

(11) *Job Matching*. A comparison of the ASW's work experience, education, training, special skills, and work preferences with the requirements of the positions in the job bank.

(12) *Job Placement*. Assignment of the ASW to alternative service work.

(13) *Open placement*. The assignment of ASWs without employer interview to employers who have agreed to employ all ASWs assigned to them up to an agreed number.

§ 1656.2 Order to perform alternative service.

The local board of jurisdiction shall order any registrant who has been classified in Class 1-O-Q to perform alternative service at a time and place to be specified by the Director.

§ 1656.3 Responsibility for administration.

(a) The Director in the administration of the Alternative Service Program shall establish and implement appropriate procedures to:

(1) Assure that the program complies with the Selective Service Law;

(2) Provide information to ASWs about their rights and duties;

(3) Find civilian work for ASWs;

(4) Place ASWs in jobs approved for alternative service;

(5) Monitor the work performance of ASWs placed in the program;

(6) Order reassignment and authorize job separation as necessary;

(7) Issue certificates of completion;

(8) Specify the location of Alternative Service Offices;

(9) Specify the geographical area in which the ASOs shall have jurisdiction over ASWs;

(10) Refer to Department of Justice, when appropriate, any ASW who fails to perform satisfactorily his alternative service;

(11) Perform all other functions necessary for the administration of the Alternative Service Program; and

(12) Delegate any of his authority to such office, agent or person as he may designate and provide as appropriate for the subdelegation of such authority.

(b) The region Director shall be responsible for the administration and operation of the Alternative Service Program in his Region as prescribed by the Director.

(c) The State Director shall perform duties for the administration and operation of the Alternative Service Program in his State as prescribed by the Director.

(d) The ASOM shall perform duties for the administration and operation of the Alternative Service Program as prescribed by the Director.

(1) The ASO shall be an office of record that is responsible for the administration and operation of the Alternative Service Program in its assigned geographical area of jurisdiction.

(2) The staff of each ASO shall consist of as many compensated employees as shall be authorized by the Director.

(e) The manager of an area office shall perform duties for Alternative Service as prescribed by the Director.

§ 1656.4 Alternative Service Office: Jurisdiction and authority.

(a) Jurisdiction over the ASW will be transferred from the area office immediately after his classification in Class 1-W to the ASO that administers the Alternative Service Program in the area in which he is assigned to perform alternative service.

(b) The ASO shall:

(1) Evaluate and approve jobs and employers for Alternative Service;

(2) Issue such orders as are required to schedule the ASW for job placement;

(3) Issue such orders as are required to schedule the ASW for job interview;

(4) Order the ASW to report for alternative service work;

(5) Monitor the ASW's job performance;

(6) Issue a certificate of satisfactory completion of the ASW's Alternative Service obligation;

(7) Return the ASW to the jurisdiction of the area office from which he was directed to perform Alternative Service; and

(8) Perform such other actions as necessary to administer the Alternative Service Program.

§ 1656.5 Employment development.

(a) The Director will determine which civilian employment programs or activities contribute to the maintenance of the national health, safety or interest and are appropriate for Alternative Service work.

(b) The Director may establish priorities in the assignment of ASWs to types of Alternative Service work.

(c) An organization desiring to employ ASWs to perform Alternative Service is encouraged to submit a request in writing to the Director or an ASOM for approval. Such requests will be considered at any time.

(d) Selective Service shall negotiate employment agreements with the objective of obtaining an adequate number of agreements to assure the timely placement of all ASWs. Participating employers will provide prospective job listings to Selective Service.

(e) Selective Service shall also negotiate employment agreements with eligible employers wherein the employer will agree to hire a specified number of ASWs for open placement positions.

(f) An ASW may seek his own alternative service work by identifying a job with an employer he believes would be eligible for Alternative Service and by having the employer advise the ASO in writing that he desires to employ the ASW. The acceptability and priority of the job so identified will be evaluated as all others considered for ASW assignment.

§ 1656.6 Prohibited job assignments.

No ASW will be assigned to work:

(a) In such jobs as the manufacture or transportation of military ammunition, aircraft, equipment, vehicles or weapons;

(b) In an activity that is illegal under the laws of the United States or a state or a municipality at the place that it is performed;

(c) Outside of the United States, its territories or possessions.

§ 1656.7 Review of job assignments—Civilian Review Board.

Any ASW who believes that his job assignment violates the provisions of

§ 1656.6 of this part may appeal to an Alternative Service Civilian Review Board for the district in which his assigned work is to be performed. If the Civilian Review Board finds that the assignment violates subsection 1656.6 of this part, it shall so advise the ASO that issued the assignment order, and the ASO then shall reassign the ASW. The decision of the Civilian Review Board is final unless the Director otherwise directs. Pending disposition of his appeal by the Civilian Review Board, the ASW may continue to work or he may stop working and not earn creditable time.

§ 1656.8 Employer responsibilities.

Employers participating in the Alternative Service Program are responsible for:

(a) Complying with the employment agreement with Selective Service;

(b) Providing a clear statement of duties, responsibilities, compensation and employee benefits to the ASW;

(c) Providing full-time employment for ASWs;

(d) Providing adequate supervision of ASWs in his employ; and

(e) Providing nondiscriminatory treatment of ASWs in his employ.

§ 1656.9 Employment agreements.

(a) *Nature of Agreement.* Before any ASW is placed with an employer, Selective Service and the employer shall enter into an employment agreement that specifies their respective duties and responsibilities under the Alternative Service Program.

(b) *Restrictions on Selective Service.* The Selective Service System shall not act in any controversy involving ASW's wages, hours and working conditions except to the extent any of these subjects is specifically covered in the employment agreement between Selective Service and the employer.

(c) *Investigating and Negotiating.* Whenever there is evidence that an employer appears to be violating the employment agreement, Selective Service will investigate the matter. If the investigation produces substantial evidence of violations of the employment agreement, Selective Service may negotiate a resolution of the matter with the employer within the terms of the employment agreement.

(d) *Termination of Employment Agreement.* If a resolution of a dispute cannot be reached by negotiation within a reasonable time, the Selective Service System shall terminate the employment agreement and shall reassign the ASW.

§ 1656.10 Alternative service worker's responsibilities.

(a) A registrant classified in Class 1-W is required to comply with all orders issued under this part.

(b) A registrant classified in Class 1-W is liable to perform 24 months of creditable time toward completion of Alternative Service.

§ 1656.11 Job placement.

(a) Selective Service will maintain a job bank for the exclusive purpose of placing ASWs in alternative service jobs.

(b) Information supplied by the ASW about his skills and preferences will be considered by Selective Service in making job interview referrals and in making assignments of ASWs to jobs.

(c) When an ASW is hired, the ASO will issue a Job Placement Order specifying the employer, the time, date and place to report for his alternative service work.

(d) The ASO will normally place the ASW in an alternative service job within 30 days after classification in Class 1-W.

§ 1656.12 Job performance standards and sanctions.

(a) *Standard of Performance.* An ASW is responsible for adhering to the standards of conduct, attitude, appearance and performance demanded by the employer of his other employees in similar jobs. If there are no other employees, the standards shall conform to those that are reasonable and customary in a similar job.

(b) *Failure to Perform.* An ASW will be deemed to have failed to perform satisfactorily whenever:

(1) He refuses to comply with an order of the Director issued under this part;

(2) He refuses employment by an approved employer who agrees to hire him;

(3) His employer terminates the ASW's employment because his conduct, attitude, appearance or performance violates reasonable employer standards; or

(4) He quits or leaves his job without reasonable justification.

(c) *Sanctions for ASW's Failure to Perform.* (1) The sanctions for failure to meet his Alternative Service obligation are job reassignment, loss of creditable time during such period and referral to the Department of Justice for failure to comply with the Military Selective Service Act.

(2) Prior to invoking any of the sanctions discussed herein, the ASO will conduct a review as prescribed in § 1656.17 of all allegations that an ASW

has failed to perform pursuant to any of the provisions of § 1656.12(b).

§ 1656.13 Reassignment.

(a) *Grounds for reassignment.* Each of the following conditions may be the basis for job reassignments:

(1) An ASW experiences a change in his mental or physical condition which renders him unfit or unable to continue performing satisfactorily in his assigned job;

(2) An ASW's dependents incur a hardship which is not so severe as to justify a suspension of the Order to Perform Alternative Service under § 1656.15;

(3) The employer ceases to operate an approved program or activity;

(4) The employer fails to comply with the terms and conditions of the employment agreement;

(5) Continual and severe differences between the employer and ASW remain unresolved; or

(6) The Director determines that reassignment is justified.

(b) *Who May Request Reassignment.* Any ASW may request reassignment to another job. An employer may request job reassignment of an ASW who is in his employ.

(c) *Method for Obtaining a Reassignment.* All requests for reassignment must be in writing with the reasons specified. The request may be filed with the ASO of jurisdiction at any time during an ASW's alternative service employment. An ASW must continue in his assigned job, if available, until the request for reassignment is approved.

(d) It is the responsibility of the ASW to notify the ASO promptly in writing of any grounds which could be a reason for his reassignment.

§ 1656.14 Postponement of reporting date.

(a) *General.* The reporting date in any of the following orders may be postponed in accord with this section.

- (1) Report for Job Placement;
- (2) Report for a Job Interview;
- (3) Report to an Employer to Commence Employment.

(b) *Requests for Postponement.* A request for postponement of a reporting date specified in an order listed in paragraph (a) of this section must be made in writing and filed prior to the reporting date with the office which issued the order. Such requests must include a statement of the nature of the emergency and the expected period of its duration.

(c) *Grounds for Postponement.* An ASW may, upon presentation of the appropriate facts in his request, be

granted a postponement based on one or more of the following conditions:

(1) The death of a member of his immediate family;

(2) An extreme emergency involving a member of his immediate family;

(3) His serious illness or injury; or

(4) An emergency condition directly affecting him which is beyond his control.

(d) *Basis for Considering Request.* The ASW's eligibility for a postponement shall be determined by the office of jurisdiction based upon official documents and other written information contained in his file. Oral statements made by the ASW or made by another person in support of the ASW shall be reduced to writing and placed in the ASW's file.

(e) *Duration of Postponement.* The initial postponement shall not exceed 60 days from the reporting date in the order. When necessary, the Director may grant one further postponement, but the total postponement period shall not exceed 90 days from the reporting date in the order involved.

(f) *Termination of Postponement.* (1) A postponement may be terminated by the Director for cause upon no less than ten days written notice to the ASW.

(2) Any postponement shall be terminated when the basis for the postponement has ceased to exist.

(3) It is the responsibility of the ASW promptly to notify in writing the office that granted the postponement whenever the basis for which his postponement was granted ceases to exist.

(g) *Effect of Postponement.* A postponement of the reporting date in an order shall not render the order invalid, but shall only serve to postpone the date on which the ASW is to report. The ASW shall report at the expiration or termination of the postponement.

(h) *Religious Holiday.* The Director may authorize a delay of reporting under any of the orders specified for an ASW whose date to report conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any ASW so delayed shall report on the next business day following the religious holiday.

§ 1656.15 Suspension of Order To Perform Alternative Service Because of Hardship to Dependents.

(a) Whenever, after an ASW has begun work, a condition develops that results in hardship to his dependent as contemplated by § 1630.30(a) of this chapter which cannot be alleviated by his reassignment under § 1656.13(a) of

this part, the ASW may request a suspension of Order to Perform Alternative Service. If the local board that ordered the ASW to report for Alternative Service determines he would be entitled to classification in Class 3-A, assuming that the ASW were eligible to file a claim for that class, further compliance with his order shall be suspended for a period not to exceed 365 days, as the local board specifies. Extensions of not more than 365 days each may be granted by the local board so long as the hardship continues until the ASW's liability for training and service under the Military Selective Service Act terminates.

(b) An ASW may file a request for the suspension of his Order to Perform Alternative Service with the ASO. This request must be in writing, state as clearly as possible the basis for the request, and be signed and dated by the ASW. The ASW must continue working in his assigned job until his request for the suspension of his Order to Perform Alternative Service has been approved.

(c) Local boards shall follow the procedures established in Part 1648 of this chapter to the extent they are applicable in considering a request for the suspension of an Order to Perform Alternative Service.

§ 1656.16 Early release—grounds and procedures.

(a) *General Rule of Service Completion.* An ASW will not be released from alternative service prior to completion of 24 months of creditable service.

(b) *Reasons for Early Release.* The Director may authorize the early release of an ASW whenever the ASO determines that the ASW:

(1) Has failed to meet the performance standards of available alternative service employment because of physical, mental or moral reasons;

(2) No longer meets the physical, mental or moral standards that are required for retention in the Armed Forces based on a physical or mental examination at a MEPS or other designated location;

(3) Is planning to return to school and has been accepted by such school and scheduled to enter within 30 days prior to the scheduled completion of his alternative service obligation;

(4) Has been accepted for employment and that such employment will not be available if he remains in alternative service the full 24 months. Such early release shall not occur more than 30 days before the scheduled completion of his alternative service obligation; or

(5) Has enlisted in or has been inducted into the Armed Forces of the United States.

1656.17 Administrative complaint process.

(a) Whenever the ASOM learns that an ASW may have failed to perform satisfactorily his work (see § 1656.12(b)) or he receives a complaint by an employer or an ASW involving the ASW's work other than matters described in §§ 1656.8 and 1656.9(b) of this part, he shall take necessary action or:

(1) Interview, as appropriate, all parties concerned to obtain information relevant to the problems or complaints;

(2) Place a written summary of each interview in the ASW's file;

(3) Inform the persons interviewed that they may prepare and submit to him within ten days after the interview their personal written statements concerning the problem;

(4) Place such statements in the ASW's file; and

(5) Resolve the matter.

(b) The employer or ASW may seek a review of the decision under § 1656.17(a)(5) of this section. Such request must be filed in writing with the ASO, for action at the next higher level, within ten days after the date the notice of the decision is transmitted to the ASW and employer.

§ 1656.18 Computation of creditable time.

(a) Creditable time starts when the ASW begins work pursuant to an Order To Perform Alternative Service or 30 days after the issuance of such order, whichever occurs first. Creditable time will accumulate except for periods of:

(1) Work of less than 35 hours a week or an employer's full-time work week whichever is greater;

(2) Leaves of absence in a calendar year of more than 5 days in the aggregate granted by the employer to the ASW to attend to his personal affairs unless such absence is approved by the ASOM;

(3) Time during which an ASW fails or neglects to perform satisfactorily his assigned Alternative Service;

(4) Time during which the ASOM determines that work of the ASW is unsatisfactory because of his failure to comply with reasonable requirements of his employer;

(5) Time during which the ASW is not employed in an approved job because of his own fault; or

(6) Time during which the ASW is in a postponement period or his Order to Perform Alternative Service has been suspended.

(b) Creditable time will be awarded for periods of travel, job placement and job interviews performed under orders issued by Selective Service. Creditable time may be awarded for up to 10 work days of leave per year.

§ 1656.19 Completion of alternative service.

Upon completion of 24 months of creditable time served in alternative service or when released early in accordance with § 1656.16(b)(3) or (4):

(a) The ASW shall be released from the Alternative Service Program; and

(b) The Director shall issue to the ASW a Certificate of Completion and the registrant shall be reclassified in Class 4-W in accordance with § 1630.47 of this chapter.

§ 1656.20 Expenses for emergency medical care.

(a) Claims for payment of actual and reasonable expenses for emergency medical care, including hospitalization, of ASWs who suffer illness or injury, and the transportation and burial of the remains of ASWs who suffer death as a direct result of such illness or injury will be paid in accordance with the provisions of this section.

(b) The term "emergency medical care, including hospitalization", as used in this section, means such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury necessitating such treatment. Discharge by a physician or facility subsequent to such medical care or hospitalization shall terminate the period of emergency.

(c) Claims will be considered only for expenses:

(1) For which only the ASW is liable and for which there is no legal liability for his reimbursement except in accord with the provisions of this section; and

(2) That are incurred as a result of illness or injury that occurs while the ASW is acting in accord with orders of Selective Service to engage in travel or perform work for his Alternative Service employer.

(d) No claim shall be allowed in any case in which the Director determines that the injury, illness, or death occurred because of the negligence or misconduct of the ASW.

(e) No claim shall be paid unless it is presented to the Director within one year after the date on which the expense was incurred.

(f) Cost of emergency medical care including hospitalization greater than usual and customary fees for service established by the Social Security Administration, will *prima facie* be considered unreasonable. Payment for

burial expenses shall not exceed the maximum that the Administrator of Veteran's Affairs may pay under the provisions of 38 U.S.C. 902(a) in any one case.

(g) Payment of claims when allowed shall be made only directly to the ASW or his estate unless written authorization of the ASW or the personal representative of his estate has been received to pay another person.

FR Doc. 82-2887 Filed 9-23-82 2:45 am
BILLING CODE 2015-01-04

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 2186-6]

Approval and Promulgation of State Implementation Plans; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: The purpose of this Notice is to present the results of EPA's review of the 1982 Vancouver, Washington, ozone (O₃) State Implementation Plan (SIP) revision. This SIP revision was developed in accordance with the provisions of Part D of the 1977 Clean Air Act, as amended, which requires plans for O₃ nonattainment areas with approved attainment date extensions to be submitted by July 1, 1982.

In today's action, EPA is proposing to approve the Vancouver SIP revision which was submitted by the Governor of Washington to EPA on July 16, 1982. EPA is requesting public comments on its proposed actions for a period of 30 days.

DATE: Comments must be received on or before November 1, 1982.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

Copies of the materials submitted to EPA may be examined during normal business hours at:

Central Docket Section, (10A-82-10)
West Tower Lobby, Gallery I,
Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

Air Programs Branch, M/S 532,
Environmental Protection Agency,
1200 Sixth Avenue, Seattle, WA 98101
State of Washington, Department of Ecology, 4224 Sixth Avenue, SE,
Lacey, WA 98503.

APPENDIX D

MOBILIZATION STUDIES PROGRAM (MSP)

INITIAL RESEARCH DESIGN

1. TITLE: ALTERNATIVE SERVICE FOR CONSCIENTIOUS OBJECTORS

2. REQUESTING AGENCY:

Selective Service System (SSS)

3. SCOPE: This staff study will examine the differences which exist between the Selective Service System's concept of Alternative Service Programs and those ideas espoused by the Mennonite Church, which is the most articulate opponent of current administration planning for alternative service.

4. IMPORTANCE OF THE SUBJECT: The Military Selective Service Act [50 U.S.C. App. 456 (J)] imposes a general citizen obligation for military service on all males, but provides that Conscientious Objectors may fulfill this obligation through alternative service which contributes to the "maintenance of the national health, safety or interest." The Alternative Service Program will be activated only during a national emergency and mobilization, when it can be expected that shortages in the civilian work force will appear as large numbers of young men are inducted into military service and industrial manpower requirements are also expanded. Conscientious objectors therefore would fill essential civil sector jobs, while, at the same time, being treated in a fair and dignified manner consistent with this Nation's commitment to individual freedom.

5. MAJOR PROBLEM: How does the Selective Service System devise a program for Alternative Service which complies with the law, and is acceptable to the Mennonite Church?

a. What kinds of nonmilitary work will contribute to the national health, safety or interest?

b. How can such work be made equivalent to military service?

c. What is the ongoing role of the Director, Selective Service System, in the direction and administration of an Alternative Service Program?

d. How does the Alternative Service Program deal with, and resolve, conflicts of conscience while assuring that service is rendered?

e. What are the features of an Alternative Service Program which would be acceptable to both the Selective Service System and to the Mennonite community?

6. SOURCES OF INFORMATION:

a. Selective Service System officials

b. Comments received in response to publication in the Federal Register of proposed SSS regulations.

c. Mennonite Central Committee officials

d. Documents provided by the Mennonite community

7. MILESTONES:

<u>Steps</u>	<u>Completion</u>	<u>Responsibility</u>
Review of available data and design of staff study	18 Oct 82	Research Team -
Submission of initial research design	27 Oct 82	Research Team
Study continues	Nov 82-Jan 83	Research Team
MSP IPR	24 Jan 83	Research Team/ Faculty Advisor
All data collected and analysis completed	15 Feb 83	Research Team
Prepare final draft, and edit	1 Mar 83	Research Team/ Faculty Advisor
Final draft due	15 Mar 83	Research Team

2 Incl

1. Appendix A, Research Team
2. Appendix 3, Projected Travel

MOBILIZATION STUDIES PROGRAM
ALTERNATIVE SERVICE FOR CONSCIENTIOUS OBJECTORS

RESEARCH TEAM

TOPIC 3, ROOM D385b

<u>SSN</u>	<u>Faculty/ Student Number</u>	<u>Name</u>	<u>Room</u>	<u>Phone</u>	<u>Security Clearance</u>
		SHERARD, Stewart, COL., USA	D385b	38354	TS
		REILLY, Christine M., CDR, USN	B454	38175	TS
		STARNES, Harlis D., Mr.	B454	38175	TS

Faculty Advisor:

491-40-2234

508

Students:

057-36-0065

48

230-42-8425

174

RESEARCH PLANNING BUDGET & ADMINISTRATIVE SUPPORT ESTIMATE

1. MSP Group # 3 IR # _____
2. Title of Research INTERIM STUDIES FOR CONSENSUS ON AIDS
3. Faculty Research Advisor COL. S. SHEPARD

Cost Categories:

A. Travel: The following information is required in order to receive approval for travel in connection with ICAF's Research Program:

- (1) Total of all anticipated travel expenditures: (2 students ^{1-CIVILIAN} ^{1-MILITARY})
- (a) Total Transportation Costs: \$ 180.00
- (b) Total Per Diem Costs: \$ 500.00
- (c) Total Miscellaneous Costs (car rental, parking, bus, etc.) \$ 20.00
- Total Travel Costs \$ 700.00

(2) Total number of locations to be visited in connection with Research VICINITY OF LANCASTER, PENNSYLVANIA

(3) Identity of Command, Agency, Business to be visited in connection with research:

COMMAND/AGENCY/BUSINESS	LOCATION	EST. # DAYS	EST PER DIEM COSTS	EST TRAVEL COSTS	EST MISC. COSTS
PEACE COURSES (graduate)	LANCASTER	5	\$ 500.00	\$ 180.00	\$ 20.00

TOTAL EXPENSES:

\$ 500.00 \$ 180.00 \$ 20.00

TOTAL # OF MILES = 500

PER DIEM RATE = \$ 50/DAY

$$\frac{500}{20} + \frac{500}{16} = 180 \text{ TRAVEL}$$

$$50 \times 5 \text{ days} \times 2 \text{ students} = 500 \text{ PER DIEM}$$

MISC EXPENSES = 20 FOR PARKING

Appendix C

$$\text{TOTAL COST} = 180 + 500 + 20 = \underline{\underline{700}}$$

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