



ALJIPP 16722.21  
DEC 30, 2010

ADMINISTRATIVE LAW JUDGE INTERNAL PRACTICES AND PROCEDURES 16722.21

Subj: ADMINISTRATIVE LAW JUDGE PROCESS GUIDES

1. PURPOSE. In accordance with 46 C.F.R. § 1.01-25(d), this directive provides policy for maintaining and using Administrative Law Judge (ALJ) Process Guides and other policy documents used by ALJs, attorneys, paralegals, and legal support positions assigned to the ALJ Program.
2. ACTION. All ALJ Program employees and contractors are responsible for acting in accordance with the applicable policies and procedures as established in this directive and in process guides. Internet release authorized.
3. DIRECTIVES AFFECTED. This instruction replaces previously canceled Administrative Law Judge Internal Practices and Procedures Series (ALJIPPs) 16722.3, 16722.4, 16722.6, 16722.17.
4. DISCUSSION. ALJIPPs are directives prescribing authority or containing information with continuing reference value or that requires continuing action. The administrative process is a fluid process with constant changes to reflect statutory or regulatory amendments or process changes required by administrative or judicial decisions. Accordingly, a mechanism is needed for providing guidance to the administrative law judges that is also capable of rapid change; therefore, a system of Standard Operating Procedures (SOP) is more appropriate than instructions as a means of providing guidance. ALJIPP 5215 (series) establishes the ALJ Process Guide system of SOP guidance. This directive sets out the procedure for issuing and updating ALJ Process Guides.
5. RELATIONSHIP TO RULES OF ADMINISTRATIVE PROCEDURE AND THE ADMINISTRATIVE PROCEDURE ACT. Under the APA and agency procedural rules, the ALJ is responsible for the conduct of the hearing. The primary source of authority is the current version of the particular rules of administrative procedure for the agency in question. In conflicts between a

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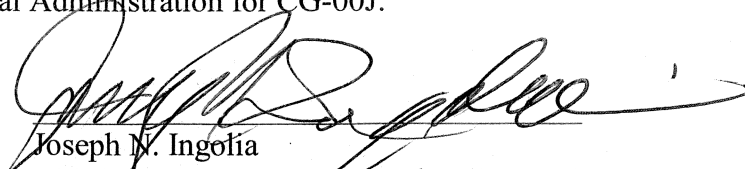
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process guide and a rule of administrative procedure, the published rule controls. If there is any question over which rule applies, the administrative law judge or attorney should seek guidance from the chain of supervision and, if necessary, seek an advisory opinion from CG-00J or through CG-00J from the agency in question.

6. FORMAT FOR PROCESS GUIDES. CG-00J prepares process guides using plain language format with date of issuance. While the guides represent the ALJ Program's current philosophy on a procedure or issue, they do not create or confer any rights for or on any person, or operate to bind the public. Therefore, process guides should not include mandatory language such as "shall," "must," "required" or "requirement," unless these words describes a statutory or regulatory requirement, or the language addresses agency staff and will not foreclose consideration of alternate positions advanced by affected private parties or the ALJ. The ALJ or the parties can use an alternative approach to a process described in a process guide if the approach satisfies the requirements of applicable statutes and regulations.
7. ISSUANCE AND UPDATES OF PROCESS GUIDES. CG-00J issues process guides which are continuously reviewed and updated. Process guides are published on the Coast Guard's internet site <http://homeport.uscg.mil/mycg/portal/ep/home.do> under the Regulations/Administrative Adjudications channel – CG Administrative Law Judge sub-channel. CG-00J will send notice to all ALJ Program employees when a process guide is updated. Recommendations for change may be filed with CG-00J (see paragraph 9 "Request for Changes" below). If CG-00J adopts the recommendation, notification will be sent to the submitter; alternatively, if the proposed recommendation is not adopted, the submitter will be provided with an explanation.
8. RELATIONSHIP TO POLICY LETTERS. Policy letters are a form of SOP that provides guidance to administrative law judges, attorneys, paralegals and legal support positions. Unlike process guides, policy letters usually deal with a single subject such as discovery practice, recent rulemakings or statutory amendments. In the review process, updated process guides usually incorporate policy letter guidance. If there is a conflict, the later-issued document controls. If there is any question, one should seek guidance from the chain of supervision and, if necessary, seek an advisory opinion from CG-00J.
9. REQUESTS FOR CHANGES. ALJ Program employees and Coast Guard personnel may recommend changes by writing via the chain of command to: Commandant (CG-00J); U. S. Coast Guard; 2100 2<sup>nd</sup> Street, SW, STOP 7000; Washington, DC 20593-7000.
10. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.
11. NO RIGHT OF ACTION. Nothing in this Instruction creates a private right of action or legal duty.
12. FORMS/REPORTS. Commandant (CG-00J) maintains records of process guides and requests for changes in accordance with current Coast Guard directive regarding record correspondence.
13. GUIDANCE DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is not intended to nor does it impose legally-binding requirements on any party. It represents CG-00J's current thinking on this topic and may assist industry, mariners, the general

public, and the Coast Guard, as well as other federal and state regulators, in applying statutory and regulatory requirements. If you would like to suggest changes or improvements to this guidance, you may contact the Director of Judicial Administration for CG-00J.



Joseph N. Ingolia  
Chief Administrative Law Judge (CG-00J)  
U.S. Coast Guard